Nos. 23A994 and 23A1002

In The
Supreme Court of the United States

PRESS ROBINSON, *et al.*,

Applicants,

v.

PHILLIP CALLAIS, *et al.*,

Respondents.

NANCY LANDRY, SECRETARY OF STATE OF LOUISIANA, *et al.*,

Applicants,

v.

PHILLIP CALLAIS, *et al.*,

Respondents.

On Applications for Stay to the Supreme Court of the United States

RESPONSE TO EMERGENCY APPLICATIONS FOR STAY PENDING APPEAL AND FOR STAY OF INJUNCTION

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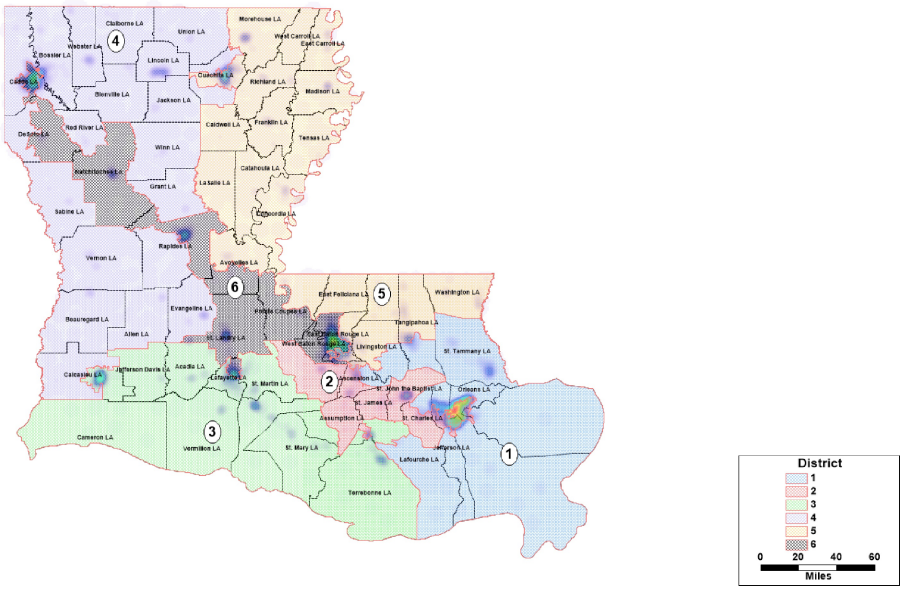

24. Baton Rouge and Shreveport are roughly 250 miles apart. They are not only separated by distance but also by culture, industry, topography, and even common natural disasters. The geographic, economic, and cultural gulf between Shreveport in the North and Lafayette in the South looms just as large.

25. In Rapides Parish, District 6 dwindles down to a narrow width of 2.5 miles before continuing its snake upward toward Shreveport.

26. District 6's appendages are also extremely narrow. It dwindles down to a width of less than a mile—4,384.17 feet—wide in East Baton Rouge Parish between I-10 and the juncture of Perkins Road and Dawson Creek. Another slice of District 6 at the bottom of East Baton Rouge Parish between Burbank Drive and the Iberville Parish line is only 1.82 miles wide. Another appendage between St. Landry Parish and Lafayette Parish is only 2.95 miles wide. In North De Soto Parish, District 6 carves out a 1.9-mile-wide sliver between Wallace Lake and Linwood Avenue.

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27. District 6 cuts through and divides many parishes, including Caddo, De Soto, Rapides, Lafayette, Avoyelles, and East Baton Rouge Parishes—six out of the ten parishes in District 6.

28. District 2 divides even more parishes: Ascension, Assumption, Terrebonne, St. Charles, Jefferson, St. Bernard, and Orleans—seven out of the nine parishes in District 2.

29. The map also intentionally created four majority-non-African American districts and excluded African American voters in Districts 1, 3, 4, and 5.

30. These districts too were gerrymandered based on race.

31. District 5 barely satisfies the contiguity requirement. A minuscule land bridge only 1.2 miles wide at the juncture of West Feliciana and Avoyelles Parishes unites District 5's Northern and Southern arms, which threaten to break in half from erosion. It is only contiguous by virtue of the Mississippi River; the surrounding shores and an island are uninhabited. These two halves are unconnected by road, bridge, ferry, trail, or path. Any unity or community of interest is pure myth.

32. District 5 and District 6 divide Baton Rouge purely based on race. The areas of Baton Rouge with predominantly non-African American populations were drawn to fall under District 5, which was designed to be a majority-non-African American District. The areas of Baton Rouge with predominantly African American populations were drawn to fall under District 6, which was designed to be a majority-African American District.

33. District 4 is nearly cut in half by District 6.

34. None of these six districts are compact. When measured on the Polsby-Popper Scale of 0 to 1, with a score of 0 indicating absolutely no compactness and 1 indicating total compactness, all six districts barely rise above 0. District 6 is the worst, with a score of 0.05 compactness. But Districts 4 and 5 both have a staggering score of 0.08 compactness. District 2 has a score of 0.11. And the State's most compact districts, District 1 and District 3, have scores of 0.16 and 0.19, respectively. The mean of all six districts was 0.11 for compactness.

35. These compactness scores are lower than the scores for the State's 2022 enacted map.

36. Of special concern, SB8 divided communities of interest. Some residents in Shreveport, for example, were carved out of District 4 from their neighbors to join residents in

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East Baton Rouge, a city 250 miles away with its own ideals, values, culture, economics, and concerns, solely because they are the same race as those people in East Baton Rouge.

37. SB8 also stripped Lafayette residents from their community of interest in Southern Louisiana and forced them into the same district as residents of Shreveport in Northern Louisiana. Lafayette is the core city of "Acadiana," a region also known as Cajun Country and home to most of the State's Francophone population, many of whom identify as Cajuns or Creoles. Residents of Lafayette and Southern Louisiana pride themselves on their unique, rich culture with its French and Spanish roots. Southern Louisiana is organized around sugar cane farming, fishing, and more recently the oil industry. Northern Shreveport has more in common culturally, socially, economically, and agriculturally with neighboring Texas than with Southern Louisiana. The only reason to include these two disparate cities in one district and divide both from their cultural regions is race.

38. SB8 significantly altered the percentages of voting age populations in each district along racial lines, demonstrating the State's sole purpose to consolidate African American voters into two districts.

39. The voting age population ("VAP") percentages for the previously enacted districts were:[7]

District	African American VAP %	Non-African American VAP %
1	13.482%	86.518%
2	58.650%	41.350%
3	24.627%	75.373%
4	33.820%	66.180%
5	32.913%	67.087%
6	23.861%	76.139%

40. The voting age population percentages for SB8's enacted districts are:[8]

District	African American VAP %	Non-African American VAP %
1	12.692%	87.308%

[7] This data comes from the official Report for Congress Act 5 (HB1) on the Louisiana Redistricting website. *See Report – Congressional Districts by Parish – Pop (2020), VAP (2020) and Registration (12-2022)*, Louisiana Redistricting, https://redist.legis.la.gov/2023_07/2023CONGRESSACT5.

[8] This data comes from the official Report for Congress Act 2 (SB8) on the Louisiana Redistricting website. *See Report – Congressional Districts by Parish – Pop (2020), VAP (2020), and Registration (12-2023)*, Louisiana Redistricting, https://redist.legis.la.gov/2024_Files/2024CONGRESSACT2.

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2	51.007%	48.993%
3	22.568%	77.432%
4	20.579%	79.421%
5	26.958%	73.042%
6	53.990%	46.010%

41. The biggest change was in District 6, where the African American VAP percentage increased sharply by 30%, from 23.861% to 53.990%, even though District 6 previously held the second lowest African American VAP and the second highest non-African American VAP. The non-African American VAP in District 6 decreased proportionately.

42. SB8 decreased the African American VAP percentage in every district except District 6. In District 2, African Americans still held a majority of the VAP at 51%.

43. SB8 increased the non-African American VAP percentage in every district except District 6, where it dramatically decreased, so non-African Americans went from the majority to the minority.

44. SB8 gave African Americans a majority, as measured by the BVAP criterion, in Districts 2 and 6.

45. Senator Womack was the author of SB8. He first introduced SB8 in the Senate on January 15, 2024. SB8 then went to the Committee on Senate and Governmental Affairs. On January 17, 2024, it was presented on the Senate floor again for a third reading and final passage.

46. During that third reading and final passage on January 17, 2024, several Senators debated and spoke on the bill. Senator Womack, author and sponsor of SB8, stated the bill intentionally created "two congressional districts with a majority of Black voters." Senate Archive, *supra*, at 8:47-8:54. He went on to discuss "the boundaries of District 2 and District 6 on your map," and emphasized that both were "over 50% Black voting age population." *Id*. at 9:20-9:35. He went on to state: "Given the State's current demographics, there is not enough high Black population in the Southeast portion of Louisiana to create two majority Black districts and to also comply with the U.S. Constitution's one-person one-vote requirement. That is the reason why District 2 is drawn around Orleans parish while District 6 includes the Black population of East Baton Rouge Parish and travels up the I-49 corridor to include Black population in Shreveport." *Id*. at 9:35-10:00.

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47. Senator Womack repeated throughout his remarks that his primary goal in drafting SB8 was to create two majority-African American districts. He repeatedly referred to District 2 and District 6 as the "minority" or "Black" districts. *Id*. at 9:00-10:40, 16:35-16:43, 18:15.

48. Senator Womack did not identify any traditional redistricting criteria, such as compactness or communities of interest, as part of his analysis in crafting SB8 and selecting the district lines. In fact, he disavowed that he had complied with traditional redistricting criteria.

49. Senator Jay Morris asked Senator Womack about the two majority-minority districts: "Among the factors that you considered, was the community of interest of the district something that was considered in coming up with this version of the map that we have before us? . . . You didn't consider the community of interests of people having something in common with one another within the district?" *Id*. at 11:10-11:53. Senator Womack then responded: "No, I didn't because it was, we had to draw two districts and that's the only way we could get two districts . . . ." *Id*. at 11:54-12:05. Senator Womack also denied that he considered agriculture as a community of interest in District 6. *Id*. at 12:09-12:48.

50. Senator Womack repeatedly referred to the 250 miles between Baton Rouge and Shreveport in District 6 as merely a "corridor." *Id*. at 9:55-10:00, 12:50-12:55.

51. Senator Morris also asked Senator Womack when referring to District 6: "Would you say the heart of the district is Northeast Louisiana, North Central Louisiana?" *Id*. at 12:50-13:05. Senator Womack responded: "I wouldn't say the heart of that district is that way." *Id*. at 13:05-13:20. He went on to state District 6 simply "had to be drawn like it had to be drawn to pick that up." *Id*. at 13:05-13:20. Senator Morris asked again: "So is there a heart of the district?" *Id*. at 13:20-13:25. Senator Womack said: "I don't think it has a heart of the district." *Id*. at 13:25-13:35. In doing so, Senator Womack stated that there was no tie or common interest between the Northern region of District 6 and its other regions. Race was the only reason District 6 extended into far-flung regions of Louisiana.

52. When Senator Morris raised other concerns about the districts, Senator Womack agreed that these issues were valid but said: "Where we had to draw two minority districts, that's the way the numbers worked out. You've worked with redistricting before and you have to work everyone around that the best you can." *Id*. at 18:08-18:30.

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53. Senator Gary Carter then rose to speak. *Id*. at 24:30. He raised concerns about the "current African American voting age population in District 2" because it was now only "51%." *Id*. at 24:30-25:10. He had "serious concerns" with whether "District 2 continues to perform as an African American district." *Id*. at 25:10-25:25. But despite those concerns about African American "perform[ance]" in District 2, he supported the legislation. *Id*. In making these comments, Senator Carter demonstrated that he was especially concerned about ensuring a certain percentage of the population was African American in District 2. Senator Carter also read and endorsed a statement on the Senate floor from Congressman Troy Carter, who currently represents District 2 in the U.S. House of Representatives. He said: "My dear friends and colleagues, as I said on the steps of the Capitol, I will work with anyone who wants to create two majority-minority districts. I am not married to any one map. I have worked tirelessly to create two majority-minority districts that perform. That's how I know that there may be better ways to craft both of these districts. There are multiple maps that haven't been reviewed at all. However, the Womack map creates two majority-minority districts and therefore I am supportive of it, and I urge my former colleagues and friends to vote for it while trying to make both districts stronger with appropriate amendment. We do not want to jeopardize this rare opportunity to give African American voters the equal representation they rightly deserve." *Id*. at 26:00-27:00.

54. Senator Katrina Jackson also said on the floor that she supported SB8. *Id*. at 28:00. She stated, "I don't think we're in the hands of a heavy-handed judge." *Id*. at 29:50-30:00. "There is nothing that says that a second African American serving in Congress in Louisiana will not help the masses. If we think that, then we think that we're less than or better than a person based on race. If anyone in this chamber could articulate a reason why they believe that any African American that sits before you today wouldn't go before you with the same heart and zeal and vigor and heart for the people, then maybe we can say that there's not an African American in this State that's not going to stand before Congress and represent us. But I literally do not believe that there's a colleague in here that looks across this Chamber at any member of the Black Caucus that does not believe that we would not go to Congress and represent the State of Louisiana. And so I stand in support with reluctancy of having to talk to my constituents after this vote but with carrying the spirit of fairness that they asked me to carry in the last redistricting session." *Id*. at 30:00-32:08.

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55. Senator Jackson also stated that her "constituents and a lot of constituents in North Louisiana are experiencing ice . . . and so a lot of them don't even know that we're down here right now passing maps and so this is the first time in a long time that I am probably going to vote for something that I haven't vetted through my constituency." *Id*. at 28:00-29:30. She went on to state that she, along with "Representative Fisher [and] Representative Morrell will have a zoom community meeting to catch them up on what they have lost while they were at home." *Id*. at 28:00-29:30.

56. Senator Royce Duplessis spoke next, stating that SB8 "was much more than lines on a map." *Id*. at 32:30-33:00. He said SB8 "was about one-third of this State going underrepresented for too long." *Id*. at 33:00-34:15. "So I think it's important that we keep the focus on why we're here today." *Id*. at 34:15-34:35. His reference to one-third of the State was a reference to the African American population. He went on to state: "Just like Senator Carter, I'm not thrilled with what's happening in District 2 and the way it's lowering the numbers," referring to the numbers of African American voters Senator Carter discussed. *Id*. at 34:40-34:52. Senator Duplessis discussed how he had created a map with Senator Price that "we thought performed better." *Id*. at 34:52-35:00. He stated he would support SB8 "because he thought it was time to give people of this State fair representation." *Id*. at 35:25-35:32.

57. Senator Thomas Pressly also rose in opposition, stating that Northwest Louisiana was "unique from the rest of our State, and I believe that commonalities of interest are important." *Id*. at 35:55-36:40. He explained the strong cultural, industrial, and agricultural differences between Northwest Louisiana and Baton Rouge, as well as the different natural disasters facing the two regions. *Id*. at 37:14. He stated: "I cannot support a map that puts Caddo Parish and portions of my district, which is over 220 miles from here, in a district that will be represented by someone in East Baton Rouge Parish that may or may not have ever even been to Northwest Louisiana and certainly doesn't understand the rich culture, rich important uniqueness of our area of the State." *Id*. at 36:55-37:23. He went on: "When we look at Louisiana we often talk about North and South. And that division is true. It's real. I think all of us acknowledge that. The I-10 corridor has unique needs. When we think of the challenges you face with storms, often you think of hurricanes. In North Louisiana we think of tornadoes and ice storms. When you look at the important regions of our States and the diverse industries that we have . . . that is something that we must keep in mind as we continue through this process." *Id*. at 37:23-38:14.

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He said: "I am concerned with the important part of this State—Northwest Louisiana—not having the same member of Congress." *Id*. at 38:14-38:29. He said it made no sense to create two congressional districts and draw District 6 and District 4 "along a line that's based purely on race." *Id*. at 38:29-38:40.

58. SB8 passed in the Louisiana Senate on January 17, 2024, by a vote of 27-11.

59. SB8 was then transferred and presented in the Louisiana House of Representatives on January 17, 2024. SB8 went to the Committee on House and Governmental Affairs that same day.

60. Then, on January 19, 2024, Representative Beau Beaullieu, as the bill sponsor, presented SB8 to the House of Representatives for debate and final passage. During his opening remarks, Representative Beaullieu stated that SB8 created "two congressional districts with a majority of Black voters." House Archive, *supra*, at 2:48:25-2:48:31. Like Senator Womack, he discussed, "the boundaries for District 2 and District 6," and emphasized that "both of which are over 50% Black voting age population or BVAP." *Id*. at 2:49:00-2:49:13. He went on to state: "Given the State's current demographics, there is not a high enough Black population in the Southeast portion of Louisiana to create two majority Black districts and to also comply with the U.S. Constitution's one-vote one-person requirement. That is the reason why District 2 is drawn around Orleans Parish, why District 6 includes the Black population of East Baton Rouge Parish and travels up the I-49 corridor and the Red River to include Black population in Shreveport." *Id*. at 2:49:19-2:49:49.

61. Representative C. Denise Marcelle also expressed that the goal was to get "a second congressional district." *Id*. at 2:43:25-2:43:30.

62. Only one Representative asked Representative Beaullieu a question after his presentation. Representative Beryl Amedee asked, "Is this bill intended to create another Black district?" Representative Beaullieu responded: "Yes, ma'am." *Id*. at 2:51:00-2:51:17.

63. Representative Mike Bayham then rose in opposition of SB8. *Id*. at 2:51:30. He stated: "St. Bernhard [Parish] has never been split into two congressional districts." *Id*. at 2:52:07-2:52:10. "Looking at these precincts, and I know every precinct, I've campaigned in every precinct in St. Bernhard, we have two precincts, for example, that are in the second congressional district. One, Precinct 24, gave President Trump 75% of the vote. Precinct 25 gave President Trump 69% of the vote. Those are in the second district. And the first district is

Precinct 44 which gave President Biden 83% of the vote. Precinct 45 gave President Biden 85% of the vote. It seems like these precincts were just thrown together like a mechanical claw machine just grabbing people and dropping them off." *Id*. at 2:52:17-2:23:05. St. Bernhard Parish is divided between District 1 and 2. He went on to state: "We are being told that we have to redraw all of this in a period of less than eight days. That is not how you make sausage. That's how you make a mess. I cannot in good conscience vote for this bill that divides my community and I will stand by that for my community." *Id*. 2:53:10-2:53:33.

64. No other representatives spoke.

65. SB8 then went to a vote, and it passed in the Louisiana House of Representatives by a vote of 86-16 on January 19, 2024.

66. SB8 was then sent to the Senate with House amendments, and it passed by a vote of 27-11 on January 19, 2024.

67. Even before the special session, legislators voiced their intent to create two majority-African American districts. When he received the Governor's call for the special legislative session on January 8, 2024, Representative Matthew Willard told the press: "The math is clear. A third of six is two. And so we look forward to beginning that redistricting session and walking away with two majority-minority African-American congressional districts." *See* Sabrina Wilson, *Gov. Landry calls special session on redistricting as new legislature takes office*, Fox 8 (Jan. 8, 2024), https://www.fox8live.com/2024/01/09/gov-landry-calls-special-session-redistricting-new-legislature-takes-office/. He also told the public: "We'll be doing everything we can to make sure that we are not diluting the voices of Black voters in Louisiana and to get those two majority-minority seats." *Id*. Representative Willard had recently received a new leadership role in the House as the chair of the House Democratic Caucus, where in his words, he "lead[s] the caucus of 32 members." *Id*.

68. Other elected officials in Louisiana remarked on the purpose of the bill to create two majority-African American districts and four majority-non-African American districts.

69. Congressman Troy Carter of the U.S. House of Representatives held a press conference on January 15, 2024, where he stated: "For nearly two years, I have consistently called for the creation of a second majority-minority district. . . . This is our responsibility, not the judiciary. . . . I stand here with my friends from the Legislative Black Caucus, the NAACP, Urban League of Louisiana, and civil rights leaders to firmly state that we are unified and ready

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to work with anyone who is working to create a map that establishes two majority-minority districts that give Black candidates a meaningful opportunity to win." Press Release, *Congressman Troy Carter Demands Fair Congressional Maps* (Jan. 15, 2024), https://troycarter.house.gov/media/press-releases/congressman-troy-carter-demands-fair-congressional-maps. The press conference was an effort to express his "commitment to work with the Louisiana Legislature and Governor Landry to develop a constitutional map that contains two majority-minority congressional districts." *Id*.

70. As the current Congressman for District 2, Congressman Carter's voice was especially important for the passage of SB8. His statements were read on the Senate floor right before the vote for SB8's final passage.

71. Other officials made similar comments. For example, Tres Bernhard, adviser to Congressman Carter, told the Illuminator: "This historical moment is about creating two seats that a Black person can win . . . . And that's what this is about. It's not about a Democratic seat, it's about creating two seats that a Black person can win." *Id*.

72. After both Houses passed SB8 on Friday, January 19, 2024, the bill went to the Governor's desk.

73. The following Monday, January 22, 2024, the Governor signed SB8 into law. Upon his signature, SB8 went into effect and repealed the 2022 redistricting law.

74. The entire process—from the first introduction of SB8 until the Governor signed it into law—took only eight days.

Count I: Racial Gerrymandering in Violation of the Fourteenth Amendment

75. The above paragraphs are hereby incorporated by reference as if set forth fully herein.

76. The Equal Protection Clause of the Fourteenth Amendment provides that "[n]o State shall . . . deny any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. States must "govern impartially [and] not draw distinctions between individuals solely on differences that are irrelevant to a legitimate governmental objective." *Id*.

77. The Equal Protection Clause forbids racial gerrymandering. The State "may not separate its citizens into different voting districts on the basis of race." *Miller*, 515 U.S. at 911. Racial gerrymandering and segregation harm all voters, regardless of race.

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78. To prevail on a racial gerrymandering claim, plaintiffs must show race was the predominant factor the State considered when creating the challenged districts.

79. Plaintiffs can rely on either circumstantial evidence of a district's shape and demographics or more direct evidence of legislative purpose to show that race was the predominant factor governing the State's line-drawing decisions. *Covington*, 138 S. Ct. at 2553.

80. Here, Plaintiffs have presented sufficient direct and circumstantial evidence to show the State's consideration of race predominated over its consideration of traditional redistricting criteria when it created all six districts. The evidence demonstrates that race was not just the State's predominant factor. Race was the State's sole factor.

81. First, Plaintiffs have presented sufficient direct evidence of the State's purpose to draw all six districts predominantly based on the race of voters.

82. Immediately prior to SB8's passage, bill sponsors and other legislators on the Senate and House floors stated that the lines were drawn purely based on race.

83. Both SB8 sponsors, Senator Womack and Representative Beaullieu, separately stated that the goal was to create "two congressional districts with a majority of Black voters." Senate Archive, *supra*; House Archive, *supra*. They drew "the boundaries for District 2 and District 6" to include "over 50% Black voting age population." Senate Archive, *supra*; House Archive, *supra*. And they stated that the districts were drawn *solely* with that goal in mind: "Given the State's current demographics, there is not a high enough Black population in the Southeast portion of Louisiana to create two majority Black districts and to also comply with the U.S. Constitution's one-vote one-person requirement. *That is the reason why* District 2 is drawn around Orleans Parish, *why* District 6 includes the Black population of East Baton Rouge Parish and travels up the I-49 corridor and the Red River to include Black population in Shreveport." Senate Archive, *supra* (emphasis added); *see also* House Archive, *supra*.

84. The one question Representative Beaullieu was asked after presenting SB8 was: "Is this bill intended to create another Black district?" He answered: "Yes." House Archive, *supra*.

85. The bill sponsors "purposefully established a racial target"—*i.e.* an African American voting majority in two districts—and they were "not coy in expressing that goal." *Cooper v. Harris*, 581 U.S. 285, 299-300 (2017). They "repeatedly told [] colleagues that [the

districts] had to be majority-minority." *Id*. at 299. Their statements show that race predominated over other traditional criteria.

86. Additionally, SB8 sponsor Senator Womack conceded that he did not consider communities of interest or other traditional redistricting criteria when selecting this map. He never mentioned compactness. In fact, he acknowledged the odd shape of District 6 when addressing "why" it narrowly "travels up the I-49 corridor and the Red River." Senate Archive, *supra*. He also said that District 6 simply "had to be drawn like it had to be drawn to pick [] up" African Americans. *Id*.

87. Other Senators and Representatives identified race as the chief districting criterion in creating all six districts. *See Shaw II*, 517 U.S. at 906–07; *Miller*, 515 U.S. at 917–18. For example, Senator Pressly said the lines were drawn "based purely on race." Senate Archive, *supra*. Senator Duplessis said the "focus of why we're here today" was to increase African Americans' voting power. *Id*. Senator Carter relayed Congressman Carter's statement that the singular goal was to create "two majority-minority districts." *Id*. Senator Carter and Senator Duplessis discussed the importance of how District 2 would "perform" as an African American majority district. *Id*. Representative Marcelle expressed the goal to get "a second congressional district." House Archive, *supra*.

88. Many also stated that the goal was to reach a certain threshold percentage of African American voters in two districts, so that African Americans would hold the VAP majority in those districts. Senator Carter, for example, stated that he was concerned about District 2 only having a "51%" African American majority, but because SB8 reached the threshold majority, he would vote in favor of SB8. Senate Archive, *supra*. Senator Duplessis expressed the same sentiment about the "the numbers." *Id*.

89. Several senators and representatives in addition to SB8's sponsors expressed that SB8 did not conform to any traditional redistricting criteria. Senator Pressly stated that the line between District 4 and District 6 was "purely based on race," and did not account for the "commonalities of interest" of people in Northwest Louisiana and the "unique," "rich culture," "industries," and even natural disasters that distinguished the region from the rest of the State. Senate Archive, *supra*. Representative Bayham also raised concerns about the failure to abide by traditional redistricting criteria. He said the distinction between voters who were split between District 1 and District 2 did not even divide on partisan lines. Rather the line-drawing seemed

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"like a mechanical claw machine just grabbing people and dropping them off." House Archive, *supra*. Senator Morris also raised concerns about whether there were any "communities of interest" considered, a concern that was answered negatively by Senator Womack. Senate Archive, *supra*. No traditional redistricting factors account for these decisions. Only racial considerations drove this line-drawing.

90. The Governor's statements prior to the legislative session also indicate that the goal was to redistrict race-based lines. Speaking on behalf of the State while serving as Attorney General, he said that it was "impossible" for the State to create a second majority-African American district without violating the U.S. Constitution and traditional criteria, "without impermissibly resorting to mere race as a factor" and without engaging in an unconstitutional "racial gerrymander." *State Motion*, *supra*, at 13-15. These filings from "a state official," not to mention one of the key lawmakers in enacting SB8, is "powerful evidence" that the State "subordinated traditional districting principles to race when it ultimately enacted a plan creating [the] majority-black districts." *Miller*, 515 U.S. at 919.

91. Second, circumstantial evidence establishes that the State flouted traditional redistricting criteria, including compactness, contiguity, and cohesiveness of communities of interest, to draw all six districts based purely on race.

92. All the districts are "narrow and bizarrely shaped." *Allen v. Milligan*, 599 U.S. 1, 28 (2023) (quoting *Bush v. Vera*, 517 U.S. 952, 965 (1996) (plurality)).

93. The districts are not compact. *Shaw I*, 509 U.S. at 646–48. District 6, for example, is a narrow diagonal line that runs along the Interstate 49 corridor akin to North Carolina's infamous slash district that stretched approximately 160 miles along the Interstate 85 corridor and was struck down as an unconstitutional racial gerrymander by the Supreme Court in *Shaw*. *Id.* at 635. District 6 stretches at least 250 miles between its appendages in Shreveport and Baton Rouge, cities in opposite corners of the State. *Cf. Hays*, 936 F. Supp. at 370 (It "meanders for roughly 250 miles from the northwestern corner of the state to the southeast, dividing parishes and municipalities while surgically agglomerating pockets of minority populations along the way."). It then plunges South to the heart of Cajun Country in Lafayette to encompass African American voters there. In Rapides Parish, it dwindles down to a narrow width of 2.5 miles before continuing its snake upward toward Shreveport. It has a compactness score of 0.05, with 0 being a total lack of compactness and 1 being total compactness. The sole goal behind District

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6's narrow line across Louisiana is obvious: maximize the African American vote. The other districts fare no better. Their compactness scores are all extremely low. The Northern and Southern portions of District 5, for example, are barely connected. District 5 is *only 1.2 miles wide* at the juncture of West Feliciana and Avoyelles Parishes and is only contiguous by virtue of the Mississippi River; the surrounding shores and an island are uninhabited. They are unconnected by road, bridge, ferry, trail, or path. District 4 is nearly cut in half, and it extends from Northern to Southern Louisiana, despite the diverging interests of these two regions. Both District 4 and District 5 have compactness scores of 0.08. District 2 only has a compactness score of 0.11. District 1 and District 3 only reach scores of 0.16 and 0.19, respectively. All the shapes are bizarre. The goal of the districts is clear from their shapes: gerrymander and segregate voters purely based on race.

94. The districts also separate communities of interest and unite disparate groups of people with nothing in common apart from race. District 6 carves out a long, narrow peninsula into District 4, splicing several parishes and communities of interest. For example, the cultural and industrial unity of people in Caddo Parish and Northwest Louisiana far outweighs any unity between the sliver of people dissected from Caddo Parish and part of the population in East Baton Rouge, hundreds of miles away. Northern and Southern Louisiana have very distinct cultures. Race is the only reason to create districts crisscrossing the State.

95. The harm is felt by African American and non-African American voters alike, who no longer can influence their communities. *See Gomillion v. Lightfoot*, 364 U.S. 339 (1960). Instead, both sets of voters are separated from their communities and thrust into districts with other voters hundreds of miles away, with whom they have little in common apart from race. The result is they do not have the same power to appeal to their congressional representatives—some of whom may have no knowledge of their region or culture.

96. The districts cut through many parishes. *Bush v. Vera*, 517 U.S. 952, 974 (1996) (plurality opinion); *Cooper*, 581 U.S. at 301 n.3 (finding a "conflict with traditional redistricting principles" where the legislature "split[] numerous counties and precincts"). District 2 severs seven of the nine parishes it touches. District 6 splinters six out of the ten parishes it cuts through.

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97. The legislators' comments and map show that race was not just the predominant purpose. Race was the sole purpose behind SB8. Plaintiffs have thereby satisfied their burden to show that race predominated over other traditional districting criteria.

98. Since Plaintiffs have satisfied their burden, the State has the burden to satisfy strict scrutiny, meaning the State must show it drew the challenged districts in pursuit of a compelling state interest, and the resulting districts were narrowly tailored to achieve that interest. *Shaw II*, 517 U.S. at 908.

99. First, the State must show it enacted these maps pursuant to a compelling state interest. The Supreme Court has assumed (but never held) that compliance with Section 2 of the Voting Rights Act ("VRA") can be a compelling interest, but a State's "ostensible effort to comply with the Voting Rights Act" does not allow for racial gerrymandering. *Covington*, 138 S. Ct. at 2550.

100. To satisfy strict scrutiny, the State must first show that the compelling interest applies—that the VRA is indeed triggered by Louisiana's demographics, voting trends, and other factors. Only if the answer is "yes" may the State proceed to its second burden, meeting the narrow tailoring requirement by presenting actual "evidence or analysis supporting [the] claim that the VRA require[s]" creation of the districts as drawn on a district-by-district basis. *Wis. Legislature v. Wis. Elecs. Comm'n*, 595 U.S. 398, 403 (2022); *Bethune-Hill v. Va. State Bd. of Elecs*., 580 U.S. 178, 191-92 (2017). The State must have a strong basis in evidence or good reasons as to why it drew the districts it did. Courts will not "approve a racial gerrymander whose necessity is supported by no evidence" and that proceeds on a legally mistaken view of the VRA. *Cooper*, 581 U.S. at 306.

101. Should the State rely on the VRA, it will fail at step 1. VRA Section 2 "never require[s] adoption of districts that violate traditional redistricting principles." *Milligan*, 599 U.S. at 30; *see also Hays*, 936 F. Supp. at 370 ("Reduced to its essentials, the VRA simply does not *require* the enactment of a second majority-minority district in Louisiana.").

102. The State has already conceded that it did not abide by traditional redistricting criteria. The State has previously admitted it is "impossible" that "a second majority-minority district can be drawn without impermissibly resorting to mere race as a factor," that any attempt to do so would be an unconstitutional "racial gerrymander," and that attempts to slice voters into districts that could create such a map demonstrate "the exact type of evidence of racial intent that

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dooms legislative action." *State Motion*, *supra*, at 13-15. These statements alone show that the State did not abide by traditional redistricting criteria. *Miller*, 515 U.S. at 919.

103. Second, even if the State could surmount these hurdles, it will fail at step 2. The legislators' statements also show that they failed to comply with any traditional redistricting criteria. Senator Womack, SB8's author and sponsor, said so himself. *See supra* ¶¶ 69-75.

104. Additionally on step 2, the maps themselves show that the State violated traditional districting criteria. *Milligan*, 599 U.S. at 27 (quoting *Shaw*, 509 U.S. at 647); *see supra* ¶¶ 114-19.

105. The VRA is only satisfied if the State demonstrates that each minority-majority district complies with all three of the *Thornburg v. Gingles*, 478 U.S. 30 (1986), factors: (1) a "sufficiently large and geographically compact" minority, that is (2) "politically cohesive," and (3) subject to majority bloc voting that usually defeats the minority group's preferred candidate. *Id*. at 49-51.

106. The State cannot even satisfy the first *Gingles* factor—*i.e.* a showing of a "sufficiently large and geographically compact" minority. *Id*. at 50. These districts are plainly not compact. *See supra* ¶ 116; *Hays*, 936 F. Supp. at 370.

107. The State's failure to comply with traditional redistricting principles or the *Gingles* factors demonstrates that the districts it drew were not narrowly tailored to serve any compelling interest. *Cooper*, 581 U.S. at 306. Thus, the State cannot satisfy strict scrutiny.

108. Accordingly, Plaintiffs are entitled to relief.

Count II: Plaintiffs' Votes Are Abridged in Violation of the Fourteenth and Fifteenth Amendments

109. The above paragraphs are hereby incorporated by reference as if set forth fully herein.

110. The Fifteenth Amendment states: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude." U.S. Const. amend. XV, § 1. The Fifteenth Amendment "right to vote" may "be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." *LULAC v. Edwards Aquifer Auth*., 937 F.3d 457, 462 (5th Cir. 2019) (quoting *Reynolds v. Sims*,

377 U.S. 533, 555 (1964)). States cannot abridge the right to vote by using racial criteria. *Shaw I*, 509 U.S. at 640-41.

111. This legislation has abridged Plaintiffs' right to vote based solely on their race. While Plaintiffs recognize that no group of voters is entitled to proportional representation under the U.S. Constitution and the application of traditional race-neutral criteria may result in an underrepresentation or overrepresentation of racial, religious, or political groups, the Constitution clearly protects all racial groups from representational schemes which have as their sole purpose the intentional overrepresentation of voters of a particular race over all other voters in a jurisdiction. *See Gomillion v. Lightfoot*, 364 U.S. 339 (1960).[9] A claim that an election scheme is based predominantly on such discriminatory racial intent and results in the intended harm is actionable.

112. Here, as in *Gomillion*, SB8 imposes an obvious racial preference which abridges the ability of non-African American voters to engage in the normal compromises and influence that would exist in districts drawn consistent with traditional redistricting principles. The State has chosen to intentionally gerrymander for the sole purpose of providing a racial minority a greater proportion of congressional districts than their citizen voting age population. Each Plaintiff experiences this injury in his or her own district. African Americans constitute a little more than 29% of the citizen voting age population. The redistricting intentionally creates two majority-African American districts of the six districts, or slightly more than 33%. Using a mandatory racial quota to not only approach, but to exceed, the African American share of the citizen voting age population, constitutes an additional concrete harm to all non-African American voters, unseen in previous racial gerrymandering cases.[10]

113. Turning to the Fourteenth Amendment, the Equal Protection Clause prohibits a State from "deny[ing] to any person within its jurisdiction the equal protection of the laws." U.S.

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[9] Justice Stevens dissented in *Shaw* and *Miller v. Johnson* because he found the stereotyping harm in both to be insufficient, concluding that "[n]either in *Shaw* itself nor in the cases decided today has the Court coherently articulated what injury this cause of action is designed to redress." *Miller v. Johnson*, 515 U.S. 900, 929 (1995) (Stevens, J., dissenting). Justice Stevens explained that the plaintiffs in those cases had made no showing of "vote dilution… to an identifiable group of voters" nor under the facts of the case were they capable of so doing. *Id.* (Stevens, J., dissenting). Louisiana's current redistricting scheme obviates Justice Stevens's concerns about the missing harm to plaintiffs in prior redistricting challenges.

[10] The racial gerrymandering cause of action in Count I is the same cause of action in the seminal case *Shaw v. Reno* and all its progeny, including *Hays*. The harm in those cases, and in this one, arises from stereotyping based on race and is felt by all voters in racially gerrymandered districts. In those earlier racial gerrymandering cases, the percentage of the challenged majority-minority gerrymandered districts compared to total districts was still less than the percentage of minority's proportion of the citizen voting age population.

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Const. amend XIV, § 1. The Equal Protection Clause requires States to draw legislative districts so that citizens' votes are counted equally. *Baker v. Carr*, 369 U.S. 186 (1962). Thus, the Clause prohibits a State from gerrymandering in such a way that the State dilutes the votes of one class of voters and thereby treats voters unequally under its laws. *Shaw I*, 509 U.S. at 640-41.

114. As previously stated, the statements of lawmakers leave no doubt that race was not only the predominant reason for the passage of the current redistricting scheme. Race was the sole reason. No further proof of invidious discriminatory intent is necessary. However, sufficient circumstantial evidence also proves such intent. *See Rogers v. Lodge*, 458 U.S. 613 (1982).

115. The harm to all non-African American voters is the same harm described in other non-election law claims where States use racial quotas to discriminate against races or ethnicities outside the target group. *See, e.g.*, *Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 1 (2023); *Adarand Constructors v. Pena*, 515 U.S. 200 (1995); *Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989).

116. SB8 gave African American voters the majority in two congressional districts, where they previously held the majority in one, by consolidating them into these two districts from across the State. This required displacing other racial groups from the territories of Districts 2 and 6, and forcing them into adjoining portions of Districts 1, 3, 4, and 5. Had traditional districts been drawn that did not "bear[] more heavily on one race than another," *Vill. of Arlington Heights v. Metro. Housing Dev. Corp.*, 429 U.S. 252, 266 (1977) (quoting *Washington v. Davis*, 426 U.S. 229, 242 (1976), these non-African American voters would have constituted a majority in five of Louisiana's six districts. But because the State acted with discriminatory intent and developed racial quotas, it injured non-African American voters by costing them one district.

117. SB8 was created by means of an irregular procedure. It was the first legislative session after the Governor assumed office. In fact, on the Governor's *first* day in office—January 8, 2024—he called for the legislative special session to focus exclusively on redistricting. The legislative session was a special one and SB8 was passed by both Chambers and signed by the Governor in a matter of eight days. There was little debate, and the entire process was rushed to create two majority-African American districts and reduce the existing five majority-non-African American districts to four. While the Legislature had previously spent

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months after the 2020 census travelling across the State and soliciting public input, legislators did not even have time to *inform* their constituents about the redistricting bill or special session—much less ask their constituents for their opinions and provide proper representation on their behalf. *See* Senate Archive, *supra*, at 28:00-29:30. The entire session was a whirlwind. The historical background of the challenged decision and the sequence of events leading up to the challenged action show that SB8's maps were drawn specifically to form two majority-African American districts and reduce the number of majority-non-African American districts from five to four districts.

118. The viewpoints expressed by legislators and other decision makers show that they intended to abridge the votes of non-African American voters and that they were motivated by race when they configured the districts. *United States v. Brown*, 561 F.3d 420, 433-34 (5th Cir. 2009). The legislators claimed they drew these districts to allow for two majority-African American districts and four majority-non-African American districts, where there had previously been five, even though these legislators were fully aware that they were violating all traditional redistricting criteria and creating a racial quota based on super-proportional representation at the expense of other voters.

119. For the reasons previously stated, this discrimination cannot satisfy strict scrutiny.

120. Thus, Plaintiffs are entitled to relief on Count II.

Prayer for Relief

WHEREFORE Plaintiffs pray that this Court "immediately notify the chief judge of the circuit, who shall designate two other judges" so that "[t]he judges so designated, and the judge to whom the request was presented, shall serve as members of the court to hear and determine the action or proceeding." 28 U.S.C. § 2284(b)(1). Plaintiffs pray that this Court issue a declaratory judgment that SB8 is unconstitutional under the Fourteenth and Fifteenth Amendments, issue an injunction barring the State of Louisiana from using SB8's map of congressional districts for any election, and institute a congressional districting map that remedies these violations. Plaintiffs also request all fees and costs recoverable under 42 U.S.C. § 1988.

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Dated this 31st day of January, 2024

Respectfully submitted,

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS ET AL	**CASE NO. 3:24-CV-00122**
VERSUS	**JUDGE DAVID C. JOSEPH**
NANCY LANDRY	**MAG. JUDGE KAYLA D. MCCLUSKY**

ORDER CONSTITUTING THREE-JUDGE COURT

This suit challenges the constitutionality of the apportionment of congressional districts in the State of Louisiana. Judge David C. Joseph has requested, pursuant to 28 U.S.C. § 2284, that a three-judge court be convened. I hereby designate a Circuit Judge and a District Judge to serve with Judge Joseph. The members of the three-judge district court convened under 28 U.S.C. § 2284 are:

Judge Carl E. Stewart
Circuit Judge
United States Court of Appeals for the Fifth Circuit

Judge Robert R. Summerhays
United States District Judge
Western District of Louisiana

Judge David C. Joseph
United States District Judge
Western District of Louisiana

SIGNED on February 2, 2024.

Priscilla Richman

PRISCILLA RICHMAN
CHIEF JUDGE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	Case No. 3:24-cv-00122-DCJ-CES-RRS
v.	)	District Judge David C. Joseph Circuit Judge Carl E. Stewart District Judge Robert R. Summerhays
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	Magistrate Judge Kayla D. McClusky
Defendant.	)	

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

Plaintiffs Phillip Callais, Lloyd Price, Bruce Odell, Elizabeth Ersoff, Albert Caissie, Daniel Weir, Joyce LaCour, Candy Carroll Peavy, Tanya Whitney, Mike Johnson, Grover Joseph Rees, and Rolfe McCollister, by and through their counsel, respectively move this Court to: (1) enjoin Defendant Secretary of State Nancy Landry from implementing the congressional redistricting map set out in Congress Act 2 (SB8) enacted by the State of Louisiana in January 2024 to administer any elections, and (2) order Defendant to implement the congressional redistricting map set out in Exhibit A to administer future elections. A preliminary injunction is justified for the reasons set forth in the memorandum of law, exhibits, declarations, and expert reports attached to this motion.

Plaintiffs meet the traditional factors to compel preliminary injunctive relief. Plaintiffs are likely to prevail on the merits, Plaintiffs face irreparable harm, the balance of equities favors Plaintiffs, and the public interest is not disserved by injunctive relief.

First, Plaintiffs are likely to prevail on the merits of both their claims: racial gerrymandering in violation of the Fourteenth Amendment and abridgement of voting rights in violation of the Fourteenth and Fifteenth Amendments. Plaintiffs will likely succeed on the racial gerrymandering claim because they can show that race predominated in the State's redistricting decisions and the State cannot satisfy strict scrutiny— the "most rigorous and exacting standard of constitutional review." *Miller v. Johnson*, 515 U.S. 900, 920 (1995). Plaintiffs will also likely prevail on their voter abridgement claim because they can show that the State intentionally abridged their right to vote on the basis of race.

Second, Plaintiffs face irreparable harm. The current congressional map violates—and will continue to violate in upcoming elections—Plaintiffs' fundamental constitutional rights under the Fourteenth and Fifteenth Amendments. This harm is irreparable absent injunctive relief. *BST Holdings, LLC v. OSHA*, 17 F.4th 604, 618 (5th Cir. 2021) ("[T]he loss of constitutional freedoms . . . 'unquestionably constitutes irreparable injury.'" (quoting *Elrod v. Burn*s, 427 U.S. 347, 373 (1976))); *League of United Latin Am. Citizens v. Abbott*, 601 F. Supp. 3d 147, 182 (W.D. Tex. 2022) (holding that alleged violations of voters' Fourteenth Amendment equal protection rights and Fifteenth Amendment voting rights from Texas' redistricting map constituted irreparable harm); *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014) ("Courts routinely deem restrictions on fundamental voting rights irreparable injury." (citing *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986); *Alt. Political Parties v. Hooks*, 121 F.3d 876 (3d Cir.1997))).

Finally, the balance of equities favors Plaintiffs, and the public interest is advanced by awarding an injunction. The current map is "likely unconstitutional" so "[a]ny interest" Defendant "may claim in enforcing [it] is illegitimate." *See BST Holdings*, 17 F.4th at 618; *see also*

Ingebrigtsen v. Jackson Public Sch. Dist., 88 F.3d 274, 280 (5th Cir. 1996) (holding that where an enactment is unconstitutional, "the public interest [is] not disserved by an injunction preventing its implementation").

Additionally, Plaintiffs request a waiver of security otherwise required by Federal Rule of Civil Procedure 65(c). This is a "a matter for the discretion of the trial court," which "may elect to require no security at all." *Kaepa, Inc. v. Achilles Corp.*, 76 F.3d 624, 628 (5th Cir. 1996) (quotation omitted); *see also Planned Parenthood Gulf Coast, Inc. v. Kliebert*, 141 F. Supp. 3d 604, 652 (M.D. La. 2015). Courts often do so when constitutional rights are at stake, or when plaintiffs seek to protect the public interest. *See Thomas v. Varnado*, 511 F. Supp. 3d 761, 766 n.1 (E.D. La. 2020); *see also Schultz v. Medina Valley Indep. Sch. Dist.*, 2011 WL 13234770, at *2 (W.D. Tex. June 1, 2011) ("Because this suit seeks to enforce fundamental constitutional norms, it is further ORDERED that the security requirement of Federal Rule of Civil Procedure 65(c) is waived . . . .").

Dated this 7th day of February, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 7th day of February 2024, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record. Additionally, copies of all pleadings and other papers filed in this action to date or to be presented to the Court at the hearing have been mailed to the adverse party.

/s/ Paul Loy Hurd
Paul Loy Hurd

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
	)	Case No. 3:24-cv-00122-DCJ-CES-RRS
Plaintiffs,	)	
	)	
v.	)	District Judge David C. Joseph
	)	Circuit Judge Carl E. Stewart
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	District Judge Robert R. Summerhays
	)	Magistrate Judge Kayla D. McClusky
	)	
Defendant.	)	

PLAINTIFFS' MEMORANDUM IN SUPPORT OF THEIR MOTION FOR PRELIMINARY INJUNCTION

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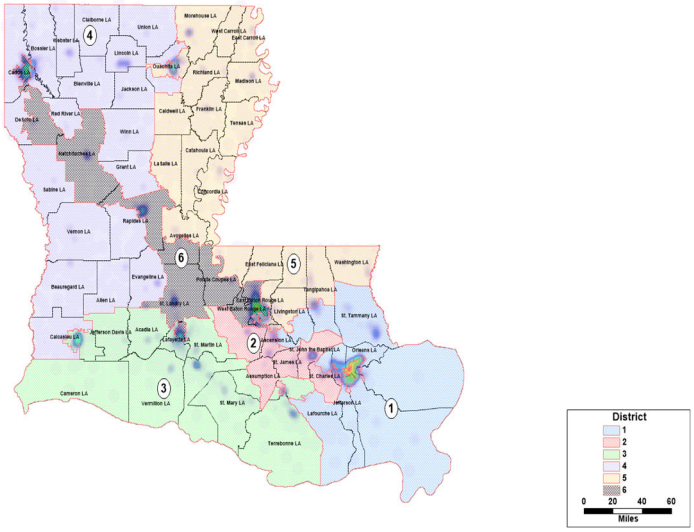
INTRODUCTION

Thirty years ago, a three-judge panel of this very Court invalidated a racial gerrymander eerily similar to SB8, the redistricting map Plaintiffs challenge here. The circumstances were nearly identical. While defending Voting Rights Act ("VRA") litigation, the State quickly passed a new map to add a second majority-African American district out of seven total. The VRA, it said, compelled the new district, which slashed the State in half for hundreds of miles, from Baton Rouge to Shreveport. The original majority-minority district focused on Orleans Parish. This Court found that the district from Baton Rouge to Shreveport was an unconstitutional racial gerrymander. *Hays v. Louisiana*, 936 F. Supp. 360, 367 (W.D. La. 1996).

The only difference now is that Louisiana has just six districts. In eight days, the State drew and passed a congressional redistricting bill with the sole purpose of drawing districts and segregating voters based on race. A map of the district lines around dots representing high populations of African American voters shows that the State created an intentional racial hedge.



Ex. A at 23.[1] In viewing its citizens through a purely racial lens, the State's gerrymander reduces each individual to a racial stereotype who is then expected to vote to achieve a race-based outcome. Not only is such treatment a grave affront to the God-given freedom and dignity of each Louisiana voter, it also violates the Fourteenth Amendment's guarantee of equal protection. Where, as here, race predominates in the State's line-drawing and the State cannot satisfy strict scrutiny, the "most rigorous and exacting standard of constitutional review," Plaintiffs will prevail on a racial gerrymandering claim. *Miller v. Johnson*, 515 U.S. 900, 920 (1995).

The State did not merely allow race to predominate, it intentionally fixed an explicit racial quota of two African American districts. Even worse than its 1993 effort, Louisiana tried to guarantee one racial group a percentage of the Congressional delegation that exceeds its actual share of the voting population, and to ensure that, by this same degree, all other racial groups would be under-represented. Such intentional discrimination has no place under the Fourteenth and Fifteenth Amendments. In our democracy, there can be no excuse for burdening citizens based on their race. *See Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll.*, 600 U.S. 181 (2023).

The current map cannot stand. Plaintiffs ask that this Court issue a preliminary injunction that (1) enjoins Defendant Secretary of State Nancy Landry from using the current map to qualify candidates and carry out elections and (2) orders Defendant to enforce a new map—Plaintiffs' Illustrative Map or another map that does not contravene the Fourteenth or Fifteenth Amendments—to remedy these constitutional injuries. **Ex. A at 12** (Plaintiffs' Illustrative Map).

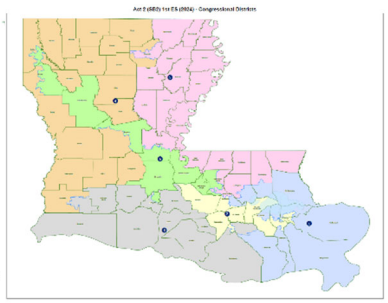
[1] Citations to "Ex." refer to Exhibits listed in the Declaration of Edward D. Greim.

BACKGROUND

I. Louisiana unsuccessfully tried this redistricting strategy after the 1990 census.

In the early 1990s, the Louisiana Legislature tried to create a second majority-African American district out of its seven congressional districts. *United States v. Hays* (*Hays II*), 515 U.S. 737, 740 (1995). One encircled New Orleans and the other formed a "Z" slashing across Northern Louisiana, turning south, and then jutting east toward Baton Rouge. *Id.* at 741; *Hays v. Louisiana*, 839 F. Supp. 1188, 1199 (W.D. La. 1993). Several voters challenged the scheme. While the appeal was pending before the Supreme Court, the Legislature repealed that original map and enacted a map remarkably similar to the one in SB8. *Hays*, 936 F. Supp. at 374 app. III.

1993 Map 2024 Map[2]



The 1993 map too had two majority-African American districts. *Id*. at 364. One encircled New Orleans; the other was long and narrow and slashed 250 miles from Shreveport down to Southeastern Baton Rouge. *Id*. But the district court recognized the scheme as an unconstitutional racial gerrymander and determined that it had no choice but to issue a remedial map. *Id*. at 372.

II. Louisiana enacted an initial redistricting map after the 2020 census.

Thirty years later, the Legislature dusted off the same playbook. Its first congressional redistricting attempt with the 2020 decennial Census data began in 2021. **Ex. B, C, D, E, F**. From

[2] See Exhibit P for enlarged view of SB8's enacted map.

October 2021 to January 2022, the Legislature held public meetings to solicit comments on redistricting maps. **Ex. D; Ex. A at 4**. After this extensive process, on February 1, 2022, the House of Representatives presented a redistricting bill. **Ex. B, E**. After weeks of deliberation and debate, the bill passed in both Chambers. **Ex. B**. The Legislature overrode a gubernatorial veto on March 30, 2022, and it became law. **Ex. B**. The plan created five majority-non-African American districts and one majority-African American district based on Census data revealing that 29.87% of the Louisiana voting age population ("VAP") was non-Hispanic African American and 31.25% of the Louisiana VAP was African American. **Ex. C, F, G**. A group of voters challenged the bill in court. **Ex. H at 1**. The State of Louisiana intervened. ***Id***.

On April 29, 2022, the State, through then-Attorney General Jeff Landry's Office, argued before the district court in opposition to the plaintiffs' preliminary injunction motion: "No sufficiently numerous and geographically compact second majority-minority district can be drawn in Louisiana." ***Id.* at 6**. It went on to say: "The minority population in Louisiana is not compact" when accounting for the necessary "traditional districting principles." ***Id.* at 11**. Rather, to draw two districts with a certain African American VAP percentage, you "had to ignore any conception of communities of interest." ***Id.* at 8; *see id.*** ("The fact that so many communities of interest were either divided among the Congressional districts or paired with unlikely and dissimilar larger cities begs the question of whether the distribution of African Americans are truly compact enough to create a second majority-minority Congressional district."). The State recognized that "no constitutional second majority-minority congressional district is *possible* in Louisiana" and any attempt to create one would be an unconstitutional "racial gerrymander." ***Id.* at 13** (emphasis added). As a corollary, the State recognized that the plaintiffs in that case—whose aim was precisely to mandate the creation of two majority-minority districts—presented "the exact type of

evidence of racial intent that dooms legislative action." ***Id.* at 14-15**. In sum, the State repeatedly stressed that it was "impossible . . . to demonstrate that a second majority-minority district can be drawn without impermissibly resorting to mere race as a factor." ***Id.* at 15; *see also id.* at 7** ("again, . . . you cannot create two legally sufficient BVAP congressional districts"). The State thereby admitted that it could not create two majority-minority districts without violating the Constitution.

The State also addressed the plaintiffs' proposed maps, which created majority-African American districts composed of African American voters in cities 152 and 157 miles apart. Citing these statistics, the State admitted that the districts were not compact. ***Id.* at 12**. Soon after, however, in SB8, the State created majority-African American districts with African American voters in cities at least 230 miles apart. **Ex. A at 26**.

Neither the district court nor the United States Court of Appeals for the Fifth Circuit ever issued a final order on the merits.

III. Louisiana rushed to pass a new congressional redistricting map.

The Attorney General, who had litigated on behalf of Louisiana, was elected Governor and assumed his new office on January 8, 2024. **Ex. I, J**. On that very day, he called for the legislative special session to focus on redistricting. **Ex. I, J**. A week later, the Governor opened the session by calling upon the Legislature to perform "[a] job that our own laws direct us to complete" and "a job that our individual oaths promised we would perform." **Ex. K, L**. At the beginning of the session, on January 15, 2024, Senator Glen Womack introduced SB8. **Ex. L, M**. Four days later, it passed both Houses, and the Governor voiced his approval. **Ex. L, N, O**. The following Monday, he signed it into law. **Ex. L**.

IV. SB8 segregated voters based on race.

SB8 repealed the prior redistricting law—which had been effective for the 2022 election—and enacted a new one. **Ex. N**. It created two majority-African American districts, Districts 2 and 6, and four majority-non-African American districts, Districts 1, 3, 4, and 5. **Ex. Q**. While all district lines were redrawn, the biggest change was to District 6. **Ex. A, P, Q**. It saw a 30% increase in African American voters, and a proportionate decrease in non-African American voters. **Ex. A, F, Q**. SB8 packed non-African American voters predominantly into District 1, 3, 4, and 5; as a result, majorities they held in these districts became massive super-majorities. **Ex. A, F, Q**.

SB8 drew Districts 6 and 2's tendrils specifically to capture areas with large numbers of African American voters. **Ex. A at 23**; **Ex. P, S-CC**. District 6, for example, stretches in a slash mark from the top northwest corner of the State in Shreveport, diagonally to central Alexandria, and then further down to Baton Rouge in the southeast. **Ex. A, P**. Midway, it abruptly detours even further south to Lafayette in the heart of Acadiana solely to pick up African American voters. **Ex. A, P**. These are all areas with high numbers of African American voters. **Ex. A at 11, 22-23**.

V. Lawmakers admitted they intentionally drew districts along race-based lines.

Shortly after the Governor called the special session, legislators made clear that their purpose was to somehow draw two African American-majority districts. Louisiana Representative Matthew Willard, for example, told the press: "[W]e look forward to beginning that redistricting session and walking away with two majority-minority African-American congressional districts." **Ex. DD**. He also told the public: "We'll be doing everything we can to make sure that we are not diluting the voices of Black voters in Louisiana and to get those two majority-minority seats." **Ex. EE**. Rep. Willard had recently received a new leadership role in the House as the chair of the House Democratic Caucus, where in his words, he "lead[s] the caucus of 32 members." **Ex. DD**.

An influential voice, U.S. Representative Troy Carter, the Congressman for District 2, made similar comments. **Ex. FF**. From beginning to end, his voice was especially important for SB8's passage. Later, just before the vote for SB8's final passage, his remarks were read on the Senate floor. Louisiana State Senate, *Senate Chamber 1ES Day 3*, at 26:00-27:00 (Jan. 17, 2024), https://senate.la.gov/s_video/VideoArchivePlayer.aspx?v=senate/2024/01/011724SCHAMB [hereinafter Senate Archive].

During SB8's third reading and final passage, several Senators spoke on the bill. Sen. Womack opened the discussion by presenting SB8 and answering legislators' questions. He said SB8 intentionally created "two congressional districts with a majority of Black voters." *Id*. at 8:47-8:54. He went on to discuss "the boundaries of District 2 and District 6 on your map," and emphasized that both were "over 50% Black voting age population." *Id*. at 9:20-9:35. He went on to state:

> Given the State's current demographics, there is not enough high Black population in the Southeast portion of Louisiana to create two majority Black districts and to also comply with the U.S. Constitution's one-person one-vote requirement. That is the reason why District 2 is drawn around Orleans parish while District 6 includes the Black population of East Baton Rouge Parish and travels up the I-49 corridor to include Black population in Shreveport.

Id. at 9:35-10:00. Sen. Womack repeatedly referred to the 250 miles between Baton Rouge and Shreveport in District 6 as merely a "corridor." *Id*. at 9:55-10:00, 12:50-12:55.

Sen. Womack repeated throughout his remarks that his primary goal in drafting SB8 was to create two majority-African American districts. He repeatedly referred to District 2 and District 6 as the "minority" or "Black" districts. *Id*. at 9:00-10:40, 16:35-16:43, 18:15.

In an important exchange, Sen. Womack disavowed that he had complied with traditional redistricting criteria. Sen. Jay Morris first asked Sen. Womack about the two majority-minority districts: "Among the factors that you considered, was the community of interest of the district

something that was considered in coming up with this version of the map that we have before us? . . . You didn't consider the community of interests of people having something in common with one another within the district?" *Id*. at 11:10-11:53. Sen. Womack then responded: "No, I didn't because it was, we had to draw two districts and that's the only way we could get two districts . . . ." *Id*. at 11:54-12:05. Sen. Womack also denied that he considered agriculture as a community of interest in District 6. *Id*. at 12:09-12:48.

Sen. Morris also asked Sen. Womack when referring to District 6: "Would you say the heart of the district is Northeast Louisiana, North Central Louisiana?" *Id*. at 12:50-13:05. Sen. Womack responded: "I wouldn't say the heart of that district is that way." *Id*. at 13:05-13:20. He went on to state District 6 simply "had to be drawn like it had to be drawn to pick that up." *Id*. at 13:05-13:20. Sen. Morris asked again: "So is there a heart of the district?" *Id*. at 13:20-13:25. Sen. Womack said: "I don't think it has a heart of the district." *Id*. at 13:25-13:35. Sen. Womack recognized there was no tie or common interest between the district's northern and southern regions. Race was the only reason it extended into far-flung regions of Louisiana.

Sen. Womack, sympathizing with a colleague's concerns, admitted: "Where we had to draw two minority districts, that's the way the numbers worked out. You've worked with redistricting before and you have to work everyone around that the best you can." *Id*. at 18:08-18:30.

Sen. Gary Carter next raised concerns about the "current African American voting age population in District 2" because it was now only "51%." *Id*. at 24:30-25:10. He had "serious concerns" with whether "District 2 continues to perform as an African American district." *Id*. at 25:10-25:25. But despite those concerns about African American "perform[ance]" in District 2, he supported the legislation. *Id*. In making these comments, Sen. Carter demonstrated that he was especially concerned about ensuring a certain percentage of the population was African American

in District 2. Sen. Carter also read and endorsed a statement from Congressman Troy Carter, who currently represents District 2 in the U.S. House of Representatives. He said: "My dear friends and colleagues, as I said on the steps of the Capitol, I will work with anyone who wants to create two majority-minority districts. I am not married to any one map. I have worked tirelessly to create two majority-minority districts that perform. That's how I know that there may be better ways to craft both of these districts. There are multiple maps that haven't been reviewed at all. However, the Womack map creates two majority-minority districts and therefore I am supportive of it, and I urge my former colleagues and friends to vote for it while trying to make both districts stronger with appropriate amendment. We do not want to jeopardize this rare opportunity to give African American voters the equal representation they rightly deserve." *Id*. at 26:00-27:00.

Sen. Royce Duplessis affirmed his intent that SB8 "was about one-third of this State going underrepresented for too long." *Id*. at 33:00-34:15. "So I think it's important that we keep the focus on why we're here today." *Id*. at 34:15-34:35. His reference to one-third of the State was a reference to the African American population. He went on to state: "Just like Senator Carter, I'm not thrilled with what's happening in District 2 and the way it's lowering the numbers," referring to the numbers of African American voters Sen. Carter discussed. *Id*. at 34:40-34:52. Sen. Duplessis discussed how he had created a map with Sen. Price that "we thought performed better." *Id*. at 34:52-35:00. He stated he would support SB8 "because he thought it was time to give people of this State fair representation." *Id*. at 35:25-35:32.

Sen. Thomas Pressly rose in opposition, stating that Northwest Louisiana was "unique from the rest of our State, and I believe that commonalities of interest are important." *Id*. at 35:55-36:40. He stated: "I cannot support a map that puts Caddo Parish and portions of my district, which is over 220 miles from here, in a district that will be represented by someone in East Baton Rouge

Parish that may or may not have ever even been to Northwest Louisiana and certainly doesn't understand the rich culture, rich important uniqueness of our area of the State." *Id*. at 36:55-37:23. He went on: "When we look at Louisiana we often talk about North and South. And that division is true. It's real. I think all of us acknowledge that. The I-10 corridor has unique needs. When we think of the challenges you face with storms, often you think of hurricanes. In North Louisiana we think of tornadoes and ice storms. When you look at the important regions of our States and the diverse industries that we have . . . that is something that we must keep in mind as we continue through this process." *Id*. at 37:23-38:14. He said: "I am concerned with the important part of this State—Northwest Louisiana—not having the same member of Congress." *Id*. at 38:14-38:29. He said it made no sense to create two congressional districts and draw District 6 and District 4 "along a line that's based purely on race." *Id*. at 38:29-38:40.

SB8 passed the Senate on January 17, 2024, by a vote of 27-11. **Ex. L**. That same day, it was presented in the House and assigned to committee. ***Id.*** Two days later, Rep. Beau Beaullieu, its sponsor, presented SB8 to the House for debate and final passage. ***Id.*** In his opening remarks, Rep. Beaullieu stated that SB8 created "two congressional districts with a majority of Black voters." Louisiana State House of Representatives, House Chamber Day 5, 1ES – SINE DIE, at 2:48:25-2:48:31 (Jan. 19, 2024), https://house.louisiana.gov/H_Video/VideoArchivePlayer?v=house/2024/jan/0119_24_1ES_Day5 [hereinafter House Archive]. Like Sen. Womack, he discussed "the boundaries for District 2 and District 6," and emphasized that "both" "are over 50% Black voting age population or BVAP." *Id*. at 2:49:00-2:49:13. Like Sen. Womack, he went on to admit:

> Given the State's current demographics, there is not a high enough Black population in the Southeast portion of Louisiana to create two majority Black districts and to also comply with the U.S. Constitution's one-vote one-person requirement. That is the reason why District 2 is drawn around Orleans Parish, why District 6 includes

> the Black population of East Baton Rouge Parish and travels up the I-49 corridor and the Red River to include Black population in Shreveport.

Id. at 2:49:19-2:49:49.

Rep. C. Denise Marcelle agreed that the goal was to get "a second congressional district." *Id*. at 2:43:25-2:43:30. The only colleague to question Rep. Beaullieu confirmed this. When Rep. Beryl Amedee asked, "Is this bill intended to create another Black district?" Rep. Beaullieu responded: "Yes, ma'am." *Id*. at 2:51:00-2:51:17.

Rep. Mike Bayham then rose in opposition, declaring that "St. Bernhard [Parish] has never been split into two congressional districts." *Id*. at 2:52:07-2:52:10. He continued:

> Looking at these precincts, and I know every precinct, I've campaigned in every precinct in St. Bernhard, we have two precincts, for example, that are in the second congressional district. One, Precinct 24, gave President Trump 75% of the vote. Precinct 25 gave President Trump 69% of the vote. Those are in the second district. And the first district is Precinct 44 which gave President Biden 83% of the vote. Precinct 45 gave President Biden 85% of the vote. It seems like these precincts were just thrown together like a mechanical claw machine just grabbing people and dropping them off.

Id. at 2:52:17-2:23:05. St. Bernhard Parish is divided between District 1 and 2. Rep. Bayham concluded: "We are being told that we have to redraw all of this in a period of less than eight days. That is not how you make sausage. That's how you make a mess. I cannot in good conscience vote for this bill that divides my community and I will stand by that for my community." *Id*. at 2:53:10-2:53:33. No other representatives spoke. *Id*.

SB8 passed the House by a vote of 86-16 on January 19, 2024. **Ex. L**. The same day, it returned to the Senate with amendments, where it passed by a vote of 27-11, and went to the Governor's desk. **Ex. L**. The Governor publicly approved it and signed it into law the following Monday, January 22, 2024, and it became immediately effective. **Ex. L, N, O**.

VI. Plaintiffs filed this lawsuit.

On January 31, 2024, Plaintiffs, voters from all six of the newly enacted congressional districts who plan to vote in the 2024 congressional election, sued the Louisiana Secretary of State in her official capacity under 42 U.S.C. § 1983, challenging the newly enacted congressional districts as unconstitutional under the Fourteenth and Fifteenth Amendments and seeking declaratory and injunctive relief. **Dkt. 1; Ex. GG-RR**. Plaintiffs now request a preliminary injunction, asking this Court to stop the irreparable harm and violation of their constitutional rights and to institute a new map to remedy these constitutional violations.

ARGUMENT

Plaintiffs "seeking a preliminary injunction must establish that (1) they are likely to succeed on the merits, (2) there is a 'substantial threat' they will suffer an 'irreparable injury' otherwise, (3) the potential injury 'outweighs any harm that will result' to the other side, and (4) an injunction will not 'disserve the public interest.'" *Missouri v. Biden*, 83 F.4th 350, 373 (5th Cir. 2023) (quoting *Atchafalaya Basinkeeper v. U.S. Army Corps of Eng'rs*, 894 F.3d 692, 696 (5th Cir. 2018)). Plaintiffs can establish all four factors, and they respectfully request the Court to enter an injunction to stop the use of SB8 and institute Plaintiffs' proposed remedial map.

I. Plaintiffs are likely to prevail on the merits.

Plaintiffs are likely to succeed on the merits of both Count I and II. **Dkt. 1.**

a. *Hays* decides this case.

Hays "presents us with what we in Louisiana call a 'Goose' case," meaning it is almost factually identical to the case before this Court today. *Hays*, 936 F. Supp. at 368. Louisiana is right back where it was 30 years ago. Like the slash district of 1993, District 6 in SB8 today "is approximately 250 miles long." *Id*. "The District thinly links minority neighborhoods of several

municipalities from Shreveport in the northwest to Baton Rouge in the southeast (with intermittent stops along the way at Alexandria, Lafayette, and other municipalities), thereby artificially fusing numerous and diverse cultures, each with its unique identity, history, economy, religious preference, and other such interests." *Id*.

In 1993, as now, the Legislature's racial gerrymandering was not confined to one district. *Cf. id*. at 364 n.17. Abutting districts received super-majority non-African American populations and "disproportionately small" African American populations, thereby "minimiz[ing] the influence" of those African American voters in the super-majority districts. *Cf. id*.

There, as here, there is not only circumstantial evidence of intentional racial segregation based on the map—there is *direct evidence* of statements from legislators in *both* chambers, made as SB8 was being passed, that their intent was to create racially gerrymandered districts. *Cf. id*. at 368-69. In 1993, as now, this is the State's *second* attempt to create a congressional map based on one Census in the face of an impending congressional election. *Cf. id*. at 364.

Finally, there, as here, this Court cannot remedy the map by ordering yet another do-over. *Cf. id*. at 371-72. Election procedures start too soon, and the likelihood of another constitutional violation is too high. History is repeating itself, and Louisiana must answer for its persistent unconstitutional actions. The State failed to create a redistricting map thirty years ago and has already failed twice this census cycle. How many more years will it take for these unconstitutional racial gerrymanders to cease? Absent action from this Court, there is no end in sight to this madness. Like this Court did thirty years ago, the Court must issue its own map. *Cf. id*. at 371-72.

b. Plaintiffs are likely to succeed on Count I.

Plaintiffs are likely to succeed on Count I, racial gerrymandering in violation of the Fourteenth Amendment. The Equal Protection Clause of the Fourteenth Amendment provides: "No

State shall . . . deny any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1. The Equal Protection Clause forbids States from racial gerrymandering—that is, "separat[ing] its citizens into different voting districts on the basis of race." *Miller*, 515 U.S. at 911. That is because "[a]t the heart of the Constitution's guarantee of equal protection lies the simple command that the Government must treat citizens as individuals, not as simply components of a racial, religious, sexual or national class." *Id*. (quoting *Metro Broad., Inc. v. FCC*, 497 U.S. 547, 602 (1990) (O'Connor, J., dissenting)). To protect this guarantee, race-based redistricting is subject to strict scrutiny. *Bethune-Hill v. Va. State Bd. of Elecs*., 580 U.S. 178, 187 (2017).

To trigger strict scrutiny, plaintiffs must first demonstrate that "race was the predominant factor" behind redistricting decisions. *Id*. Then, the burden shifts to the State to satisfy strict scrutiny, the "most rigorous and exacting standard of constitutional review." *Miller*, 515 U.S. at 920. The State can only meet this "rigorous and exacting standard" if it can prove both that it has a compelling interest in segregating voters based on race and that its racially drawn map is narrowly tailored to achieve that interest. *Id*.

i. Race was the predominant purpose behind the State's redistricting.

To show that race predominated in the State's calculus, Plaintiffs must show that the State subordinated other traditional redistricting factors—such as compactness, contiguity, respect for communities of interest, natural geographic boundaries, and parish lines—to racial considerations. *Cooper v. Harris*, 581 U.S. 285 (2017); *Allen v. Milligan*, 599 U.S. 1, 35 (2023).

Plaintiffs can rely on "circumstantial evidence of a district's shape and demographics or more direct evidence going to legislative purpose" or a mix of both to show race was the predominant factor behind the Legislature's districting decisions. *Bethune-Hill*, 580 U.S. at 187. Plaintiffs do not need to present a specific type of direct or circumstantial evidence. *Cooper*, 581

U.S. at 319 n.4. Here, Plaintiffs have presented sufficient direct and circumstantial evidence that race was not only the State's predominant purpose behind SB8—race was the State's sole purpose.

1. Direct Evidence

First, Plaintiffs have presented direct evidence "that the State's [decisionmakers] purposefully established a racial target." *Cooper*, 581 U.S. at 299. SB8's author, sponsor, and other lawmakers expressly stated that attaining a certain racial percentage within the districts was the nonnegotiable goal. *Shaw v. Hunt* (*Shaw II*), 517 U.S. 899, 906–07 (1996). The legislators "were not coy in expressing that goal" and instead "repeatedly told their colleagues that [the two districts] had to be majority-minority." *Cooper*, 581 U.S. at 299. Both SB8 author Sen. Womack and sponsor Rep. Beaullieu separately stated that the goal was to create "two congressional districts with a majority of Black voters." Senate Archive, *supra*; House Archive, *supra*. They claimed they drew "the boundaries for District 2 and District 6" to include "over 50% Black voting age population." Senate Archive, *supra*; House Archive, *supra*. They said they drew solely with that goal in mind:

> Given the State's current demographics, there is not a high enough Black population in the Southeast portion of Louisiana to create two majority Black districts and to also comply with the U.S. Constitution's one-vote one-person requirement. *That is the reason why* District 2 is drawn around Orleans Parish, *why* District 6 includes the Black population of East Baton Rouge Parish and travels up the I-49 corridor and the Red River to include Black population in Shreveport.

Senate Archive, *supra* (emphasis added); *see also* House Archive, *supra*. The one question Rep. Beaullieu was asked after presenting SB8 was: "Is this bill intended to create another Black district?" He answered: "Yes." House Archive, *supra*.

Other lawmakers expressed that the goal was to reach a threshold majority of African American voters in two districts. Sen. Duplessis called it the "focus of why we're here today." *Id*. Sen. Carter, for example, stated that he was concerned about District 2 only having a "51%" African American majority, but because the district reached the threshold majority, he approved it.

Senate Archive, *supra*. Sen. Duplessis expressed the same sentiment about "the numbers." *Id*. Sen. Carter relayed Congressman Carter's statement that the singular goal was to create "two majority-minority districts." *Id*. Sen. Carter and Sen. Duplessis discussed the importance of how District 2 would "perform" as an African American majority district. *Id*. Rep. Marcelle discussed the goal to get "a second congressional district." House Archive, *supra*.

Lawmakers made clear that they did not consider traditional redistricting criteria when fixing these racial quotas. In fact, Sen. Womack disavowed that he had complied with traditional redistricting criteria when drafting SB8. Sen. Jay Morris asked Sen. Womack about the two majority-minority districts: "Among the factors that you considered, was the community of interest of the district something that was considered in coming up with this version of the map that we have before us? . . . You didn't consider the community of interests of people having something in common with one another within the district?" Senate Archive, *supra*, at 11:10-11:53. Sen. Womack responded: "No, I didn't because it was, we had to draw two districts and that's the only way we could get two districts . . . ." *Id*. at 11:54-12:05; *see also id*. at 12:09-12:48. Sen. Womack repeatedly referred to the hundreds of miles between Baton Rouge and Shreveport in District 6 as merely a "corridor." *Id*. at 9:55-10:00, 12:50-12:55. He also admitted: "I don't think it has a heart of the district." *Id*. at 13:25-13:35. District 6, he said, simply "had to be drawn like it had to be drawn to pick that up," referring to African American voters in Northern Louisiana. *Id*. at 13:05-13:20. These remarks show the Legislature found no tie or common interest between the district's northern region and its southeastern and Acadiana regions. When Sen. Morris raised traditional redistricting criteria concerns, Sen. Womack sympathized but said: "Where we had to draw two minority districts, that's the way the numbers worked out. You've worked with redistricting before and you have to work everyone around that the best you can." *Id*. at 18:08-18:30.

Neither Sen. Womack nor Rep. Beaullieu (the two sponsors) mentioned compactness in their discussions. It was wholly absent from every proponents' discussion of the bill. Only critics flagged compactness as a special concern. Both sponsors acknowledged the odd shape of District 6 when addressing "why" it narrowly "travels up the I-49 corridor and the Red River." Senate Archive, *supra*.; House Archive, *supra*.

Like the two sponsors, other key legislators admitted that SB8 was based on race, not traditional redistricting criteria. Sen. Pressly stated that the line between District 4 and District 6 was "purely based on race," and did not account for the "commonalities of interest" of people in Northwest Louisiana and the "unique," "rich culture," "industries," and even natural disasters that distinguished the region from the rest of the State. Senate Archive, *supra*. Rep. Bayham also raised concerns about the failure to abide by traditional redistricting criteria. He said the divide between voters in Districts 1 and 2 did not even split on partisan lines. Rather the line-drawing seemed "like a mechanical claw machine just grabbing people and dropping them off." House Archive, *supra*. When Sen. Morris asked whether "communities of interest" were considered, Sen. Womack answered negatively. Senate Archive, *supra*. Traditional redistricting factors were disregarded.

Even if the State had considered race-neutral factors, the record reveals that those "considerations only came into play *only after* the race-based decision had been made." *Bethune-Hill*, 580 U.S. at 189 (quotation omitted) (emphasis added). Race predominated in the decision.

The State also conceded previously that the State could not comply with traditional redistricting criteria by creating two majority-African American districts. *Cf. Miller*, 515 U.S. at 919 (noting that an attorney general's objection to creating "three majority-black districts on the ground that to do so the State would have to 'violate all reasonable standards of compactness and contiguity'" was "powerful evidence that the legislature subordinated traditional districting

principles to race when it ultimately enacted a plan creating three majority-black districts"). Speaking on behalf of the State while serving as Attorney General, Governor Landry said it was "impossible" for the State to create a second majority-African American district without violating the U.S. Constitution and traditional redistricting criteria, "without impermissibly resorting to mere race as a factor" and without engaging in an unconstitutional "racial gerrymander." **Ex. H at 13-15**. These filings from "a state official," not to mention one of the key lawmakers in enacting SB8, is "powerful evidence" that the State "subordinated traditional districting principles to race when it ultimately enacted a plan creating [the] majority-black districts." *Miller*, 515 U.S. at 919.

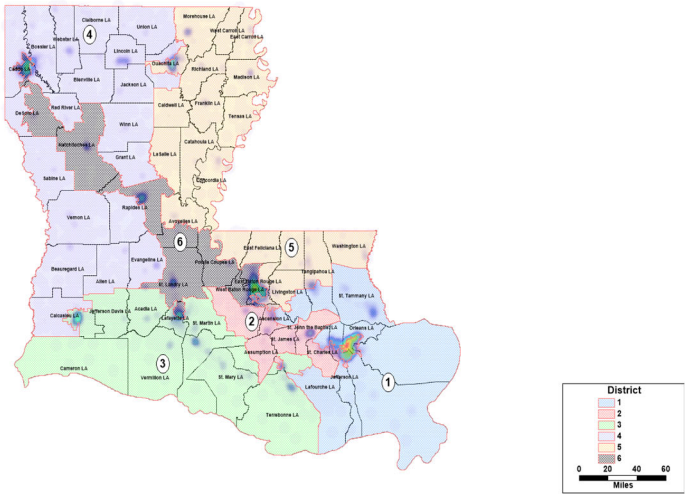
2. Circumstantial Evidence

Even without this abundant direct evidence, plentiful circumstantial evidence establishes that the State did not abide by traditional redistricting criteria, including compactness, contiguity, and cohesiveness of communities of interest, but instead drew all six districts based on race.

The State engaged in racial gerrymandering across all six districts, just as it did in all seven districts in 1993. *Cf. Hays*, 936 F. Supp. at 364 n.17 (noting that the racial gerrymandering pervaded in all districts because the Legislature pushed predominately African American "neighborhoods into the majority-minority district" and non-African American ones into the adjoining districts, which required "splitting parishes, splitting precincts, splitting metropolitan areas, and combining distant and disparate geographical, economic, social, religious and cultural groups and areas"). "Districts share borders, after all, and a legislature may pursue a common redistricting policy toward multiple districts." *Bethune-Hill*, 580 U.S. at 192.

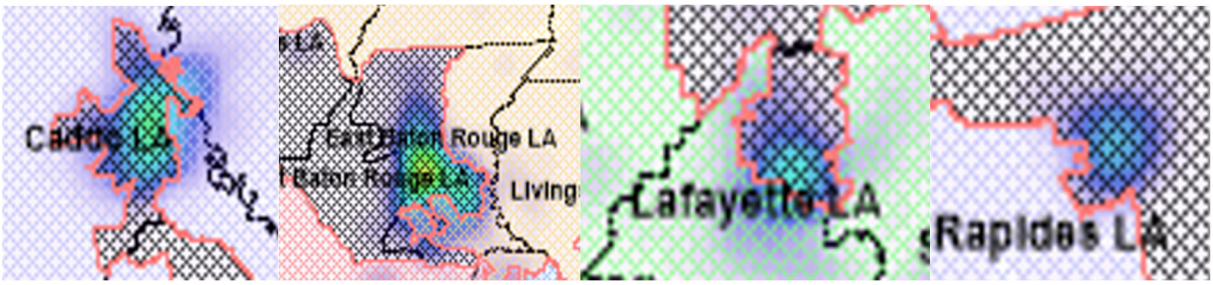
First, the very shape of the districts show that the State simply tried to "connect the dots" of African American voters in Districts 2 and 6 and exclude as many African American voters in Districts 1, 3, 4, and 5. **Ex. A at 22-23**. The largest concentrations of African American voters are

in New Orleans, Baton Rouge, and Shreveport. ***Id.* at 22**. The district lines show the State's purpose was to pack as many African American voters as possible into Districts 2 and 6. ***Id.* at 23**.



Id. District 6 stretches just far enough to reach African American voters in Northwest Shreveport and Southeast Baton Rouge, not one block further. District 6 takes a sudden detour from its narrow diagonal trek to barely encircle African American voters in Lafayette in the heart of District 3 and Acadiana—a distinct region of Louisiana. A closer view of the lines drawn around the major pockets of African American voters in District 6 demonstrates the intentional gerrymandering.

Shreveport Baton Rouge Lafayette Alexandria



Id. Other areas with high African American populations, for example, De Soto Parish, were also exactly carved in. ***Id.* at 23-26; Ex. W**. The legislature's precise tracing around the dots to include as many African American voters as possible and as few non-African American voters as possible demonstrates that it intentionally drew these lines purely based on race.

Second, all the districts are "narrow and bizarrely shaped," demonstrating that the singular goal was to segregate voters by race. *Milligan*, 599 U.S. at 28 (quoting *Bush v. Vera*, 517 U.S. 952, 965 (1996) (plurality)).

District 6, for example, is a narrow diagonal line that runs along the Interstate 49 corridor. Compared to North Carolina's infamous slash district that stretched approximately 160 miles along the Interstate 85 corridor and was struck down as an unconstitutional racial gerrymander by the Supreme Court in *Shaw*, this is an easy case. *Id.* at 635. District 6 stretches at least 230 miles between its appendages in Shreveport and Baton Rouge, cities in opposite corners of the State. **Ex. A at 26**. *Cf. Hays*, 936 F. Supp. at 370 (It "meanders for roughly 250 miles from the northwestern corner of the state to the southeast, dividing parishes and municipalities while surgically agglomerating pockets of minority populations along the way."). It then plunges South to the heart of Cajun Country in Lafayette to encompass African American voters there. In Rapides Parish, it dwindles to a width of 2.7 miles before continuing its snake upward toward Shreveport. **Ex. A at 26**. In DeSoto Parish, it is only 1.9 miles wide. ***Id.***; *cf. Miller*, 515 U.S. at 917 ("[I]t was 'exceedingly obvious' from the shape of the Eleventh District, together with the relevant racial demographics, that the drawing of narrow land bridges to incorporate within the district outlying appendages containing nearly 80% of the district's total black population was a deliberate attempt to bring black populations into the district."). District 6's appendages are also sinuous, some just a few blocks wide. **Ex. A at 24-26**. Each twist and turn tightly encircles African American voters.

Districts 5 and 4 are equally bizarre. Like a crooked hourglass, District 5's massive northern and southern portions touch only at a narrow impassible "land bridge[]" demonstrating that this district was an intentional racial gerrymander. *Miller v. Johnson*, 515 U.S. 900, 917 (1995). District

4 is nearly halved by District 6; it extends from northern to southern Louisiana, despite the diverging interests of these two regions. **Ex. P**.

It would be difficult to draw less compact districts. *Shaw v. Reno* (*Shaw I*), 509 U.S. 630, 646–48 (1993). District 6 has a compactness score of 0.05, with 0 measuring total non-compactness and 1, total compactness. **Ex. A at 16-17**. Both Districts 4 and 5 score 0.08. ***Id.* at 17**. District 2 scores just 0.11. ***Id.*** District 1 and District 3 score 0.16 and 0.19, respectively. ***Id.***

The districts also slice and divide many parishes. *Bush v. Vera*, 517 U.S. 952, 974 (1996) (plurality opinion); *Cooper*, 581 U.S. at 301 n.3 (finding a "conflict with traditional redistricting principles" from "split[] numerous counties and precincts"). The plan split (16) parishes into thirty-four (34) parts. ***Id.* at 10, 14**. The splits affected 2,930,650 people who reside in all districts, or 63% of the State's total population. ***Id.* at 10, 14**.

The districts also separate communities of interest and unite disparate groups of people with nothing in common apart from race. Communities of interest are often defined geographically, such as by parishes, cities, and towns. ***Id.* at 6-7**. They also cluster around groups with a common culture, values, economy, religion, or local tradition. ***Id.* at 7**. Importantly, communities of interest are determined by the people. ***Id.* at 5**. Here, the Legislature ignored traditional communities of interest and instead presumed that African American voters all share the same interests and issues because of their race. The Legislature thereby created and defined its own community of interest based solely on racial characteristics. Cities as culturally and economically diverse as Shreveport, Alexandria, Baton Rouge, and Lafayette are linked together only based on race. Senate Archive, *supra* (Sen. Pressly); **Ex. MM**; *cf. Miller*, 515 U.S. at 908-09 (noting that one district "centered around four discrete, widely spaced urban centers that ha[d] absolutely nothing to do with each other, and stretch[ed] the district hundreds of miles across rural counties and narrow swamp

corridors" was a geographic "monstrosity"). The rural areas between these cities are treated as mere land bridges to reach pockets of African American voters, rather than important areas with their own unique ideals, values, cultures, and economic needs. **Ex. A at 21-23, 26**. The disparate needs of Northern and Southern Louisiana are especially stark. Among other things, the South faces hurricanes; the North deals with tornadoes and ice storms. Senate Archive, *supra* (Sen. Pressly). These areas also have divergent industries, agriculture, and economies. *Id*.; **Ex. MM**.

Not only does the map unite different communities of interest, but it also *divides* a larger number of communities of interest. SB8 split 83 municipalities, or over 1.55 million people, as well as dozens of parishes. **Ex. A at 15**. One example is where District 6 carves out a long, narrow peninsula in District 4 even though the cultural and industrial unity of people in Caddo Parish and Northwest Louisiana is incredibly strong. Senate Archive, *supra* (Sen. Pressly).

Additionally, the dramatic changes in percentages of voters by race across districts demonstrates that these fluctuations were not random—they were intentional choices to segregate voters based on race. *Cooper*, 581 U.S. at 310. The chart below records the percentage of African American and non-African American VAP for each district under the 2022 map and the current map, as enacted under SB8. **Ex. F, Q**.

District	2022 African American	2022 Non-African American	SB8 African American	SB8 Non-African American
1	13.482%	86.518%	12.692%	87.308%
2	58.650%	41.350%	51.007%	48.993%
3	24.627%	75.373%	22.568%	77.432%
4	33.820%	66.180%	20.579%	79.421%
5	32.913%	67.087%	26.958%	73.042%

6	23.861%	76.139%	53.990%	46.010%

In all four majority non-African American districts, racial disparities grew more dramatic. For example, in District 4, the percentage of non-African American voters shot up 13% and the percentage of African American voters decreased proportionally, creating a severe gap between non-African American and African American voters. *Cf. Cooper*, 581 U.S. at 310 (finding that an increase in BVAP of less than 7% was a "sizable jump"). The gap between African American and non-African American voters also grew in Districts 1, 3, and 5. Now all four majority-non-African American districts are super-majority districts, with non-African American voters holding roughly 87%, 79%, 77%, and 73% of the VAP in every single one, and African American voters comprising only 12%, 22%, 20% and 27% of those districts. The State's goal was to create non-African American super-majorities and to exclude African American voters, "minimizing the *influence*" of African American voters in those districts. *Hays*, 936 F. Supp. at 365 n.17 ("Racial minority political influence in the resulting super-majority districts . . . is either lost or significantly diminished because office holders and office seekers no longer need to heed the voices of the minority residents . . . once their influence has been gerrymandered away.").

The changes in District 2 and District 6 also demonstrate the State's racial gerrymandering. District 6 was the most dramatic, swinging from a non-African American majority district to an African American majority district by decreasing and increasing those VAPs by 30%, over *four times greater* than the "sizable jump" observed by the Supreme Court in *Cooper v. Harris*. 581 U.S. at 311. District 2, where the African American population decreased, still demonstrates a racial gerrymander. There, the African American population decreased but held the majority at 51%, a number that both Sen. Carter and Sen. Duplessis noted as sufficient to create a majority-African American district. This choice was deliberate. *Cf. Cooper*, 581 U.S. at 311 (noting the

State's deliberate decision to increase a district's BVAP to 50.7% so African Americans would hold a majority indicated racial gerrymandering).

Finally, Plaintiffs have presented an alternative map, which "is helpful but not necessary to meet [their] burden" to show racial predominance. *Cooper*, 581 U.S. at 319. That map includes markedly more compact districts that actually trace communities of interest. **Ex. A. at 28**. At the same time, it retains the core of District 2, which has long elected African Americans around Orleans Parish and its environs. ***Id***.

ii. The State's racial gerrymandering cannot survive this Court's strict scrutiny.

Since Plaintiffs have satisfied their burden to show race predominated in the State's decision, the State has the burden to satisfy strict scrutiny, meaning the State must show it segregated voters based on race by drawing these districts in pursuit of a compelling state interest, and the resulting segregated districts were narrowly tailored to achieve that compelling interest. *Shaw II*, 517 U.S. at 908. This analysis proceeds in two steps.

First, the State must show it enacted these maps pursuant to a compelling state interest. Only if the State identifies a compelling interest may the State proceed to its second burden, the even more rigorous narrow tailoring requirement.

The Supreme Court has assumed (but never decided) that satisfaction of the Voting Rights Act of 1965, 52 U.S.C. § 10101 ("VRA") is a compelling interest. But to show the racially gerrymandered districts were narrowly tailored to satisfy the VRA without violating the Constitution, the State must present actual "evidence or analysis supporting [the] claim that the VRA *require*[*s*]" the districts as drawn on a district-by-district basis. *Wis. Legislature v. Wis. Elecs. Comm'n*, 595 U.S. 398, 403 (2022) (emphasis added); *see also Bethune-Hill v. Va. State Bd. of*

Elecs., 580 U.S. 178, 191-92 (2017). Not any evidence or analysis suffices. The Supreme Court has required "a strong showing of a pre-enactment analysis with justifiable conclusions." *Abbott v. Perez*, 138 S. Ct. 2305, 2335 (2018) (citing *Bethune-Hill*, 580 U.S. at 191-92). Courts will not approve a racial gerrymander that proceeds on a legally mistaken view of the VRA. *Cooper*, 581 U.S. at 306. If the State relies on the VRA, its claim will fail for at least two reasons.

First, the State did not engage in "a strong . . . pre-enactment analysis with justifiable conclusions" before it segregated voters into race-based districts. *Abbott v. Perez*, 138 S. Ct. 2305, 2335 (2018). This analysis must be district-by-district. *Bethune-Hill*, 580 U.S. at 191. So even if the State was under the mistaken belief that it could create two majority-African American and four majority-non-African American districts and comply with traditional redistricting criteria, the State's failure to engage in a strong pre-enactment analysis with justifiable conclusions as to each of the specific districts enacted in SB8 dooms the State's case.

Second, the State proceeded on a mistaken understanding of the VRA. *Cooper*, 581 U.S. at 305. VRA Section 2 "never require[s] adoption of districts that violate traditional redistricting principles." *Milligan*, 599 U.S. at 30 (citation omitted); *see also Cooper*, 581 U.S. at 305; *Hays*, 936 F. Supp. at 370 ("[T]he VRA simply does not require the enactment of a second majority-minority district in Louisiana."). And even if these districts did not violate traditional criteria, VRA Section 2 never requires the State "to maximize the number of reasonably compact majority-minority districts." *Johnson v. DeGrandy*, 512 U.S. 997, 1022 (1994).

That's because the VRA should never compel a state to violate the Constitution, and a state's attempt to "concentrate[] a *dispersed* minority population in a single district by disregarding traditional districting principles such as compactness, contiguity, and respect for political subdivisions" and create a "reapportionment plan that includes in one district individuals who

belong to the same race, *but who are otherwise separated by geographical and political boundaries*," presents "serious constitutional concerns." *Milligan*, 599 U.S. at 27 (quoting *Shaw I*, 509 U.S. at 647). VRA claims are rarely successful today because "minority populations' geographic diffusion" across States and integration of various racial groups often prevents creation of "an additional majority-minority district" that satisfies the compactness requirement. *Milligan*, 599 U.S. at 29. African Americans are a dispersed minority across the State of Louisiana. **Ex. A at 22**. The State's attempt to force this dispersed group into two districts fails constitutional scrutiny.

Additionally, the State has already conceded that it did not abide by traditional redistricting criteria. It admitted that after the 2020 Census, it is "impossible" that "a second majority-minority district can be drawn without impermissibly resorting to mere race as a factor," that any attempt to do so would be an unconstitutional "racial gerrymander," and that attempts to slice voters into districts that could create such a map demonstrate "the exact type of evidence of racial intent that dooms legislative action." **Ex. H. at 13-15**. These statements alone (even without legislators' countless statements that they ignored traditional criteria, *see* Senate Archive, *supra*; House Archive, *supra*) show that the State did not follow traditional criteria. *Miller*, 515 U.S. at 919. SB8 is simply not narrowly tailored to meet any alleged interest in complying with the VRA.

c. Plaintiffs are likely to succeed on Count II.

Plaintiffs are also likely to succeed on Count II—intentional discrimination in violation of the Fourteenth and Fifteenth Amendments. The Supreme Court has recently reiterated that the Equal Protection Clause forbids not just *Shaw*-style racial classifications, it prohibits *all* discrimination:

> These decisions reflect the "'core purpose' of the Equal Protection Clause: "do[ing] away with *all* governmentally imposed discrimination based on race." *Palmore v. Sidoti*, 466 U.S. 429, 432 (1984) (footnote omitted)…

> Eliminating racial discrimination means eliminating *all of it*. And the Equal Protection Clause, we have accordingly held, applies "without regard to any differences of race, of color, or of nationality"—it is "*universal* in [its] application." *Yick Wo v. Hopkins*, 118 U.S. 356, 369 (1886). For "[t]he guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color." *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 289–290 (1978) (opinion of Powell, J.). "If both are not accorded the same protection, then it is not equal." *Id*. at 290.

Students for Fair Admissions, Inc. v. President & Fellows of Harv. Coll., 600 U.S. 181, 206 (2023) (emphases added). The election context is no different.

The Fifteenth Amendment only reinforces these decisions in the election context, as it expressly prohibits discrimination between voters based on race and abridgement of voting rights based on race. *Gomillion v. Lightfoot*, 364 U.S. 339, 342 (1960); U.S. Const. amend. XV, § 1 ("The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude."). The Fifteenth Amendment "right to vote" may "be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." *LULAC v. Edwards Aquifer Auth*., 937 F.3d 457, 462 (5th Cir. 2019) (quoting *Reynolds v. Sims*, 377 U.S. 533, 555 (1964)). In doing so, the "Fifteenth Amendment nullifies sophisticated as well as simple-minded modes of discrimination." *Gomillion*, 364 U.S. at 342 (quoting *Lane v. Wilson*, 307 U.S. 268, 275 (1939)).

SB8 has discriminated against Plaintiffs based solely on race. Plaintiffs recognize that no group of voters is entitled to proportional representation under the U.S. Constitution, and the application of traditional race-neutral criteria may often result in the mathematical underrepresentation or overrepresentation of racial, religious, or political groups. But the Constitution clearly protects all racial groups from representational schemes which have as their sole purpose a discriminatory quota that imposes an intentional overrepresentation of voters of a

particular race over all other voters in a jurisdiction. *See Gomillion*, 364 U.S. 339.[3] A claim that an election scheme is based predominantly on such discriminatory racial intent and results in the intended harm is actionable under the Fourteenth and Fifteenth Amendments. *Reno v. Bossier Parish Sch. Bd.*, 520 U.S. 471, 481 (1997); *Fusilier v. Landry*, 963 F.3d 447, 463 (5th Cir. 2020).

As shown above, the legislators' statements alone prove discriminatory intent. Legislators admitted they intentionally drew these districts to create precisely two majority-African American districts, even while fully aware that this violated all traditional redistricting criteria and enforced a racial quota based on super-proportional representation at the expense of other voters. This cut the majority-non-African American districts from five to four. In doing so, the State sought to "*substantially disadvantage[] certain voters in their opportunity to influence the political process effectively*." *Shaw I*, 509 U.S. at 663 (White, J., dissenting). That intent alone sufficiently shows discrimination.

Circumstantial evidence also shows discriminatory intent. *Vill. of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 266 (1977). For example, the history of SB8, the whirlwind session that led to its passage, the special nature of the session announced on the Governor's first day in office, contemporaneous viewpoints expressed by SB8's key decisionmakers (discussed at length), and its known discriminatory impact all show that SB8 was passed with discriminatory intent. *Id*. at 266-68; *Fusilier*, 963 F.3d at 463. SB8 was created by means of an irregular procedure. It was the first legislative session after the Governor assumed office, it was a special session to focus exclusively on redistricting, and it was announced by the Governor on his very first day in

[3] Justice Stevens dissented in *Shaw* and *Miller* because he found the stereotyping harm in both to be insufficient, concluding that "[n]either in *Shaw* itself nor in the cases decided today has the Court coherently articulated what injury this cause of action is designed to redress." *Miller*, 515 U.S. at 929 (Stevens, J., dissenting). Justice Stevens explained that plaintiffs in those cases had made no showing of "vote dilution … to an identifiable group of voters" nor could they under the facts. *Id.* (Stevens, J., dissenting). Louisiana's current redistricting scheme obviates Justice Stevens's concerns about the missing harm in prior redistricting challenges.

office. SB8 was introduced, passed by both Chambers, and signed by the Governor in a matter of eight days. There was little debate, and the entire process was rushed to create two majority-African American districts and reduce the existing five majority-non-African American districts to four. While the Legislature had spent months travelling across the State and soliciting public input for the prior redistricting law, legislators did not even have time to inform their constituents about the redistricting bill or special session—much less ask their constituents for their opinions and provide proper representation on their behalf. *See* Senate Archive, *supra*, at 28:00-29:30.

Likewise, SB8 had a discriminatory impact and discriminatory effect on Plaintiffs. **Ex. GG-RR**. SB8 undoubtedly "bears more heavily on one race than another." *Arlington Heights*, 429 U.S. at 266 (citing *Washington v. Davis*, 426 U.S. 229, 242 (1976)). Here, as in *Gomillion*, SB8 imposes an obvious racial preference which hampers the ability of non-African American voters to engage in the typical compromises and influence that would exist in districts drawn consistent with traditional redistricting principles.

Here, the percentage of majority-minority gerrymandered districts compared to total districts is greater than the percentage of the minority's proportion of the citizen VAP. African Americans constitute a little more than 29% of the citizen VAP. The redistricting intentionally creates two majority-African American districts of the six districts, or slightly more than 33%. Although this gap is not large, the size of the gap is not the point. Instead, it is the intentional creation of the gap that works an injury.[4] Using a mandatory racial quota to not only approach, but to exceed, the African American share of the citizen VAP is an additional concrete harm to all non-

[4] To the extent any such intentional discrimination could ever be excused by means-end analysis, the State cannot meet strict scrutiny here for the reasons discussed in point I.A.

African American voters, amounting to the application of affirmative action in redistricting, unseen in previous racial gerrymandering cases.[5] *Cf. Students for Fair Admissions, Inc*., 600 U.S. 181.

II. Plaintiffs will suffer irreparable injury absent injunctive relief.

Plaintiffs have suffered and will suffer a loss of constitutional rights when they cast their ballots in the 2024 election. Such harm is irreparable without immediate equitable relief. *BST Holdings, LLC v. OSHA*, 17 F.4th 604, 618 (5th Cir. 2021) ("[T]he loss of constitutional freedoms . . . 'unquestionably constitutes irreparable injury.'" (quoting *Elrod v. Burn*s, 347 U.S. 373 (1976))); *see also Book People, Inc. v. Wong*, 91 F.4th 318 (5th Cir. 2024); *Opulent Life Church v. City of Holly Springs, Miss*., 697 F.3d 279, 294 (5th Cir. 2012); *Deerfield Med. Ctr. v. City of Deerfield Beach*, 661 F. 2d 328, 338 (5th Cir. unit B 1981); *DeLeon v. Perry*, 975 F. Supp. 2d 632, 663 (W.D. Tex. 2014), *aff'd sub nom.*, *DeLeon v. Abbott*, 791 F.3d 619 (5th Cir. 2015) ("Federal courts at all levels have recognized that violation of constitutional rights constitutes irreparable harm as a matter of law."). Racial gerrymandering and discriminatory voting laws create irreparable injuries to voters, requiring "immediate relief." *United States v. City of Cambridge*, 799 F.2d 137, 140 (4th Cir. 1986); *see also*, *e.g.*, *Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012); *Williams v. Salerno*, 792 F.2d 323, 326 (2d Cir. 1986); *cf. Alternative Political Parties v. Hooks*, 121 F.3d 876 (3d Cir. 1997). After all, "once the election occurs, there can be no do-over and redress" for Plaintiffs. *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014). This Court must act now.

[5] The harm in *Shaw v. Reno* and all its progeny, including *Hays*, arises from stereotyping based on race and is felt by all voters in racially gerrymandered districts. That harm is present in this case as well. But in those earlier racial gerrymandering cases, the percentage of the challenged majority-minority gerrymandered districts compared to total districts was still less than the percentage of the minority's proportion of the citizen VAP. Here, the reverse is true. Thus, Plaintiffs experience an additional harm by virtue of their race.

III. The balance of equities weighs in Plaintiffs' favor.

The equities favor Plaintiffs. This racial gerrymander violates the constitutional rights of all Louisiana voters of all races who have been stereotyped and districted based on their race and presumed voting characteristics, masking their actual preferences and reducing their influence in their communities. *See Gomillion*, 364 U.S. 339. SB8 separates both sets of voters from their communities and puts them in districts with other voters hundreds of miles away, with whom they have little in common apart from race. **Ex. A, MM**. The result is they do not have the same power to appeal to their representatives—some of whom may have no knowledge of their region or culture. The harms to all voters go even deeper; when the State engages in race-based redistricting, it stereotypes all voters "as the product of their race, evaluating their thoughts and efforts—their very worth as citizens—according to a criterion barred to the Government by history and the Constitution." *Miller*, 515 U.S. at 912 (quoting *Metro Broad., Inc. v. FCC*, 497 U.S. 547, 604 (1990) (O'Connor, J., dissenting)); *see also Shaw I*, 509 U.S. at 647; *Students for Fair Admissions*, 600 U.S. at 220-21 (quoting *Miller*, 515 U.S. at 911-12, and *Shaw I*, 509 U.S. at 647).

Compared to this, the State's interests are minimal. Any interest in enforcing a redistricting law that violates constitutional rights is "illegitimate." *See BST Holdings*, 17 F.4th at 618. That's especially true in the election context, given that elections are at the heart of democracy and meant to reflect the people's true democratic choice. Moreover, Plaintiffs' requested remedy gives Defendant adequate time to enforce the new map in advance of the 2024 congressional election.

IV. The preliminary injunction does not weigh against the public interest.

Finally, a preliminary injunction is in the public interest. *See Ingebrigtsen v. Jackson Pub. Sch. Dist.*, 88 F.3d 274, 280 (5th Cir. 1996) (holding that where an enactment is unconstitutional, "the public interest [is] not disserved by an injunction preventing its implementation"); *DeLeon*,

791 F.3d 619 ("[A] preliminary injunction preventing the enforcement of an unconstitutional law serves, rather than contradicts, the public interest."); *G & V Lounge, Inc. v. Mich. Liquor Control Comm'n*, 23 F.3d 1071 (6th Cir. 1994) ("[I]t is always in the public interest to prevent the violation of a party's constitutional rights."). Prohibiting the Defendant Secretary from implementing SB8 during the pendency of this litigation before election processes begin would merely "freeze[] the status quo," precisely the purpose of a preliminary injunction. *Wenner v. Tex. Lottery Comm'n*, 123 F.3d 321, 326 (5th Cir. 1997); *see also Univ. of Tex. v. Camenisch*, 451 U.S. 390, 395 (1981).

V. Conclusion: Plaintiffs are entitled to an injunction of SB8 and issuance of a new map.

Because Plaintiffs are very likely to succeed on their claims, the remedy is clear: This Court should enjoin use of this map and issue one that remedies Plaintiffs' rights in advance of the election. *Reynolds v. Sims*, 377 U.S. 533, 585 (1964) ("[O]nce a State's legislative apportionment scheme has been found to be unconstitutional, it would be the unusual case in which a court would be justified in not taking appropriate action to [e]nsure that no further elections are conducted under the invalid plan."); *Louisiana v. United States,* 380 U.S. 145, 154 (1965) (noting that in the face of racial discrimination, a district court has "not merely the power but the duty to render a decree which will so far as possible eliminate the discriminatory effects of the past as well as bar like discrimination in the future"); *United States v. Paradise*, 480 U.S. 149, 184 (1987) (noting it is within a district court's discretion to craft remedies for racial discrimination). Indeed, it would be unusual for a court to not take appropriate action to ensure no elections are conducted under an unconstitutional districting plan. *See, e.g.*, *Wright v. Sumter Cnty. Bd. of Elecs. & Registration*, 361 F. Supp.3d 1296, 1305 (M.D. Ga. 2018), *aff'd*, 979 F.3d 1282 (11th Cir. 2020); *Navajo Nation v. San Juan Cnty.*, 2:12- CV-00039, 2017 WL 6547635, at *19 (D. Utah Dec. 21, 2017), *aff'd*, 929 F.3d 1270 (10th Cir. 2019) (same).

Injunctive relief should be two-fold. First, the Court should strike down the current map as unconstitutional and enjoin Defendant Secretary of State Nancy Landry from enforcing it. Second, the Court should issue a remedial map for Defendant to use to qualify candidates and carry out the election. Plaintiffs are entitled to this requested relief under either Count I or Count II. Like *Hays*, the State's record here leaves no doubt that it would not follow traditional redistricting criteria and avoid intentional race-based discrimination by enacting a new map. *Hays*, 936 F. Supp. at 372; *see also Hays v. Louisiana*, 862 F. Supp. 119, 124-25 (W.D. La. 1994). Thus, Plaintiffs urge this Court to adopt Illustrative Plan 1. **Ex. A at 12**.

Dated this 7th day of February, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 7th day of February 2024, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record. Additionally, copies of all pleadings and other papers filed in this action to date or to be presented to the Court at the hearing have been mailed to the adverse party.

/s/ Paul Loy Hurd
Paul Loy Hurd

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

MOTION TO INTERVENE AS DEFENDANTS AND TRANSFER

Movants Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, National Association for the Advancement of Colored People Louisiana State Conference ("Louisiana NAACP"), and Power Coalition for Equity and Justice (collectively, the "Proposed Intervenor-Defendants") respectfully move (i) pursuant to Fed. R. Civ. P. 24(a) and (b), for leave to intervene in this action as Defendants as a matter of right, or in the alternative, permissively, and file an answer; and (ii) pursuant to the common law first-to-file rule, *see Save Power Ltd.* v. *Syntek Fin. Corp.*, 121 F.3d 947, 950 (5th Cir. 1997), to transfer this action to the Middle District of Louisiana for consolidation or coordination with *Robinson* v. *Ardoin*, No. 3:22-cv-02111-SDD-SDJ.

Pursuant to Rule 24, Proposed Intervenor-Defendants are filing herewith a Proposed Answer to the Complaint. In accordance with Local Rule 7.6, counsel for Proposed Intervenor-Defendants have presented the Proposed Answer to counsel for Plaintiffs, and requested their positions on intervention and transfer. Plaintiffs' counsel oppose intervention and transfer. Proposed Intervenor-Defendants have been unsuccessful in their attempts to ascertain the identity of counsel for Defendants, who have yet to appear before the Court.

DATED: February 7, 2024

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CERTIFICATE OF SERVICE

I, John Adcock, counsel for Proposed Intervenor-Defendants, hereby certify that on February 7, 2024, I caused a copy of this Motion to Intervene as Defendants and Transfer, to be served on counsel for Plaintiffs of record by electronic service, and on Defendant by mail service to the following addresses:

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

MEMORANDUM OF LAW IN SUPPORT OF
MOTION TO INTERVENE AS DEFENDANTS AND TO TRANSFER

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PRELIMINARY STATEMENT

Proposed Intervenor-Defendants ("Movants") are Black Louisiana voters and civil rights organizations. For nearly two years, they have been actively—and successfully—pursuing claims under Section 2 of the Voting Rights Act ("VRA") in the pending case of *Robinson, et al.* v. *Landry*, No. 3:22-cv-02111-SDD-SDJ (M.D. La.). In *Robinson*, Movants seek to compel Louisiana to adopt a congressional district map with two districts that will give Louisiana's Black voters an equal opportunity to elect candidates of their choice. As a direct consequence of multiple court rulings in their favor on the merits of their Section 2 claims, the Legislature enacted and the Governor signed Senate Bill 8 ("SB8") to provide for new congressional districting plan with two majority-Black districts. Any changes to the SB8 map that may result from decisions in this case would directly implicate the relief Movants have sought and secured in *Robinson*.

Both *Robinson* and this case center on the same core question: must Louisiana draw a congressional plan with two opportunity districts for Black voters? The district court in *Robinson* has held that it likely must, and two unanimous panels of the Fifth Circuit agreed with that conclusion. Each of those courts has likewise rejected the State's argument that any efforts to draw a second majority-Black district would require the unconstitutional elevation of race as a predominant districting consideration. Plaintiffs here, meanwhile, contend that Louisiana need not draw a second majority-Black district, and in fact that it cannot constitutionally do so.

Movants should be granted leave to intervene because they have a strong interest in defending the *Robinson* courts' core factual findings and legal conclusions against the claims in this case that SB8—or any other congressional map with two majority-Black districts—represents an unconstitutional racial gerrymander. They also have a direct interest in ensuring that a map with a second congressional district in which Black voters have an opportunity to elect the candidate of their choice remains in place for the 2024 congressional election. Plaintiffs' challenge

to SB8 should fail because the shape of the district they challenge represents predominately political rather than racial choices. Moreover, even if Plaintiffs are successful in striking down SB8, this Court would be required to devise a remedial map that complies with Section 2 and the rulings in favor of Movants in *Robinson*, which demonstrate that Louisiana could easily create a second constitutional Black opportunity district consistent with traditional redistricting principles.

Additionally, this case should be transferred to the Middle District of Louisiana, given the ongoing nature of the *Robinson* proceeding and the likelihood that *Robinson* will continue if SB8 is invalidated, to avoid the possibility of conflicting rulings by different courts regarding the same map and duplication of effort with that court.[1]

BACKGROUND

The map at issue in this case, SB8, is the direct result of Movants' successful litigation of the *Robinson* action. Office of the Governor, *Governor Jeff Landry Opens First Special Session on Court Ordered Redistricting* (Jan. 16, 2024), https://gov.louisiana.gov/news/governor-jeff-landry-opens-first-special-session-on-court-ordered-redistricting. After a week-long evidentiary hearing, during which the district court reviewed 244 exhibits and heard and weighed testimony from 22 witnesses, and based on extensive pre- and post-hearing briefing, Chief Judge Shelly Dick in the Middle District of Louisiana granted Movants a preliminary injunction enjoining enforcement of the State's previous congressional district plan, concluding that Movants were "substantially likely to prevail on the merits of their claims brought under Section 2 of the Voting Rights Act" and that "[t]he appropriate remedy in this context is a remedial congressional

[1] Movants have filed in the *Robinson* case a motion requesting that Judge Dick deem that action first-filed. *See* ECF No. 345, *Robinson* v. *Landry*, No. 3:22-cv-02111-SDD-SDJ (M.D. La. Feb. 5, 2024). The district court has directed Defendants in that case, including Secretary of State Nancy Landry, to file a response by February 15 and set a status conference in the case for February 21. ECF No. 349.

redistricting plan that includes an additional majority-Black congressional district." *Robinson* v. *Ardoin*, 605 F. Supp. 759, 766 (M.D. La. 2022). A motions panel of the Fifth Circuit unanimously denied the defendants' motion for a stay pending appeal based on its assessment that the defendants were unlikely to overturn the district court's injunction order, *Robinson* v. *Ardoin*, 37 F.4th 208, 215 (5th Cir. 2022), and a merits panel subsequently affirmed Chief Judge Dick's "conclusions that the Plaintiffs were likely to succeed on their claim that there was a violation of Section 2 of the Voting Rights Act," *Robinson* v. *Ardoin*, 86 F.4th 574, 583 (5th Cir. 2023). The Fifth Circuit subsequently denied the defendants' petition for rehearing *en banc*, with no judge on the court asking for a poll on the petition. Order, Dkt. No. 363 at 2, *Robinson* v. *Ardoin*, No. 22-30333, (5th Cir. Dec. 15, 2023). Chief Judge Dick, at the Fifth Circuit's direction, gave the Legislature an opportunity to enact a new remedial map, and, in the event Louisiana failed to enact a Section 2 compliant map, established a schedule for trial. The *Robinson* case is still pending and is currently set for trial to begin on March 25, 2024. Dkt. No. 315, *Robinson, et al.* v. *Landry*, No. 3:22-cv-00211-SDD-SDJ (M.D. La. Nov. 27, 2023).

The Legislature adopted SB8 in an effort by the State to comply with the *Robinson* courts' rulings and with the VRA, and to avoid the district court imposing its own VRA-compliant remedial map that may not reflect the Legislature's policy preferences. As the Governor urged the Legislature at the outset of the special session called to adopt a new congressional districting plan, a new plan was necessary because "we have exhausted all legal remedies" and the Legislature should "make the adjustments necessary [and] heed the instructions of the Court."[2] The Governor called upon the Legislature to adopt its own redistricting plan that reflected the wishes of the

[2] Office of the Governor, *Governor Jeff Landry Opens First Special Session on Court Ordered Redistricting* (Jan. 16, 2024), https://gov.louisiana.gov/news/governor-jeff-landry-opens-first-special-session-on-court-ordered-redistricting.

Legislature rather than surrender the drafting to Chief Judge Dick, urging the legislature to "take the pen out of the hand of non-elected judges and place it in your hand—the hand of the people."[3] Legislator after legislator echoed these sentiments.

The legislative record makes clear that the contours of the new map adopted in SB8 were not predominantly motivated by improper racial considerations on the Legislature's part as Plaintiffs contend. Instead, the record reflects that the Legislature's goals were to protect favored congressional incumbents, further the interests of the majority party, and connect communities of interest along the Red River and the I-49 corridor, as well as to comply with the rulings by Chief Judge Dick and the Fifth Circuit.

Throughout the *Robinson* litigation and during the Special Session, Movants had proposed maps that would protect their rights under the VRA, by including two majority-Black districts. Movants' proposed maps and would also better comply with all traditional redistricting principles(such as geographic compactness and limiting the number of Parish splits) and the guidelines outlined by the Legislature in Joint Rule 21, than the map the Legislature enacted in 2022, which Louisiana used in the 2022 elections. In the *Robinson* litigation, Movants offered a remedial plan with a very different configuration than SB8, with a new majority-Black district extending into the Delta Parishes instead of along the Red River and I-49. Other examples for potential configurations that include two majority-Black districts were provided to the Legislature in 2022.[4]

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[3] *Id.*

[4] *See* H.B. 4, 1st Spec. Sess. (La. 2022); H.B. 5, 1st Spec. Sess. (La. 2022); H.B. 7, 1st Spec. Sess. (La. 2022); H.B. 8, 1st Spec. Sess. (La. 2022); H.B. 9, 1st Spec. Sess. (La. 2022); H.B. 12, 1st Spec. Sess. (La. 2022); S.B. 2, 1st Spec. Sess. (La. 2022); S.B. 4, 1st Spec. Sess. (La. 2022); S.B. 6, 1st Spec. Sess. (La. 2022); S.B. 9, 1st Spec. Sess. (La. 2022); S.B. 10, 1st Spec. Sess. (La. 2022); S.B. 11, 1st Spec. Sess. (La. 2022); S.B. 16, 1st Spec. Sess. (La. 2022); S.B. 18, 1st Spec. Sess. (La. 2022); Amendment #88 to H.B. 1, 1st Spec. Sess. (La. 2022); Amendment #99 to H.B.

Movants' proposed remedial plan and other plans with two majority-Black districts offered in 2022 would have placed incumbent Congresswoman Julia Letlow in a newly created majority-Black district, potentially imperiling her chances for reelection.

In contrast, SB8 places incumbent Congressman Garret Graves in the new majority-Black district, reflecting the Legislature's political preferences.[5] As the sponsor of SB8 emphasized in presenting the bill and rejecting the *Robinson* Movants' more compact configurations:

> While this is a different map than the plaintiffs in the [Robinson] litigation have proposed, ***this is the only map I reviewed that accomplished the political goals I believe are important*** for my district for Louisiana for my country. While I did not draw these boundaries myself, I carefully considered a number of different map options. I firmly submit that the Congressional voting boundaries which are represented in this bill best achieved ***the goal of protecting Congresswoman Letlow['s] seat, maintaining strong districts for Speaker Johnson and Majority Leader***

1, 1st Spec. Sess. (La. 2022); Amendment #153 to H.B. 1, 1st Spec. Sess. (La. 2022); Amendment #62 to S.B. 2, 1st Spec. Sess. (La. 2022); Amendment #116 to S.B. 5, 1st Spec. Sess. (La. 2022); Amendment #91 to S.B. 5, 1st Spec. Sess. (La. 2022).

[5] Numerous media reports make clear that the map was driven by political goals, including protecting favored Republican incumbents. *E.g.*, Piper Hutchinson, *Graves to lose U.S. House seat under Louisiana redistricting plan that adds minority seat*, LOUISIANA ILLUMINATOR (Jan. 19, 2024), https://lailluminator.com/2024/01/19/graves-to-lose-u-s-house-seat-under-louisiana-redistricting-plan-that-adds-minority-seat/ ("While no Republican has outwardly said so, Graves was clearly chosen as the Republican sacrifice . . . legislators were explicit about who they wanted to protect . . . [lawmakers] said they would rather approve a map drawn with their political interests in mind rather than allow a judge to do so"); Greg Hilburn, *Garret Graves blasts congressional map as 'boneheaded' move by Louisiana governor, Legislature*, SHREVEPORT TIMES (Jan. 23, 2024), https://www.shreveporttimes.com/story/news/2024/01/23/garret-graves-blasts-new-louisiana-congressional-map-as-boneheaded-move-by-governor-jeff-landry/72318012007/ ("Many believe Landry targeted Graves' district because the congressman supported Republican Stephen Waguespack in last fall's governor's election"); Kelsey Brugger, *Garret Graves defiant as state lawmakers cut up his district*, E&E NEWS (Jan. 19, 2024), https://www.eenews.net/articles/garret-graves-defiant-as-state-lawmakers-cut-up-his-district/ ("Ostensibly, Landry and the state Legislature are trying to get ahead of Obama-appointed Judge Shelly Dick from redrawing the congressional map to comply with the Voting Rights Act. But observers say interparty [*sic*] politics are also at play.").

> ***Scalise, ensuring four Republican districts***, and adhering to the command of the federal court in the Middle District of Louisiana.[6]

In addition to the political and partisan motivation for anchoring the new majority-Black district in Shreveport and Baton Rouge, the Legislature heard testimony and evidence that constructing such a district would keep intact a Red River community of interest. For example, Senator Womack, SB8's sponsor, noted that the map that became SB8 "goes along the Red River, it's the I-49 corridor," and that "[w]e have commerce through there. We have a college through there. We have a lot of ag[riculture], cattlemen, as well as farm[s], row crop, and a lot of people up through that corridor come back to Alexandria using that corridor for their healthcare."[7]

During the Special Session in January 2024, maps reflecting Movants' proposed districting configurations were introduced by Senators Price and Duplessis as S.B. 4 and Representative Marcelle as H.B. 5 and are a part of SB8's legislative record. Those plans were rejected by the Legislature, which chose instead to adopt SB8. The legislative record thus makes clear that the Legislature's choice of the map that extends from Shreveport to Baton Rouge rather than a map similar to the ones Movants supported was predominantly motivated by politics and policy preferences rather than race. Although the Legislature ultimately chose a different configuration than those Movants preferred, SB8 does provide a second Black opportunity district, as Movants sought, and may, if approved by Chief Judge Dick and not disturbed in this parallel litigation, provide a basis for resolving the *Robinson* litigation.

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[6] *See* Statement of Senator Womack, at 33:50 – 34:22 (Jan. 16, 2024), https://senate.la.gov/s_video/VideoArchivePlayer?v=senate/2024/01/011624SG2.
[7] *See* Statement of Senator Womack, at 03:56 – 04:22 (Jan. 18, 2024), https://redist.legis.la.gov/default_video?v=house/2024/jan/0118_24_HG_P2.

ARGUMENT

Movants should be granted leave to intervene because they have a "direct, substantial, [and] legally protectable" interest in defending SB8 and in protecting their rights under the VRA, *New Orleans Pub. Serv., Inc.* v. *United Gas Pipe Line Company*, 732 F.2d 452, 463 (5th Cir. 1984), and those interests would be gravely impaired if Plaintiffs prevail in this case. Courts have recognized the appropriateness of intervention in precisely this circumstance, where prior litigants seek to defend a district map drawn to ensure compliance with Section 2. *See, e.g.*, *Clark* v. *Putnam Cnty.*, 168 F.3d 458, 460 (11th Cir. 1999); *Johnson* v. *Mortham*, 915 F. Supp. 1529, 1536 (N.D. Fla. 1995); *United Jewish Orgs. of Williamsburg, Inc.* v. *Carey*, 430 U.S. 144, 151-53 (1977). And Black and other registered voters regularly intervene in racial gerrymandering cases to defend legislative maps. *See, e.g.*, *Easley* v. *Cromartie*, 532 U.S. 234, 241 (2001); *Lawyer* v. *Dep't of Justice*, 521 U.S. 567, 572 (1997); *Clark*, 168 F.3d at 462 (collecting cases); *Theriot* v. *Par. of Jefferson*, No. CIV. A. 95-2453, 1996 WL 517695, at *1 (E.D. La. Sept. 11, 1996). Nor can Defendant—the Louisiana Secretary of State—adequately represent Movants' interests in this case. Defendant is herself a defendant in the *Robinson* action, and (as the Complaint makes clear) her predecessor aggressively contested Movants' claims in that action for nearly two years. The other factors relevant under Rules 24(a) and 24(b) likewise warrant granting Movants leave to intervene.

The Court should also transfer this action to the Middle District of Louisiana for consolidation or coordination with the *Robinson* action pursuant to the first-to-file rule in view of the substantial factual and legal overlap between this case and *Robinson*, both of which centrally concern the lawfulness of Louisiana's congressional map, and to avoid the potential for conflicting rulings if two actions involving the same fundamental issues are litigated in two different courts.

I. Movants Should Be Granted Intervention

Intervention is appropriate pursuant to Rule 24 of the Federal Rules of Civil Procedure as a matter of right and, alternatively, by permission. Rule 24(a) requires federal courts to grant intervention by right to a non-party who "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." Fed. R. Civ. P. 24(a)(2). Alternatively, Rule 24(b) authorizes courts to permissively allow intervention by non-parties who raise "a claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b)(1)(B). "Rule 24 is to be liberally construed" in favor of intervention. *Brumfield* v. *Dodd*, 749 F.3d 339, 341 (5th Cir. 2014). Intervention should be granted—whether as of right or at the court's discretion—"where no one would be hurt and the greater justice could be attained." *Tex.* v. *U.S.*, 805 F.3d 653, 656 (5th Cir. 2015) (citations omitted); *see also Wal-Mart Stores, Inc.* v. *Tex. Alcoholic Beverage Comm'n,* 834 F.3d 562, 565 (5th Cir. 2016). The court's inquiry is "flexible" and should be based on a "practical analysis of the facts and circumstances of each case." *Brumfield*, 749 F.3d at 341. Movants satisfy the requirements for intervention as of right and, in the alternative, for permissive intervention under Fed. R. Civ. P. 24.

A. Movants Are Entitled to Intervene as of Right

Intervention as of right must be granted where a party satisfies Rule 24(a)'s four prerequisites: (1) "the application for intervention must be timely"; (2) "the applicant must have an interest relating to the property or transaction which is the subject of the action"; (3) "the applicant must be so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest"; and (4) "the applicant's interest must be inadequately represented by the existing parties to the suit." *See Brumfield*, 749 F.3d at 341. Courts in the Fifth

Circuit construe Rule 24(a) liberally, "with doubts resolved in favor of the proposed intervenor." *Energy Gulf States La., L.L.C.* v. *EPA*, 817 F.3d 198, 203 (5th Cir. 2016) (internal quotation marks omitted).

Movants satisfy each of the requirements of Rule 24(a).

1. <u>This Motion is Timely</u>

There can be no question that Movants' motion is timely. Courts in this Circuit assess four factors to determine the timeliness of an intervention motion: (1) the length of time the potential intervenor waited to file; (2) the prejudice to the existing parties from any delay that may result from a grant of intervention; (3) the prejudice to the potential intervenor if intervention is denied; and (4) any unusual circumstances when determining the timeliness of an intervention motion. *See, e.g.*, *Stallworth* v. *Monsanto Co.*, 558 F.2d 257, 264-66 (5th Cir. 1977).

The filing of this motion is timely. The Complaint was filed less than a week ago, and no other action has taken place. Courts routinely permit intervention at a far more advanced stage. *See Edwards* v. *City of Houston*, 78 F.3d 983, 1000 (5th Cir. 1996) (finding that motion to intervene filed after "only 37 and 47 days . . . [was] not unreasonable"); *Students for Fair Admissions, Inc.* v. *Univ. of Tex. at Austin*, 338 F.R.D. 364, 368-69 (W.D. Tex. 2021) (motion to intervene timely when filed nearly five months after complaint); *United States* v. *Commonwealth of Virginia*, 282 F.R.D. 403, 405 (E.D. Va. 2012) ("Where a case has not progressed beyond the initial pleading stage, a motion to intervene is timely."); *Mullins* v. *De Soto Securities Co.*, 3 F.R.D. 432, 433 (W.D. La. 1944) (finding motion to intervene timely during the initial pleading stage); *see also Wal-Mart Stores, Inc.*, 834 F.3d at 565 (motion to intervene timely when filed after discovery had commenced because it did not seek to delay the litigation). The docket does not reflect that Defendant has even been served, and Defendant has yet to file a responsive pleading.

Intervention at this early stage of the litigation will not prejudice any of the existing parties to the action. "This factor is concerned only with the prejudice caused by the applicants' delay, not that prejudice which may result if intervention is allowed." *Edwards*, 78 F3d at 1002. Given the early stage of the proceedings, the proposed intervention will not cause any material delay, the existing parties will not be prejudiced by intervention.

Lastly, Movants would be severely prejudiced if intervention is denied. As discussed above, Movants have extensively and successfully litigated their claim that a Louisiana congressional districting plan with fewer than two majority-Black districts dilutes their votes in violation of Section 2 of the Voting Rights Act. And as explained below, no other party has the same interest as Movants in ensuring the rulings in their favor in *Robinson* are not undermined.

2. Movants Have A Strong Interest in the Maintenance of Two Majority-Black Congressional Districts in Louisiana and in Protecting the Legal Rulings in Their Favor in *Robinson*.

Under Rule 24(a), proposed intervenors must have a "direct, substantial, [and] legally protectable" interest in the subject matter of this litigation. *New Orleans Pub. Serv., Inc.*, 732 F.2d at 463. "[A]n interest that by itself could be a case or controversy will meet the requirement, but … it is not necessary for an intervenor to have a right to bring suit independently." *N.A.A.C.P., Inc.* v. *Duplin Cnty., N.C.*, No. 7:88-CV-00005-FL, 2012 WL 360018, at *3–4 (E.D.N.C. Feb. 2, 2012) (citing *U.S.* v. *Philip Morris USA Inc.*, 566 F.3d 1095, 1145 (D.C. Cir. 2009)). In addition, the Fifth Circuit has held that in cases involving matters of public interest brought by a public interest group, the "interest requirement may be judged by a more lenient standard." *La Union del Pueblo Entero* v. *Abbott*, 29 F.4th 299, 305 (5th Cir. 2022) (quoting *Brumfield*, 749 F.3d at 344). Movants—both the individual voters, as well as the Louisiana NAACP and Power Coalition—plainly satisfy this requirement. Their claims implicate distinct legally protectable interests that warrant intervention.

Specifically, Movants have a legally protectable interest in defending legislation brought about through the *Robinson* litigation against the same party who is the Defendant in this litigation. The Fifth Circuit has held that parties with a concrete and particularized interest in the maintenance of government policies they helped bring about or that protect their individual interests may intervene as of right. In *City of Houston* v. *American Traffic Solutions, Inc.*, for example, the Fifth Circuit held that individual organizers who "engineered the drive that led to a city charter amendment over the nearly unanimous, well funded, and longstanding opposition of the Mayor and City Council" had a legally protected interest for purposes of Rule 24(a) in litigation challenging the amendment. 668 F.3d 291, 294 (5th Cir. 2012). Here, Movants have succeeded through the *Robinson* litigation in securing the passage of SB8 and protecting against the unlawful vote dilution in congressional elections in violation of Section 2, and they have an interest in ensuring that their success in that effort is not undermined or reversed in this case.

Additionally, even if protecting the rulings in their favor in *Robinson* were not enough, the individual Movants have a stake in this case because the relief Plaintiffs seek would impair their right to vote. As demonstrated in the *Robinson* litigation, any districting congressional districting plan without two opportunity districts for Black voters in Louisiana denies the individual Movants their rights under Section 2 of the Voting Rights Act. That threat to Movants' right to vote alone is sufficiently concrete and specific to support intervention. *See League of United Latin American Citizens, District 19* v. *City of Boerne*, 659 F.3d 421, 434 (5th Cir. 2011) (interest in protecting the intervenors' interest in voting in at-large elections, which could be adversely affected by litigation, was sufficient to support intervention as of right). The Individual Movants "plainly have an interest in this action sufficient to satisfy Rule 24(a), since the action challenges the legality of a redistricting plan that implicates their voting rights." *Shaw* v. *Hunt*, 1993 WL 13149438 at *1

(E.D.N.C Nov. 3, 1993).

The Louisiana NAACP and Power Coalition likewise have a legally protectable interest sufficient to satisfy the Fifth Circuit's "lenient" standard. *La Union del Pueblo Entero*, 29 F.4th at 305 (quoting *Brumfield*, 749 F.3d at 344). The Louisiana NAACP has members who reside in every congressional district in Louisiana, including CD 2 and CD 6, who have a right under Section 2 to have an equal opportunity to elect candidates of choice. *See Johnson* v. *Mortham*, 915 F. Supp. at 1538 (Florida NAACP had a "protectable interest" in the litigation "to the extent [they] represent[ed] voters" within the challenged district). In addition, both the Louisiana NAACP and Power Coalition have a direct interest in this action by virtue of their long history of working to engage Black voters across the state of Louisiana in the political process. The Louisiana NAACP and Power Coalition expend considerable resources educating, mobilizing, and registering voters throughout the state, and the "claims brought by [Plaintiffs] could affect [their] ability to participate and maintain the integrity of the election process" for Black voters across the state. *La Union del Pueblo Entero*, 29 F.4th at 304, 306 (where organizations that expend "substantial resources towards educating, mobilizing, assisting, training, and turning out voters, volunteers, and poll watchers" had a "direct and substantial interest in the proceedings").

Accordingly, Movants have demonstrated sufficiently concrete, legally protectable interests that support intervention by right.

3. Disposition of Plaintiffs' Racial Gerrymandering Claims Would Impair Movants' Opportunity to Elect a Candidate of Choice

Prospective intervenors "must demonstrate only that the disposition of the action 'may' impair or impede their ability to protect their interests." *Brumfield* v. *Dodd*, 749 F.3d 339, 344 (5th Cir. 2014) (citation omitted). "Though the impairment must be 'practical' and not merely

'theoretical,' [applicants] need only show that if they cannot intervene, there is a possibility that their interest could be impaired or impeded." *La Union del Pueblo Entero*, 29 F.4th at 307.

Movants readily satisfy this requirement, as they would be severely prejudiced if intervention is denied. As noted, the district court and two panels of the Fifth Circuit have unanimously concluded that Movants are likely to prevail on their claim that they and other Black Louisiana voters must be afforded the opportunity to elect candidates of choice in two majority-Black congressional districts. As also discussed above, SB8 was enacted in recognition of those rulings.

Yet Plaintiffs in this action seek a declaration from the Court that SB8 is an unconstitutional racial gerrymander and that the State "could not create two majority-African American districts without violating the U.S. Constitution." Compl. ¶ 9. Movants will be gravely harmed if they are precluded from defending the map that was the direct result of their litigation in *Robinson* or from defending against Plaintiffs' claim that the Voting Rights Act cannot require the adoption of a different map with two majority Black districts. *Id*. ¶¶ 99-107. Furthermore, Movants will be harmed if they are precluded from participating in any proceeding (as Plaintiffs request) "institut[ing] a congressional map that remedies" the alleged constitutional infirmities in SB8. *See, e.g.*, *League of United Latin Am. Citizens*, 659 F.3d at 434 (explaining that a movant for intervention would be "severely prejudiced" if his motion was denied, where there was no other mechanism to persuade the court of his injury under the Voting Rights Act).

If Plaintiffs prevail here, Movants and other Black Louisiana voters will be deprived of the second majority-Black congressional district that the *Robinson* court held the Voting Rights Act likely requires, and that they finally received after years of fighting for this outcome in litigation. *See La Union del Pueblo Entero*, 29 F.4th at 307 (impairment requirement satisfied where statute

"grants rights" to proposed intervenors that "could be taken away if the plaintiffs prevail"); *see also Shaw*, 1993 WL 13149438 at *1 (ruling striking down the enacted plan as unconstitutional would impair the proposed intervenors' interest because it could "result in the adoption of an alternative redistricting plan which was unfavorable to the[ir] political interests"). Similarly, "[i]f the district court either partially or fully grants the relief sought by [Plaintiffs], [Movants] will have to expend resources to educate their members [and voters across the state] on the shifting situation in the lead-up to the [2024] election." *La Union del Pueblo Entero*, 29 F.4th at 307. Movants' interests thus could be practically impaired as a result of this litigation, warranting intervention as a matter of right.

4. <u>The Existing Parties Do Not Adequately Represent Movants' Interests</u>

The burden to show inadequate representation "should be treated as minimal." *Trbovich* v. *United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972); *see also Brumfield*, 749 F.3d at 345. The applicant need only show that the existing parties' representation "may be" inadequate, *see Trbovich*, 404 U.S. at 538 n.10, not that it "will be, for certain, inadequate." *La Union del Pueblo Entero*, 29 F.4th at 307–08 (quoting *Tex.*, 805 F.3d at 661). The Fifth Circuit recognizes a presumption of adequate representation where (i) the would-be intervenor has the same ultimate objective as a party, which may be overcome by showing adversity of interests, collusion, or nonfeasance on the part of an existing party; or (ii) where the putative representative is a governmental body or officer charged with representing the intervenor's interests, which may be overcome if the intervenor shows that the interest is in fact different from that of the governmental entity and the interest will not be represented by the entity. *See Tex.*, 805 F.3d at 662–63.

Neither presumption applies here. Plaintiffs plainly do not represent Movants' interests. On the contrary, their claims directly threaten the maintenance of two majority-Black districts in Louisiana, which the district court in *Robinson* held is likely required by Section 2 of the VRA.

See Robinson v. *Ardoin*, 86 F.4th 574 (5th Cir. 2023) (holding that district court did not err in its analysis that plaintiffs were likely to succeed on the merits of claim that VRA requires two majority-Black districts in Louisiana); *see also League of United Latin Am. Citizens*, 659 F.3d at 435 (existing parties opposed relief intervenor sought and therefore did not adequately represent his interest).

Defendant likewise cannot be relied upon to adequately represent Movants' interests. *See Tex.*, 805 F.3d at 661; *Brumfield*, 749 F.3d at 346 ("The lack of unity in all objectives, combined with real and legitimate additional or contrary arguments, is sufficient to demonstrate that the representation *may* be inadequate"). As the Complaint itself acknowledges, the defendants in *Robinson*, including the Defendant here, aggressively opposed Movants' claims for over two years, and the Legislature adopted SB8 only after repeated court rulings in Movants' favor. *See City of Houston* v. *American Traffic Solutions, Inc.*, 668 F.3d 291, 294 (5th Cir. 2012) (city may inadequately represent interests of intervenors who enacted city charter amendment over city's opposition, where intervenors demonstrated interest in cementing their victory and defending the amendment, and an unfavorable ruling would mean "their money and time will have been spent in vain."). State officials have continued to insist that they disagree with these court rulings and adopted SB8 only as a matter of prudence because their litigation options had been exhausted. For example, in opening the January 2024 special session of the Legislature, Governor Landry—who was himself a defendant in *Robinson* in his previous position as Attorney General—said:

> I have done everything I could to dispose of this litigation. I defended the re-districting plan adopted by this body as the will of the people . . . We have exhausted ALL legal remedies . . . Let's make the adjustments necessary, heed the instructions

> of the Court, take the pen out of the hand of non-elected judges and place it in your hand – the hand of the people."[8]

Likewise, Louisiana's new Attorney General stated: "We have exhausted all reasonable and meaningful avenues for legal remedies available to us. Now, we have a federal judge holding her pen in one hand and a gun to our head in the other."[9] Movants cannot be asked to have their interests in this action represented by State officials who vigorously litigated against their claims and continue to express their disagreement with the court decisions in Movants' favor.

The Defendant cannot be expected to adequately represent the interests of Movants for other reasons as well. Movants' principal interest is assuring that their votes and those of other Black Louisiana voters are not unlawfully diluted. Defendant, as the principal State official charged with overseeing State elections, has asserted multiple interests, including "maintaining the continuity of representation in its districting plans" and the efficient administration of elections. Dkt. No. 101 at 18, 20-21, *Robinson* v. *Landry*, 22-cv-211-SDD-SDJ (Apr. 29, 2022). These differences in interest likewise cut against any finding that Defendant can represent Movants' interests here. *See Brumfield*, 749 F.3d at 346 (intervenors did not share all of the state's "many interests," which "surely" might result in adequate representation); *Wal-Mart Stores, Inc.* v. *Tex. Alcoholic Beverage Comm'n*, 834 F.3d 562, 569 (5th Cir. 2016) (state defendant's representation was inadequate where the proposed intervenor's private interests "are narrower than" the defendant's "broad public mission").

Movants thus satisfy all of the requirements for intervention as of right and their motion to intervene under Rule 24(a) should be granted.

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[8] Office of the Governor, *Governor Jeff Landry Opens First Special Session on Court Ordered Redistricting* (Jan. 16, 2024), https://gov.louisiana.gov/news/governor-jeff-landry-opens-first-special-session-on-court-ordered-redistricting.

[9] Attorney General Liz Murrill (@AGLizMurill), X (Jan. 16, 2024, 4:53 PM), https://twitter.com/AGLizMurrill/status/1747376599446516056.

B. <u>In the Alternative, the Court Should Grant Permissive Intervention</u>

Rule 24(b)(1) provides that, on timely motion, "the court may permit anyone to intervene who . . . has a claim or defense that shares with the main action a common question of law or fact." The court "must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights." Fed. R. Civ. P. 24(b)(3). Courts may also consider whether the existing parties adequately represent the prospective intervenor's interests and whether the intervenors will significantly contribute to fully developing the factual record. *See Kneeland* v. *Nat'l Collegiate Athletic Ass'n*, 806 F.2d 1285, 1289 (5th Cir. 1987). As with intervention as of right, Rule 24 is to be "liberally construed" and "[f]ederal courts should allow intervention when no one would be hurt and the greater justice could be attained." *See Wal-Mart Stores, Inc.*, 834 F.3d at 565 (citations omitted).

For the reasons already stated, Movants' motion is timely, and poses no risk of delay or prejudice to the original parties. *See supra* Section I(A)(1). And, as discussed, Movants' interests are not adequately represented by the existing parties. *See supra* Section I(A)(4). That leaves only the question of whether Movants have a claim or defense that shares a common question of law or fact presented in this action.

There are ample common questions of law and fact between this case and *Robinson*. The court has "broad discretion" to allow intervention where the proposed intervenor "has a claim or defense that shares with the main action a common question of law or fact." *Hanover Ins. Co.* v. *Superior Lab. Servs., Inc.*, 179 F. Supp. 3d 656, 667 (E.D. La. 2016). Indeed, this case turns on multiple questions of law or fact that are at the heart of Movants' claims in *Robinson*. The core legal question in cases is whether Louisiana permissibly may or indeed must draw a congressional plan with two majority-Black districts. Plaintiffs contend that Louisiana need not draw a second

majority-Black congressional district: the legal question central to the *Robinson* litigation, which Movants vigorously dispute. *See, e.g.*, Ex. A at 27. And even the constitutional issue itself overlaps with *Robinson*, where both the district court and the Fifth Circuit have *rejected* the State's argument that efforts to draw a second Black-opportunity district would necessarily violate the Constitution—the same argument that Plaintiffs recycle here, and that Movants again dispute.

Plaintiffs' claims, Defendants' defenses, and Movants' anticipated defenses arise from Louisiana's redistricting process following the 2020 decennial census, the subsequent litigation prosecuted by Movants, and the enactment of SB8 in response to *Robinson*. Because Movants are still litigating the Louisiana congressional map's compliance with the VRA, and have done so for nearly two years, they are uniquely situated to contribute to full development of the factual record in this case. Adjudication of Movants' defenses would efficiently resolve the factual and legal questions arising from the enactment of SB8 and facilitate full development of the factual record.

Accordingly, permissive intervention under Rule 24(b) should be granted.

II. <u>This Case Should Be Transferred to the Middle District of Louisiana</u>

In addition to allowing Movants to intervene, this Court should transfer this case to the Middle District of Louisiana, where the *Robinson* action is pending and remains active. This case raises substantially similar issues to the first-filed and currently pending *Robinson* action, which risks duplicative dispositions and waste of judicial resources, and thus should be transferred under the well-settled first-to-file rule. Plaintiffs' claims concerning SB8 should be heard in the Middle District, where Chief Judge Dick has overseen years of litigation relating to Louisiana's obligations under the VRA, the constitutionality of alternative congressional maps, and the implementation of a new congressional map in accordance with federal law, and has heard and weighed extensive documentary evidence and lay and expert testimony on these issues. If this Court were to issue the injunction and declaration Plaintiffs seek and proceed to a remedial phase,

it would significantly risk conflict with the proceedings in the *Robinson* action. Transfer to the Middle District would benefit the parties, the witnesses, and the court system by allowing for adjudication of the substantially overlapping issues in this action and the *Robinson* action in a single, finally determined action.

The Fifth Circuit has "long advocated that district courts exercise their discretion to avoid duplication of proceedings where related claims are being litigated in different districts." *Schauss* v. *Metals Depository Corp.*, 757 F.2d 649, 654 (5th Cir. 1985). Under the "first-to-file" rule applied in this Circuit, "[c]ourts prophylactically refus[e] to hear a case raising issues that might substantially duplicate those raised by a case *pending* in another court." *Def. Distributed* v. *Platkin*, 55 F.4th 486, 494 (5th Cir. 2022) (citations omitted). Neither the substance of the cases nor the parties need to overlap perfectly. *Harris Cnty., Tex.* v. *CarMax Auto Superstores Inc.*, 177 F.3d 306, 319 (5th Cir. 1999) (citations omitted). "[T]he crucial inquiry is one of substantial overlap." *In re Amerijet Int'l, Inc.*, 785 F.3d 967, 976 (5th Cir. 2015) (citations omitted). In deciding whether a substantial overlap exists, courts in the Fifth Circuit consider "whether core issues are the same or whether much of the proof adduced would likely be identical." *Cormeum Lab Servs., LLC* v. *Coastal Lab'ys, Inc.*, No. CV 20-2196, 2021 WL 5405219, at *3 (E.D. La. Jan. 15, 2021). "Where overlap between two suits is less than complete, the judgment is made case-by-case, based on such factors as the extent of overlap, the likelihood of conflict, the comparative advantage, and the interest of each forum in resolving the dispute." *State* v. *Biden*, 538 F. Supp. 3d 649, 653–54 (W.D. La. 2021) (citations omitted).

The first-filed rule does not require perfect overlap of issues or parties. "Instead, the crucial inquiry is one of 'substantial overlap.'" *In re Amerijet Int'l, Inc.*, 785 F.3d 967, 976 (5th Cir. 2015), as revised (May 15, 2015) (citations omitted). To determine if substantial overlap exists, the Fifth

Circuit "has looked at factors such as whether 'the core issue . . . was the same' or if 'much of the proof adduced . . . would likely be identical.'" *Int'l Fid. Ins. Co.* v. *Sweet Little Mexico Corp.*, 665 F.3d 671, 678 (5th Cir. 2011) (citations omitted). Even where the overlap between two suits is "less than complete," the first-filed rule can still be applied on a "case by case [basis], based on such factors as the extent of overlap, the likelihood of conflict, the comparative advantage and the interest of each forum in resolving the dispute." *Id*; *see, e.g.*, *Salazar* v. *Bloomin' Brands, Inc*., No. 2:15-CV-105, 2016 WL 1028371, at *4 (S.D. Tex. Mar. 15, 2016) (finding "imperfect overlap" but "conclud[ing] that the risk of conflict and the courts' comparative interests in these actions favor transfer"). This is a textbook case for application of the first-to-file rule.

In their Complaint, Plaintiffs ask this Court to strike down SB8 as a violation of the Equal Protection Clause and "institute a congressional districting map" that, according to the Plaintiffs, may not constitutionally include a second majority-Black district. Should Plaintiffs succeed in invalidating SB8, the *Robinson* plaintiffs are entitled to a trial on their Section 2 claim. And should the *Robinson* plaintiffs prevail—which, again, two panels of the Fifth Circuit and the district court held they are likely to do—the *Robinson* district court must then order a congressional plan containing two majority-Black districts to be implemented, pursuant to the Fifth Circuit's instructions on remand, no later than the end of May 2024. The result of a ruling such as the Plaintiffs seek here, in other words, is that two separate federal district courts will simultaneously be charged with crafting new and likely conflicting congressional maps, both of which cannot be implemented, leaving the Secretary of State—a defendant in both cases—in the impossible position of having to violate one court's order or the other.

Even if competing maps could be avoided, allowing two courts to proceed in parallel in adjudicating these overlapping claims and factual questions would violate one of the primary goals of the first-filed rule: avoiding "piecemeal resolution of issues that call for a uniform result." *Cadle*

Co. v. *Whataburger of Alice, Inc.*, 174 F.3d, 599, 603 (5th Cir. 1999). It is hard to imagine an issue less suited for competing decisions than a State's congressional redistricting plan. Redistricting cannot tolerate dueling decisions on the relationship between the VRA, the Fourteenth Amendment, and the State's congressional plan. Ultimately, the 2024 elections will need to be held under a single plan. Of course, that plan cannot simultaneously respect the *Robinson* court's ruling that Louisiana must have a second Black-opportunity district, *and* the ruling Plaintiffs seek here, which might preclude that very same second Black-opportunity district.

In short, allowing this case to proceed before this Court would force the Court to consider legal issues and evidence that the *Robinson* court has already weighed. Worse, it risks "the waste of duplication," a "ruling[] which may trench upon the authority of" another federal district court, and "piecemeal resolution of issues that call for a uniform result." *W. Gulf Mar. Ass'n* v. *ILA Deep Sea Local 24*, 751 F.2d 721, 729 (5th Cir. 1985). Applying the first-filed rule and transferring this case to the Middle District of Louisiana would alleviate those concerns and the Court should do so here.

CONCLUSION

For the foregoing reasons, this Court should permit Movants to intervene in this action under Fed. R. Civ. P. 24 and file Movants' answer to the complaint. The Court should also transfer this case to the Middle District in accordance with the first-to-file rule.

DATED: February 7, 2024

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs,* v. NANCY LANDRY, in her official capacity as Secretary of State of Louisiana, *Defendant.*	Case No. 3:24-cv-00122-DCJ-CES-RRS *District Judge David C. Joseph* *Circuit Judge Carl E. Stewart* *District Judge Robert R. Summerhays* *Magistrate Judge Kayla D. McClusky*

THE STATE OF LOUISIANA'S MOTION TO INTERVENE

The State of Louisiana, by and through Attorney General Elizabeth Murrill, does hereby move to intervene pursuant to Federal Rule of Civil Procedure 24. The Court should grant the State's motion to intervene because (1) it satisfies the requirements of intervention as of right: (a) it is timely, (b) the State has an interest in the subject of the action, (c) the disposition of the action may substantially impair or impede the State's interests, and (d) the State's interests are inadequately represented by the existing parties; and (2) alternatively, the State satisfies the requirements of permissive intervention under Federal Rule of Civil Procedure 24.

The State has reached out counsel for Plaintiffs and the Secretary of State, and they do not oppose the State's intervention.

For the reasons more fully set forth in the attached memorandum of law, the State of Louisiana respectfully requests that this Court GRANT its Motion to Intervene.

Respectfully submitted, this 20th day of February, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that, on this 20th day of February 2024, the foregoing has been filed with the Clerk via the CM/ECF system that has sent a Notice of Electronic filing to all counsel of record.

/s/ Morgan Brungard
Morgan Brungard

From: Reply@lawd.uscourts.gov
To: Clerk@lawddb.lawd.gtwy.dcn
Subject: Activity in Case 3:24-cv-00122-DCJ-CES-RRS Callais et al v. Landry Order on Motion for Hearing
Date: Wednesday, February 21, 2024 2:54:45 PM

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U.S. District Court

Western District of Louisiana

Notice of Electronic Filing

The following transaction was entered on 2/21/2024 at 2:53 PM CST and filed on 2/21/2024
Case Name: Callais et al v. Landry
Case Number: 3:24-cv-00122-DCJ-CES-RRS
Filer:
Document Number: 62(No document attached)

Docket Text:
ELECTRONIC ORDER: Granting [43] Motion to set Expedited Briefing Schedule by Plaintiffs. Scheduling Order will follow. Signed by Judge David C Joseph on 2/21/2024. (crt,LaCombe, L)

3:24-cv-00122-DCJ-CES-RRS Notice has been electronically mailed to:

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3:24-cv-00122-DCJ-CES-RRS Notice will not be electronically mailed to:

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS ET AL **NO: 3:24-CV-00122-DCJ-CES-RRS**

VERSUS **THREE-JUDGE COURT**

NANCY LANDRY

SCHEDULING ORDER

The following case-specific deadlines are hereby set in accordance with Fed. R. Civ. P. 16(b). If you have any questions about the rules or deadlines fixed by this order or otherwise wish to contact chambers, you may reach Judge Joseph's chambers by calling (337) 593-5050. You may also reach the Magistrate Judge's chambers by dialing the main line for those chambers.

PRELIMINARY INJUNCTION HEARING CONSOLIDATED WITH TRIAL ON MERITS:	**April 8-9, 2024, at 9:00 a.m.** in Shreveport, Courtroom 1, before Circuit Judge Carl E. Stewart, Judge Robert R. Summerhays, and Judge David C. Joseph

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PRE-TRIAL DEADLINES:		FOR:
2/23/2024	1.	Answer to Plaintiffs' Complaint due
2/27/2024	2.	Defendant's Response to Plaintiffs' Preliminary Injunction Motion due
03/08/2024	3.	Reply in Support of Preliminary Injunction Motion due
03/22/2024	4.	Expert designation and reports shall be exchanged among the parties
04/1/2024	5.	Exhibit and Witness Lists shall be exchanged among the parties and provided to the Court

4/1/2024	6.	**Trial Depositions.** Depositions authorized by the Court for use at trial, if any (see below), shall be edited to remove nonessential, repetitious, and unnecessary material, as well as objections and colloquy of counsel. A copy of edited trial deposition transcripts shall be included in the bench books. All objections thereto must be filed and briefed by this deadline. Objections to deposition testimony will be waived unless submitted along with the deposition transcripts.
4/1/2024	7.	**Bench Books.** The parties shall deliver one bench book to each of the judge's chambers for use by the judges at trial. The bench books should be tabbed and indexed with a cover sheet on which each party is to state all objections to the admissibility of exhibits. A fourth copy of the bench book shall be placed at the witness stand on the morning of the trial for use by testifying witnesses. In addition, the parties will provide a digital copy of the bench book to the judges' law clerks. The original exhibits must be entered into evidence at trial. After trial, the exhibits actually admitted into evidence must also be submitted on a flash drive or DVD.
4/1/2024	8.	**Real Time Glossary.** The real time glossary shall be delivered to the Clerk of Court in Lafayette by this date, for transmittal to the court reporter. The glossary shall contain all "key word indexes" from all depositions taken in the case, all witness lists, all exhibit lists, and copies of all expert reports, as well as any other technical, scientific, medical, or otherwise uncommon terms that are likely to be stated on the record during trial. **Real-Time**. Real-time is available, and arrangements must be made with the court reporter at least one week prior to trial.

Trial Testimony: Testimonial evidence offered as part of a party's case-in-chief **shall be presented by live testimony** of the witness(es) absent leave of Court. Deposition testimony is disfavored by the Court and will only be authorized for good cause shown.

Continuances: Motions to continue a trial date, even if agreed upon by the parties, are disfavored by the Court absent compelling circumstances. See also Standing Order in Civil and Criminal Cases. True conflicts in counsel's trial calendars may be addressed with the Court at the pre-trial conference.

Filing Instructions: E-Filing is mandatory in the Western District of Louisiana. In an emergency, printed materials may be filed with the Clerk of Court's Office in any division of the Western District.

Extensions: No Scheduling Order deadline will be extended unless for good cause and only in the interest of justice.

Communicating with the Court: Notwithstanding mandatory e-filing here in the Western District of Louisiana, the parties are welcome to contact the Court by telephone, mail, or e-mail at joseph_motions@lawd.uscourts.gov. All written communication must be copied to opposing counsel and any telephone conference must include all parties involved.

A copy of any dispositive motions, *Daubert* motions, or Motions in Limine (with all required attachments) shall be **e-mailed to** joseph_motions@lawd.uscourts.gov in Word format and **sent via hard copy** to each judge's chambers.

All matters that must be exchanged among counsel must be exchanged by hand delivery or certified mail, unless all counsel agree otherwise, IN WRITING, or unless this Court orders otherwise.

All deadlines in this Order are case specific and override any deadlines for the same matter found in an applicable rule of civil procedure. All other deadlines in the Federal Rules of Civil Procedure shall govern this case and shall be enforced by this Court. Counsel should note Rule 26 and Rule 37(c)(1).

This Court will enforce Fed. R. Civ. P. 30, particularly Rule 30(a)(2)(A) (the ten-deposition rule), and Rule 30(d)(1) (the rule limiting depositions to one day/seven hours), absent written stipulation of the parties or court order. This Court shall enforce Rule 26 unless changed by case-specific order or by subsequent court order.

THUS, DONE AND SIGNED in chambers on this 21st day of February, 2024.

Carl E. Stewart, Circuit Judge
Robert R. Summerhays, U. S. District Judge
David C. Joseph, U. S. District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, Plaintiffs, v. NANCY LANDRY, in her official capacity as Louisiana Secretary of State, Defendant.	CIVIL ACTION NO. 3:24-cv-00122 **ANSWER TO COMPLAINT**

Defendant Nancy Landry in her official capacity as Louisiana Secretary of State ("Defendant") answers Plaintiffs' Complaint as follows.

"Violations of Civil Rights Protected by the Fourteenth and Fifteenth Amendments of the United States Constitution; 42 U.S.C. § 1983;

Three-Judge Court Requested Under 28 U.S.C. § 2284

I. Introduction"

1. Defendant admits the allegations of paragraph 1.

2. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 2.

3. Defendant admits that paragraph 3 appears to include a picture of the congressional districts established by SB8 and that the shapes of the districts speak for themselves. In all other respects, Defendant denies the allegations of paragraph 3.

4. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 4.

5. Defendant admits that briefs filed in the case *Robinson v. Ardoin* speak for themselves. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 6.

"I. Jurisdiction"

1. Defendant admits the allegations of paragraph 1.

2. Defendant admits the allegations of paragraph 2.

3. Defendant admits the allegations of paragraph 3.

4. Defendant admits the allegations of paragraph 4.

"I. Parties"

1. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 1.

2. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 2.

3. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 3.

4. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 4.

5. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 5.

6. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 6,

7. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 7.

8. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 8.

9. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 9.

10. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 10.

11. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 11.

12. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 12.

13. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 13 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to forma belief about the truth of the allegations of paragraph 13.

14. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 14.

15. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 15 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 15.

16. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 16 makes legal conclusions to which no response is required. In all other respects, Defendant is without knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 16.

17. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 17 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 17.

18. Defendant admits that paragraph 18 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 18.

19. Defendant admits that paragraph 19 makes legal conclusions to which no response is required.

"I. Statement of Facts"

1. Defendant admits the allegations of paragraph 1.

2. Defendant admits that under the 2020 decennial census Louisiana's Black Voting Age Population ("BVAP") is 31.25%. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 2.

3. Defendant admits the allegations of paragraph 3.

4. Defendant admits the allegations of paragraph 4.

5. Defendant admits that pleadings filed by the Attorney General in the case of *Robinson v. Ardoin* speak for themselves, and that paragraph 5 makes legal conclusions to which

no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 5.

6. Defendant admits that SB8 establishes two majority black districts and that paragraph 6 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to forma belief about the truth of the allegations of paragraph 6.

7. Defendant admits that the statute, case, and pleading cited by plaintiffs in paragraph 7 speak for themselves and that paragraph 7 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 7.

8. Defendant admits that the pleading cited in paragraph 8 speaks for itself and that paragraph 8 makes legal conclusions to which no response is required. In all other respects, Defendant is without knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 8.

9. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 9.

10. Defendant admits the allegations of paragraph 10 and that the preliminary injunction granted by the United States District Court for the Middle District of Louisiana was vacated by the Fifth Circuit.

11. Defendant admits the allegations of paragraph 11.

12. Defendant admits the allegations of paragraph 12.

13. Defendant admits the allegations of paragraph 13.

14. Defendant admits that any statements by Governor Landry speak for themselves. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 14.

15. Defendant admits the allegations of paragraph 15.

16. Defendant admits the allegations of paragraph 16.

17. Defendant admits the allegations of paragraph 17.

18. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 18.

19. Defendant admits that paragraph 19 appears to include a map of the congressional districts established by SB8.

20. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 20.

21. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 21.

22. Defendant lacks knowledge or information sufficient to from a belief about the truth of the allegations of paragraph 22.

23. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 23.

24. Defendant admits that Baton Rouge and Shreveport are roughly 250 miles apart. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 24.

25. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 25.

26. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 26.

27. Defendant admits the allegations of paragraph 27.

28. Defendant admits the allegations of paragraph 28.

29. Defendant admits that SB8 establishes 4 majority white districts. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 29.

30. Defendant lacks knowledge or information sufficient to form a belief about the allegations of paragraph 30.

31. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 31.

32. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 32.

33. The locations of district lines for Congressional Districts 4 and 6 as established by SB8 is a matter of public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 33.

34. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 34.

35. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 35.

36. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 36.

37. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 37.

38. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 38.

39. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 39.

40. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 40.

41. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 41.

42. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 42.

43. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 43.

44. Defendant admits the allegations of paragraph 44.

45. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 45.

46. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 46.

47. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 47.

48. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 48.

49. Defendant admits that the legislative record for SB8 is a matter of public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 49.

50. Defendant admits that the legislative record for SB8 is a matter of public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 50.

51. Defendant admits that the legislative record for SB8 is a matter of public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 51.

52. Defendant admits that the legislative record for SB8 is a matter of public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 52.

53. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 53.

54. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 54.

55. Defendant admits that the legislative record foe SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the allegations of paragraph 55.

56. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the allegations of paragraph 56.

57. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegation of paragraph 57.

58. Defendant admits the allegations of paragraph 58.

59. Defendant admits the allegations of paragraph 59.

60. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 60.

61. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 61.

62. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 62.

63. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 63.

64. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 64.

65. Defendant admits the allegations of paragraph 65.

66. Defendant admits the allegations of paragraph 66.

67. Defendant admits that the statements cited in paragraph 67 speak for themselves. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 67.

68. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 68.

69. Defendant admits that the statements cited in paragraph 69 speak for themselves. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 69.

70. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 70.

71. Defendant admits that the statement cited in paragraph 71 speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 71.

72. Defendant admits the allegations of paragraph 72.

73. Defendant admits the allegations of paragraph 73.

74. Defendant admits the allegations of paragraph 74.

"Count I: Racial Gerrymandering in Violation of the Fourteenth Amendment"

75. Defendant incorporates and realleges her responses to the above paragraphs.

76. Defendant admits that the constitutional provisions cited in paragraph 76 speak for themselves. In all other respects, Defendant denies the allegations of paragraph 76.

77. Defendant admits that the case cited in paragraph 77 speaks for itself and that paragraph 76 makes legal conclusions to which no response is required. In all other respects, Defendant denies the allegations of paragraph 77.

78. Paragraph 78 makes legal conclusions to which no response is required. In all other respects, Defendant denies the allegations of paragraph 78.

79. Defendant admits that the case cited in paragraph 79 speaks for itself and that paragraph 79 makes legal conclusions to which on response is required. In all other respects, Defendant denies the allegations of paragraph 79.

80. Paragraph 80 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 80.

81. Paragraph 81 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 81.

82. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 82.

83. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 83.

84. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 84.

85. Defendant admits that the case cited in paragraph 85 speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 85.

86. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 86.

87. Defendant admits that the cases cited in paragraph 87 speak for themselves and that paragraph 87 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 87.

88. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 88.

89. Defendant admits that the legislative record for SB8 is a public record which speaks for itself. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 89.

90. Defendant admits that statements made in pleadings filed in the case of *Robinson v. Ardoin* and the case cited by plaintiffs speak for themselves. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 90.

91. Paragraph 91 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 91.

92. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 92 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 92.

93. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 93 make legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 93.

94. Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 94.

95. Defendant admits that the case cited by plaintiffs speaks for itself and that paragraph 95 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 95.

96. Defendant admits that the cases cited by plaintiffs speak for themselves. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 96.

97. Paragraph 97 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 97.

98. Defendant admits that the case cited by plaintiffs speaks for itself and that paragraph 98 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 98.

99. Defendant admits that the statute and case cited by plaintiffs speak for themselves and that paragraph 99 makes legal conclusions to which no response is required.

100. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 100 makes legal conclusions to which no response is required.

101. Defendant admits that the statute and case cited by plaintiffs speak for themselves and that paragraph 101 makes legal conclusions to which no response is required. In all other respects, Defendant denies the allegations of paragraph 101.

102. Defendant admits that pleadings from the case of *Robinson v. Ardoin* and the case cited by plaintiffs speak for themselves and that paragraph 102 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 102.

103. Defendant admits that the legislative record for SB8 is a public record which speaks for itself and that paragraph 103 makes legal conclusions to which no response is required. In all

other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 103.

104. Defendant admits that the case cited by plaintiffs speaks for itself and that paragraph 104 makes legal conclusions for which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 104.

105. Defendant admits that the case cited by plaintiffs speaks for itself and that paragraph 105 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 105.

106. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 106 makes legal conclusions for which no response is required. In all other respects, Defendant lacks knowledge or information sufficient t0o form a belief about the truth of the allegations of paragraph 106.

107. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 107 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 107.

108. Defendant denies the allegations of paragraph 108.

"Count II: Plaintiffs' Votes Are Abridged in Violation of the Fourteenth and Fifteenth Amendments"

109. Defendant incorporates and realleges her responses to the above paragraphs.

110. Defendant admits that the constitutional provisions and cases cited by plaintiffs speak for themselves and that paragraph 110 makes legal conclusions to which no response is required.

111. Defendant admits that the case cited by plaintiffs speaks for itself and that paragraph 111 makes legal conclusions to which no response is required. In all other respects, Defendant is without knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 111.

112. Defendant admits that the case cited by plaintiffs speaks for itself and that paragraph 112 makes legal conclusions to which no response is required. In all other respects, Defendant is without knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 112.

113. Defendant admits that the constitutional provision and cases cited by plaintiffs speak for themselves and that paragraph 113 makes legal conclusions to which no response is required. In all other respects, Defendant denies the allegations of paragraph 113.

114. Defendant admits that the case cited by plaintiffs speaks for itself and that paragraph 114 makes legal conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 114.

115. Defendant admits that the cases cited by plaintiffs speak for themselves and that paragraph 115 makes legal conclusions to which no response is required. In all other respects, Defendant denies the allegations of paragraph 115.

116. Defendant admits that the cases cited by plaintiffs speak for themselves, that SB8 establishes two majority black congressional districts, and that paragraph 116 makes legal

CERTIFICATE OF SERVICE

I hereby certify that on this the 22nd of February, 2024 the foregoing document was filed via the Court's CM/ECF system which sent notice of the same to all counsel of record in this matter.

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conclusions to which no response is required. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 116.

117. Defendant denies the allegations of paragraph 117.

118. Defendant admits that the case cited by plaintiffs speaks for itself and that SB8 created two majority black congressional districts. In all other respects, Defendant lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 118.

119. Paragraph 119 makes legal conclusions to which no response is required. In all other respects, Defendant denies the allegations of paragraph 110.

120. Defendant denies the allegations of paragraph 120.

"Prayer for Relief"

Defendant denies that Plaintiffs are entitled to any relief and requests that Plaintiffs' Complaint be dismissed with prejudice, and that Defendant be awarded her costs.

AFFIRMATIVE DEFENSE

It is presumed that the legislature acted in good faith and that SB8 is constitutional. Defendant is bound to administer elections under SB8 and intends to do so unless and until this court or any other court of competent jurisdiction enjoins its enforcement.

Respectfully submitted this the 22nd day of February, 2024.

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

<u>*ROBINSON* MOVANTS' REPLY IN SUPPORT OF MOTION TO INTERVENE</u>

Plaintiffs' Opposition to the *Robinson* Movants' Motion to Intervene, ECF No. 33-1 ("Opp."), is heavy on rhetoric. It casts aspersions on Movants' counsel, *see, e.g.*, *id*. at 1–2, 3, 5–6, 14, trivializes Movants' litigation victories, *see, e.g.*, *id.* at 8–10, ignores a host of case law, and mischaracterizes Movants' claims. But it is light on meaningful analysis of the law and does nothing to undermine Movants' motion.

Reading Plaintiffs' opposition brief, one would not know that the Fifth Circuit has consistently held that "Rule 24 is to be liberally construed." *La Union del Pueblo Entero* v. *Abbott*, 29 F.4th 299, 305 (5th Cir. 2022) (quoting *Brumfield* v. *Dodd*, 749 F.3d 339, 341 (5th Cir. 2014)). The Circuit has adopted a "broad policy favoring intervention" that imposes a "minimal burden" on proposed intervenors, which Movants easily clear. *Id*. (quoting *Miller* v. *Fed'n of S. Coops.*, No. 21-11271, 2022 WL 851782, at *4 (5th Cir. Mar. 22, 2022)). Movants have unique and

protectable interests in this litigation, which the State cannot adequately represent. The Court should grant Movants' motion to intervene.[1]

ARGUMENT

I. Movants are entitled to intervention by right under Rule 24(a)(2).

A. Movants have an interest in this litigation.

i. Movants have an interest in defending their Robinson *victories.*

Movants won hard-fought victories in *Robinson* v. *Landry* and seek to defend them against collateral attack. *See* Mot. Intervene, ECF No. 18-1 ("MTI"), at 7–8, 10–12. The Fifth Circuit has allowed intervention in analogous circumstances. *See id.* at 11 (citing *City of Houston* v. *Am. Traffic Sols., Inc.*, 668 F.3d 291, 294 (5th Cir. 2012)). Plaintiffs try to distinguish *Houston* by baldly asserting that a "moral right" to defend a sponsored ballot initiative exists. Opp. at 7. But they do not say why Movants do not have the *same* rights and interests in defending litigation victories. Just like the intervenors in *Houston*, Movants have "a particular interest in cementing their [judicial] victory and defending [SB8]." *Houston*, 668 F.3d at 294.

Plaintiffs' effort to cabin *Houston* to its facts, *see* Opp. at 7–8 (suggesting specter of collusive litigation or money expended was determinative in *Houston*), falters because it ignores the myriad other cases where courts have held that proponents of legal actions and ballot initiatives have unique interests in intervention to defend them. *See, e.g.*, *Blankenship* v. *Blackwell*, 341 F. Supp. 2d 911, 918 (S.D. Ohio 2004) (individuals who successfully challenged Ralph Nader's ballot qualification before Ohio Secretary of State had a "substantial legal interest" and "occup[ied] a

[1] Given that the Court has entered a scheduling order and based on Judge Dick's indication from the Bench that she was unlikely to find these cases sufficiently related to invoke the first-filed rule, Movants respectfully withdraw their request to transfer this case. At the time Movants filed their motion, the Defendant had not yet appeared in the case. After the Defendant appeared, Counsel for Movants conferred with counsel for Defendant, who indicated that Defendant does not oppose intervention.

unique position" in related case challenging Nader's removal from the ballot); *Inmates of The R.I. Training Sch.* v. *Martinez*, 465 F. Supp. 2d 131, 137 (D.R.I. 2006) (finding intervention appropriate "given the history of the ACLU and ACLU–RI's long and persistent effort to obtain a resolution of this issue"); *Akiachak Native Cmty.* v. *U.S. Dep't of Interior*, 584 F. Supp. 2d 1, 6 (D.D.C. 2008) (party to a settlement from other case had interest in "maintaining the terms of the settlement"); *Yniguez v. State of Ariz.,* 939 F.2d 727, 733 (9th Cir. 1991) ("[T]here is a virtual *per se* rule that the sponsors of a ballot initiative have a sufficient interest in the subject matter of litigation concerning that initiative to intervene."); *cf. Mich. State AFL-CIO* v. *Miller*, 103 F.3d 1240, 1245–47 (6th Cir. 1997) (finding intervention appropriate where, among other factors, the proposed intervenor was "a vital participant in the political process that resulted in legislative adoption of the 1994 amendments in the first place" and "a repeat player in Campaign Finance Act litigation"). This case law supports Movants' motion.

ii. Movants' interests are specific to them.

In addition to ignoring this case law, Plaintiffs misconstrue Movants' interest under Section 2 of the Voting Rights Act ("VRA"), contending that "at least seven of the fourteen individual Movants received no benefit from, or were objectively harmed by, SB8." Opp. at 8. As Plaintiffs tell it, Movants seek not to protect their own rights but to represent a "statewide mass of voters of a particular race." *Id*. at 7.[2] As an initial matter, Plaintiffs effectively concede that organizational

[2] Even under their unduly constrained understanding of Movants' interests, Plaintiffs effectively concede that four *Robinson* Movants have an interest here. In addition to acknowledging organizational Movants' interest, *see supra*, Plaintiffs seemingly recognize that at least two individual *Robinson* Movants—Dorothy Nairne and Clee Earnest Lowe—have a discrete interest because they were moved from a majority-white to majority-Black district. *See* Opp. at 9; *see also Johnson* v. *Mortham*, 915 F. Supp. 1529, 1536 (N.D. Fla. 1995). Plaintiffs are also factually incorrect about the district in which Movant Alice Washington lives under SB8: She lives in Congressional District 6, a majority-Black district, and thus, under Plaintiffs' theory, like the other Movants who have been drawn into a majority-Black district under SB8, would have a protectable interest here. Similarly, even under Plaintiffs' erroneous theory that it is necessary (as opposed to *sufficient*) for an intervenor to be an intended beneficiary of a challenged state action to defend it, Opp. at 7, Movants clear that bar. Plaintiffs' own papers demonstrate the State passed SB8 in response to litigation brought by the *Robinson* Movants to undilute their votes by drawing a second Black-opportunity district.

Movants Louisiana NAACP and Power Coalition for Equity and Justice have a legally protectable interest on behalf of their members. *Id*. Moreover, in minimizing individual Movants' interests, Plaintiffs ignore that Section 2 claims are *area* specific, and Movants have a specific interest in maintaining two Black-opportunity districts *in their geographical area*. A plaintiff has standing whether they live in a majority-white or majority-minority district, so long as they "reside in a reasonably compact area that could support additional [majority-minority districts]." *Nairne* v. *Ardoin*, No. CV 22-178-SDD-SDJ, 2023 WL 7673856, at *5–6 (M.D. La. Nov. 14, 2023); *see also Harding* v. *Cty. of Dall*., 948 F.3d 302, 307 (5th Cir. 2020) (standing for voters from each district in a county, whether majority-white or majority-minority). SB8 represents a victory and a protectable interest not *only* for those who were moved from majority-white to majority-Black districts. *Contra* Opp. at 8–9. Rather, individuals who lived in District 2 under the old plan also had standing to challenge the plan because their votes were diluted by packing. *See Harding*, 948 F.3d at 307 ("In vote dilution cases, the harm arises from the particular composition of the voter's own district, which causes his vote—having been packed or cracked—to carry less weight than it would carry in another, hypothetical district.") (internal quotation marks omitted). Such individuals benefited from the unpacking of that district and have a unique interest in resisting re-packing. *Contra* Opp. at 8 (suggesting reduced Black percentage of district harmed Movants); *but see id.* at 10 (acknowledging individual right to avoid "pack[ing]" or "crack[ing]" that SB8 cured).

Furthermore, even the individual Movants who continue to reside in non-majority-Black districts under SB8 have a cognizable interest in ensuring that the rulings in the *Robinson* case are sustained here. In *Robinson*, these Movants put forward illustrative maps that would include their residences in a second majority-Black district. If this Court determines that SB8 cannot stand and a new map must be drawn, each of the Movants might be placed in (or out of) a district in which

Black voters can elect their candidate of choice. They have an interest in the outcome of any such proceeding, regardless of where SB8 places them. *Each* individual Movant has prevailed in the *Robinson* litigation in showing that federal law requires a second majority-Black district drawn in *the geographic area in which they live*. Each has a specific and distinct interest in ensuring this lawsuit does not undo that legal victory. These are specific and unique interests—and are more particularized interests than those asserted by voters that the Fifth Circuit has allowed to intervene. *See*, *e.g.*, *League of United Latin Am. Citizens, District 19* v. *City of Boerne,* 659 F.3d 421 (5th Cir. 2011) (individual voter intervened to protect at-large system that governed *all* voters in the jurisdiction); *League of United Latin Am. Citizens, Council No. 4434* v. *Clements*, 999 F.2d 831, 845 (5th Cir. 1993) (en banc) (similar). Plaintiffs fail to mention this precedent or the many other cases in which courts have allowed voter intervention. *See* MTI at 7 (citing several such cases). As the Eleventh Circuit observed, "voters have been permitted to intervene in a large number—if not all—of the actions involving a [racial gerrymandering] claim." *Clark* v. *Putnam Cnty.*, 168 F.3d 458, 462 (11th Cir. 1999) (collecting cases). Plaintiffs cannot wish away this body of law by ignoring it. It straightforwardly supports intervention here.

B. <u>The State cannot adequately represent Movants' interests.</u>

Plaintiffs fail to acknowledge Movants' minimal burden to demonstrate inadequacy of representation. Movants "need not show that the representation by existing parties will be, for certain, inadequate." *Texas* v. *United States*, 805 F.3d 653, 661 (5th Cir. 2015) (quoting *Moore's* § 24.03[4][a][i]). Rule 24(a)(2)'s adequacy requirement "is satisfied if the applicant shows that representation of his interest 'may be' inadequate; and the burden of making that showing should be treated as minimal." *Trbovich* v. *United Mine Workers of Am.*, 404 U.S. 528, 538 n.10 (1972)

(citation omitted); *see also Edwards* v. *City of Houston*, 78 F.3d 983, 1005 (5th Cir. 1996) ("[B]urden of showing inadequate representation is minimal."). Movants easily clear that bar.

Plaintiffs erroneously assert that two presumptions prevent Movants from intervention by right—the "ultimate objective" presumption and the "governmental entity" presumption. Opp. 10–11. Both presumptions are overcome here because Movants and the government have different *interests*, even if they share an ultimate objective. *Texas*, 805 F.3d at 661.[3] The Fifth Circuit has explained that even where a State is vigorously defending its law, its interests will often diverge from those of private intervenors who also support the law. *See, e.g.*, *Wal-Mart Stores, Inc.* v. *Tex. Alcoholic Beverage Comm'n*, 834 F.3d 562, 569 (5th Cir. 2016) (state defendant's representation inadequate where the proposed intervenor's private interests "are narrower than" the defendant's "broad public mission"); *Brumfield*, 749 F.3d at 346 (similar). And in *Trbovich*, the Supreme Court held that intervention of right is appropriate when the proposed intervenor had a narrower, more specific interest than the State defendant. The Court "acknowledge[d] that the [government defendant's] and the [proposed private intervenor's] interests were 'related,' but it emphasized that the interests were not 'identical'" because the government "also had to bear in mind broader public-policy implications," while the would-be intervenors had a narrower focus. *Berger* v. *N. Carolina State Conf. of the NAACP*, 597 U.S. 179, 196 (2022) (citing *Trbovich*, 404 U.S. at 538–39).

Here, Movants' interest is straightforward and relatively limited: ensuring that their votes are not diluted by a congressional plan that violates the VRA. *See* Opp. at 10 (seemingly acknowledging properness of this interest). Even assuming the most vigorous defense of SB8, "the

[3] The "ultimate objective" presumption likely does not even apply in this case. In cases where the State "has more extensive interests to balance than do the [would-be intervenors]," it "is not evident that the ultimate-objective presumption of adequate representation even applies." *Brumfield*, 749 F.3d at 346. In this case, the State's interests are much more extensive than Movants' interests. *See infra*.

state has more extensive interests to balance than do the [Movants].” *Brumfield*, 749 F.3d at 346. Even the State recognizes that the current Defendant’s “objective is in the orderly implementation of whatever election rules are in force.” State of Louisiana’s Mem. ISO Mot. to Intervene, ECF 53-1, at 7.

Nor can the State itself, if permitted to intervene, represent Movants’ interests.[4] The State’s interests include “maintaining the continuity of representation in its districting plans” and the efficient administration of elections, *Robinson* v. *Landry*, 22-cv-211-SDD-SDJ, ECF 101 at 18, 20–21 (Apr. 29, 2022), and potentially avoiding a judicially-imposed map, *see infra* (legislator quotes). State actors must also consider the broader politics at play, the cost of litigation to state coffers, administering elections under new lines, their relationship with the federal officials elected under these lines, and their relationship with the state legislature that passed these lines, among others. *See, e.g.*, *Meek* v. *Metro. Dade Cnty., Fla.*, 985 F.2d 1471, 1478 (11th Cir. 1993) (voters’ interest in challenging at-large voting system diverged from state’s interests, including in “the overall fairness of the election system to be employed in the future, the expense of litigation to defend the existing system, and the social and political divisiveness of the election issue”) *abrogated on other grounds by Dillard* v. *Chilton Cnty. Comm’n*, 495 F.3d 1324 (11th Cir. 2007); *Trbovich*, 404 U.S. at 538–39 (“[T]he Secretary has an obligation to protect the ‘vital public interest in assuring free and democratic union elections that transcends the narrower interest of the complaining union member.’”) (citation omitted). Under *Trbovich* and Fifth Circuit precedent, these differences rebut the presumptions Plaintiffs invoke.

[4] In fact, the State and the Secretary of State have referred to Movants as “interlopers” for their attempts to intervene here, underscoring the tension between Movants and state actors. *Robinson* v. *Landry*, 22-cv-211-SDD-SJD, ECF 355 at 13 n.5 (Feb. 15, 2024).

There also remain substantial doubts as to the State's motives in this case, given its repeated insistence in the *Robinson* litigation that a map with two majority-Black districts would be unconstitutional. The State has spent two years litigating against Movants to resist a map with two majority-Black districts. Governor Landry has made clear that the State adopted SB8 only after "exhaust[ing] ALL legal remedies."[5] Louisiana's Attorney General has stated that the State passed SB8 only after "exhaust[ing] all reasonable and meaningful avenues for legal remedies" and with "a gun to [its] head."[6] During the Special Session in January, the Attorney General further stated, "You won't hear me say that I believe that that [HB1] violated the redistricting criteria. I'm defending that map, but I will defend your new map if you draw a new map."[7] Given this posture, at the very least "there is a serious *possibility* that the representation *may* be inadequate," which satisfies Rule 24(a). *Texas*, 805 F.3d at 661 (quoting Wright & Miller, 7C Fed. Prac. & Proc. Civ. § 1909 (3d ed.)) (emphases added).

II. Alternatively, Movants should be granted permissive intervention.

Plaintiffs' Opposition gives short shrift to permissive intervention. In asserting Movants do not satisfy Rule 24(b)'s commonality requirement, Plaintiffs recite that this case is about SB8, not HB1, and brought under the Fourteenth Amendment, not the VRA. Opp. at 14. That is true as far as it goes, but it does not go far. The Court need not look further than Plaintiffs' own complaint to see commonality of facts and law. *See* ECF No. 1 at 8; *see also* MTI at 17–18. Perfect alignment between claims or facts is not a prerequisite for intervention. *United States ex rel. Hernandez* v.

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[5] Office of the Governor, *Governor Jeff Landry Opens First Special Session on Court Ordered Redistricting* (Jan. 16, 2024), https://gov.louisiana.gov/news/governor-jeff-landry-opens-first-special-session-on-court-ordered-redistricting (asking the Louisiana Legislature to enact a new congressional map to avoid a map drawn "by some heavy-handed member of the Federal Judiciary").

[6] Liz Murrill (@AGLizMurrill), Twitter (Jan. 16, 2024, 4:53 PM),https://twitter.com/AGLizMurrill/status/1747376599446516056 ("[W]e have a federal judge holding her pen in one hand and a gun to our head in the other.").

[7] Louisiana Legislature, *House and Governmental Affairs Session*, at 46:54-47:04 (January 15, 2024), https://redist.legis.la.gov/default_video?v=house/2024/jan/0115_24_HG.

Team Fin., LLC, 80 F.4th 571, 577 (5th Cir. 2023) (The "'claim or defense' portion of Rule 24(b) . . . [is to be] construed liberally.") (quoting *Newby* v. *Enron Corp.*, 443 F.3d 416, 422 (5th Cir. 2006)).

And as set forth above, the State does not adequately represent Movants' interests. *See supra*, Part I.B; *contra* Opp. at 14. All of the policies undergirding intervention—of attaining greater justice, efficiently resolving the factual and legal questions arising from the enactment of SB8, and facilitating full development of the factual record—apply in full force here. *See* MTI at 17–18; *Stallworth* v. *Monsanto Co*., 558 F.2d 257, 265 (5th Cir. 1977) (policies behind Rule 24 are "to foster economy of judicial administration and to protect non-parties from having their interests adversely affected by litigation conducted without their participation"). While Movants seek the intervention by right to which they are entitled, in the alternative, the Court should grant permissive intervention.

CONCLUSION

The Court should grant the *Robinson* Movants' Motion to Intervene.

DATED: February 23, 2024

Respectfully submitted,

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, et al	**CIVIL DOCKET NO. 3:24-CV-00122-DCJ-CES-RRS**
VERSUS	
NANCY LANDRY, in her official capacity as Louisiana Secretary of State	**THREE-JUDGE COURT**

ORDER

Before the Court is a MOTION TO INTERVENE [Doc. 10] filed by Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard (collectively, the "*Galmon* movants") on February 6, 2024, and a MOTION TO INTERVENE AS DEFENDANTS AND TRANSFER[1] [Doc. 18] filed by Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National Association for the Advancement of Colored People Louisiana State Conference ("LA NAACP"), and the Power Coalition for Equity and Justice (collectively, the "*Robinson* movants") on February 7, 2024.[2] Plaintiffs, Phillip Callais, Lloyd Price, Bruce Odell, Elizabeth Ersoff, Albert Caissie, Daniel Weir, Joyce LaCour, Candy Carroll Peavy, Tanya Whitney, Mike Johnson, Grover

[1] In their Reply brief, the *Robinson* movants respectfully withdrew their Motion to Transfer. [Doc. 76, p. 2].

[2] Both sets of movants were parties to a suit in the Middle District, *Robinson v. Ardoin*, No. 3:22-cv-02111-SDD-SDJ, in which parties litigated whether HB1, a prior iteration of Louisiana's Congressional districting map, violated Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301.

Joseph Rees, and Rolfe McCollister (collectively, the "*Callais* plaintiffs") oppose the Motions. [Doc. 33].

Additionally, before the Court is an unopposed Motion to Intervene filed by the State of Louisiana, by and through its Attorney General, Elizabeth Murrill, on February 20, 2024. [Doc. 53].

I. Motions to Intervene

a. Legal Standard

All movants claim that intervention as a matter of right is proper under Federal Rule of Civil Procedure 24(a) or in the alternative, permissive intervention under Federal Rule of Civil Procedure 24(b) is appropriate.

Federal Rule of Civil Procedure 24(a) provides that on "timely motion" the court must permit intervention by anyone who is either: (1) given an unconditional right to intervene by federal statute; or (2) "claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest." To intervene as a matter of right under Rule 24(a)(2), a proposed intervenor must meet the following four requirements:

> (1) The application for intervention must be timely; (2) the applicant must have an interest relating to the property or transaction which is the subject of the action; (3) the applicant must be so situated that the disposition of the action may, as a practical matter, impair or impede his ability to protect that interest; (4) the applicant's interest must be inadequately represented by the existing parties to the suit.

New Orleans Public Service, Inc. v. United Gas Pipe Line Co., 732 F.2d 452, 463 (5th Cir. 1984) (quoting *International Tank Terminals, Ltd. v. M/V Acadia Forest*, 579 F.2d 964, 967 (5th Cir. 1978). The applicant must satisfy each factor in order to show a right to intervene. *Guenther v. BP Retirement Accumulation Plan*, 50 F.4th 536, 542-43 (5th Cir. 2022). The inquiry under Rule 24(a)(2) "is a flexible one, which focuses on the particular facts and circumstances surrounding each application," and "intervention of right must be measured by a practical rather than technical yardstick." *Edwards v. City of Hous.*, 78 F.3d 983, 999 (5th Cir.1996).

Federal Rule of Civil Procedure Rule 24(b) provides that a "court may permit anyone to intervene who: … has a claim or defense that shares with the main action a common question of law or fact." Permissive intervention is "wholly discretionary with the [district] court … even though there is a common question of law or fact, or the requirements for Rule 24(b) are otherwise satisfied. *Kneeland v. Nat'l Collegiate Athletic Ass'n*, 806 F.2d 1285, 1289 (5th Cir. 1987); s*ee also United States v. Texas E. Transmission Corp.*, 923 F.2d 410, 416 (5th Cir. 1991); s*ee also New Orleans Pub. Serv., Inc. v. United Gas Pipe Line Co.*, 732 F.2d 452, 471 (5th Cir.1984) (en banc) (quoting Wright & Miller, Federal Practice and Procedure: Civil § 1913 at 551 (1972)), *cert. denied*, 469 U.S. 1019, 105 S. Ct. 434, 83 L.Ed.2d 360 (1984). In exercising its discretion, the court must consider whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights. Fed. R. Civ. P. 24(b)(3). In reviewing a motion for permissive intervention, a court can weigh, among other things, "whether the intervenors' interests are adequately represented by other

parties" and whether they "will significantly contribute to full development of the underlying factual issues in the suit." *New Orleans Pub. Serv., Inc. v. United Gas Pipe Line Co.*, 732 F.2d 452, 472 (5th Cir. 1984).

b. Analysis

i. *Robinson* Movants

In regard to the *Robinson* movants, the Court finds that the first three factors required for intervention as a matter of right are met and that the only factor at issue is the fourth factor – the adequacy of representation. "The applicant has the burden of demonstrating inadequate representation, but this burden is 'minimal.'" *Brumfield v. Dodd*, 749 F.3d 339, 345 (5th Cir.2014) (quoting *Sierra Club v. Espy*, 18 F.3d 1202, 1207 (5th Cir.1994)). The applicant's burden is satisfied if he shows that the existing representation "may be inadequate;" the showing "need not amount to certainty." *Guenther v. BP Ret. Accumulation Plan*, 50 F.4th 535, 543 (5th Cir. 2022).

However, the burden "cannot be treated as so minimal as to write the requirement completely out of the rule." *Haspel & Davis Milling & Planting Co. v. Bd. Of Levee Commissioners of The Orleans Levee Dist. & State of Louisiana*, 493 F.3d 570, 578 (5th Cir. 2007). A movant must overcome two presumptions so that this requirement "ha[s] some teeth." *Brumfield*, 749 F.3d at 345. The first only arises if "one party is a representative of the absentee by law" — which is inapplicable to this case. *Id.* The second "arises when the would-be intervenor has the same ultimate objective as a party to the lawsuit." *Id.* To overcome this presumption, the movant must establish "adversity of interest, collusion, or nonfeasance on the part of the

existing party." *Id.* An intervenor shows adversity of interest if it demonstrates that its interests "diverge from the putative representative's interests in a manner germane to the case." *Guenther,* 50 F.4th at 543. Differences of opinion regarding an existing party's litigation strategy or tactics used in pursuit thereof, without more, do not rise to an adversity of interest. *Lamar v. Lynaugh*, 12 F.3d 1099, 1099 n.4 (5th Cir. 1993) (per curiam); *accord SEC v. LBRY, Inc.*, 26 F.4th 96, 99–100 (1st Cir. 2022) ("A proposed intervenor's desire to present an additional argument or a variation on an argument does not establish inadequate representation."); *United States v. City of New York*, 198 F.3d 360, 367 (2d Cir. 1999); *United States v. Territory of Virgin Islands*, 748 F.3d 514, 522 (3d Cir. 2014); *Bradley v. Milliken*, 828 F.2d 1186, 1192 (6th Cir. 1987); *Jenkins by Jenkins v. Missouri*, 78 F.3d 1270, 1275 (8th Cir. 1996) ("A difference of opinion concerning litigation strategy or individual aspects of a remedy does not overcome the presumption of adequate representation.")

Here, the second presumption applies. In this case, the Secretary of State is sued in her official capacity, thus the State through the Attorney General is implicated as well. Broadly, the Attorney General's job is to represent the State of Louisiana in lawsuits and defend the laws of the state – that is the oath she made to the state and what she was elected by the citizens of Louisiana to do. In this case, the State must defend SB8 as a constitutionally drawn Congressional redistricting map. This is the same ultimate objective movants would have and interest they would defend at this stage of the proceedings. Further, at this time, the Court finds no indication of the likelihood of collusion or nonfeasance on behalf of the State.

Because they failed to establish adversity of interest, collusion, or nonfeasance on the part of the State at this time, movants have not overcome the second presumption of adequate representation. Therefore, the Court does not find grounds for intervention as a matter of right under Rule 24(a) and turns to whether the *Robinson* movants may intervene under Rule 24(b) permissive intervention.

Permissive intervention is a two-stage process. First, the district court must decide whether "the applicant's claim or defense and the main action have a question of law or fact in common." Fed. R. Civ. P. 24(b)(2). If this threshold requirement is met, the court must then exercise its discretion in deciding whether intervention should be allowed. *Stallworth v. Monsanto Co.*, 558 F.2d 257, 269 (5th Cir. 1977).

To be clear – SB8 is not the Congressional districting map of the proposed *Robinson* and *Galmon* intervenors. It is the Congressional districting map of the State of Louisiana – passed by both Houses of the Louisiana Legislature and signed into law by the Governor. The *Robinson* and *Galmon* movants have neither a greater nor lesser interest in ensuring that this map does not run afoul of the 14th Amendment to the United States Constitution than any other citizen of the State of Louisiana. However, the Court does agree with movants' contention that they have an interest in furthering their litigation objectives when, or if, the litigation enters any remedial phase. A remedial phase would implicate the main objective movants fought for in the *Robinson* case, two Black-majority Congressional districts as they allege is required by the Voting Rights Act and provide an opportunity to introduce the same or similar evidence and maps as in that case.

Imposing reasonable conditions on intervention is a "firmly established principle" in the federal courts. *Beauregard, Inc. v. Sword Servs., LLC*, 107 F.3d 351, 352-53 (5th Cir. 1997); s*ee also Stringfellow*, 480 U.S. at 378 (limitations upon intervention do not constitute a denial of the right to participate). It is undisputed that virtually any condition may be attached to a grant of permissive intervention. *Beauregard, Inc.,* 107 F.3d at 353 (5th Cir. 1997); *cf. United Nuclear Corp. v. Cranford Ins. Co.,* 905 F.2d 1424 (10th Cir.1990); *Fox v. Glickman Corp.,* 355 F.2d 161, 164 (2d Cir.1965); Wright, Miller & Kane, Federal Practice & Procedure: Civil 2d, § 1913, § 1922 (1986) ("Since the court has discretion to refuse intervention altogether, it also may specify the conditions on which it will allow the applicant to become a party."). Thus, the Court grants the *Robinson* movants' motion to intervene for the limited purpose of partaking in the remedial phase of trial, should the case advance to such stage. The Court will allow the *Robinson* movants to be present at all hearings, and movants may seek reconsideration of this ruling if they can establish adversity or collusion by the State.

ii. *Galmon* Movants

The *Galmon* movants' motion merits the same analysis as the *Robinson* movants. However, since the Court is allowing the *Robinson* movants to intervene, albeit in a limited role, the Court does not find it necessary to also allow the *Galmon* movants to intervene. Their interests and objectives will be adequately represented by the *Robinson* movants. Further, the *Robinson* movants constitute the plaintiffs in the lead case of *Robinson v. Ardoin*, No. 3:22-cv-02111-SDD-SDJ, with which the suit

filed by the *Galmon* plaintiffs was consolidated. Ultimately, because their interests will be adequately represented by the *Robinson* intervenors in any remedial phase, the Court denies the *Galmon* movants' motion to intervene.

iii. State of Louisiana

Lastly, as stated above, SB8, the map challenged by plaintiffs in this suit, was formulated and passed by the Louisiana Legislature and signed into law by the Governor. The State of Louisiana clearly has a compelling interest in defending the Congressional redistricting map formulated and passed by its own legislators, alongside its Secretary of State, in her official capacity. Therefore, the State's unopposed Motion to Intervene is granted. The Secretary of State and the State of Louisiana, as defendants, shall confer with each other to consolidate their briefings so as to avoid duplicative arguments. *See WildEarth Guardians v. Jewell*, 320 F.R.D. 1,6, 96 Fed. R. Serv. 3d 1469 (D.D.C. 2017) (allowing Colorado, Wyoming, and Utah to intervene as defendants in an action regarding the approval of oil and gas leases on public lands, but limiting the length of Colorado and Utah's briefing in phase of litigation involving leases in Wyoming, and directing the states to "confer with one another to consolidate their briefing and avoid duplicative arguments"); s*ee also Fisher-Borne v. Smith*, 14 F. Supp. 3d 699, 710, 89 Fed. R. Serv. 3d 1676 (M.D. N.C. 2014 (limiting potential pleadings of proposed intervenors).

II. Conclusion

Accordingly,

IT IS HEREBY ORDERED that the *Robinson* movants' Motion to Intervene [Doc. 18] is GRANTED but limited only to the remedial phase, if one is needed, later in this suit, and the *Galmon* movants' Motion to Intervene [Doc. 10] is DENIED.

IT IS FURTHER ORDERED that the State of Louisiana's Motion to Intervene [Doc. 53] is GRANTED.

THUS, DONE AND SIGNED on this 26th day of February 2024.

/s/ Carl E. Stewart
CARL E. STEWART
CIRCUIT JUDGE
UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

ROBERT S. SUMMERHAYS
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF LOUISIANA

DAVID C. JOSEPH
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF LOUISIANA

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, Plaintiffs, v. NANCY LANDRY, in her official capacity as Louisiana Secretary of State, Defendant.	No. 3:24-cv-00122-DCJ-CES-RRS **RESPONSE TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION BY DEFENDANT SECRETARY OF STATE**

Defendant Nancy Landry, in her official capacity as Louisiana Secretary of State ("Defendant"), hereby responds to Plaintiffs' Motion for Preliminary Injunction, ECF No. 17, as follows:[1]

La. Const. art. 4, § 7 provides that the Defendant "heads[s] the department and shall be the chief election officer of the state[,]" and that she "shall prepare and certify the ballots for all elections, promulgate all elections returns, and administer the election laws, except those relating to voter registration and custody of voting machines." Defendant has no authority to draw congressional districts and has no personal knowledge of the motives of the legislature in its decision to ratify and enact S.B. 8. Defendant therefore takes no position on the merits of Plaintiffs' Motion for Preliminary Injunction at this time.

[1] Counsel for Secretary Landry conferred with counsel for the State Intervenors this morning pursuant to this Court's Order at ECF No. 79.

Defendant will administer congressional elections pursuant to current law unless otherwise ordered by this Court. Defendant hereby notifies the Court that she and her department will need an approved congressional plan no later than May 15, 2024, in order to have sufficient time and resources needed to administer congressional elections in 2024 pursuant to the schedule for congressional elections mandated by both federal and state law.

Respectfully submitted, this the 27th day of February, 2024.

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CERTIFICATE OF SERVICE

I hereby certify that on this the 27th day of February, 2024, the foregoing document was filed via the Court's CM/ECF system which sent notice of the same to all counsel of record in this matter.

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IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State of Louisiana, *Defendant.*	Case No. 3:24-cv-00122-DCJ-CES-RRS District Judge David C. Joseph Circuit Judge Carl E. Stewart District Judge Robert R. Summerhays Magistrate Judge Kayla D. McClusky

INTERVENOR-DEFENDANT'S MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

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INTERVENOR-DEFENDANT'S MEMORANDUM OF LAW IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION[1]

The world of litigation stemming from the intersection of §2 of the Voting Rights Act of 1965 ("VRA") and of the Fourteenth Amendment has been in turmoil for years. The Supreme Court's recent decision in *Allen v. Milligan*, 599 U.S. 1 (2023), did little to resolve the tension between the constitutional command *not to take* government action on the basis of race and the statutory requirement—as interpreted by the Supreme Court—*to take* government action on the basis of race. *See Abbott v. Perez*, 138 S. Ct. 2305, 2315 (2018) ("Since the Equal Protection Clause restricts consideration of race and the VRA demands consideration of race, a legislature attempting to produce a lawful districting plan is vulnerable to 'competing hazards of liability.'" (quoting *Bush v. Vera*, 517 U.S. 952, 977 (1996) (O'Connor, J., plurality op.))). That tension is squarely implicated here.

Under these circumstances, Plaintiffs cannot carry their burden of showing that the passage of SB 8 (or, the "New Law") violated the Constitution. Section 2 of the VRA has always lived in tension with the Fourteenth and Fifteenth Amendments. *See Abbott*, 138 S. Ct. at 2315 (referring to the competing demands of the VRA and Fourteenth Amendment as a "legal obstacle course"). The former generally mandates that a map-drawing body consider race during the drafting process, and the latter generally prohibits the very same consideration. *Id.* (quoting *Vera*, 517 U.S. at 977 (O'Connor, J., plurality op.)). This was the needle that the Louisiana Legislature was forced

[1] Counsel for the State conferred with counsel for Secretary Landry this morning pursuant to this Court's Order at ECF No. 79. Given that the State's Response is due the same day that the Court granted its intervention, the parties conferred and have made every effort to avoid duplicative argument.

to thread when it passed SB 8—and it did so successfully by complying with both the VRA and the Constitution.

Specifically, the State had every reason in the world to believe that race-conscious redistricting was required by § 2 of the VRA—namely, a preliminary injunction from the Middle District of Louisiana against HB 1 (or, the "Old Law) mandating the creation of a second majority-Black district. *See generally Robinson v. Ardoin*, 605 F. Supp. 3d 759 (M.D. La. 2022). Moreover, although it vacated that injunction on procedural grounds, the Fifth Circuit went out of its way to *approve* the merits portion of the district court's preliminary-injunction analysis. *See Robinson v. Ardoin*, 86 F.4th 574, 583–84 (5th Cir. 2023) (holding that the district court did not err in its finding that plaintiffs were likely to succeed on the merits of their § 2 claim against the Old Law). In so doing, the Fifth Circuit gave the Louisiana Legislature a narrow window of time to either (1) adopt a new law or (2) decline to do so and proceed to a trial on the merits of the Old Law. *Id.* at 601–02.

With that writing on the wall, the Governor answered the federal courts' directives by calling a special session, and the Legislature passed SB 8—a new congressional map containing a second majority-Black district. The State, of course, never intended to dilute the votes of non-Black Louisianans. Instead, the State's overwhelming interest was in (a) complying with combined decisions from the Middle District and Fifth Circuit while (b) maintaining the State's constitutional prerogative to draw its own congressional districts, as opposed to having a federal court usurp that power from Louisianans' elected representatives. *See Miller v. Johnson*, 515 U.S. 900, 934–35 (1995) (Ginsburg, J., dissenting) ("[F]ederalism and the slim judicial competence to draw district lines weigh heavily against judicial intervention in apportionment decisions; as a rule, the task should remain within the domain of state legislatures."). The New Law thus not only satisfies strict scrutiny but also was the best result that could be achieved for Louisianans given the current state of § 2

jurisprudence—at least as far as the federal judiciary has applied it to Louisiana in the post-*Milligan* legal regime. Consequently, Plaintiffs' claims fail.

INTRODUCTION

This case arises out of the State of Louisiana's efforts to redistrict its congressional districts following the decennial census. In February of 2022, the Louisiana Legislature passed HB 1 and SB 5, enacting new congressional districts. Then-Governor Edwards vetoed the bills in March of 2022, but the Legislature overrode his veto, and the congressional district map created by HB 1 went into effect. Litigation followed.

Two separate complaints challenged HB 1 under § 2 of the VRA. These complaints were consolidated. *See* Complaint, *Robinson v. Ardoin*, No. 3:22-cv-211 (M.D. La. Mar. 30, 2022), ECF No. 1, *consolidated with* Complaint, *Galmon v. Ardoin*, No. 3:22-cv-214 (M.D. La Mar. 30, 2022), ECF No. 1. The State, as well as the then-Speaker and then-President Pro Tempore of the Louisiana Legislature, intervened. *Robinson v. Ardoin*, No. 3:22-cv-211, 2022 WL 1154607 (W.D. La. Apr. 19, 2022). The plaintiffs filed motions for preliminary injunctions. After expedited briefing and a hearing, the United States District Court for the Middle District of Louisiana granted a preliminary injunction enjoining Louisiana's congressional map. *See generally Robinson*, 605 F. Supp. 3d 759. This order was subsequently stayed by the United States Supreme Court while *Milligan* was pending and then later returned to the lower courts following the Supreme Court's *Milligan* decision.

The State appealed the preliminary-injunction ruling to the Fifth Circuit. Although the Fifth Circuit denied a stay pending appeal, *see Robinson v. Ardoin*, 37 F.4th 208, 215 (5th Cir. 2022), the Supreme Court granted one. *See Ardoin v. Robinson*, 142 S. Ct. 2892 (2022). After the Supreme Court lifted the stay, *see Ardoin v. Robinson*, 143 S. Ct. 2654 (2023), the Fifth Circuit held that the district court had not erred in concluding that the plaintiffs were likely to succeed on the merits of their § 2 challenge to HB1. *Robinson*, 86 F.4th at 583. But the Fifth Circuit also vacated the district

court's preliminary injunction on procedural grounds and gave the Legislature an opportunity to enact a new congressional districting map; if the Legislature did not enact a new map, the case would proceed to trial on the merits of the Old Law. *See id.* at 601–02.

In the wake of the Fifth Circuit's decision, the new Governor of Louisiana, Jeff Landry, called a special legislative session to consider enacting a new congressional districting map. The Legislature introduced and passed SB 8. The New Law created a new congressional districting map with a second majority-Black district, which, according to the district court and Fifth Circuit, was required by the VRA. On January 22, 2024, Governor Landry signed SB 8 into law.

Nine days later, Plaintiffs filed their Complaint alleging that the New Law violated Plaintiffs' Fourteenth and Fifteenth Amendment rights. *See* ECF No. 1. The State moved to intervene, which this Court granted. *See* ECF No. 53; *see also* ECF No. 79. On February 7, 2024, Plaintiffs filed a Motion for Preliminary Injunction, seeking to enjoin the implementation of the New Law and to order the Louisiana Secretary of State to implement Plaintiffs' own remedial congressional map. *See* ECF No. 17. Two weeks later, this Court issued a Scheduling Order setting April 8–9, 2024, as trial dates for a "Preliminary Injunction Hearing Combined with Trial on the Merits." ECF No. 63 (capitalization normalized).

LEGAL STANDARD

Under Federal Rule of Civil Procedure 65, "[b]efore or after beginning the hearing on a motion for a preliminary injunction, the court may advance the trial on the merits and consolidate it with the hearing." Fed. R. Civ. P. 65(a)(2). The Court consolidated Plaintiffs' requested Preliminary Injunction with a trial on the merits. ECF No. 63 at 1. This consolidation resulted

from Plaintiffs' Motion for a Case Management Conference and Expedited Schedule, ECF No. 43 at 2, which the Secretary did not oppose, and neither does the State.

The permanent injunction standard is "applicable when the court 'advance[s] the trial on the merits and consolidate[s] it with the hearing' on a motion for preliminary injunction." *Mont. Med. Ass'n v. Knudsen*, 591 F. Supp. 3d 905, 912 (D. Mont. 2022) (quoting Fed. R. Civ. P. 65(a)(2)); *see also Advance'd Temporaries, Inc. v. A.L. Expansion Inc.*, 108 F.3d 333 (5th Cir. 1997) (affirming where "[t]he district court consolidated [a] motion for preliminary injunction with the trial on the merits pursuant to Fed. R. Civ. P. 65(a)(2)" and "[a] bench trial ensued," whereafter "the district court entered judgment imposing a permanent injunction"); *Fund for Las. Future v. La. Bd. of Ethics*, 17 F. Supp. 3d 562, 568 (E.D. La. 2014) (explaining that a permanent injunction is the appropriate standard where a full merits trail has occurred, including one conducted under Rule 65(a)(2)).

To obtain a permanent injunction, a plaintiff must demonstrate "(1) actual success on the merits; (2) that it is likely to suffer irreparable harm in the absence of injunctive relief; (3) that the balance of equities tips in that party's favor; and (4) that an injunction is in the public interest." *Crown Castle Fiber, L.L.C. v. City of Pasadena*, 76 F.4th 425, 441 (5th Cir. 2023). Additionally, the third and fourth factors are merged here, as the State is an opposing party. *See Nken v. Holder*, 556 U.S. 418, 420 (2009) ("The third and fourth factors, harm to the opposing party and the public interest, merge when the Government is the opposing party.").

Although the standard for seeking a permanent injunction largely mirrors the preliminary injunction standard, the key difference for a permanent injunction is that a plaintiff must demonstrate *actual success* on the merits, not just a *likelihood* of success. *Lionhart v. Foster*, 100 F. Supp. 2d 383, 385–86 (E.D. La. 1999). Because Plaintiffs must first demonstrate actual success on the merits, the State's briefing addresses the merits separate from the remaining permanent injunction

analysis and addresses the equitable arguments in the context of any potential remedial-phase or pre-2024-election injunction along with its *Purcell* arguments.

ARGUMENT

Both of Plaintiffs' claims fail. First, Plaintiffs' racial gerrymandering claim fails on strict-scrutiny review because the State had every reason to believe that, at the time it enacted the New Law, the VRA—by the federal judiciary's own lights—required racially conscious districting. To be sure, the State vehemently disagreed and defended the Old Law. But the courts saw things differently. Indeed, the Middle District's merits analysis, affirmed by the Fifth Circuit, mandated a second majority-Black district, or else the State's failure to do so would illegally dilute Black voting strength under the VRA. *See generally Robinson*, 605 F. Supp. 3d 759. Because the State thereafter sensibly complied, strict scrutiny is easily satisfied here.

Second, Plaintiffs' discriminatory intent claim fails because Plaintiffs cannot rebut the presumption of good faith afforded to legislative action. Here, the Legislature expressed a desire (1) to comply with court opinions mandating (under the VRA) the use of race consciousness to implement a second majority-Black congressional district in Louisiana and (2) to maintain its constitutional role in redistricting by redrawing Louisiana's congressional map, as opposed to having a court-drawn map imposed on the State. Neither reason shows that racial discrimination was the *intent*—as opposed to the unsought consequence—of the Legislature's attempt to conform Louisiana's laws to the courts' directives. Indeed, "fundamental concerns of federalism mandate that states be given some leeway so that they are not trapped between [the Fourteenth Amendment and VRA's] competing hazards of liability." *Vera*, 517 U.S. at 977 (O'Connor, J., plurality op.). For that reason alone, Plaintiffs' racial intent claim is meritless.

In all events, moreover, there is no reason to rush proceedings: Even if the Court were to find for Plaintiffs, the *Purcell* doctrine would preclude the implementation of any remedial map

prior to the November 2024 election. Rushing to remedial proceedings would generate massive voter confusion and require the State to come up with a *third* congressional districting map in 2024 alone, all on the eve of an election. This is exactly what *Purcell* prevents. Thus, even if Plaintiffs suffer harm from SB 8, the State would be entitled to a non-illusory amount of time to remedy such harm, *see In re Landry*, 83 F.4th 300, 304 (5th Cir. 2023), and to do so in a way that does not throw the entire 2024 election into chaos, *Purcell v. Gonzalez*, 549 U.S. 1, 4–5 (2006)—which cannot actually happen in time for the November 2024 election. Because no remedy (if one were even needed) could be implemented for this election cycle, *Purcell* counsels in favor of litigation in the ordinary course, not breakneck speed.

I. BOTH OF PLAINTIFFS' CLAIMS FAIL ON THE MERITS.

A. Plaintiffs' Racial Gerrymandering Claim Fails in Light of *Robinson*.

To prevail on their claims, Plaintiffs must satisfy a demanding burden of proof and overcome a strong presumption of good faith afforded to the State. Plaintiffs fail on both accounts. "Whenever a challenger claims that a state law was enacted with discriminatory intent, the burden of proof lies with the challenger, not the State." *Abbott,* 138 S. Ct. at 2311 (citing *Reno* v. *Bossier Par. Sch. Bd.*, 520 U. S. 471, 481(1997)). Additionally, "[i]n redistricting cases, the 'good faith of [the] state legislature must be presumed." *Id.* (citing *Miller*, 515 U.S. at 915).

Courts undertake a "two-step analysis" when evaluating whether a districting map is an impermissible racial gerrymander pursuant to the Fourteenth Amendment. *Cooper v. Harris*, 581 U.S. 285, 291 (2017). The first step requires the plaintiff to "prove that race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district." *Id.* (internal citations omitted). The second step requires that, "if racial considerations predominated over others, the design of the district must withstand strict scrutiny." *Cooper*, 581 U.S. at 292. In this step, the State has the burden to demonstrate that "its race-based

sorting of voters serves a compelling interest and is narrowly tailored to that end." *Id.* (internal citations omitted). Courts have consistently presumed that complying with the VRA constitutes a "compelling interest." *Id.* To fulfill the "narrowly tailored" requirement, the State must show "that it had 'a strong basis in evidence' for concluding that the statute required its action." *Id.* (internal citations omitted).

Importantly, the "strong basis in evidence" standard does not require that the State be completely certain that a contested map constitutes a violation of the VRA before implementing changes. (Of course, the State itself vigorously, but ultimately unsuccessfully, disputed that no such violation existed.) Rather, this standard "gives States 'breathing room' to adopt reasonable compliance measures that may prove, in perfect hindsight, not to have been needed." *Id.* at 293 (citing *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 195–96 (2017)). In essence, the inquiry is not whether the VRA *actually* requires a second majority-Black district, but rather, whether the Legislature had "good reason to believe" the VRA, as interpreted by the federal courts, required the second majority-Black district at the time the Legislature drew the map.

Here, the State can easily demonstrate that "it had 'a strong basis in evidence' for concluding that the" VRA "required its action," *see id.* at 292 (quoting *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015)), because both the Middle District and Fifth Circuit insisted it did. Further, the evidence shows that the State "actual[ly] consider[ed]" whether the VRA required another majority-Black district and had a "strong basis in evidence" for determining that "all the *Gingles* preconditions were met." *See id.* at 301–02 (quoting *Vera*, 517 U.S. at 978 (O'Connor, J., plurality op.). Plaintiffs' contention that the State did not engage in "a strong showing of a pre-enactment analysis with justifiable conclusions," ECF No 17-1 at 32 (citing *Abbott*, 138 S. Ct. at 2335), completely ignores the procedural history behind the New Law. That history demonstrates that the *Robinson* district court and the Fifth Circuit considered the Old Law and found that

Plaintiffs were likely to succeed on the merits of their VRA challenge. Plaintiffs' contention also ignores the battle of the experts that occurred in the *Robinson* district court before the court concluded that the VRA likely mandated creation of a second majority-Black district. It is hard to imagine a "strong[er] basis in evidence," *Cooper*, 581 U.S. at 301–02 (quoting *Vera*, 517 U.S. at 978 (O'Connor, J., plurality op.)), than a district court decision, which was premised on competing experts and affirmed on the merits by the Fifth Circuit.

Similarly unpersuasive is Plaintiffs' citing of the State's arguments from the preliminary injunction proceeding in *Robinson*. *See* ECF No. 1 at 8–9. While the State argued that the Old Law did not violate § 2, the *Robinson* district court rejected these arguments, and the Fifth Circuit blessed that rejection in a unanimous panel decision (which that court declined to rehear en banc). Much as the State might disagree with that outcome, it is the courts' opinion that carries the day—not the losing party's arguments. Accordingly, the State enacted the New Law on the directive of the *Robinson* district court's opinion and the Fifth Circuit panel's opinion substantively affirming it.

Moreover, Plaintiffs' complaint that "[t]he [*Robinson*] case never advanced to the merits" does not move the needle for them. *Id.* at 9. Indeed, their argument blinks reality of the district court's preliminary injunction reasoning on the merits factor, which the Fifth Circuit unanimously affirmed. The State was not required to sit back and wait for the ministerial entry of a final judgment on the merits when the judicial writing was already on the wall. Rather, the Supreme Court has held that the States must be given "'breathing room' to adopt reasonable [§ 2] compliance measures" even if, "in perfect hindsight," such measures are later considered unnecessary. *Cooper*, 581 U.S. at 292 (quoting *Bethune*, 580 U.S. at 195–96). Put differently, the inquiry is not about what the VRA *actually requires*, but what the State had a *strong basis to believe* it

required. *See supra* p. 8. And that standard is easily satisfied here in light of the district court's and Fifth Circuit's decisions.

B. Plaintiffs' Discriminatory Intent Claim Fails Because the State Undisputedly Sought to Comply with Court Orders While Maintaining Its Constitutionally Delegated Role in Redistricting.

Plaintiffs face (and fail to satisfy) a heavy burden of proof on their intentional-discrimination claim as well. Again, to prevail on their intentional-discrimination claim, Plaintiffs must overcome that fact that, "[i]n redistricting cases, the 'good faith of [the] state legislature must be presumed." *Abbott*, 138 S. Ct. at 2311 (citing *Miller*, 515 U. S. at 915). This requires them to prove that "a discriminatory purpose has been a motivating factor in the decision" to adopt the New Law. *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–66 (1977). And "[w]here the court is asked to identify the intent of an entire state legislature, as opposed to a smaller body, the charge becomes proportionately more challenging." *Veasey v. Abbott*, 830 F.3d 216, 233 (5th Cir. 2016).

As an initial matter, the *Arlington Heights* standard does not apply to redistricting because its central inquiry (racial intent) is already subsumed in the *Shaw* standard for racial gerrymandering claims (addressing whether race was predominant in the drawing of the map). *Compare Arlington Heights*, 429 U.S. at 266 ("Determining whether invidious discriminatory purpose was a motivating factor demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available."), *with Shaw v. Hunt*, 517 U.S. 899, 905 (1996) ("The plaintiff bears the burden of proving the race-based motive and may do so either through 'circumstantial evidence of a district's shape and demographics' or through 'more direct evidence going to legislative purpose.'" (quoting *Miller*, 515 U.S. at 916)). Both claims center on the racial intent, or lack thereof, of the map drawer. Thus,

an *Arlington Heights* (racial intent) claim—when brought with a *Shaw* (racial gerrymandering) claim—is at best redundant and at worst totally inapplicable in the redistricting context.

Even if *Arlington Heights* applies here, "'[d]iscriminatory purpose' . . . implies more than intent as volition or intent as awareness of consequences . . . . It implies that the decisionmaker . . . selected or reaffirmed a particular course of action at least in part 'because of,' not merely 'in spite of,' its adverse effects upon an identifiable [minority] group." *Pers. Adm'r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979) (internal citation omitted); *accord Veasey*, 830 F.3d at 231 (relying on *Feeney* in considering a discriminatory intent claim under § 2 and recognizing that "[l]egislators' awareness of a disparate impact on a protected group is not enough: the law must be passed because of that disparate impact"); *N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 220 (4th Cir. 2016) (similar); *see also Hunter v. Underwood*, 471 U.S. 222, 228 (1985) ("Proving the motivation behind official action is often a problematic undertaking."). Plaintiffs have not met their burden to prove discriminatory purpose under this demanding standard.

As explained above, it is clear that the Legislature, in passing the New Law, sought (1) to comply with the VRA as interpreted in the *Robinson* litigation and (2) to maintain its constitutionally delegated role in redistricting. *See supra* § I.A. Indeed, the Governor himself, in calling the Special Session that resulted in the New Law, explained that he wanted to take the districting process out of the hands of the Middle District and place it back with Louisiana's duly elected representatives.[2] Plaintiffs' claim that supposed legislative intent to create a second majority-Black district "alone prove[s] discriminatory intent" thus fails; VRA compliance as interpreted in *Robinson*—not racial

[2] *Governor Jeff Landry Opens First Special Session on Court Ordered Redistricting*, Office of the Governor (Jan. 16, 2024) https://gov.louisiana.gov/news/governor-jeff-landry-opens-first-special-session-on-court-ordered-redistricting ("We are here today because the Federal Courts have ordered us to perform our job … These maps will satisfy the Court and ensure that the congressional districts of our State are made right here in the Legislature and not by some heavy-handed member of the Federal Judiciary. We do not need a federal judge to do for us what the people of Louisiana have elected YOU to do. You are the voice of the people.") (cleaned up).

gerrymandering for its own sake without adequate justification—was the driving motivation behind the New Law. ECF No. 17-1 at 35.

Here, Plaintiffs are required to show that the *intent* of creating a second majority-Black district was to discriminate on the basis of race and not merely a resulting consequence. *Arlington Heights*, 429 U.S. 265–66; *McCrory*, 831 F.3d at 220. And Plaintiffs give only the shortest shrift to the notion that VRA compliance satisfies strict scrutiny. See ECF No. 17-1 at 36 n.4 (spending one footnote to address the fact that a good faith effort to comply with the VRA is sufficient to satisfy struct scrutiny).

To reiterate, the State complied with what the Fifth Circuit and Middle District said the VRA required here—namely, the creation of a second majority-Black district. This is enough to satisfy strict scrutiny, *supra* § I.A., and Plaintiffs have not shown that the State's desired VRA compliance was pretextual. Put differently, Plaintiffs have failed to rebut the presumption of legislative good faith. *Miller*, 515 U.S. at 916. Thus, just as their *Shaw* claim failed, so too does their *Arlington Heights* claim.

II. IN ALL EVENTS, THE *PURCELL* DOCTRINE PRECLUDES THE ENACTMENT OF A REMEDIAL MAP BEFORE THE NOVEMBER 2024 ELECTION.

Even if the Court were inclined to grant Plaintiffs' request for a preliminary injunction, moreover, that fact would have no bearing on the November 2024 election. That is because the *Purcell* doctrine prohibits the injunction of the New Law and subsequent implementation of another revised districting map prior to the 2024 elections. In *Purcell*, the Supreme Court emphasized that "[c]ourt orders affecting elections, *especially conflicting orders,* can [] result in voter confusion and consequent incentive to remain away from the polls. As an election draws nearer, that risk will increase." 549 U.S. at 4–5 (emphasis added). This doctrine "not only prevents voter confusion but also prevents election administrator confusion," *DNC v. Wis. State Legis.*, 141 S. Ct. 28, 31 (2020)

(Kavanaugh, J., concurring), as state and local officials "need substantial time to plan for elections" and handle "significant logistical challenges," *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring). For this reason, the Supreme Court "has repeatedly stated that federal courts ordinarily should not enjoin a state's election laws in the period close to an election, and [] has often stayed lower federal court injunctions that contravene that principle." *Id.*

If any court order "affecting elections" can result in voter confusion in the run-up to an election, then a total of *three* congressional maps on the books in 2024 alone would certainly produce rampant voter confusion throughout the State. Specifically, the courts have already forced the State to abandon its Old Law (Map Number One) and enact the New Law (Map Number Two). Any further changes to the State's districting composition (Map Number Three)—just months from Election Day—would inevitably result in chaos and voter confusion. Put plainly, three maps is a recipe for voter confusion and disenfranchisement.

Not only that, but it also would be a logistical nightmare (and perhaps impossibility) for the State to undergo *another* redistricting map process this year. The Court has scheduled a trial for April 8–9, 2024. ECF No. 63 at 1. Assuming this three-judge Panel completed the herculean feat of issuing a ruling, say, 45 days after that trial concluded—including any possible dissenting or concurring opinions—that would mean the earliest the Louisiana Legislature could be notified of the need to enact a remedy would be May 26, 2024. But the Regular Legislative Session ends, at the latest, on June 3, 2024. *See 2024 Sessions Information*, Louisiana State Legislature (last visited Feb. 18, 2024) https://legis.la.gov/legis/home.aspx ("The 2024 Regular Legislative Session will convene at noon on Monday, March 11, 2024. Final Adjournment no later than 6:00 pm on Monday, June 3, 2024."). Consequently, the Legislature would have eight days to enact a new map, which is not the sort of reasonable amount of time to which a State is entitled. *See In re Landry*, 83 F.4th at 306 (granting the State's petition for a writ of mandamus where "the district court

prescribed an impossibly short timetable for [remedial] state legislative action amounting to only five legislative days").

Moreover, the congressional candidate qualifying period begins on July 17, 2024, *see* La. R.S. § 18:467(2), followed by the 2024 Louisiana congressional primary elections on November 5, 2024. The Secretary is on record—in testimony before the legislature, before the Middle District, and before the Fifth Circuit—explaining that final congressional maps must be set by *the middle of May* (*i.e.*, before even a reasonable time for the Court to enter its liability decision) to meet statutory deadlines, ensure implementation in the State's voter registration systems, and enable voters to be properly assigned to new districts.[3] If the New Law is struck down, the State would not be able to comply with its statutory implementation duties and deadlines, and for that additional reason, voter confusion and candidate confusion inevitably would ensue.

The burden is on Plaintiffs to show that their requested preliminary injunction and remedial map would not result in widespread confusion. *See Grace, Inc. v. City of Miami*, 2023 U.S. App. LEXIS 20292, at *7–8 (11th Cir. Aug. 4, 2023) ("Because of the [State]'s 'extraordinarily strong interest in avoiding late, judicially imposed changes to its election laws,' the plaintiffs must make the showing that the remedial plan is feasible without significant costs, confusion, or

Just this month, a district court in Montana ordered new elections for two city council districts where local officials did not properly place voters in the correct city council districts. See e.g. https://montanafreepress.org/2024/02/22/flathead-county-kalispell-city-council-election-redo-decision/ (Visited February 25, 2024).

hardship."); *see also id.* ("[T]he absence of chaos is hardly acceptable under *Purcell*."). Plaintiffs fail to meet this burden.

III. PLAINTIFFS WILL NOT SUFFER IRREPARABLE HARM IF INJUNCTIVE RELIEF IS DELAYED.

Plaintiffs have also failed to establish likely irreparable harm. Plaintiffs cannot claim "general" harm as a result of the New Law because "proper application of the Constitution and laws, and seeking relief that no more directly tangibly benefits [the plaintiffs] than it does the public at large[,] does not state an Article III case or controversy." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 574 (1992). As such, these five Plaintiffs cannot establish the harm—let alone the requisite "irreparable harm"—needed to obtain injunctive relief. Although the Plaintiffs may contend that "the loss of constitutional freedoms . . . 'unquestionably constitutes irreparable injury,'" *Holdings, LLC v. OSHA*, 17 F.4th 604, 618 (5th Cir. 2021) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)), there is no proof of any such loss for the five named plaintiffs.

THE BALANCE OF EQUITIES AND PUBLIC INTEREST WEIGH AGAINST PLAINTIFFS.

The balance of equities and public interest—which merge here, *see supra* pp. 5–6—disfavor injunctive relief, particularly for the 2024 election cycle.

First, "[s]tates have not only an interest, but also a duty to ensure that the electoral process produces order rather than chaos." *Libertarian Party v. Rednour*, 108 F.3d 768, 774 (citing *Storer v. Brown*, 415 U.S. 724, 729 (1974)); *accord Timmons v. Twin Cities Area New Party*, 520 U.S. 351, 364 (1997) (recognizing the states' "'compelling' interests in avoiding voter confusion, preserving the integrity of the election process, and maintaining a stable political system."); *Pisano v. Strach*, 743

F.3d 927, 937 (4th Cir. 2014) ("Indeed, states have an interest 'in ensuring orderly, fair, and efficient procedures for the election of public officials.'" (citation omitted)).

And the public has a strong interest in having finalized, VRA-compliant district maps for the 2024 election. The Supreme Court acknowledged this interest when it denied the State's request for a stay of the remedial process, stating that it had "previously emphasized" that the *Robinson* "litigation should be resolved 'in advance of the 2024 congressional elections in Louisiana.'" *Robinson v. Ardoin*, No. 23A281, 2023 WL 6886438, at *1 (U.S. Oct. 19, 2023) (Jackson, J., concurring) (citing *Ardoin v. Robinson*, 143 S. Ct. 2654 (2023)). Thus, even if a preliminary injunction were supplemented by a court-ordered remedial map, as Plaintiffs urge, the balance of equities still weighs in the State's favor because it is the role of the State Legislature—and not the courts—to enact districting maps. *Chapman v. Meier*, 420 U.S. 1, 27 (1975).

An injunction at this point—less than 150 days before the congressional candidate qualifying period, which begins on July 17, 2024, *see* La. R.S. § 18:467(2)—would throw Louisiana's districting maps and elections into chaos. This would create widespread confusion among voters and candidates, disrupt the electoral process, and potentially undermine public trust in the fairness of the elections. The logistical challenges of implementing new laws and the likelihood of legal battles would compound that chaos further.

To provide timeline context, the Louisiana Legislature's regular session does not convene until March 11, 2024, and concludes, at the latest, on June 3, 2024, which would be the first opportunity for the Legislature to consider drafting a *third* new congressional map in as many years. *See* *https://legis.la.gov/legis/home.aspx*. The Supreme Court has recognized that the Legislature unequivocally maintains the duty of enacting districting maps. *See Miller*, 515 U.S. at 915; *Chapman*, 420 U.S. at 27 ("Federal-court review of districting legislation represents a serious intrusion on the

most vital of local functions. It is well settled that 'reapportionment is primarily the duty and responsibility of the State.'" (quoting *Chapman*, 420 U.S. at 27)).

Given the requisite meetings, *drafting* period, and legislative voting period, the Legislature would be pressed with the impossible task of producing a new map in time to be used for the 2024 elections. *See In re Landry*, 83 F.4th at 307–08 ("If this were ordinary litigation, this court would be most unlikely to intervene in a remedial proceeding for a preliminary injunction. Redistricting litigation, however, is not ordinary litigation. Of course, the law as set forth by the Supreme Court's interpretation of the Constitution and section 2 must be vindicated. But the remedy necessarily involves the exercise of discretion by federal courts whose judgments will interfere with a primary constitutional structural device of self-government: making decennial districting choices about representation in legislative bodies.").

In sum, an injunction prior to the 2024 elections would wreak havoc on the 2024 elections in Louisiana and threaten voting rights statewide. Thus, the loss of voting rights and orderly elections would come *as a result of granting* a preliminary injunction, rather than as a result of denying it. The absence of a preliminary injunction would prevent harm to all Louisiana voters. Consequently, the balance of the equities weighs in favor of denying the preliminary injunction.

Second, the public interest also strongly favors maps drawn by the people's elected representatives and not judicially enacted legislative maps. "Federal-court review of districting legislation represents a serious intrusion on the most vital of local functions. It is well settled that 'reapportionment is primarily the duty and responsibility of the State.'" *Miller*, 515 U.S. at 915 (quoting *Chapman*, 420 U.S. at 27). In fact, "[t]he [Supreme] Court has repeatedly held that redistricting and reapportioning legislative bodies is a legislative task which the federal courts should make every effort not to pre-empt." *Wise v. Lipscomb*, 437 U.S. 535, 539 (1978) (citing *Connor v. Finch*, 431 U.S. 407, 414–15 (1977)). "When a federal court declares an existing apportionment

scheme unconstitutional, it is therefore appropriate, whenever practicable, to afford a reasonable opportunity for the legislature to meet constitutional requirements by adopting a substitute measure rather than for the federal court to devise and order into effect its own plan." *Id.* at 540; *see also Reynolds*, 377 U.S. at 586 ("[L]egislative reapportionment is primarily a matter for legislative consideration and determination, and . . . judicial relief becomes appropriate only when a legislature fails to reapportion according to federal constitutional requisites in a timely fashion after having had an adequate opportunity to do so."). But rather than request that this Court follow Supreme Court precedent, Plaintiffs instead ask this Court to issue a court-ordered "remedial map" to "carry out the elections." ECF No. 17-1 at 40. This is plainly against the public interest.

* * * *

In sum, a permanent injunction of the New Law in advance of the 2024 election would create an impossible challenge for the State to carry out congressional elections, leaving no secure path for the State to navigate between conflicting federal court directives. Both the *Purcell* doctrine and the ordinary preliminary-injunction factors thus cut against Plaintiffs' request for an injunction.

CONCLUSION

For the reasons set forth herein, the State respectfully requests that the Court deny the Plaintiffs' Motion for Preliminary Injunction. Alternatively, if the Court is inclined to grant Plaintiffs' request, the State requests that the Court delay implementation of any new map until after the 2024 election cycle concludes.

Dated: February 27, 2024

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 27th day of February 2024, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

/s/ Morgan Brungard
Morgan Brungard

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, et al	**CIVIL DOCKET NO. 3:24-CV-00122-DCJ-CES-RRS**
VERSUS	
NANCY LANDRY, in her official capacity as Louisiana Secretary of State	**THREE-JUDGE COURT**

ORDER

Before the Court are the following: (1) MOTION TO RECONSIDER ORDER DENYING INTERVENTION [Doc. 96], (2) MOTION TO EXPEDITE BRIEFING ON THEIR MOTION TO RECONSIDER [Doc. 100]; and (3) MOTION FOR LEAVE TO FILE A REPLY IN SUPPORT OF THEIR MOTION TO RECONSIDER ORDER DENYING INTERVENTION [Doc. 108], all filed by the *Galmon*[1] movants; (4) MOTION TO RECONSIDER INTERVENTION ORDER AND TO EXPEDITE BRIEFING [Doc. 103]; and (5) MOTION FOR LEAVE TO FILE A REPLY IN SUPPORT OF THEIR MOTION TO RECONSIDER ORDER DENYING INTERVENTION [Doc. 112], both filed by the *Robinson*[2] movants; and (6) MOTION FOR LEAVE TO FILE A RESPONSE IN OPPOSITION TO MOTION FOR RECONSIDERATION [Doc. 105]; and (7) MOTION FOR LEAVE TO FILE A RESPONSE IN OPPOSITION TO ROBINSON MOTION FOR RECONSIDERATION [Doc. 111], both filed by Plaintiffs.

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[1] The *Galmon* movants include Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard.

[2] The Robinson movants include Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National Association for the Advancement of Colored People Louisiana State Conference ("LA NAACP"), and the Power Coalition for Equity and Justice.

The Court previously ruled that the *Robinson* movants could participate in the remedial phase of the case. The *Robinson* movants now seek reconsideration to be permitted to participate in the initial phase of the case. The Court has reviewed the pleadings and will permit the proposed briefs to be filed. No further briefing is necessary.

The Court finds that the *Robinson* movants have demonstrated that the existing representation of their interests may be inadequate for the initial phase of the case, specific to the issues of: (1) whether race was the predominant factor in the creation of SB 8; and (2) if so, whether SB 8 can pass strict scrutiny review. The Court will therefore grant reconsideration and permit the *Robinson* movants to participate in the initial phase of the case in addition to any remedial phase but will limit their role in the initial phase to presenting evidence and argument as to: (1) whether race was the predominant factor in the creation of SB 8; and (2) if so, whether SB 8 can pass strict scrutiny review.

As to the *Galmon* movants, the Court's analysis that their interest is adequately represented by the *Robinson* movants has not changed. Therefore, the Court will not grant reconsideration as to the *Galmon* movants.

CONCLUSION

Accordingly,

IT IS HEREBY ORDERED that the *Galmon* Movants' Motion to Expedite Briefing, [Doc. 100], is DENIED AS MOOT;

IT IS FURTHER ORDERED that the Motions for Leave to File Responses and/or Replies filed by the *Galmon* Movants [Doc. 108], the *Robinson* Movants [Doc. 112], and the Plaintiffs [Docs. 105, 111], are all GRANTED;

IT IS FURTHER ORDERED that the *Galmon* Movants' Motion to Reconsider Order Denying Intervention, [Doc. 96], is DENIED; and

IT IS FURTHER ORDERED that the *Robinson* Movants' Motion to Reconsider Intervention Order and to Expedite Briefing, [Doc. 103], is GRANTED. The Court will permit the *Robinson* movants to participate in the initial phase of the case but will limit their role to presenting evidence and argument as to: (1) whether race was the predominant factor in the creation of SB8; and (2) if so, whether SB 8 can pass strict scrutiny review.

IT IS FURTHER ORDERED that all parties to the suit will attend a status conference on **Friday, March 22, 2024**, to be held via Zoom at 10:00 a.m. CST.

THUS, DONE AND SIGNED on this 15th day of March 2024.

/s/ Carl E. Stewart

CARL E. STEWART
CIRCUIT JUDGE
UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

ROBERT R. SUMMERHAYS
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF LOUISIANA

DAVID C. JOSEPH
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, ET AL	**CASE NO. 3:24-CV-00122**
VERSUS	**CIRCUIT JUDGE: CARL E. STEWART** **DISTRICT JUDGES: ROBERT R. SUMMERHAYS, DAVID C. JOSEPH**
NANCY LANDRY, ET AL	**MAG. JUDGE KAYLA D. MCCLUSKY**

MINUTES OF COURT:
STATUS CONFERENCE

Date:	March 22, 2024	Presiding: Judges Carl E. Stewart, Robert R. Summerhays and David C. Joseph	
Court Opened:	10:05 AM	Courtroom Deputy:	Lisa LaCombe/Chrissy Craig
Court Adjourned:	10:45 AM	Court Reporter:	Zoom Recording
Statistical Time:	40 Minutes	Courtroom:	Zoom Video Conference

APPEARANCES

Paul L. Hurd Edward D. Greim	For	Phillip Callais, All Plaintiffs
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Morgan Elizabeth Brungard Carey T. Jones Brennan Bowen Phillip M. Gordon Zachary D. Henson Jason B. Torchinsky	For	State of Louisiana, Intervenor Defendant

John Carroll Walsh Alyssa M. Riggins Phillip J. Strach	For	Nancy Landry, In her official capacity as Secretary of State, Defendant

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PROCEEDINGS

The Court held a Status Conference via Zoom Video Conference.

The parties discussed ongoing discovery issues and potential pretrial motion practice.

Bench trial remains set to begin **April 8, 2024, at 9:00 a.m. Courtroom 1 in Shreveport.**
The Court will set aside three (3) days for trial.
Trial will begin promptly at 9:00 a.m. each day and will conclude at 5:30 p.m. or 6:00 p.m, at the latest.
The Court set a Final Pretrial Conference via Zoom Video on **April 4, 2024, at 9:00 a.m**.
A Zoom link will be forwarded to all counsel of record.

Motions in Limine due on or before **April 2, 2024.**
Daubert Motions may be filed prior to trial or raised at trial. They will be addressed and ruled on during the course of trial.
Bench books due **April 3, 2024, by 12:00 p.m**.
Requests for witnesses to testify remotely shall be filed in the record on or before **April 2, 2024.**
Each party will have ten (10) minutes for opening statements.
Each side will have eight (8) hours to complete their case. Defendant and Intervenors shall attempt to agree on an allocation of their time. If those parties are unable to do so, parties are instructed to contact the Court who will allocate the time.

The parties may contact Scott Breite at 318-934-4715 to arrange times to test electronic equipment in Shreveport.

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	
v.	)	Case No. 3:24-cv-00122
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	
Defendant.	)	

PLAINTIFFS' EXHIBIT AND WITNESS LISTS

COME NOW Plaintiffs Philip Callais, et al. ("Plaintiffs") and identify the following exhibits and witness for trial. Plaintiffs' investigation and development of all facts and circumstances related to this matter is ongoing. Plaintiffs submit these Lists based on information currently available to Plaintiffs and reserve their right to present and rely upon any exhibit or witness in the course of this litigation. Plaintiffs further reserve the right to rely on any exhibit or witness listed by any other party.

PLAINTIFFS' EXHIBITS

Exhibit Number	Description	Docket # (if previously filed)	Bates # (if previously produced)
P1	Legislative History Summary of HB1	17-4, filed 2/7/24	

P2	Louisiana Legislature Joint Rule No. 21	17-5, filed 2/7/24	
P3	HB1 Road Show Schedule	17-6, filed 2/7/24	Callais_000040-Callais_000042
P4	HB1 Original Bill Text	17-7, filed 2/7/24	Callais_000044-Callais_000063
P5	HB1 Population and VAP by Congressional District	17-8, filed 2/7/24	Callais_000065-Callais_000071
P6	US Census Data, BVAP	17-9, filed 2/7/24	Callais_000073-Callais_000074
P7	Jeff Landry January 8, 2024 Press Release	17-11, filed 2/7/24	Callais_000094
P8	Jeff Landry Call and Convene January 23, 2024	17-12, filed 2/7/24	Callais_000096-Callais_000097
P9	Jeff Landry January 16, 2024 Press Release	17-13, filed 2/7/24	Callais_000099-Callais_000101
P10	Legislative History Summary of SB8	17-14, filed 2/7/24	Callais_000103-Callais_000104
P11	SB8 Original Text	17-15, filed 2/7/24	Callais_000106-Callais_000132
P12	SB8 Enacted Text	17-16, filed 2/7/24	Callais_000134-Callais_000141
P13	Jeff Landry January 19, 2024 Press Release	17-17, filed 2/7/24	Callais_0000143
P14	SB8 Map	17-18, filed 2/7/24	Callais_000145
P15	Act 2 District Summaries	17-19, filed 2/7/24	Callais_000147-Callais_000149
P16	Act 5 Statewide Map	17-20, filed 2/7/24	Callais_000151
P17	SB8 Maps by Parish	17-21 through 17-31, filed 2/7/24	Callais_000153-Callais_000173

P18	January 8, 2024 Article, "Gov. Landry calls special session on redistricting as new legislature takes office"	17-32, filed 2/7/24	Callais_000175-Callais_000176
P19	December 1, 2023 Article, "Rep Willard to lead Louisiana House Democratic Caucus in 2024"	17-33, filed 2/7/24	Callais_000178
P20	Rep. Troy Carter January 15, 2024 Press Release	17-34, filed 2/7/24	Callais_000178
P21	Video of March 18, 2024 Sen. Cleo Fields Press Club Speech		
P22	Transcript of March 18, 2024 Sen. Cleo Fields Press Club Speech		
P23	Excerpts from January 15, 2024 Louisiana House of Representatives Governmental Affairs Committee		
P24	Excerpts from January 16, 2024, Louisiana Senate Governmental Affairs Committee		
P25	Excerpts from January 17, 2024, Louisiana Senate Floor Debate		
P26	Excerpts from January 18, 2024, Louisiana House of Representatives		

	Governmental Affairs Committee		
P27	Excerpts from January 18, 2024, Louisiana House of Representatives Floor Debate		
P28	Excerpts from January 19, 2024, Louisiana House of Representatives Floor Debate		
P29	Excerpts from January 19, 2024, Louisiana Senate Floor Debate		
P30	Expert Report of Michael Hefner		Callais_000193-Callais_000241
P31	Curriculum Vitae of Michael Hefner		
P32	Expert Report of Stephen Voss		Callais_000326-Callais_000335
P33	Curriculum Vitae of Dr. Stephen Voss		
P34	Rebuttal Report of Michael Hefner		
P35	Rebuttal Report of Stephen Voss		
P36	Rebuttal Report of Ben Overholt		
P37	Curriculum Vitae of Ben Overholt		

WITNESS LIST

Michael Hefner (will call)
Dr. Stephen Voss (will call)
Ben Overholt (will call)
Sen. Alan Seabaugh (will call)
Sen. Thomas Pressly (will call)
Sen. Cleo Fields (may call)

Dated this 1st day of April, 2024

Respectfully submitted,

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/s/ Paul Loy Hurd
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CERTIFICATE OF SERVICE

I do hereby certify that, on this 1st day of April, 2024, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

/s/ *Edward D. Greim*
Edward D. Greim

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	Civil Action No. 3:24-cv-00122
Plaintiffs,	Judge David C. Joseph
v.	Circuit Judge Carl E. Stewart
NANCY LANDRY, in her official capacity as Secretary of State for Louisiana,	Judge Robert R. Summerhays
Defendant.	

MOTION IN LIMINE

Robinson Intervenors move to exclude 1) evidence or argument offered to prove that SB 8 does not satisfy the *Gingles* standard, 2) evidence or argument on the question of whether Section 2 of the Voting Rights Act requires a congressional redistricting plan that includes two districts in which Black voters have an opportunity to elect candidates of their choice, and 3) testimony from Mr. Hefner regarding the *Hays* case. These issues are not relevant to the claims before this Court and evidence concerning these matters will only serve to confuse the issues and would prejudice the *Robinson* Intervenors.

For the reasons more fully set forth in the attached memorandum of law, *Robinson* Intervenors respectfully requests that this Court GRANT its Motion in Limine.

Respectfully submitted, this 2nd day of April, 2024.

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 2nd day of April 2024, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

/s/ *Sarah Brannon*
Sarah Brannon

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

ROBINSON INTERVENORS' MEMORANDUM IN SUPPORT OF THEIR MOTION IN LIMINE

Robinson Intervenors move to exclude 1) evidence or argument offered to prove that SB 8 does not satisfy the *Gingles* standard, 2) evidence or argument on the question of whether Section 2 of the Voting Rights Act requires a congressional redistricting plan that includes two districts in which Black voters have an opportunity to elect candidates of their choice, and 3) testimony from Mr. Hefner regarding the *Hays* case. These issues are not relevant to the claims before this Court and evidence concerning these matters will only serve to confuse the issues and would prejudice the *Robinson* Intervenors.

First, the *Gingles* standard allows courts or legislatures to assess whether vote dilution in violation of Section 2 has occurred or would occur without remedial action. Where it has been determined that the *Gingles* standard has been satisfied and remedial action is therefore necessary, the Legislature is not required to adopt a map that itself would satisfy *Gingles* or comport with

traditional redistricting principles. Thus, whether SB 8—the Legislature's *remedial* map—would be sufficient as an *illustrative* map to prove a Section 2 violation under *Gingles* is not relevant to whether it is an appropriate remedy for a Section 2 violation for which the state already had a strong basis in evidence.

Second, assuming Plaintiffs can show that race was the predominant factor in the creation of SB 8, the question of whether the State had a compelling state interest to justify the predominant use of race turns on whether the State had a strong basis in evidence to believe Section 2 required remedial action. Where, as here, the State was acting on a finding by a federal district court, affirmed by a federal court of appeals, that the 2022 map likely violated Section 2, *see Robinson v. Ardoin*, 605 F. Supp. 3d 759, 766 (M.D. La. 2022) ("*Robinson I*"); *Robinson v. Ardoin*, 37 F.4th 208, 215 (5th Cir. 2022) ("*Robinson II*"); *Robinson v. Ardoin,* 86 F.4th 574, 583 (5th Cir. 2023) ("*Robinson III*"), the question is whether those courts' rulings were sufficient to provide the requisite strong basis in evidence, not whether this Court would have reached the same conclusion had it been presented with the same or similar evidence.

LEGAL STANDARD

Rule 702 requires expert testimony to be relevant. Fed. R. Civ. P. 702(a); *see also Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993); Fed. R. Ev. 702. 591 ("Expert testimony which does not relate to any issue in the case is not relevant and, ergo, non-helpful." (citation omitted)); *In re: Taxotere (Docetaxel) Prod. Liab. Litig.*, 26 F.4th 256, 268 (5th Cir. 2022) ("To be relevant, the expert's reasoning or methodology [must] be properly applied to the facts in issue." (citing *Puga v. RCX Sols., Inc.*, 922 F.3d 285, 293 (5th Cir. 2019)). Furthermore , "[a]n expert may never render conclusions of law." *Goodman v. Harris Cnty*., 571 F.3d 388, 399 (5th Cir. 2009). Nor may an expert go beyond the scope of his expertise in giving his opinion. *First United Fin. Corp. v. U.S. Fid. & Guar. Co.*, 96 F.3d 135, 136 (5th Cir.1996).

ARGUMENT

1. The Court Should Exclude Any Evidence or Argument Concerning Whether SB 8 Satisfies Gingles.

For a state to be justified in using race as a factor in drawing a district to avoid a violation of the Voting Rights Act, "[t]he state must have a 'strong basis in evidence' for finding that the threshold conditions for § 2 liability [i.e., the *Gingles* preconditions] are present." *Bush v. Vera*, 517 U.S. 952, 978 (1996). But once it has been shown—through, for example, the presentation of a reasonably configured illustrative redistricting plan—that the *Gingles* preconditions are present, nothing in Section 2 or the Equal Protection Clause obliges the state to create a remedial that looks like the illustrative plan.[1] "Section 2 does not forbid the creation of a noncompact majority-minority district." *League of United Latin Am. Citizens* v. *Perry*, 548 U.S. 399, 430 (2006) ("*LULAC*").

Accordingly, evidence that SB 8 could not satisfy *Gingles* because it fares worse on various traditional redistricting principles courts consider in Section 2 cases is irrelevant. SB 8 was not an illustrative plan offered to prove a Section 2 violation. It is a remedial plan created to avoid Section 2 liability where the Middle District of Louisiana and the Fifth Circuit, based on illustrative maps presented in those cases, found Section 2 likely required an additional district providing Black voters an opportunity to elect candidates of choice.

The Constitution does not require a court-adjudicated violation of Section 2 before a state may have the required strong basis in evidence to justify a race-conscious VRA remedy. *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015) (the state may "have good reasons to believe [consideration of race] is required, even if a court does not find that the actions were necessary for statutory compliance.") (cleaned up). In most racial gerrymandering cases, unlike this one, the only evidence that *Gingles* could be satisfied is the enacted map. See, e.g., *Cooper v. Harris*,

[1] The *Gingles* preconditions for a Section 2 claim are set forth in *Thornburg* v. *Gingles*, 478 U.S. 30, 46 (1986).

581 U.S. 285, 303 n.4 (2017). Here, however, a court (in fact, two courts) *did* determine that Section 2 likely required a race-conscious remedy, and that determination was based on a showing that the *Gingles* preconditions had satisfied. In this circumstance, the State was relying on court adjudications in determining that a second majority-Black district was required, and whether SB 8 would itself satisfy *Gingles* is no longer relevant. Thus, evidence concerning that issue should be excluded.

Even when evaluating whether SB 8 was narrowly tailored, it is not necessary to tie the map created in SB 8 to the specifics of the illustrative maps and evidence provided in the *Robinson* litigation. In this context, narrow tailoring does not "require an exact connection between the means and ends of redistricting," but rather just "'*good reasons*' to draft a district in which race predominated over traditional districting criteria." *Ala. Legis. Black Caucus v. Alabama*, 231 F. Supp. 3d 1026, 1064 (M.D. Ala. 2017) (three-judge court) (quoting *Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015)). To tie the Legislature precisely to the details of a potential Voting Rights Act claim would "afford state legislatures too little breathing room, leaving them 'trapped between the competing hazards of liability' under the Voting Rights Act and the Equal Protection Clause." *Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. at 196 (quoting *Bush v. Vera*, 517 U.S. 952, 977 (1996)). The relevant questions in this case are only whether the Legislature has good reasons to believe § 2 required a district with two Black majority districts and whether SB 8 is narrowly tailored to achieve that goal.

Here, the State offers expert testimony from two experts to show that CD6, SB 8's new majority-Black district, is insufficiently compact to satisfy the *Gingles* standard. Specifically, Plaintiffs offer the opinion testimony of expert Michael Hefner purporting to evaluate the SB 8 in the context of customary traditional redistricting criteria as described in Section 2 of the Voting Rights Act. Because Section 2 does not require *states* (as opposed to *litigants*) to produce compact

redistricting plans once a violation has been shown, *LULAC*, 548 U.S. at 430, how well SB 8 comports with the traditional redistricting criteria applicable in the Section 2 analysis is irrelevant to whether SB 8 is a proper Section 2 remedy where the State had a strong basis in evidence for believing such a remedy was required based on court findings that the *Gingles* preconditions could be satisfied. Mr. Hefner's opinion testimony should thus be excluded in its entirety under Fed. R. Evid. 401 and 402.[2]

Similarly, Plaintiffs offer the expert testimony of Dr. D. Stephen Voss, in Section 5.4 of his expert report, concerning how SB 8 performs on traditional redistricting criteria compared to other proposals put forward to create a second majority-Black district outside of New Orleans. As explained above, Section 2 does not forbid non-compact districts. *LULAC*, 548 U.S. at 430. Thus, evidence that SB 8 is less compact than other plans that would also satisfy Section 2 does not tend to show that the use of race in SB 8 was not justified by the compelling state interest in complying with Section 2 and is therefore irrelevant. Accordingly, any testimony concerning the matters discussed in Section 5.4 of Dr. Voss's report should be excluded.

2. *Any Evidence or Argument Concerning Whether Section 2 Requires a Second Black Opportunity District Should be Excluded.*

In evaluating whether a state had sufficient reason to consider race in redistricting decisions, courts evaluating claims of racial gerrymandering must determine whether the state had a "strong

[2] Mr. Hefner's opinion testimony should be excluded for the additional reason that it is unreliable. *See Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993); Fed. R. Ev. 702. As an expert for the State in the *Robinson* litigation, Mr. Hefner offered the opinion that the plaintiffs plan in that case divided Red River a community of interest running "from Shreveport to the Mississippi river," a community he disavows in his discussion of communities of interest in this litigation. And his credibility and findings have been called into question by this Court on more than one occasion. *See, e.g.*, *Thomas* v. *Sch. Bd. St. Martin Par*., No. 65-11314, 2023 WL 4926681, at *12, *29, (W.D. La. July 31, 2023) (concluding that Mr. Hefner used "'guesswork,' flawed methodology, and inaccurate population measurements" and he lacked the credibility or credentials of other experts); *Thomas* v. *Sch. Bd. St. Martin Par*., 544 F. Supp. 3d 651, 685 (W.D. La. 2021) (observing that Mr. Hefner's "testimony was argumentative and conclusionary"), *aff'd in part, rev'd in part sub nom. Borel* v. *Sch. Bd. St. Martin Par*., 44 F.4th 307 (5th Cir. 2022); *see also Means v. DeSoto Parish*, No. 5:23-cv-669, transcript of hrg. on mot. for prelim. inj. (Jul 12, 2023) (finding that "the police jury received what I believe is properly characterized as constitutionally-suspect legal advice from its districting adviser, Mr. Hefner").

basis in evidence" to believe race-conscious line drawing was required. *See, e.g., Clark v. Calhoun Cty*, 88 F.3d 1391, 1405-06 (5th Cir. 1996) ("The State must have a strong basis in evidence for concluding that the three *Gingles* preconditions exist in order to claim that the redistricting plan is reasonably necessary to comply with § 2"). "That standard does not require the State to show that its action was 'actually ... necessary' to avoid a statutory violation, so that, but for its use of race, the State would have lost in court." *Bethune-Hill v. Virginia State Bd. of Elections*, 580 U.S. 178, 194 (2017). Thus, a state need not wait to be sued or for a final judgment before it may conclude that local conditions require remedial action. *See Clark v. Calhoun Cty*, 88 F.3d at 1407 ("a state need not await judicial findings to [the] effect" that the *Gingles* preconditions are present) (citing *Bush v. Vera*, 517 U.S. 952 (1996) (O'Connor, J., concurring)); *Bethune-Hill*, 580 U.S. at 194 (a state may have a strong basis in evidence to engage in race-conscious redistricting, "even if a court does not find that the actions were necessary for statutory compliance"). And it certainly need not exhaust every avenue of appeal to have a strong basis in evidence that it risks liability under the VRA if it does not act.

Accordingly, the question in this case is whether the decisions of the Middle District of Louisiana and the Fifth Circuit in *Robinson* themselves provided the required strong basis in evidence, not whether the courts that issued those decisions correctly evaluated the evidence before them or whether this Court would weigh that evidence differently. *See Bethune-Hill*, 580 U.S. at 194 (the court "does not [need to] find that the actions were necessary for statutory compliance—it is sufficient if the legislature has good reason to believe it must use race to satisfy the Voting Rights Act.") (internal quotation omitted); *see also Bush*, 517 U.S. at 978 ("The State must have a 'strong basis in evidence' for finding that the threshold conditions for § 2 liability [*i.e.*, the *Gingles*

preconditions] are present.") (internal citation omitted); *accord Shaw v. Hunter*, 517 U.S. 899, 915 (1996).[3]

Here, Plaintiffs offer expert evidence and legal argument to show that the *Gingles* preconditions cannot be satisfied, contrary to the decisions of the District Court and the Fifth Circuit in *Robinson*. That is, rather than offer evidence that the Legislature improperly relied on those decisions, Plaintiffs offer evidence to show those courts were wrong. For example, in Section 4 of his initial report, Dr. Voss offers his opinion that because his simulations did not produce two majority-Black districts in Louisiana using the limited redistricting criteria they incorporated, it is therefore not possible to draw two sufficiently compact Black majority congressional districts in LA. In other words, Dr. Voss's simulation analysis is offered not to elucidate the relationship between race and other traditional districting factors in the composition of SB 8, but on whether a second majority-Black district was actually necessary to satisfy Section 2. Voss Report at 7. Evidence on that question is irrelevant to the issues before this Court. *See Bethune-Hill*, 580 U.S. at 194.

Even if it were proper for this Court to engage in a *de novo* analysis of what Section 2 requires, Dr. Voss's opinion evidence based on his simulations would not be relevant. In *Milligan*, the Supreme Court rejected arguments made by the State of Alabama in reliance on simulation evidence and expressed strong doubts about the value in using simulations like ones Dr. Voss preformed here as a benchmark for assessing Section 2's requirements. *Allen v. Milligan*, 599 U.S. 1, 34-37 (2023). The Court held that "neither the text of § 2 nor the fraught debate that produced it suggests that equal access to the fundamental right of voting turns on computer simulations that are technically complicated, expensive to produce, and available to only a small cadre of university researchers that

[3] Indeed, Plaintiffs conceded when they strongly objected to consolidating this case with the still pending case in *Robinson*, that the *Robinson* case "implicated entirely different legal bases, statutes, and facts." Doc. No. 33-1 at 23-24, Plaintiffs' Response in Opposition to Motion to Intervene.

have the resources and expertise to run them," and concluded that "Section 2 cannot require courts to judge a contest of computers when there is no reliable way to determine who wins, or even where the finish line is." *Id.* at. 37 (cleaned up). In *Robinson III*, the Fifth Circuit likewise rejected the notion that "a race-neutral benchmark calculated by a computer-simulated map" provides a relevant benchmark for assessing what Section 2 requires. 86 F.4th at 599; *see also Nairne v. Ardoin*, No. CV 22-178-SDD-SDJ, 2024 WL 492688, at *25–27 (M.D. La. Feb. 8, 2024) (finding simulations evidence irrelevant to the question of whether the first *Gingles* precondition could be satisfied).

In addition, as explained in Defendant-Intervenors expert report from Dr. Cory McCartan, Dr. Voss's simulation analysis does not "accurately represent[] the districting process in [Louisiana]," *Milligan*, 599 U.S. at 34, and therefore does nothing to make the satisfaction of the *Gingles* preconditions "more or less probable than it would be without the evidence." Fed. R. Evid. 401. Dr. Voss's simulations evidence is thus insufficiently reliable or grounded in any accepted methodology to satisfy the requirements of Rule 702. Fed. R. Evid. 702; see *Daubert*, 509 U.S. at 590–92. This evidence should be excluded.

3. Testimony from Mr. Hefner Regarding Hays v. Louisiana Should Also Be Excluded.

Section VIII of Mr. Hefner's initial report and related testimony discussing the *Hays* case (*see, e.g., Hays v. State of Louisiana*, 862 F. Supp. 119 (W.D. La. 1994)) should be excluded because it is, in large part, irrelevant and presents legal conclusions. This current case turns on whether race predominated in the construction of SB 8. "[P]ast discrimination cannot, in the manner of original sin, condemn governmental action that is not itself unlawful." *City of Mobile, Ala. v. Bolden*, 446 U.S. 55, 74 (1980). In other words, it does not matter whether legislation from many, many years ago may or may not have been unconstitutional, but whether Legislators in January 2024 used race excessively in constructing SB 8. *Abbott v. Perez*, 585 U.S. 579, 605

(2018) (reversing the district court's failure to apply the presumption of legislative good faith where the enacted plan was similar to a prior invalided plan).

In Section VIII, Mr. Hefner opines that, in his opinion, SB 8 resembles the congressional map adopted in Louisiana in the 1990s. That map, three decades old, drafted entirely by different legislators under different circumstances, has no relevance to the map adopted this year in an entirely different political context.[4] *Abbott*, 585 U.S. at 603–04. The political realities governing Louisiana politics in the 1990s are very different from those of today. In addition, to the extent that a prior map was ruled unconstitutional is relevant, Mr. Hefner's opinions constitute legal conclusions. The Court is fully capable of analyzing the law and making a determination as to the central legal issue in this case: whether race predominated in the construction of SB 8. "Allowing an expert to give his opinion on the legal conclusions to be drawn from the evidence both invades the court's province and is irrelevant." *Owen v. Kerr-McGee Corp.*, 698 F.2d 236, 240 (5th Cir. 1983); *see also Goodman*, 571 F.3d at 399. Focusing on the *Hays* case also neglects the decades of precedent since the 1990s that govern racial gerrymandering cases. *See, e.g., Abbott*, 585 U.S. 579 (2018); *Cooper*, 581 U.S. 285; *Bethune-Hill,* 580 U.S. 178.

CONCLUSION

The Court should exclude 1) evidence or argument offered to prove that SB 8 does not satisfy the *Gingles* standard, 2) evidence or argument on the question of whether Section 2 of the Voting Rights Act requires a congressional redistricting plan that includes two districts in which Black voters have an opportunity to elect candidates of their choice, and 3) testimony from Mr. Hefner regarding the significance of the *Hays* case.

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[4] As one example, Mr. Hefner engages in an apples-to-oranges comparison of compactness for plans with different numbers of districts. Plans with fewer districts will score better on compactness measures because the districts can be less expansive. Because the *Hays* plan contains seven congressional districts, as opposed to six in SB 8, comparing compactness scores provides little useful information.

DATED: April 2, 2024

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

ROBINSON INTERVENORS' MOTION TO STRIKE IMPROPER REBUTTAL EXPERT TESTIMONY OF DR. BEN OVERHOLT, OR IN THE ALTERNATIVE TO PERMIT INTERVENORS TO PRESENT RESPONSIVE EXPERT TESTIMONY

Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National Association for the Advancement of Colored People Louisiana State Conference, and the Power Coalition for Equity and Justice (collectively, the "*Robinson* Intervenors") respectfully move to exclude expert testimony by Dr. Ben Overholt proffered by plaintiffs on the ground that it was not disclosed in timely fashion, constitutes improper rebuttal testimony, and is, in any event, irrelevant. As explained in the accompanying memorandum, Dr. Overholt's testimony should be excluded because it was not timely disclosed by the Court-imposed deadline for the submission of expert reports and because it is improper rebuttal testimony. In the alternative, the *Robinson* Intervenors respectfully request leave to produce a report by an expert witness responsive to Dr. Overholt's report by no later than Friday, April 5, 2024 and to present expert testimony by the responsive expert at the trial of this matter.

DATED: April 3, 2024 Respectfully submitted,

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CERTIFICATE OF SERVICE

I, John Adcock, counsel for the *Robinson* Intervenors, hereby certify that on April 3, 2024, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, and that service will be provided through the CM/ECF system.

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

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Plaintiffs,	Judge David C. Joseph
v.	Circuit Judge Carl E. Stewart
NANCY LANDRY, in her official capacity as Secretary of State for Louisiana,	Judge Robert R. Summerhays
Defendant.	

ROBINSON INTERVENORS' MEMORANDUM IN SUPPORT OF MOTION TO STRIKE IMPROPER REBUTTAL EXPERT TESTIMONY OF DR. BEN OVERHOLT, OR IN THE ALTERNATIVE TO PERMIT INTERVENORS TO PRESENT RESPONSIVE EXPERT TESTIMONY

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Defendant-Intervenors Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National Association for the Advancement of Colored People Louisiana State Conference, and the Power Coalition for Equity and Justice (the "*Robinson* Intervenors") submit this memorandum in support of their motion (i) to exclude expert testimony by Dr. Ben Overholt proffered by Plaintiffs on the ground that it was not disclosed in timely fashion, constitutes improper rebuttal testimony, and is, in any event, irrelevant; or, in the alternative, (ii) to permit the *Robinson* Intervenors to produce a report by an expert witness responsive to Dr. Overholt's report by no later than Friday, April 5, 2024 and to present expert testimony by the responsive expert at the trial of this matter.

PRELIMINARY STATEMENT

Dr. Overholt's testimony should be excluded because it was not timely disclosed by the Court-imposed deadline for the submission of expert reports and because it is improper rebuttal testimony. Plaintiffs produced no report by Dr. Overholt by the Court's March 22, 2024 deadline for the disclosure of experts. Instead, Plaintiffs produced his report only on April 1, 2024—a week before trial—on the parties' agreed deadline for the disclosure of Plaintiffs' rebuttal reports. But Dr. Overholt's opinions are not proper rebuttal. His principal opinion is that Congressional District 6 ("CD 6") in SB 8, although it has a Black voting age majority, will not "perform" for the Black voters in that district—that is, that Black voters in that district will not be able to elect representatives of their choice. That opinion, however, does not "contradict or rebut evidence on the same subject matter" offered by any opposing expert. Fed. R. Civ. P. 26(a)(2)(D)(ii). On the contrary, none of the expert witnesses offered by the *Robinson* Intervenors opined about the performance of CD 6 or any other Congressional district. (Defendants have not disclosed any expert witnesses.) Plaintiffs should not be permitted to

present Dr. Overholt's belatedly disclosed opinions about that subject. In the alternative, the *Robinson* Intervenors should be permitted to produce a report on that subject by their own expert no later than this Friday, April 5, and to present rebuttal testimony from that expert at trial.

Dr. Overholt's testimony should also be excluded as irrelevant. As discussed in the *Robinson* Intervenor's Motion in Limine, filed April 2, 2024, Doc. 144, the Constitution in the context of this case requires only that the State establish that the Legislature had "good reasons to believe" that consideration of race is required to avoid violating the Voting Rights Act. *Ala. Legis. Black Caucus* v. *Alabama*, 575 U.S. 254, 278 (2015). Dr. Overholt's post-hoc opinions about the likely performance of CD 6—an analysis that was not considered by the Legislature in adopting SB 8—does not shed light on whether the Legislature had such good reasons or on the Legislature's purpose in adopting the enacted plan.

SUMMARY OF RELEVANT FACTS

The Court and the parties have established a firm schedule in this expedited proceeding for the exchange of expert designations and expert reports. In its Scheduling Order entered on February 21, 2024, the Court ruled that "[e]xpert designation and reports shall be exchanged among the parties" by March 22, 2024. Doc. 63, at 1. Thereafter, in light of the fact that the Court first permitted the *Robinson* Intervenors on March 15, 2024, to participate in the initial phase of the case in addition to any remedial phase, the parties agreed that the deadline for *Robinson* Intervenors' affirmative expert reports and rebuttal reports would be Wednesday, March 27, and Plaintiffs' "rebuttal reports" would be due Monday, April 1. Ex. 1.

Plaintiffs produced expert reports on March 22, 2024. Plaintiffs' experts were (i) Michael C. Hefner, a demographer, who offered opinions about whether SB 8 complied with traditional redistricting criteria and who offered an illustrative Congressional plan that he opined was drawn in a "race-neutral" manner; (ii) Dr. D. Stephen Voss, purportedly an expert in

quantitative analysis with knowledge of Louisiana politics and history, who offered opinions based principally on computer-generated districting simulations, that Louisiana's African-American population is not sufficiently large and compact to form two majority-Black districts, and that SB 8 represents a racial gerrymander; and (iii) Dr. Jeffrey D. Sadow, a professor of political science, who offered opinions regarding the history of redistricting in Louisiana and opined that CD 6 of SB 8 violates the State's practice of protecting communities of interest. (Plaintiffs have since withdrawn their designation of Dr. Sadow.) Plaintiffs did not produce a report by Dr. Overholt.

Consistent with the parties' agreement, the *Robinson* Intervenors submitted expert reports on March 27, 2024. In particular, the *Robinson* Intervenors produced reports by the following experts:

- Anthony E. Fairfax, a demographer and mapping consultant with thirty years' experience working, drawing, and analyzing redistricting plans and testifying as an expert witness about redistricting. Mr. Fairfax provided opinions in response to the reports submitted by Plaintiffs' experts, and concluded, among other things, that none of Plaintiffs' experts established that race predominated in the creation of SB 8 and that it is possible to create a Congressional district plan in Louisiana including two districts with majority Black voting age populations consistent with traditional redistricting principles. Ex. 2.
- Dr. Cory McCartan, a statistician with a focus on the application of statistical methodology to problems in the social sciences, including redistricting. Dr. McCartan opined that Dr. Voss's simulation analysis is inappropriate to evaluate the

existence or likelihood of Black-majority districts drawn in either a "race-neutral" or "race-conscious" setting. Ex. 3.

- Dr. Michael S. Martin, a professor of history at the University of Louisiana at Lafayette, who offered opinions about the political goals animating the creation of the Congressional district plan adopted by SB 8. Ex. 4.

(The other Defendants did not submit any expert reports.)

None of the expert reports submitted by the *Robinson* Intervenors addressed the expected performance of District 6 or any other Congressional district. That is, none of them offered any opinions about whether Black voters in that district will generally be able to elect their candidates of choice.

That issue, however, is the focus of the report by Dr. Ben Overholt purportedly in response to the reports by Mr. Fairfax and Dr. McCartan. Plaintiffs produced Dr. Overholt's report by email shortly after 10 pm CT on April 1, 2024. Ex. 5.

Dr. Overholt purports to cast his report as responsive to the opinions of Mr. Fairfax and Dr. Voss by asserting that the design of the SB 8 plan "can be explained as an effort to maximize racial performance because it has superior performance to the other legislatively-considered maps" those experts considered. *Id.* at 2. But the focus of his report is on an entirely separate issue: *not* a comparison of whether SB 8 performs for Black voters better or worse than the other maps the Legislature considered, but instead whether SB 8 and the other maps perform for Black voters *at all*. Dr. Overholt's report summarizes these opinions as follows:

> I found that SB8, and the group of proposed alternative maps for Louisiana, *all fail to provide a second functioning majority-minority district*, and in the process, they weaken the previously existing majority-minority district. Although each plan includes a second district which is nominally majority black by voting age population (VAP), when turnout and voter preferences are considered, *these districts will generally fail to elect the candidate supported by most black voters*.

Id. (emphasis added). In particular, Dr. Overholt purports to show that both SB 8 and other maps with two majority-Black districts that he considered "would have failed to elect the candidates supported by most black voters in probative elections with black candidates at least 60% of the time." *Id*. *See also id*. at 16 ("All of the redistricting plans I reviewed would fail to deliver on their promise of a second majority-minority US Congressional district in Louisiana."). None of these opinions responds in any way to any opinion offered by the *Robinson* Intervenors' experts.

ARGUMENT

Federal Rule of Civil Procedure 26(a)(2) governs the disclosure of affirmative and rebuttal expert opinions. The Rule requires an expert witness to produce a report which contains, among other things, "a complete statement of all opinions the witness will express and the basis and reasons for them" and "the facts or data considered by the witness in forming them." Fed. R. Civ. P. 26(a)(2)(B). The Rule "is intended to provide opposing parties reasonable opportunity to prepare for effective cross examination and perhaps arrange for expert testimony from other witnesses." *Reese* v. *Herbert*, 527 F.3d 1253, 1265 (11th Cir. 2008) (quotation omitted).

After the parties' initial disclosures of proposed expert testimony, opposing parties may disclose rebuttal expert witnesses who will offer evidence "intended solely to contradict or rebut evidence on the same subject matter identified by another party." Fed. R. Civ. P. 26(a)(2)(D)(ii); *La. Health Care Self Ins. Fund v. United States*, 2014 WL 3720526, at *1 (M.D. La. July 25, 2014). "The function of rebuttal is to explain, repel, counteract or disprove evidence of the adverse party." *Garris* v. *Midea USA, Inc.*, Civ. No 10-1569, 2014 WL 12719497, at *1 (E.D. La. Mar. 6, 2014); *see also Peals* v. *Terre Haute Police Dep't*, 535 F.3d 621, 630 (7th Cir. 2008) (same); *Marmo* v. *Tyson Fresh Meats, Inc.*, 457 F.3d 748, 759 (8th Cir. 2006) (same).

Thus, "[a] rebuttal expert report is not the proper place for presenting new arguments, unless presenting those arguments is substantially justified and causes no prejudice." *STS*

Software Sys., Ltd. v. *Witness Sys., Inc*., No. 04-CV-2111, 2008 WL 660325, at *2 (N.D. Ga. Mar. 6, 2008) (cleaned up); *see also Cates* v. *Sears, Roebuck & Co.*, 928 F.2d 679, 685 (5th Cir. 1991) (affirming lower court's exclusion of expert testimony because a rebuttal "is not to be used as a continuance of the case-in-chief."); *Cage* v. *City of Chi*., No. 09–C–3078, 2012 WL 5557410, at *2 (N.D. Ill. Nov. 14, 2012) (finding that a party cannot "offer testimony under the guise of 'rebuttal' only to provide additional support for his case in chief"); *Sil-Flo, Inc*. v. *SFHC, Inc*., 917 F.2d 1507, 1515 (10th Cir. 1990) (where trial court properly excluded plaintiffs' expert's rebuttal testimony where the "proffered rebuttal testimony was really an attempt by Sil-Flo, Inc. to introduce or interpret exhibits more properly part of its case in chief"); *Larson* v. *Wis. Cent. Ltd*., No. 10–C–446, 2012 WL 368379, at *4 (E.D. Wis. Feb.3, 2012) (finding rebuttal expert report "cannot be used to advance new arguments or new evidence to support plaintiff's expert's initial opinions"). As one court explained:

> A party presents its arguments as to the issues for which it has the burden of proof in its initial expert report. And in its rebuttal expert report, it presents expert opinions refuting the arguments made by the opposing party in its initial expert report. The rebuttal expert report is no place for presenting new arguments, unless presenting those arguments is substantially justified and causes no prejudice.

Baldwin Graphics Sys., Inc. v. *Siebert, Inc*., No. 03-CV-7713, 2005 WL 1300763, at *2 (N.D. Ill. Feb. 22, 2005).

Under Rule 37(c)(1), if a party fails to comply with its obligations to timely disclose a witness, "the party is not allowed to use that . . . witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless." Fed. R. Civ. P. 37(c)(1). "Rule 37(c)(1) is a self-executing sanction, and the motive or reason for the failure is irrelevant." *Norden* v. *Samper*, 544 F. Supp. 2d 43, 49 (D.D.C. 2008). "The burden of establishing that a failure to disclose was substantially justified or harmless rests on the nondisclosing party." *Mitchell* v. *Ford Motor Co*., 318 Fed. App'x. 821, 824 (11th Cir. 2009).

"The overwhelming weight of authority is that preclusion is required and mandatory absent some unusual or extenuating circumstances—that is, a substantial justification." *Blake* v. *Securitas Sec. Servs., Inc*., 292 F.R.D. 15, 19 (D.D.C. 2013) (quoting *Elion* v. *Jackson*, No. 05–992, 2006 WL 2583694, at *1 (D.D.C. Sep. 8, 2006)) (cleaned up).

Under these standards, Dr. Overholt should not be permitted to testify about whether CD 6 in SB 8 or majority-Black districts in the other maps he analyzed allow the Black voters in those districts to elect the representatives of their choice. That testimony is not proper rebuttal and is untimely under the Court's schedule as an initial expert report. As noted, none of the Plaintiffs' experts addressed the performance of CD 6 or any other district under SB 8 or any other map, and it was not addressed in the reports of any of the *Robinson* Intervenors' experts. Dr. Overholt's opinions about that subject thus does not "contradict or rebut evidence on the same subject matter" identified by any other party. Fed. R. Civ. P. 26(a)(2)(D)(ii).

Plaintiffs cannot establish that their failure to disclose Dr. Overholt's opinions together with their other opening expert reports was substantially justified. Plaintiffs commenced this action more than two months ago. They could and should have disclosed Dr. Overholt's opinions in a report provided to the *Robinson* Intervenors on the date the Court established for the disclosure of their affirmative experts. As discussed above, nothing in the expert reports submitted by any other party included any analysis or opinions addressing whether the majority-Black districts in SB 8 or any alternative Congressional district map allowed the Black voters in those districts to elect the representatives of their choice. There can be no substantial justification (or any justification) for Plaintiffs' strategic choice to hold back on their disclosure of Dr. Overholt's opinions in violation of the Court-imposed deadline, and attempt by doing so to deprive the *Robinson* Intervenors (or Defendants) of an opportunity to respond.

Plaintiffs also cannot establish that permitting Dr. Overholt to testify would cause no prejudice. To the contrary, in this highly expedited proceeding, it would be gravely prejudicial to the *Robinson* Intervenors to have to analyze an expert report addressing entirely new issues that no other expert has previously addressed, produced only a week before trial, and to be deprived of the opportunity to proffer testimony by an opposing expert. Plaintiffs should not be permitted to sandbag the *Robinson* Intervenors in this fashion.

Dr. Overholt's opinions also should be excluded as irrelevant. Rule 702 requires expert testimony to be relevant. Fed. R. Civ. P. 702(a); *see also Daubert* v. *Merrell Dow Pharms., Inc.*, 509 U.S. 579, 591 (1993); ("Expert testimony which does not relate to any issue in the case is not relevant and, ergo, non-helpful." (citation omitted)).

As discussed in the *Robinson* Intervenors' Motion in Limine, Doc. 144, the Constitution does not require the State to show that using race as a factor in drawing a district was "actually necessary" to avoid a violation of the Voting Rights Act. *Bethune-Hill* v. *Va. State Bd. of Elections*, 580 U.S. 178, 194 (2017) (quotation omitted); *Ala. Legis. Black Caucus*, 575 U.S. at 278. Instead, the State must show only that it has a "strong basis in evidence" for finding that the threshold conditions for liability under the Act are satisfied and that it had "'good reasons' to draft a district in which race predominated over traditional redistricting criteria." *Ala. Legis. Black Caucus v. Alabama*, 231 F. Supp. 3d 1026, 1064 (M.D. Ala. 2017) (three-judge court) (quoting *Ala. Legis. Black Caucus*, 575 U.S. at 278). As the Supreme Court has emphasized, to tie the Legislature precisely to the details of a potential Voting Rights Act claim would "afford state legislatures too little breathing room, leaving them 'trapped between the competing hazards of liability' under the Voting Rights Act and the Equal Protection Clause." *Bethune-Hill*, 580 U.S. at 196 (quoting *Bush v. Vera*, 517 U.S. 952, 977 (1996)).

Here, Dr. Overholt's analysis does not show that the State lacked "good reasons" or a "strong basis in evidence" to conclude that the enactment of a Congressional district plan was necessary to avoid violating the Voting Rights Act and that SB 8 appropriately remedied that violation. Plaintiffs have cited no evidence in the legislative record, and there is none, that the Legislature considered Dr. Overholt's performance analysis, or any analysis comparing the performance of SB 8 to the performance of any alternative maps. Nor does it show that the Legislature had any evidence before it showing that SB 8 would not perform for Black voters in the enacted CD 6. Dr. Overholt's opinions thus are entirely irrelevant to the issues presented by this case.

In the alternative, if the Court allows plaintiffs to present Dr. Overholt's testimony, it should grant the *Robinson* Intervenors (and Defendants, if they wish to do so) leave to submit an expert report by no later than April 5, 2024 responding to Dr. Overholt's testimony, and to present testimony at trial from the responsive expert. The *Robinson* Intervenors have engaged an expert on this issue and the expert is prepared to submit a responsive report by the end of this week. The Court should not permit Plaintiffs to present expert testimony while depriving the *Robinson* Intervenors of the opportunity to rebut that testimony.

CONCLUSION

For the foregoing reasons, the Court should (i) exclude any testimony by Dr. Overholt about whether CD 6 in SB 8, or majority-Black districts in any other congressional district map, perform for Black voters, or the extent to which Black voters in those districts can elect their representatives of choice; or (ii) grant the *Robinson* Intervenors leave to offer expert testimony about those issues, provided that they produce a rebuttal expert report no later than April 5, 2024.

DATED: April 3, 2024

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CERTIFICATE OF SERVICE

I, John Adcock, counsel for the *Robinson* Intervenors, hereby certify that on April 3, 2024, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, and that service will be provided through the CM/ECF system.

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS ET AL	**CASE NO. 3:24-CV-00122**
VERSUS	**CIRCUIT JUDGE: CARL E. STEWART** **DISTRICT JUDGES: ROBERT R. SUMMERHAYS AND DAVID C. JOSEPH**
NANCY LANDRY, ET AL	**MAG. JUDGE KAYLA D. MCCLUSKY**

MINUTES OF COURT:
PRETRIAL CONFERENCE/MOTIONS HEARING

Date:	April 4, 2024	Presiding:	Judges Carl E. Stewart, Robert R. Summerhays, David C. Joseph
Court Opened:	9:00 AM	Courtroom Deputy:	Lisa LaCombe/Chrissy Craig
Court Adjourned:	9:45 AM	Court Reporter:	DD Juranka
Statistical Time:	45 Minutes	Courtroom:	Zoom Video Conference

APPEARANCES

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John Carroll Walsh Alyssa M. Riggins Cassie A. Holt	For	Nancy Landry, In her official capacity as Secretary of State

PROCEEDINGS

The Court held a Final Pretrial Conference and Motions Hearing via Zoom Video Conference.

After considering oral argument, motions and memoranda submitted and the applicable law, the Court ruled as follows:

1 – [142] Motion for Leave to Allow Anthony Fairfax and Royce Duplessis to Testify at Trial Remotely via Videoconferencing by Edgar Cage, Martha Davis, Davante Lewis, Clee Earnest Lowe, Dorothy Nairne, National Association for the Advancement of Colored People Louisiana State Conference, Power Coalition for Equity & Justice, Press Robinson, Ambrose Sims, Edwin Rene Soule, Alice Washington is GRANTED IN PART AND DENIED IN PART. The Court will allow Anthony Fairfax to testify remotely. The Court declined to allow Royce Duplessis to testify remotely.

2 – [144] Motion in Limine by Clee Earnest Lowe, Dorothy Nairne, National Association for the Advancement of Colored People Louisiana State Conference, Power Coalition for Equity & Justice, Press Robinson, Ambrose Sims, Edwin Rene Soule, Alice Washington was DENIED WITHOUT PREJUDICE for the reasons stated on the record.

3 – [145] MOTION to Strike *Improper Rebuttal Expert Testimony of Dr. Ben Overholt* by Edgar Cage, Martha Davis, Davante Lewis, Clee Earnest Lowe, Dorothy Nairne, National Association for the Advancement of Colored People Louisiana State Conference, Power Coalition for Equity & Justice, Press Robinson, Ambrose Sims, Edwin Rene Soule, Alice Washington was DEFERRED/CARRIED OVER to trial.

ORAL motion by the Robinson Intervenors for an additional two hours for presentation of evidence. The motion was opposed by the Plaintiffs. After careful consideration, the Court declined to allow additional time; however, upon completion of each case-in-chief and for good cause shown, the Court may revisit this issue and consider awarding additional time. The Court will also award and designate a time allotment for closing arguments.

At the conclusion of trial, the Court will allow post-trial briefs to be submitted within ***seven (7)*** days. Briefs are limited to ***twenty-five (25) pages.***

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	
v.	)	Case No. 3:24-cv-00122
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	
Defendant.	)	

JOINT STIPULATIONS FOR APRIL 8, 2024 BENCH TRIAL

COME NOW Plaintiffs Philip Callais, Lloyd Price, Bruce Odell, Elizabeth Ersoff, Albert Caissie, Daniel Weir, Joyce LaCour, Candy Carroll Peavy, Tanya Whitney, Mike Johnson, Grover Joseph Rees, and Rolfe McCollister (collectively, "Plaintiffs"), as well as Defendant Secretary of State Nancy Landry, Defendant-Intervenor the State of Louisiana, and Defendant-Intervenors Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National Association for the Advancement of Colored People Louisiana State Conference, and the Power Coalition for Equity and Justice (collectively, "Robinson Intervenors") (altogether, the "Parties"), by and through counsel and stipulate the following:

The Parties

1. Plaintiff Philip Callais is a registered voter of District 6.

2. Plaintiff Albert Caissie, Jr., is a registered voter of District 5.

3. Plaintiff Elizabeth Ersoff is a registered voter of District 6.

4. Plaintiff Grover Joseph Rees is a registered voter of District 6.

5. Plaintiff Lloyd Price is a registered voter of District 6.

6. Plaintiff Rolfe McCollister is a registered voter of District 5.

7. Plaintiff Candy Carroll Peavy is a registered voter of District 4.

8. Plaintiff Mike Johnson is a registered voter of District 4.

9. Plaintiff Bruce Odell is a registered voter of District 3.

10. Plaintiff Joyce LaCour is a registered voter of District 2.

11. Plaintiff Tanya Whitney is a registered voter of in District 1.

12. Plaintiff Danny Weir, Jr., is a registered voter of District 1.

13. Defendant Secretary of State Nancy Landry is "the chief election officer of the state." La. Const. art. 4, § 7; La. R.S. § 18:421. The State Constitution requires her to "prepare and certify the ballots for all elections, promulgate all election returns, and administer the election laws, except those relating to voter registration and custody of voting machines." La. Const. art. 4, § 7. Her oversight of elections extends to federal congressional elections. La. R.S. §§ 18:452, 18:462.

14. Intervenor-Defendant the State of Louisiana is represented by Attorney General Elizabeth Murrill. As Attorney General, she is Louisiana's "chief legal officer," is charged with "the assertion and protection of the rights and interests" of the State of Louisiana, and has a sworn duty to uphold the State's Constitution and laws. La. Const. art. IV., § 8.

15. Robinson Intervenor-Defendants are Black Louisiana voters and civil rights organizations. They were Plaintiffs in *Robinson, et al. v. Landry*, No. 3:22-cv-02111-SDD-

SDJ (M.D. La.) which challenged Louisiana's congressional map as a violation of Section 2 of the Voting Rights Act.

Dated this 5th day of April, 2024

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

ROBINSON INTERVENORS' MOTION FOR CONTINUANCE OR, IN THE ALTERNATIVE, TO DECONSOLIDATE PRELIMINARY HEARING FROM THE MERITS TRIAL

Defendant-Intervenors Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National Association for the Advancement of Colored People Louisiana State Conference, and the Power Coalition for Equity and Justice (the "Intervenors") respectfully move this Court to continue trial in the above-captioned matter. Trial is currently scheduled for April 8-10. Intervenors seek a three-week continuance. In the alternative, if the Court denies that request, Intervenors respectfully request that the Court deconsolidate the preliminary injunction hearing from the full trial on the merits and continue the preliminary injunction hearing by one week. In either event, Intervenors further request that the court set the trial for four days to allow each side to fully present its case.

Intervenors respectfully request leave to file this motion notwithstanding Judge Joseph's Standing Order on motions to continue, which require a continuance motion to be filed at least fourteen days before trial is scheduled to commence.[1] In this case, the Court granted Intervenors' Motion to Reconsider the partial denial of their intervention on March 15, 2024, only twenty-four calendar days (and fifteen business days) before trial was scheduled. Since that time, Intervenors have been working diligently to comply with the Court's schedule. As explained in the attached memorandum, it has only become evident in the last approximately 48 hours that the trial schedule will prejudice Intervenors by depriving them of their right to fully and fairly present their case.

Pursuant to Local Rule 7.9, Counsel for *Robinson* Intervenors has contacted counsel for the other parties to ascertain their positions on this motion. Plaintiffs oppose "both prongs of the request on the grounds that a delay may well endanger [their] right to relief, and because [they] have expended substantial time and cost in meeting this trial schedule." Defendant Secretary of State Nancy Landry opposes this motion "as a delayed trial or hearing could impact her ability to secure the needed finality on Louisiana's Congressional plan by May 15, 2024 and could impede her ability to administer the 2024 Congressional Elections under the deadlines set by state and federal law." Defendant-Intervenor State of Louisiana has indicated that it "opposes this motion to the extent it could have a negative impact on the orderly administration of elections in Louisiana. Otherwise, the State takes no position on this motion."

[1] https://www.lawd.uscourts.gov/sites/lawd/files/UPLOADS/StandingOrder.Joseph.MotionsToContinue.pdf

DATED: April 6, 2024

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CERTIFICATE OF SERVICE

I, Daniel Hessel, counsel for the *Robinson* Intervenors, hereby certify that on April 6, 2024, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, and that service will be provided through the CM/ECF system.

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

MEMORANDUM IN SUPPORT OF *ROBINSON* INTERVENORS' MOTION FOR CONTINUANCE OR, IN THE ALTERNATIVE, TO DECONSOLIDATE PRELIMINARY HEARING FROM THE MERITS TRIAL

This case has moved at breakneck speed, based largely on a schedule proposed by Plaintiffs and unopposed by Defendants. Doc. 43 (Unopposed Motion for Expedited Preliminary Injunction and Trial Schedule); Doc. 63 (Scheduling Order). Trial of this important and complex matter—which will determine the congressional representation of 4.6 million Louisianans for the rest of the decade—is scheduled to begin 68 days (and end 70 days) after Plaintiffs commenced this action. The Court entered that schedule before it determined the *Robinson* Intervenors ("Intervenors") had a right to participate in the liability phase (on reconsideration of its earlier order denying them that right), and Intervenors thus had no input on the schedule. By the time the

Court granted Intervenors' leave to participate in the liability phase, only twenty-four days remained before trial.

While Intervenors have made every effort to hew to the Court's schedule, it is clear that this highly compressed schedule has deprived them of the ability to fully develop and present their case and is incompatible with their due process rights. Intervenors have been unable to take meaningful fact discovery; have had to exchange expert reports and conduct expert discovery involving seven separate experts in only two weeks; and have been given only eight hours—to be shared with two other separately represented defendants—to present their case and cross-examine Plaintiffs' witnesses. Respectfully, several of the Court's pre-trial decisions, which Intervenors understand were driven by the perceived need to maintain the current schedule, have underscored and even aggravated that harm. This situation would be bad enough if next week's hearing were only for preliminary relief—it is even more unjust and untenable for a full trial on the merits leading to a final judgment.

The prejudice to Intervenors is magnified by the fact that neither of the other parties on the Defendants' side are presenting a substantial factual or expert defense to Plaintiffs' claims. The State has not proffered a single expert witness (including any expert witnesses to respond to any of the Plaintiffs' array of experts) or designated a single fact witness for trial. The Secretary has gone even further. She is not defending the statute at all and has identified only one "may call" witness to testify about election administration, whose testimony appears to be relevant only to the timing of any remedy if the Court rules in Plaintiffs' favor on liability. Thus, the defense against Plaintiffs' claims at the liability hearing has fallen almost entirely on the Intervenors, who as of yesterday will have been involved in the liability phase for exactly three weeks.

Intervenors therefore respectfully move the Court to continue the trial scheduled for April 8-10 by three weeks. In the alternative, if the Court denies that request, Intervenors respectfully request that the Court deconsolidate the preliminary injunction hearing from the full trial on the merits and continue the preliminary injunction hearing by one week. In either event, Intervenors further request that the court set the trial for four days to allow each side to fully present its case.

BACKGROUND

Plaintiffs filed this case on January 31, alleging that SB8—which was enacted in response to court rulings finding the State of Louisiana in likely violation of Section 2 of the Voting Rights Act of 1965—is a racial gerrymander, Doc. 1, and moved for a preliminary injunction on February 7, Doc. 17. Also on February 7, the *Robinson* Intervenors moved to intervene as a matter of right or permissively to defend the law. Doc. 18. The next day, this Court ordered that, once Plaintiffs served the Defendant Secretary of State, they contact the Court to determine a briefing and hearing schedule on both the preliminary injunction motion and Intervenors' then-pending motion to intervene. Doc. 19. Six days later, on February 14, Plaintiffs opposed intervention. Doc. 33. Although the Court's order implicated Intervenors' then-pending motion, Plaintiffs never contacted Intervenors regarding scheduling. Ex. 1, Decl. of Stuart C. Naifeh ("Naifeh Decl.") ¶ 3. Instead, they moved on February 19 for an expedited briefing schedule, Doc. 43, and asserted that briefing on the Intervention Motion was complete and the motion ripe for resolution (although Intervenors had yet to file a reply), Doc. 43-1 at 3.

In that motion, Plaintiffs proposed an extraordinarily aggressive schedule for this case. They asked the Court to set a preliminary injunction hearing for March 25 and 26, and to consolidate that hearing with a full trial on the merits pursuant to Federal Rule of Civil Procedure 65(a)(2). Doc. 43. The Secretary of State, the only other party to the case at that time, did not

oppose that motion. *Id*. Because Intervenors' motion for leave to intervene was still pending, they had no opportunity to respond to Plaintiffs' scheduling motion. Naifeh Decl. ¶ 3. By Order entered February 21, 2024, the Court scheduled a two-day trial, consolidated under Rule 65(a)(2), beginning April 8. Doc. 63. (In a subsequent order, the Court extended the trial to three days, but kept the April 8 start date. Doc. 130.) The Court also set expert designations and reports to be exchanged among the parties by March 22, 2024. Doc. 63.

Since entry of the Court's initial Scheduling Order, two new parties (or groups of parties) have joined the case. First, the State of Louisiana, through its Attorney General, moved to intervene as a defendant. Doc. 53. The State's intervention motion was granted on February 26, 2024, after the Scheduling Order was in place. The named Defendant Secretary of State (who had not opposed consolidation of the preliminary injunction and trial or the expedited schedule) has subsequently made clear that she will not defend SB8 on its merits, leaving that effort to the State and the Intervenors. Doc. 101.

Second, after initially granting the *Robinson* Intervenors motion to intervene only to the extent of permitting them to participate in any remedial hearing, Doc. 79, the Court subsequently granted Intervenors' motion for reconsideration and permitted them to participate to a limited extent in the liability phase. Doc. 114. That motion was granted on March 15—twenty-four days before trial commenced, and more than three weeks after the Scheduling Order was entered. One week later, the Court held a status conference in which it told the parties that each side of the case would be limited to eight hours of trial time (including cross-examination), and that the three sets of Defendants, including Intervenors, would have to split the time amongst themselves. Doc. 130.

The schedule set by the Court has not allowed Intervenors a fair opportunity to conduct discovery. For example, even though Intervenors were granted permission to intervene "for the

limited purpose of partaking in the remedial phase of trial," on February 26, 2024, Doc. 79, at 7, and expressly requested Plaintiffs share any discovery they propounded or received on March 7, it was only through the Secretary's counsel's transmission of her responses and objections to Plaintiffs discovery requests on March 18 that Intervenors were made aware of the ongoing discovery in the case. Naifeh Decl. ¶¶ 4-5.

Intervenors received Plaintiffs' expert reports on March 22, 2024, a week after they were granted leave to participate in the liability phase. Naifeh Decl. ¶ 7. None of these reports were the same ones included in their motion for a preliminary injunction and indeed included two new witnesses unmentioned by Plaintiffs in any of their previous papers. *Id*. Intervenors were then required to submit rebuttal reports by March 27, a mere three business days thereafter. *Id*. Data relied upon by one expert, Dr. Stephen Voss, was not provided to Intervenors when the reports were submitted. Naifeh Decl. ¶ 8. Plaintiffs submitted three more expert reports on April 1, a week before trial, including a report by a brand-new purported rebuttal expert, Dr. Ben Overholt. Naifeh Decl. ¶ 10; *see also* Doc. 145-1, at 2-5. Dr. Overholt revealed at his deposition on April 4, 2024, that he had relied on code to conduct his analysis that Plaintiffs' counsel had failed to turn over along with his report. Naifeh Decl. ¶ 10; *see also* Doc. 155, at 6. That material was finally provided by Plaintiffs' counsel on Friday April 5, the Friday before the commencement of trial. Naifeh Decl. ¶ 10; *see also* Doc. 155, at 6; Doc. 155-5.

Even though Dr. Overholt's testimony was not timely disclosed by the Court-imposed deadline for the submission of expert reports on March 22, and was improperly offered as rebuttal testimony given that his principal opinion is that Congressional District 6 in SB 8 will not "perform" for the Black voters in that district, which does not "contradict or rebut evidence on the same subject matter" offered by any opposing expert, Fed. R. Civ. P. 26(a)(2)(D)(ii), the Court

deferred ruling on Intervenors' motion until the witness was offered at trial. Doc. 152, at 2. The Court simultaneously denied Intervenors' request to offer any rebuttal testimony to Dr. Overholt from any new expert witness on the ground that the Court believed it was too close to trial to add an expert witness.

At the Final Pretrial Conference on April 4, 2024, Intervenors sought a reciprocal addition of a mere two hours for presentation of evidence for both sides, given the complexity of the issues presented in this case and the number of witnesses the parties have designated to testify—a total of ten "will call" witnesses and an additional nine "may call" witnesses. As Intervenor noted in making the request, the additional time (resulting in twenty total hours of trial time) would not prevent the trial from being completed in the scheduled three days. Docs. 152, 63, 130. The Court, however, declined to allow any additional time. While the Court stated that "upon completion of each case-in-chief and for good cause shown, the Court may revisit this issue and consider awarding additional time," Doc. 152, the parties cannot assume that any such request will be granted, and thus must plan and present their cases within the eight-hour time the Court has allowed.

ARGUMENT

A. The Court Should Continue the Trial

"It [is] highly prejudicial" to compel Intervenors "to pull together their entire case . . . on such short notice." *Dillon v. Bay City Construction Company*, 512 F.2d 801, 804 (5th Cir. 1975). The Supreme Court has long made clear that due process requires that a party have the opportunity to develop and present evidence in support of its case. *See, e.g.*, *Fayerweather v. Ritch*, 195 U.S. 276, 299 (1904). In addition, as the courts have recognized, "discovery is necessary for the parties to adequately pursue and defend this case and to meaningfully prepare for trial," *Carollo v. ACE*

Am. Ins. Co., No. CV 18-13330-WBV-KWR, 2019 WL 4038602, at *4 (E.D. La. Aug. 27, 2019), and Federal Rule of Civil Procedure 26 gives them that right, *see, e.g.*, *Dillon*, 512 F.2d at 804.

Intervenors have been deprived of those rights in this case, based on a timeline that the Court set following Plaintiffs' motion for an expedited schedule—which Intervenors had no opportunity to weigh in on, and which was unopposed by a Defendant who concededly is not defending against Plaintiffs' claims. This schedule has forced Intervenors to forgo most discovery and limit the little discovery they could pursue. Next week, it will force them to present a complex case in less than eight hours.

In particular, Intervenors have been prejudiced by a trial schedule that is incompatible with an appropriate discovery process. By the time Intervenors were belatedly granted permission to vindicate their rights in defense of SB8, only fifteen business days stood between them and trial. The Court made clear at a status hearing a week later that the litigants would have to shoehorn any discovery into the timeframe before trial. That approach has had the result of depriving Intervenors of a meaningful opportunity to conduct discovery.

The prejudice to Intervenors is amplified by the fact that they are the only parties on the defense side presenting a substantial factual or expert defense at the liability hearing. The State has not proffered any expert witnesses and has not identified any fact witnesses it intends to call at trial. Doc. 157. The Secretary concededly is not defending the statute at all and has identified only one "may call" witness to testify about election mechanics, whose testimony appears to be relevant only to the timing of any remedy if the Court rules in Plaintiffs' favor on liability. Doc. 136. In contrast, Plaintiffs have submitted reports from four experts (one of whom they subsequently decided not to call at trial), and have identified five "will call" witnesses (including three experts) and another "may call" witness. Doc. 141. The *Robinson* Intervenors have similarly

identified five "will call" witnesses (including three experts, two of whom were called to respond to testimony by Plaintiffs' experts) and four additional "may call" fact witnesses, and have asked the Court for leave to present an additional expert to respond to Dr. Overholt, one of Plaintiffs' experts. Doc. 143. Thus, the defense against Plaintiffs' claims at the liability hearing has fallen almost entirely on the Intervenors.

The impairment of Intervenors' ability to conduct meaningful discovery is particularly prejudicial in this case, which centers on questions of legislative intent. Racial gerrymandering claims require a court to undertake a "holistic analysis" that accounts for the "districtwide context" to determine "the legislature's predominant motive for the design of the district as a whole." *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 192 (2017). Because intent can be difficult to ascertain, this analysis typically involves "'direct evidence' of legislative intent, 'circumstantial evidence of a district's shape and demographics,' or a mix of both," *Cooper v. Harris*, 581 U.S. 285, 291 (2017) (citation omitted), often relying on expert testimony. In the ordinary course, a litigant seeking to probe legislative intent would also seek discovery from the legislature. Such discovery can be time-consuming because it can implicate legislative privilege issues that the parties and potentially the Court need to work through. *See, e.g.*, *La Union Del Pueblo Entero v. Abbott*, 68 F.4th 228 (5th Cir. 2023) (interlocutory appeal following denial of legislative privilege protections). Here, the schedule has provided the *Robinson* Intervenors no time to conduct such discovery.

Worse yet, the schedule afforded Intervenors virtually no time to prepare expert reports. *See In re Landry*, 83 F.4th at 305 n.5 (noting importance of expert testimony to cases involving redistricting). Based on the Court's order, Plaintiffs served their expert reports on Friday, March 22, 2024. Naifeh Decl. ¶ 7. Intervenors' affirmative expert reports and rebuttal reports were due

on Wednesday, March 27—three business days later—based on an agreement between the parties reached in light of the Court's trial schedule. *Id*. Plaintiffs' counsel resisted making even a single Plaintiff available for a deposition and refused to make their expert witnesses available for depositions of more than three hours. Naifeh Decl. ¶¶ 6, 9. Ultimately Intervenors were only able to spend a *total* of eight hours to depose witnesses. *But see* Fed. R. Civ. Proc. 30(d)(1) (ordinarily, *each* deposition can last up to seven hours). And these depositions involved complex expert reports using a variety of technical methods. Finally, at the eleventh hour, Plaintiffs disclosed an improper "rebuttal" report that far exceeds the scope of any existing report or opinion, and that reflects work begun shortly after the complaint was filed and withheld until the eve of trial. *See* Docs. 145, 155; *see also Conway v. Chem. Leaman Tank Lines, Inc.*, 687 F.2d 108, 112 (5th Cir. 1982) ("[T]his Court has acknowledged that continuance is a preferable remedy for prejudicial error from unfair surprise."). Taken together, the Court's unrelenting schedule has "inhibited altogether the extensive discovery and investigation necessitated" by the claim "and to which [the parties] had a right under [Federal Rule of Civil Procedure] 26." *Dillon*, 512 F.2d at 804.

Several of the Court's subsequent orders, which the Court has explained have been largely driven by the trial schedule, have compounded this harm, making it impossible for Intervenors to effectively present their case. The Court has given each side of the dispute eight hours over three days to present their case, including any cross-examination time. *Robinson* Intervenors must split that time with both the Defendant Secretary of State and Intervenor-Defendant State of Louisiana. Doc. 130. Although it will not present any witnesses, the State has reserved 15 minutes per witness called by any other party for its own questioning. For the ten "will-call" witnesses designated by the Plaintiffs and the *Robinson*-Intervenors, that amounts to 2.5 hours, leaving Intervenors with only 5.5 hours to present their case and cross-examine Plaintiffs' witnesses—assuming the

Secretary does not need some of that time for her "may call" witness. That is insufficient time for a fact-heavy case involving complex witness testimony. In contrast, a recent racial gerrymandering trial in South Carolina took eight trial days and involved "the testimony of numerous witnesses" and "hundreds of exhibits." *S.C. State Conf. of NAACP v. Alexander*, 649 F. Supp. 3d 177, 183 (D.S.C. 2023); *see also Bethune-Hill v. Va. State Bd. of Elections*, 326 F. Supp. 3d 128, 143 (E.D. Va. 2018) (considering evidence presented at initial four-day trial *and* a second four-day trial after remand); *Ala. Legislative Black Caucus v. Alabama*, 231 F. Supp. 3d 1026, 1032 (M.D. Ala. 2017) (four-day bench trial supplemented after remand by hundreds of additional exhibits).[1] It would be challenging for Intervenors to fully put on their case in (some subdivided portion of) eight hours under the best of circumstances. It is near-impossible for them to do so under the current circumstances. Without a sufficient opportunity to depose Plaintiffs' experts, Intervenors, despite their best efforts, may have to engage in time-consuming cross-examinations that they could otherwise streamline based on depositions. Similarly, the inability to depose third-party fact witnesses will force Intervenors to either risk calling witnesses who don't prove useful but expend precious time, or decline to call those witness, who may have been helpful, to save time.[2]

Several orders from the bench at the Final Pretrial Conference, again, as the Court explained, justified by the need to maintain of the schedule, further aggravated the situation. First, the Court denied Intervenors' request for a modest, bilateral extension to ten hours per side, even though this would not have required additional trial days. Pretrial Conf. Tr. (April 4, 2024) at 18:9-

[1] To be sure, some courts have held shorter racial gerrymandering trials. The court *Harris v. McCrory*, for example, held a three-day bench trial, as this Court intends to do. 159 F. Supp. 3d 600, 604 (M.D.N.C. 2016). But there, trial commenced two years after the claim was filed and after extensive discovery that allowed the parties to streamline their trial presentations. *Id*. at 609–10.

[2] Intervenors sought to alleviate these burdens and streamline the trial with stipulated facts. Plaintiffs declined to stipulate to many of Intervenors' proposed facts.

20:22. That request reflected the underlying complexity of the case and the fact that, since the Court announced the eight-hours-per-side rule, the parties have noted ten "will call" witnesses and another nine "may call" witnesses. While the Court left open the possibility of revisiting that decision at the end of trial, that does not mitigate the harm to Intervenors. They must still plan a case and conduct all of their witness examinations on the assumption that they will have only eight hours.

Second, and relatedly, the Court declined to admit the underlying expert reports into evidence, even where the expert is available for cross-examination at trial, meaning the parties must now spend precious trial time going into details of the experts' opinions. There is no prejudice to the parties in admitting an expert's written reports where the expert has been qualified by the court and can be cross-examined about their opinions, and the bilateral admission into evidence of expert reports in such circumstances is par-for-the-course in redistricting cases and bench trials generally.

Third, the Court denied without explanation Intervenors' motion in limine. *See* Doc. 142. Plaintiffs seek to introduce irrelevant evidence that substantially expands the scope of this case to encompass a range of factors potentially relevant under VRA Section 2 but not to Plaintiffs' claim for racial gerrymandering. Again, while the Court left open the possibility of sustaining objections at trial, Intervenors must still prepare to rebut this testimony in their (portion of) eight hours.

Fourth, the Court declined to strike the irrelevant and improper rebuttal testimony of Dr. Ben Overholt while denying Intervenors' request for leave to offer expert testimony in response. *See* Doc. 145. Initially, at the April 4 Final Pretrial Conference, the Court indicated willingness to accept a rebuttal served by the end-of-day on April 5. Pretrial Conf. Tr. (April 4, 2024) at 4:25-5:7. When Intervenors made clear that a new expert, rather than one of Intervenors' existing

experts, would be needed to offer this rebuttal opinion, *id.* at 5:8-5:24, 7:8-7:13, the Court reversed course and precluded that option, *id.* at 7:14-7:18. But the fact that Intervenors' existing witnesses lack expertise in fields related to Dr. Overholt's testimony only underscores that his is not proper *rebuttal* testimony, but a whole new opinion unmoored from any other experts in the case. The Court did not clarify why it would permit Intervenors to present this testimony from an existing witness, but not a new witness.

These circumstances, taken together, have undermined Intervenors' "right to the 'integrity and accuracy of the fact-finding process,'" *United States v. Thoms*, 684 F.3d 893, 900 (9th Cir. 2012) (quoting *United States v. Bergera*, 512 F.2d 391, 393 (9th Cir. 1975)). It is appropriate for the Court to exercise its discretion and continue trial for three weeks to allow limited time for additional fact and expert discovery.

B. In The Alternative, The Court Should Reconsider its Decision to Advance the Trial on the Merits in this Case Pursuant to FRCP 65(a)(2)

A continuance is the most appropriate course of action, because even holding a hearing on a preliminary injunction motion under these circumstances is highly prejudicial. But, at the very least, in the alternative, this Court should deconsolidate the full trial on the merits from the preliminary injunction hearing—a decision that was made based on an unopposed motion before either the *Robinson* Intervenors or State Intervenors were part of this case.

This case, on its current schedule, is unsuitable for a consolidated trial under Federal Rule of Civil Procedure 65(a)(2). While the rule allows a court to "advance the trial on the merits and consolidate it with the [preliminary injunction] hearing," FRCP 65(a)(2), the Supreme Court has held that "it is generally inappropriate for a federal court at the preliminary-injunction stage to give a final judgment on the merits." *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395 (1981).

Consolidation must "still afford the parties a full opportunity to present their respective cases." *Id.* (citation omitted). As a result, "[c]onsolidation is most appropriate when the relevant issues are solely legal, not factual, and the parties agree that they have had a full opportunity to introduce evidence in support of and argue their case." *Kyocera Document Sols. Am., Inc. v. Div. of Admin.*, No. 23-cv-4044, 2023 WL 8868837, at *8 (D.N.J. Dec. 22, 2023).[3]

Unlike cases most suitable for Rule 65(a)(2) consolidation, this case is extraordinarily fact-heavy. Racial gerrymandering claims involve "a two-step analysis." *Cooper*, 581 U.S. at 291. First, plaintiffs must prove "race was the predominant factor motivating the . . . decision to place a significant number of voters within or without a particular district," *Miller v. Johnson*, 515 U.S. 900, 916 (1995), and "that the legislature subordinated traditional race neutral districting principles . . . to racial considerations," *Bethune-Hill v. Va. State Bd. of Elections*, 580 U.S. 178, 187 (2017). This "holistic analysis," *id.* at 192, typically involves both direct and "circumstantial evidence," *Cooper*, 581 U.S. at 291 (quoting *Miller*, 515 U.S. at 916). While this case should end at that first step because race did not predominate here, "[w]here a challenger succeeds in establishing racial predominance, the burden shifts to the State to demonstrate that its districting legislation is narrowly tailored to achieve a compelling interest." *Bethune-Hill*, 580 U.S. at 193 (cleaned up). That, too, is an intensely factual inquiry, which requires an assessment of whether the State "ha[d] 'good reasons to believe' it must use race in order to satisfy the Voting Rights Act." *Id.* at 194 (quoting *Ala. Legislative Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015)).

[3] It is important to acknowledge that at the time the Court ordered consolidation, no existing party opposed the effort. Doc. 63. The Secretary of State, the only Defendant at the time, did not oppose Plaintiffs' proposal. Doc. 43-1. And it appears that the State Intervenor-Defendant's defense of SB8 may forgo any argument that politics, not race, drove SB8, *see* Doc. 86, at 7-8, thus limiting many of the factual disputes at issue. With *Robinson* Intervenors' more fulsome defense of SB8, that fact-heavy inquiry is at the core of this case.

As Intervenors described above, they have been stymied in their ability to develop and present their case. This situation precludes Rule 65(a)(2) consolidation. "[T]he Trial Judge must not force the parties by the consolidation to sacrifice their right to fully present the available evidence." *Dillon*, 512 F.2d at 804; Wright & Miller, 11A Fed. Prac. & Proc. Civ. § 2950 (3d ed.) ("[T]he key is that the notice should provide a reasonable time to permit a litigant to prepare a showing upon which the final outcome of the case may depend"). That's why consolidation is usually appropriate when a case can be decided on legal issues alone, rather than factual disputes or credibility determinations. Here, the nature of the claim and defenses requires both factual investigation and expert assessment. Even where courts consolidate more fact-heavy cases such as this one, they do so only after "grant[ing] the parties multiple continuances to allow them to gather evidence and prepare for trial." *Texas v. Garland*, No. 5:23-CV-034-H, 2024 WL 814498, at *12 (N.D. Tex. Feb. 27, 2024), superseded, No. 5:23-CV-034-H, 2024 WL 967838 (N.D. Tex. Feb. 27, 2024).

Once granted intervention, Intervenors have made every effort to hew to the schedule the Court had previously adopted. Lamentably, it is now clear that this schedule will prejudice their ability to present their case and violate their due process rights. Under the circumstances, it is necessary to either continue the consolidated trial sufficiently to ensure each party has fair opportunity to develop its case or to deconsolidate the full trial on the merits from the preliminary injunction hearing and grant a shorter continuance of the preliminary injunction hearing.

CONCLUSION

The Court should grant the *Robinson* Intervenors' motion to continue the trial by three weeks, or, in the alternative, deconsolidate the merits with the preliminary injunction hearing and

continue the preliminary injunction hearing by one week. In either event, Intervenors further request that the court set the trial for four days to allow each side to fully present its case.

DATED: April 6, 2024

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2022 FIRST EXTRAORDINARY SESSION

HB1 by Representative Clay Schexnayder

REAPPORTIONMENT/CONGRESS: Provides relative to the districts for members of the United States Congress (Item #3)

Current Status (as of 1/31/2024 3:50 pm): **Sent to the Secretary of State - Act 5**

Date	Chamber	Journal Page	Action
03/31	H		Effective date: See Act.
03/31	H		Becomes Act No. 5.
03/31	H		Taken by the Clerk of the House and presented to the Secretary of State in accordance with the Rules of the House.
03/30	H		Notice Senate voted to override the Governor's veto
03/30	S	3	By a vote of 27 yeas and 11 nays, the Senate voted to override the Governor's veto.
03/30	S	3	Reconsidered.
03/30	S	2	Veto message from the Governor received and read.
03/30	S	1	Notice House voted to override the Governor's veto.
03/30	H	3	Veto message received and read. Rules suspended. By a vote of 72 yeas and 31 nays, having received two-thirds vote of elected members, veto overridden.
03/30	H	3	Reconsidered.
03/30	H	3	Rules suspended.
03/30	H	3	Read by title, reconsidered, returned to the calendar, under the rules.
03/10	H		Vetoed by the Governor.
02/21	H		Sent to the Governor for executive approval.
02/18	S	7	Signed by the President of the Senate.
02/18	H	13	Enrolled and signed by the Speaker of the House.
02/18	H	11	Read by title, roll called, yeas 62, nays 27, Senate amendments concurred in.
02/18	H	11	Rules suspended.
02/18	H	11	Received from the Senate with amendments.
02/18	S	1	Senate floor amendments read and adopted. Read by title, passed by a vote of 27 yeas and 10 nays, and ordered returned to the House. Motion to reconsider tabled.
02/18	S	1	Rules suspended. Called from the Calendar.
02/17	S	5	Read by title and returned to the Calendar, subject to call.
02/17	S	5	Called from the Calendar.
02/17	S	2	Read by title and returned to the Calendar, subject to call.
02/15	S	3	Reported without Legislative Bureau amendments. Read by title and passed to third reading and final passage.
02/15	S	2	Reported favorably. Rules suspended. Read by title and referred to the Legislative Bureau.
02/14	S	1	Received in the Senate; read by title Rules suspended. Read second time by title and referred to the Committee on Senate and Governmental Affairs.
02/10	H	9	Read third time by title, amended, roll called on final passage, yeas 70, nays 33. Finally passed, title adopted, ordered to the Senate.
02/10	H	3	Called from the calendar.
02/09	H		Scheduled for floor debate on 02/10/2023

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Date	Chamber	Journal Page	Action
02/09	H	2	Notice given.
02/09	H	2	Read by title, returned to the calendar.
02/08	H		Scheduled for floor debate on 02/09/2022.
02/08	H	3	Notice given.
02/08	H	3	Read by title, returned to the calendar.
02/06	H		Scheduled for floor debate on 02/08/2022.
02/06	H	2	Read by title, ordered engrossed, passed to 3rd reading.
02/04	H	2	Reported favorably (13-5).
02/02	H	1	Read by title, under the rules, referred to the Committee on House and Governmental Affairs.
02/01	H	5	Read by title. Lies over under the rules.

Authors:

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Available Documents:

Text

HB1 Act 5	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1267128
HB1 Enrolled	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1248568
HB1 Reengrossed	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1247164
HB1 Engrossed	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1245838
HB1 Original	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1244898

Amendments

Senate Floor Amendment, #174, Hewitt, Adopted	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1248358
Senate Committee Amendment, #153, S&G, Draft	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1247602
House Floor Amendment, #99, Marcelle, Rejected	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1247152
House Floor Amendment, #80, Schexnayder, Adopted	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1246959
House Floor Amendment, #88, Gaines, Rejected	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1246825
House Floor Amendment, #66, Amedee, Withdrawn	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1246060

Digests

Resume Digest for HB1	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1291946
Digest of HB1 Reengrossed	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1247178
Digest of HB1 Engrossed	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1245814
Digest of HB1 Original	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1244900

Votes

Senate Vote on HB 1, Override Veto (#3)	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1263950

House Vote on HB 1, PASS BILL SUBSEQUENT TO VETO (#4)	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1263924
House Vote on HB 1, CONCUR IN SENATE AMENDMENTS (#53)	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1248634
Senate Vote on HB 1, FINAL PASSAGE (#47)	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1248522
Senate Vote on HB 1, AMENDMENT # 174 BY HEWITT, HB 1 BY MR. SPEAKER (#46)	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1248505
House Vote on HB 1, FINAL PASSAGE (#26)	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1247159
House Vote on HB 1, AMENDMENT # 88 BY GAINES, MOTION TO ADOPT (#25)	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1247155
House Vote on HB 1, AMENDMENT # 70 BY JENKINS, MOTION TO ADOPT (#24)	https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1247153

Other

HB1 Veto Message https://www.legis.la.gov/Legis/ViewDocument.aspx?d=1258719

JRULE 21

Joint Rule No. 21. Redistricting criteria

A. To promote the development of constitutionally and legally acceptable redistricting plans, the Legislature of Louisiana adopts the criteria contained in this Joint Rule, declaring the same to constitute minimally acceptable criteria for consideration of redistricting plans in the manner specified in this Joint Rule.

B. Each redistricting plan submitted for consideration shall comply with the Equal Protection Clause of the Fourteenth Amendment and the Fifteenth Amendment to the U.S. Constitution; Section 2 of the Voting Rights Act of 1965, as amended; and all other applicable federal and state laws.

C. Each redistricting plan submitted for consideration shall provide that each district within the plan is composed of contiguous geography.

D. In addition to the criteria specified in Paragraphs B, C, G, H, I, and J of this Joint Rule, the minimally acceptable criteria for consideration of a redistricting plan for the House of Representatives, Senate, Public Service Commission, and Board of Elementary and Secondary Education shall be as follows:

(1) The plan shall provide for single-member districts.

(2) The plan shall provide for districts that are substantially equal in population. Therefore, under no circumstances shall any plan be considered if the plan has an absolute deviation of population which exceeds plus or minus five percent of the ideal district population.

(3) The plan shall be a whole plan which assigns all of the geography of the state.

(4) Due consideration shall be given to traditional district alignments to the extent practicable.

E. In addition to the criteria specified in Paragraphs B, C, G, H, I, and J of this Joint Rule, the minimally acceptable criteria for consideration of a redistricting plan for Congress shall be as follows:

(1) The plan shall provide for single-member districts.

(2) The plan shall provide that each congressional district shall have a population as nearly equal to the ideal district population as practicable.

(3) The plan shall be a whole plan which assigns all of the geography of the state.

F. In addition to the criteria specified in Paragraphs B, C, G, H, I, and J of this Joint Rule, the minimally acceptable criteria for consideration of a redistricting plan for the Supreme Court shall be that the plan shall be a whole plan which assigns all of the geography of the state.

G.(1) To the extent practicable, each district within a redistricting plan submitted for consideration shall contain whole election precincts as those are represented as Voting Districts (VTDs) in the most recent Census Redistricting TIGER/Line Shapefiles for the State of Louisiana which corresponds to the P.L. 94-171 data released by the United States Bureau of the Census for the decade in which the redistricting is to occur. However, if the redistricting plan is submitted after the year in which the legislature is required by Article III, Section 6, of the Constitution of Louisiana to reapportion, then to the extent practicable, the redistricting plan submitted for consideration shall contain whole election precincts as those are represented as VTDs as validated through the data verification program of the House and Senate in the most recent Shapefiles made available on the website of the legislature.

(2) If a VTD must be divided, it shall be divided into as few districts as practicable using a visible census tabulation boundary or boundaries.

H. All redistricting plans shall respect the established boundaries of parishes, municipalities, and other political subdivisions and natural geography of this state to the extent practicable. However, this criterion is subordinate to and shall not be used to undermine the maintenance of communities of interest within the same district to the extent practicable.

I. The most recent P.L. 94-171 data released by the United States Bureau of the Census, as validated through the data verification program of the House and Senate, shall be the population data used to establish and for evaluation of proposed redistricting plans.

J. Each redistricting plan submitted to the legislature by the public for consideration shall be submitted electronically in a comma-delimited block equivalency file.

HCR 90, 2021 R.S., eff. June 11, 2021.

EXHIBIT

JE2

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LOUISIANA REDISTRICTING

MEETINGS, DOCS & VIDEO ARCHIVES

Committee	Date, Time, Location	Agenda, Video	Documents
2024			
House & Governmental	Jan 15, 10:00 AM, HCR-5	PDF	Docs and Comments
House & Governmental	Jan 16, 10:00 AM, HCR-5	PDF	Docs and Comments
House & Governmental	Jan 17, 10:00 AM, HCR-5	PDF	Docs and Comments
House & Governmental	Jan 18, 10:00 AM, HCR-5	PDF P1 P2	Docs and Comments
2022			
House & Governmental	Jun 17, 10:00 AM, HCR-5	PDF	
Senate & Governmental	Jun 17, 1:00 PM, Hainkel	PDF	
Senate & Governmental	Jun 16, 09:00 AM, Hainkel	PDF	
House & Governmental	Feb 16, 09:30 AM, HCR-5	PDF	
Senate & Governmental	Feb 15, 9:30 AM, Hainkel	PDF	
House & Governmental	Feb 15, 10:00 AM, HCR-5	PDF	Docs and Comments
Senate & Governmental	Feb 14, 9:30 AM, Hainkel	PDF	
House & Governmental	Feb 14, 10:00 AM, HCR-5	PDF	
House & Governmental	Feb 11, 9:00 AM, HCR-5	PDF	Docs and Comments
House & Governmental	Feb 10, 9:30 AM, HCR-5	PDF	Docs and Comments
Senate & Governmental	Feb 9, 2:30 PM, Hainkel	PDF	
House & Governmental	Feb 9, 9:30 AM, HCR-5	PDF	Docs and Comments
Senate & Governmental	Feb 8, 2:30 PM, Hainkel	PDF	

EXHIBIT
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House & Governmental	Feb 8, 9:30 AM, HCR-5		Docs and Comments
Senate & Governmental	Feb 7, 2:30 PM, Hainkel		
House & Governmental	Feb 7, 9:30 AM, HCR-5		Docs and Comments
Senate & Governmental	Feb 4, 2:30 PM, Hainkel		
House & Governmental	Feb 4, 9:30 AM, HCR-5		Docs and Comments
Senate & Governmental	Feb 3, 2:30 PM, Hainkel		
Senate & Governmental	Feb 2, 2:30 PM, Hainkel		
Joint Gov Affairs	Jan 20, 11:00 AM, HCR-5		Docs and Comments
Joint Gov Affairs	Jan 11, 05:30 PM, Thibodaux, LA		PowerPoint Jt Governmental Affairs-Bayou Region Docs and Comments
Joint Gov Affairs	Jan 5, 05:30 PM, New Orleans, LA		PowerPoint Jt Governmental Affairs-Orleans Metro Region Docs and Comments

2021

Joint Gov Affairs	Dec 15, 05:30 PM, Lake Charles, LA Brief Audio loss due to technical difficulties		PowerPoint Jt Governmental Affairs-Southwest Region Docs and Comments
Joint Gov Affairs	Nov 30, 05:30 PM, Covington, LA		PowerPoint Jt Governmental Affairs-Northshore Region Docs and Comments
Joint Gov Affairs	Nov 16, 05:30 PM, Baton Rouge, LA		PowerPoint Jt Governmental Affairs-Baton Rouge, LA Docs and Comments
Joint Gov Affairs	Nov 09, 05:30 PM, Alexandria, LA		PowerPoint Jt Governmental Affairs-Alexandria, LA Docs and Comments
Joint Gov Affairs	Oct 26, 05:30 PM, Lafayette, LA		PowerPoint Jt Governmental Affairs-Lafayette, LA Docs and Comments
Joint Gov Affairs	Oct 21, 05:30 PM, Shreveport, LA		PowerPoint Jt Governmental Affairs-NW Region-Shreveport, LA

Docs and Comments	Joint Gov Affairs	Oct 20, 05:30 PM, Monroe, LA	PDF PowerPoint Jt Governmental Affairs-NE Region-Monroe, LA Docs and Comments
Joint Gov Affairs	Sep 17, 11:00 AM, HCR-5	PDF	PowerPoint Docs and Comments
Senate & Governmental	Jun 02, 9:30 AM, Room F	PDF P1 P2	.
House & Gov	May 26, 9:00 AM, HCR-3	PDF	.
			.

2019

House & Gov	May 21, 9:00 AM, HCR-4	PDF	State population trends 2018 (Tim Slack) Redistricting Law 101 BR

BOX 44294 BATON ROUGE, LA 70804

YOUR FEEDBACK

HLS 221ES-2 **ORIGINAL**

EXHIBIT
JE4
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2022 First Extraordinary Session

HOUSE BILL NO. 1

BY REPRESENTATIVES SCHEXNAYDER, MAGEE, AND STEFANSKI

REAPPORTIONMENT/CONGRESS: Provides relative to the districts for members of the United States Congress (Item #3)

AN ACT

To enact R.S. 18:1276 and to repeal R.S. 18:1276.1, relative to congressional districts; to provide for the redistricting of Louisiana's congressional districts; to provide with respect to positions and offices, other than congressional, which are based upon congressional districts; to provide for the effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:1276 is hereby enacted to read as follows:

§1276. Congressional districts

Louisiana shall be divided into six congressional districts, and the qualified electors of each district shall elect one representative to the United States House of Representatives. The districts shall be composed as follows:

(1) District 1 is composed of Precincts 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 105, 106, 117, 118, 119, 120, 121, 122, 123, 124, 125A, 125B, 126, 127, 128, 129, 130, 132, 134, 136, 138, 192, 198, 199, 203, 246, 247, 248, 1-GI, 1-H, 2-H, 3-H, 4-H, 5-H, 6-H, 7-H, 8-H, 9-H, 1-K, 2-K, 3-K, 4-K, 5-K, 6-KA, 6-KB, 7-KA, 7-KB, 8-K, 9-K, 10-K, 11-K,

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12-K, 13-KA, 14-K, 16-K, 17-K, 18-K, 19-K, 20-K, 25-K, 27-K, 28-K, 34-K, 35-K, and 1-L of Jefferson Parish; Precincts 3-3, 3-4, 3-5, 3-6, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 7-4, 8-1, 9-1, 9-2, 10-1, 10-2, 10-3, 10-4, 10-5, 10-6, 10-7, 10-8, 10-9, 10-10, 10-11, 10-12, 10-13, 10-14, 10-15, 10-16, 11-1, 11-2, and 11-5 of Lafourche Parish; Precincts 3-20, 4-7, 4-8, 4-9, 4-11, 4-14, 4-15, 4-17, 4-17A, 4-18, 4-20, 4-21, 4-22, 4-23, 5-15, 5-16, 5-17, 5-18, 14-2, 14-3, 14-4, 14-5, 14-6, 14-7, 14-8, 14-9, 14-10, 14-11, 14-12, 14-13A, 14-14, 14-15, 14-16, 14-17, 14-18A, 14-19, 14-20, 14-21, 16-1, 16-1A, 16-2, 16-3, 17-1, 17-2, 17-17, 17-18, 17-18A, 17-19, and 17-20 of Orleans Parish; Plaquemines Parish; St. Bernard Parish; St. Tammany Parish; Precincts 70, 70A, 71, 72, 72A, 73, 74, 120, 122, 122A, 122B, 124, 124A, 139, 143, 143A, 145, 147, 149, 149A, and 151 of Tangipahoa Parish; and Precincts 11, 15, 20, 21, 23, 25, 27, 29, 31, 32, 34, 35, 36, 38, 41, 43, 46, 48, 49, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 69, 72, 84, 85, 88, 89, 110, and 111 of Terrebonne Parish.

(2) District 2 is composed of Precincts 30, 36, 37, 39, 42, 44, 45, 47, 48, 50, 51, 52, 53, 54, 55, 57, and 65 of Ascension Parish; Precincts 1-1, 1-2, 2-2, 4-3, 5-5, 6-1, 6-2, 6-3, and 7-1 of Assumption Parish; Precincts 1-2, 1-3, 1-4, 1-5, 1-6, 1-10, 1-11, 1-13, 1-14, 1-15, 1-16, 1-17, 1-18, 1-19, 1-21, 1-22, 1-23, 1-24, 1-25, 1-26, 1-27, 1-28, 1-29, 1-30, 1-31, 1-32, 1-36, 1-50, 1-51, 1-58, 1-61, 1-62, 1-63, 1-67, 1-77, 1-84, 1-85, 1-86, 1-91, 1-92, 1-93, 1-94, 1-95, 1-100, 1-101, 1-104, 2-1, 2-9, 2-11, 2-13, 2-16, 2-20, 2-22, 2-23, 2-24, and 2-30 of East Baton Rouge Parish; Precincts 1, 3, 6, 7, 9, 10, 11, 12, 13C, 14, 14A, 15, 16, 17, 18, 19, 20, 21, 22, and 23 of Iberville Parish; Precincts 57, 104, 108, 115, 116, 131, 133, 150, 151, 152, 153, 154, 155, 156, 157A, 157B, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179A, 179B, 180, 181, 182, 183, 184, 185A, 185B, 187, 188, 189, 190, 191, 193A, 193B, 194A, 194B, 195, 196, 197A, 197B, 200, 201, 202, 204, 205, 210, 211, 212, 213A, 213B, 213C, 214A, 214B, 215, 216A, 216B, 216C, 217, 225, 226, 227, 228, 229, 230, 231, 232A, 232B, 234, 235, 236, 237, 238A, 238B, 1-G, 2-G, 3-G, 4-G, 5-G, 6-G, 7-G, 8-G, 9-G, 10-G, 11-G, 12-G, 13-G, 13-KB, 15-K, 21-K, 22-K, 23-K, 24-K, 26-K, 29-K, 30-K, 31-K, 33-K, 1-W, 2-W, 3-W, 4-W, 5-W, 6-W, and 7-W of

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Jefferson Parish; Precincts 1-1, 1-2, 1-5, 1-6, 2-1, 2-2, 2-4, 2-6, 2-7, 3-1, 3-8, 3-9, 3-12, 3-14, 3-15, 3-18, 3-19, 4-2, 4-3, 4-5, 4-6, 5-1, 5-2, 5-3, 5-5, 5-7, 5-8, 5-9, 5-10, 5-11, 5-12, 5-13, 6-1, 6-2, 6-4, 6-6, 6-7, 6-8, 6-9, 7-1, 7-2, 7-4, 7-5, 7-6, 7-7, 7-8, 7-9A, 7-10, 7-11, 7-12, 7-13, 7-14, 7-15, 7-16, 7-17, 7-18, 7-19, 7-20, 7-21, 7-23, 7-24, 7-25, 7-25A, 7-26, 7-27, 7-27B, 7-28, 7-28A, 7-29, 7-30, 7-32, 7-33, 7-35, 7-37, 7-37A, 7-40, 7-41, 7-42, 8-1, 8-2, 8-4, 8-6, 8-7, 8-8, 8-9, 8-12, 8-13, 8-14, 8-15, 8-19, 8-20, 8-21, 8-22, 8-23, 8-24, 8-25, 8-26, 8-27, 8-28, 8-30, 9-1, 9-3, 9-4, 9-5, 9-6, 9-7, 9-8, 9-9, 9-10, 9-11, 9-12, 9-13, 9-14, 9-15, 9-16, 9-17, 9-19, 9-21, 9-23, 9-25, 9-26, 9-28, 9-28C, 9-29, 9-30, 9-30A, 9-31, 9-31A, 9-31B, 9-31D, 9-32, 9-33, 9-34A, 9-35, 9-35A, 9-36, 9-36B, 9-37, 9-38, 9-38A, 9-39, 9-39B, 9-40, 9-40A, 9-40C, 9-41, 9-41A, 9-41B, 9-41C, 9-41D, 9-42, 9-42C, 9-43A, 9-43B, 9-43C, 9-43E, 9-43F, 9-43G, 9-43H, 9-43I, 9-43J, 9-43K, 9-43L, 9-43M, 9-43N, 9-44, 9-44A, 9-44B, 9-44D, 9-44E, 9-44F, 9-44G, 9-44I, 9-44J, 9-44L, 9-44M, 9-44N, 9-44O, 9-44P, 9-44Q, 9-45, 9-45A, 10-3, 10-6, 10-7, 10-8, 10-9, 10-11, 10-12, 10-13, 10-14, 11-2, 11-3, 11-4, 11-5, 11-8, 11-9, 11-10, 11-11, 11-12, 11-13, 11-14, 11-17, 12-1, 12-2, 12-3, 12-4, 12-5, 12-6, 12-7, 12-8, 12-9, 12-10, 12-11, 12-12, 12-13, 12-14, 12-16, 12-17, 12-19, 13-1, 13-2, 13-3, 13-4, 13-5, 13-6, 13-7, 13-8, 13-9, 13-10, 13-11, 13-12, 13-13, 13-14, 13-15, 13-16, 14-1, 14-23, 14-24A, 14-25, 14-26, 15-1, 15-2, 15-3, 15-5, 15-6, 15-8, 15-9, 15-10, 15-11, 15-12, 15-12A, 15-13, 15-13A, 15-13B, 15-14, 15-14A, 15-14B, 15-14C, 15-14D, 15-14E, 15-14F, 15-14G, 15-15, 15-15A, 15-15B, 15-16, 15-17, 15-17A, 15-17B, 15-18, 15-18A, 15-18B, 15-18C, 15-18D, 15-18E, 15-18F, 15-19, 15-19A, 15-19B, 15-19C, 16-4, 16-5, 16-6, 16-7, 16-8, 16-9, 17-3, 17-4, 17-5, 17-6, 17-7, 17-8, 17-9, 17-10, 17-11, 17-12, 17-13, 17-13A, 17-14, 17-15, and 17-16 of Orleans Parish; Precincts 1-1, 1-2, 1-3, 1-5, 2-1, 2-2, 2-3, 2-4, 2-5, 4-1, 4-2, 4-3, 4-4, 5-1, 5-3, 5-4, 6-6, 6-7, 6-8, 7-1, 7-2, 7-3, and 7-4 of St. Charles Parish; St. James Parish; Precincts 1-1, 1-2, 1-3, 1-4, 1-5, 2-1, 2-2, 2-3, 2-4, 3-1, 3-2, 3-4, 4-1, 4-2, 4-3, 4-14, 5-1, 5-8, 6-1, 6-3, 6-4, and 7-7 of St. John the Baptist Parish; and Precincts 1A, 1B, 1C, 2B, 6, 7B, 8, 10A, 10B, 11A, 11B, 13A, 13B, 14, and 15 of West Baton Rouge Parish.

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

(3) District 3 is composed of Acadia Parish; Calcasieu Parish; Cameron Parish; Iberia Parish; Jefferson Davis Parish; Lafayette Parish; Precincts 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29 of St. Martin Parish; Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, and 44 of St. Mary Parish; and Vermilion Parish.

(4) District 4 is composed of Allen Parish; Beauregard Parish; Bienville Parish; Bossier Parish; Caddo Parish; Claiborne Parish; De Soto Parish; Evangeline Parish; Natchitoches Parish; Precincts C1, C2, C3, C4, C5, C6, C7, C8, C9, C10, C11-A, C11-B, C13, C14, C15, C17, C18, C19, C20, C21, C22, C23, C24, C25, C26, C27, C28, C30, C31, C32, C33, C34, C35, C36, C37-A, C37-B, C38-A, C38-B, C39, C40, C41, C42, N1, N2, N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, N13-A, N13-B, N14-A, N14-B, N15, N18-A, N19, N20, N21, N22, S1, S2, S4, S5, S6A, S6B, S7, S8, S9, S10, S11, S13, S14, S15, S17, S18, S19, S20, S21, S22, S23, S24, S25, S26, S27, S28, and S29 of Rapides Parish; Red River Parish; Sabine Parish; Vernon Parish; and Webster Parish.

(5) District 5 is composed of Avoyelles Parish; Caldwell Parish; Catahoula Parish; Concordia Parish; East Carroll Parish; East Feliciana Parish; Franklin Parish; Grant Parish; Jackson Parish; La Salle Parish; Lincoln Parish; Madison Parish; Morehouse Parish; Ouachita Parish; Pointe Coupee Parish; Precincts N16, N17, N18-B, N23, N24, N25, N26, N27, N28, N29, and S16 of Rapides Parish; Richland Parish; St. Helena Parish; St. Landry Parish; Precincts 1, 2, 6, 11, 15, 16, 17, 18, 26, 27, 28, 33, 40, 40A, 41, 42, 42A, 43, 44, 45, 45A, 46, 47, 48, 49, 101, 102, 104, 104A, 105, 106, 106A, 107, 108, 109, 110, 111A, 112, 114, 115B, 116, 117, 118, 119, 120A, 120B, 121, 121A, 123, 125, 127, 127A, 129, 129A, 133, 133A, 137, 137A, 137B, 137C, 137D, 141, and 141A of Tangipahoa Parish; Tensas Parish; Union Parish; Washington Parish; West Carroll Parish; West Feliciana Parish; and Winn Parish.

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(6) District 6 is composed of Precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 31, 32, 33, 34, 35, 40, 41, 43, 58, 61, 62, 63, 64, 66, 71, 72, 73, 76, 77, and 78 of Ascension Parish; Precincts 2-1, 2-3, 2-4, 2-5, 3-1, 3-2, 4-1, 4-2, 5-1, 5-2, 5-3, 7-2, 7-3, 8-1, and 9-1 of Assumption Parish; Precincts 1-1, 1-7, 1-8, 1-9, 1-12, 1-20, 1-33, 1-34, 1-35, 1-37, 1-38, 1-39, 1-40, 1-41, 1-42, 1-43, 1-44, 1-45, 1-46, 1-47, 1-48, 1-49, 1-52, 1-53, 1-54, 1-55, 1-56, 1-57, 1-59, 1-60, 1-64, 1-65, 1-66, 1-68, 1-69, 1-70, 1-71, 1-72, 1-73, 1-74, 1-75, 1-76, 1-78, 1-79, 1-80, 1-81, 1-82, 1-83, 1-87, 1-88, 1-89, 1-90, 1-97, 1-98, 1-99, 1-102, 1-103, 1-105, 1-107, 2-2, 2-3, 2-4, 2-5, 2-6, 2-7, 2-8, 2-10, 2-12, 2-14, 2-15, 2-17, 2-18, 2-19, 2-21, 2-25, 2-26, 2-27, 2-28, 2-29, 2-31, 2-32, 2-33, 2-34, 2-35, 2-36, 2-37, 3-1, 3-2, 3-3, 3-4, 3-5, 3-6, 3-7, 3-8, 3-9, 3-10, 3-11, 3-12, 3-13, 3-14, 3-15, 3-16, 3-17, 3-18, 3-19, 3-20, 3-21, 3-22, 3-23, 3-24, 3-25, 3-26, 3-27, 3-28, 3-29, 3-30, 3-31, 3-32, 3-33, 3-34, 3-35, 3-36, 3-37, 3-38, 3-39, 3-40, 3-41, 3-43, 3-44, 3-45, 3-46, 3-47, 3-48, 3-49, 3-50, 3-51, 3-52, 3-53, 3-54, 3-55, 3-56, 3-57, 3-58, 3-59, 3-60, 3-61, 3-62, 3-63, 3-64, 3-65, 3-66, 3-67, 3-68, 3-69, 3-70, 3-71, and 3-72 of East Baton Rouge Parish; Precincts 4, 5, 13, 15B, 24, 25, 26, 27, 28, 29, 31, and 32 of Iberville Parish; Precincts 1-1, 1-2, 1-3, 1-4, 1-5, 2-1, 2-1A, 2-2, 2-3, 2-3A, 2-4, 2-5, 2-6, 2-7, 2-8, 2-9, 2-10, 2-11, 2-12, 2-13, 2-14, 3-1, 3-2, 5-1, 5-1A, 5-1B, 5-2, 6-1, 6-2, 6-3, 6-4, 6-5, 7-1, 7-2, 7-3, 11-3, and 11-4 of Lafourche Parish; Livingston Parish; Precincts 1-6, 2-6, 3-1, 3-2, 3-3, 5-5, 6-1, 6-2, and 6-4 of St. Charles Parish; Precincts 4-13, 5-4, 5-7, 7-2, 7-3, and 7-5 of St. John the Baptist Parish; Precincts 1 and 2 of St. Martin Parish; Precincts 24, 41, and 45 of St. Mary Parish; Precincts 1, 4, 5, 7, 8, 9, 10, 12, 13, 14, 16, 17, 18, 19, 45, 51, 64, 65, 67, 68, 71, 73, 74, 76, 82, 83, 86, 87, and 90 of Terrebonne Parish; and Precincts 2A, 3, 4, 5, 7A, 9, 12, 16, 17, 18, 19, 20, 21, and 22 of West Baton Rouge Parish.

Section 2. R.S. 18:1276.1 is hereby repealed in its entirety.

Section 3.(A) The precincts referenced in this Act are those precincts identified as Voting Districts (VTDs) in the 2020 Census Redistricting TIGER/Line Shapefiles for the State of Louisiana as validated through the data verification program of the Louisiana House

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of Representatives and the Louisiana Senate and available on the legislature's website on the effective date of this Section.

(B) When a precinct referenced in this Act has been subdivided by action of the parish governing authority on a nongeographic basis or subdivided by action of the parish governing authority on a geographic basis in accordance with the provisions of R.S. 18:532.1, the enumeration in this Act of the general precinct designation shall include all nongeographic and all geographic subdivisions thereof, however such subdivisions may be designated.

(C) The territorial limits of the districts as provided in this Act shall continue in effect until changed by law regardless of any subsequent change made to the precincts by the parish governing authority.

Section 4. The provisions of this Act shall not reduce the term of office of any person holding any position or office on the effective date of this Section for which the appointment or election is based upon a congressional district as composed pursuant to R.S. 18:1276.1. Any position or office that is filled by appointment or election based on a congressional district and that is to be filled after January 3, 2023, shall be appointed or elected from a district as it is described in Section 1 of this Act.

Section 5.(A) Solely for the purposes of qualifying for election and the election of representatives to the United States Congress at the regularly scheduled election for representatives to the congress in 2022, the provisions of Section 1 of this Act shall become effective upon signature of this Act by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and subsequently approved by the legislature, the provisions of Section 1 of this Act shall become effective on the day following such approval for the purposes established in this Subsection.

(B) For subsequent elections of representatives to the United States Congress and for all other purposes, the provisions of Section 1 of this Act shall become effective at noon on January 3, 2023.

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(C) The provisions of Section 2 of this Act shall become effective at noon on January 3, 2023.

(D) The provisions of this Section and Sections 3 and 4 of this Act shall become effective upon signature of this Act by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and subsequently approved by the legislature, the provisions of this Section and Sections 3 and 4 of this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 1 Original 2022 First Extraordinary Session Schexnayder

Abstract: Provides for the redistricting of the state's congressional districts and provides for the composition of each of the six congressional districts. Effective for election purposes only for the regular congressional elections in 2022 and for all other purposes at noon on Jan. 3, 2023.

Statistical summaries of proposed law, including district variances from the ideal population of 776,292 and the range of those variances, as well as maps illustrating proposed district boundaries accompany this digest. *(Attached to the bill version on the internet.)*

Present U.S. Constitution (14th Amendment) provides that representatives in congress shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state. The U.S. Supreme Court has held that the population of congressional districts in the same state must be as nearly equal in population as practicable.

Proposed law redraws district boundaries for the six congressional districts, effective upon signature of governor or lapse of time for gubernatorial action for purposes of the 2022 election.

Proposed law retains present districts until noon on Jan. 3, 2023, at which time present law is repealed and proposed districts are effective for all other purposes.

Proposed law specifies that precincts referenced in district descriptions are those precincts identified as Voting Districts (VTDs) in the 2020 Census Redistricting TIGER/Line Shapefiles for the state of La. as validated through the data verification program of the La. legislature. Also specifies that if any such precinct has been subdivided by action of the parish governing authority on a nongeographic basis or subdivided by action of the parish governing authority on a geographic basis in accordance with present law, the enumeration of the general precinct designation shall include all nongeographic and all geographic subdivisions thereof. Further provides that the territorial limits of the districts as enacted shall continue in effect until changed by law regardless of any subsequent change made to the precincts by the parish governing authority.

Proposed law specifies that proposed law does not reduce the term of office of any person holding any position or office on the effective date of proposed law for which the appointment or election is based upon a congressional district as composed pursuant to present law. Specifies that any position or office filled after Jan. 3, 2023, for which the appointment or election is based on a congressional district shall be appointed or elected from a district as it is described in proposed law.

Population data in the summaries accompanying this digest are derived from 2020 Census Redistricting Data (Public Law 94-171), Summary File for Louisiana. Population data, statistical information, and maps are supplied for purposes of information and analysis and comprise no part of proposed law.

Effective for election purposes only for the regular congressional elections in 2022; effective for all other purposes at noon on Jan. 3, 2023.

(Adds R.S. 18:1276; Repeals R.S. 18:1276.1)

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Plan Statistics

Plan: HLS 221ES-2 (Schexnayder) Original

Districts:	# of Members	Actual Population	Ideal Population	Absolute Deviation	Relative Deviation
District 1	1	776,288	776,292	-4	-0.001%
District 2	1	776,293	776,292	1	0.000%
District 3	1	776,275	776,292	-17	-0.002%
District 4	1	776,321	776,292	29	0.004%
District 5	1	776,275	776,292	-17	-0.002%
District 6	1	776,305	776,292	13	0.002%
Grand Total:	6	4,657,757	4,657,752		

Ideal Population Per Member:	776292		
Number of Districts for Plan Type:	6		
Range of District Populations:	776,275	to	776,321
Absolute Mean Deviation:	8		
Absolute Range:	-17	to	29
Absolute Overall Range:	46		
Relative Mean Deviation:	0.00%		
Relative Range:	0.00%	to	0.00%
Relative Overall Range:	0.00%		

Ideal - Actual:	***-5***
Remainder:	***5***
Unassigned Population:	***0***

Total Population

Plan: HLS 221ES-2 (Schexnayder) Original

	Total Population	Total White	Total Black	Total Asian	Total American Indian	Total Other	Total Hispanic	VAP Total	VAP White	VAP Black	VAP Asian	VAP American Indian	VAP Other	VAP Hispanic Total
District 1	776,288	537,983	116,701	24,434	22,736	74,434	93,082	601,549	432,516	81,775	17,986	16,150	53,122	65,531
	100.000%	69.302%	15.033%	3.148%	2.929%	9.588%	11.991%	100.000%	71.900%	13.594%	2.990%	2.685%	8.831%	10.894%
District 2	776,293	218,067	473,978	23,727	8,188	52,333	67,702	600,015	184,800	352,563	18,931	6,367	37,354	47,363
	100.000%	28.091%	61.057%	3.056%	1.055%	6.741%	8.721%	100.000%	30.799%	58.759%	3.155%	1.061%	6.226%	7.894%
District 3	776,275	508,115	205,820	16,256	11,306	34,778	41,065	586,488	398,253	144,434	11,650	8,287	23,864	27,487
	100.000%	65.456%	26.514%	2.094%	1.456%	4.480%	5.290%	100.000%	67.905%	24.627%	1.986%	1.413%	4.069%	4.687%
District 4	776,321	438,493	276,844	12,936	18,995	29,053	36,371	591,382	348,175	199,057	9,393	14,241	20,516	24,950
	100.000%	56.483%	35.661%	1.666%	2.447%	3.742%	4.685%	100.000%	58.875%	33.660%	1.588%	2.408%	3.469%	4.219%
District 5	776,275	459,595	273,524	7,843	11,916	23,397	28,238	597,284	367,334	197,336	6,102	9,057	17,455	20,613
	100.000%	59.205%	35.235%	1.010%	1.535%	3.014%	3.638%	100.000%	61.501%	33.039%	1.022%	1.516%	2.922%	3.451%
District 6	776,305	495,399	196,252	22,092	13,919	48,643	56,091	593,830	393,433	140,604	16,354	10,138	33,301	37,718
	100.000%	63.815%	25.280%	2.846%	1.793%	6.266%	7.225%	100.000%	66.253%	23.677%	2.754%	1.707%	5.608%	6.352%
Grand Total	4,657,757	2,657,652	1,543,119	107,288	87,060	262,638	322,549	3,570,548	2,124,511	1,115,769	80,416	64,240	185,612	223,662
	100.000%	57.059%	33.130%	2.303%	1.869%	5.639%	6.925%	100.000%	59.501%	31.249%	2.252%	1.799%	5.198%	6.264%

Voter Registration

Plan: HLS 221ES-2 (Schexnayder) Original

	Reg Total Dec 2021	Reg White Dec 2021	Reg Black Dec 2021	Reg Other Dec 2021	Reg Dem Total Dec 2021	Reg Rep Total Dec 2021	Reg Other Total Dec 2021
District 1	489,126	388,604	56,870	43,652	137,925	203,404	147,797
	81.311%	79.449%	11.627%	8.924%	28.198%	41.585%	30.217%
District 2	495,171	151,791	304,309	39,071	313,201	58,654	123,316
	82.526%	30.654%	61.455%	7.890%	63.251%	11.845%	24.904%
District 3	479,827	344,683	114,946	20,198	168,883	180,513	130,431
	81.814%	71.835%	23.956%	4.209%	35.197%	37.620%	27.183%
District 4	470,683	290,476	158,433	21,774	184,700	167,337	118,646
	79.590%	61.714%	33.660%	4.626%	39.241%	35.552%	25.207%
District 5	484,754	309,664	162,222	12,868	197,517	172,071	115,166
	81.160%	63.881%	33.465%	2.655%	40.746%	35.497%	23.758%
District 6	474,785	342,771	105,968	26,046	158,778	186,801	129,206
	79.953%	72.195%	22.319%	5.486%	33.442%	39.344%	27.214%
Grand Total	2,894,346	1,827,989	902,748	163,609	1,161,004	968,780	764,562

Splits

Plan: HLS 221ES-2 (Schexnayder) Original

	Total Population	Total White	Total Black	Total Asian	Total American Indian	Total Other	VAP Total	VAP White	VAP Black	VAP Asian	VAP American Indian	VAP Other	Reg Total Dec 2021	Reg White Dec 2021	Reg Black Dec 2021	Reg Other Dec 2021
District 1																
*Jefferson	240,887	155,928	31,112	11,891	4,421	37,535	192,684	130,249	22,749	8,966	3,340	27,380	148,329	116,351	12,947	19,031
*Lafourche	50,164	38,752	4,617	576	3,219	3,000	38,052	30,550	2,984	425	2,127	1,966	29,354	25,495	2,151	1,708
*Orleans	52,319	41,517	4,426	2,099	616	3,661	43,221	34,590	3,737	1,622	487	2,785	35,637	30,059	1,884	3,694
Plaquemines	23,515	14,287	5,428	1,317	697	1,786	17,334	10,856	3,857	925	500	1,196	13,908	9,513	3,134	1,261
St. Bernard	43,764	24,497	12,309	1,381	947	4,630	31,775	18,992	7,944	982	688	3,169	25,653	18,233	5,497	1,923
St. Tammany	264,570	196,641	38,643	5,774	5,660	17,852	202,228	154,621	26,761	4,075	4,161	12,610	178,779	145,724	21,142	11,913
*Tangipahoa	39,695	28,967	7,279	473	968	2,008	29,975	22,597	4,969	311	699	1,399	23,462	19,013	3,462	987
*Terrebonne	61,374	37,394	12,887	923	6,208	3,962	46,280	30,061	8,774	680	4,148	2,617	34,004	24,216	6,653	3,135
District 1	776,288	537,983	116,701	24,434	22,736	74,434	601,549	432,516	81,775	17,986	16,150	53,122	489,126	388,604	56,870	43,652
	100.000%	69.302%	15.033%	3.148%	2.929%	9.588%	100.000%	71.900%	13.594%	2.990%	2.685%	8.831%	81.311%	79.449%	11.627%	8.924%
District 2																
*Ascension	20,892	5,625	13,842	140	170	1,115	15,426	4,672	9,766	104	113	771	13,180	3,868	8,794	518
*Assumption	6,710	2,870	3,622	23	44	151	5,270	2,334	2,764	15	33	124	4,756	1,997	2,702	57
*East Baton Rouge	94,325	5,624	85,793	483	369	2,056	70,960	5,094	63,632	382	289	1,563	58,983	2,990	54,254	1,739
*Iberville	21,073	8,453	11,316	173	147	984	16,631	7,182	8,363	125	114	847	13,630	5,355	7,955	320
*Jefferson	199,894	65,007	95,105	11,133	3,265	25,384	151,970	53,886	69,426	8,726	2,495	17,437	114,772	43,265	56,629	14,878
*Orleans	331,678	84,945	214,543	10,757	3,050	18,383	262,975	75,662	162,331	8,898	2,461	13,623	220,607	61,927	139,641	19,039
*St. Charles	34,943	21,021	11,091	501	610	1,720	26,288	16,352	7,957	307	457	1,215	23,249	15,046	7,109	1,094
St. James	20,192	9,973	9,762	60	82	315	15,505	7,883	7,297	31	64	230	14,966	7,254	7,501	211
*St. John the Baptist	32,678	8,833	21,557	244	303	1,741	24,826	7,363	15,831	183	235	1,214	22,433	6,282	15,109	1,042
*West Baton Rouge	13,908	5,716	7,347	213	148	484	10,164	4,372	5,196	160	106	330	8,595	3,807	4,615	173
District 2	776,293	218,067	473,978	23,727	8,188	52,333	600,015	184,800	352,563	18,931	6,367	37,354	495,171	151,791	304,309	39,071
	100.000%	28.091%	61.057%	3.056%	1.055%	6.741%	100.000%	30.799%	58.759%	3.155%	1.061%	6.226%	82.526%	30.654%	61.455%	7.890%
District 3																
Acadia	57,576	44,480	10,864	238	573	1,421	42,943	34,071	7,383	173	400	916	37,678	30,555	6,407	716
Calcasieu	216,785	139,772	59,386	4,702	3,536	9,389	163,166	108,789	41,898	3,359	2,604	6,516	120,511	85,659	29,513	5,339
Cameron	5,617	5,232	125	30	75	155	4,358	4,100	79	23	47	109	4,789	4,610	88	91
Iberia	69,929	39,206	24,556	2,123	794	3,250	52,791	31,295	17,069	1,562	581	2,284	44,526	28,287	14,352	1,887
Jefferson Davis	32,250	25,066	5,837	183	472	692	24,039	19,121	4,006	111	325	476	20,013	16,350	3,202	461
Lafayette	241,753	153,363	65,136	6,454	3,210	13,590	183,875	121,608	45,917	4,664	2,387	9,299	153,493	108,645	36,481	8,367
*St. Martin	50,399	31,974	15,908	590	505	1,422	38,250	25,187	11,282	402	383	996	34,127	22,955	10,380	792
*St. Mary	44,607	24,545	15,198	489	1,518	2,857	34,054	19,719	11,013	319	1,072	1,931	27,921	17,117	9,529	1,275
Vermilion	57,359	44,477	8,810	1,447	623	2,002	43,012	34,363	5,787	1,037	488	1,337	36,769	30,505	4,994	1,270
District 3	776,275	508,115	205,820	16,256	11,306	34,778	586,488	398,253	144,434	11,650	8,287	23,864	479,827	344,683	114,946	20,198
	100.000%	65.456%	26.514%	2.094%	1.456%	4.480%	100.000%	67.905%	24.627%	1.986%	1.413%	4.069%	81.814%	71.835%	23.956%	4.209%

Splits

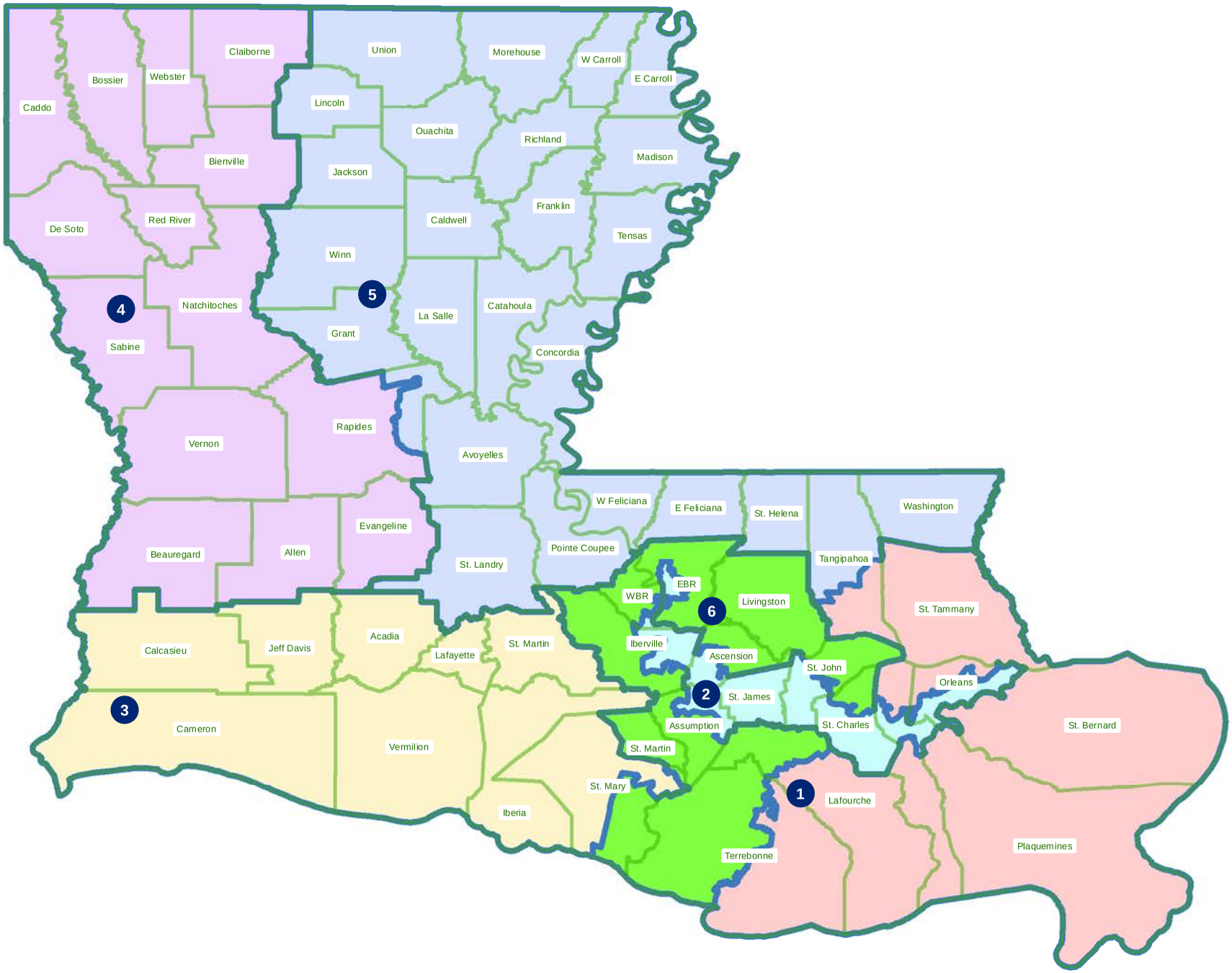
Plan: HLS 221ES-2 (Schexnayder) Original

	Total Population	Total White	Total Black	Total Asian	Total American Indian	Total Other	VAP Total	VAP White	VAP Black	VAP Asian	VAP American Indian	VAP Other	Reg Total Dec 2021	Reg White Dec 2021	Reg Black Dec 2021	Reg Other Dec 2021
District 4																
Allen	22,750	16,327	4,490	246	947	740	17,510	12,751	3,275	182	646	656	12,201	9,478	2,217	506
Beauregard	36,549	29,529	4,649	402	1,052	917	27,489	22,304	3,495	269	773	648	22,294	18,771	2,369	1,154
Bienville	12,981	6,950	5,600	57	207	167	10,073	5,486	4,284	30	162	111	8,847	4,843	3,917	87
Bossier	128,746	81,052	32,551	3,492	3,273	8,378	95,876	62,931	22,440	2,448	2,477	5,580	69,743	50,861	14,838	4,044
Caddo	237,848	103,457	119,304	4,034	3,840	7,213	182,407	85,059	86,359	3,008	2,958	5,023	151,296	73,113	71,249	6,934
Claiborne	14,170	7,263	6,360	88	185	274	11,507	6,258	4,824	55	140	230	8,598	4,632	3,820	146
De Soto	26,812	15,284	9,973	117	740	698	20,440	11,909	7,425	86	557	463	18,713	11,330	6,810	573
Evangeline	32,350	21,354	9,235	241	280	1,240	24,408	16,460	6,483	187	217	1,061	20,553	14,566	5,643	344
Natchitoches	37,515	19,361	15,725	255	861	1,313	29,349	16,010	11,415	198	683	1,043	23,107	12,850	9,224	1,033
*Rapides	111,108	60,863	41,700	2,235	2,429	3,881	84,531	48,706	29,641	1,633	1,824	2,727	68,356	41,759	23,394	3,203
Red River	7,620	4,195	3,106	25	171	123	5,714	3,338	2,164	3	116	93	5,631	3,130	2,418	83
Sabine	22,155	15,036	3,861	94	2,723	441	17,064	12,054	2,655	66	1,970	319	14,547	11,023	2,184	1,340
Vernon	48,750	35,087	7,611	1,442	1,600	3,010	36,261	26,765	5,133	1,074	1,160	2,129	24,060	19,182	3,011	1,867
Webster	36,967	22,735	12,679	208	687	658	28,753	18,144	9,464	154	558	433	22,737	14,938	7,339	460
District 4	776,321	438,493	276,844	12,936	18,995	29,053	591,382	348,175	199,057	9,393	14,241	20,516	470,683	290,476	158,433	21,774
	100.000%	56.483%	35.661%	1.666%	2.447%	3.742%	100.000%	58.875%	33.660%	1.588%	2.408%	3.469%	79.590%	61.714%	33.660%	4.626%
District 5																
Avoyelles	39,693	25,625	11,678	434	767	1,189	30,578	20,269	8,311	379	570	1,049	23,426	16,534	6,294	598
Caldwell	9,645	7,646	1,632	51	150	166	7,478	5,969	1,224	46	116	123	6,031	5,124	818	89
Catahoula	8,906	5,776	2,395	46	119	570	6,951	4,557	1,736	33	87	538	6,467	4,639	1,770	58
Concordia	18,687	10,275	7,725	122	233	332	14,217	8,108	5,613	100	167	229	11,964	7,222	4,540	202
East Carroll	7,459	2,054	5,272	29	43	61	5,901	1,773	4,043	19	27	39	4,709	1,306	3,359	44
East Feliciana	19,539	11,516	7,341	91	262	329	16,183	9,740	5,918	61	198	266	13,600	7,959	5,186	455
Franklin	19,774	12,492	6,802	70	205	205	15,028	9,901	4,779	44	153	151	13,159	9,015	4,034	110
Grant	22,169	17,709	3,335	133	644	348	17,527	13,964	2,717	97	507	242	12,688	11,174	1,176	338
Jackson	15,031	9,967	4,166	175	255	468	11,783	7,967	3,125	140	174	377	9,449	6,647	2,610	192
La Salle	14,791	11,348	1,422	283	372	1,366	11,563	8,636	1,065	264	271	1,327	8,792	7,978	637	177
Lincoln	48,396	26,034	19,364	892	662	1,444	38,655	21,306	15,119	744	526	960	25,649	15,672	9,016	961
Madison	10,017	3,475	6,363	20	59	100	7,435	2,906	4,391	9	48	81	7,278	2,494	4,674	110
Morehouse	25,629	12,281	12,484	160	370	334	20,062	10,095	9,300	117	279	271	16,922	8,505	8,131	286
Ouachita	160,368	88,545	61,217	2,788	2,661	5,157	120,200	69,974	42,290	2,118	2,059	3,759	99,752	60,515	35,658	3,579
Pointe Coupee	20,758	12,395	7,504	107	159	593	16,250	10,108	5,502	91	119	430	14,675	9,320	5,121	234
*Rapides	18,915	16,647	892	193	673	510	14,261	12,667	564	153	510	367	11,820	11,073	381	366
Richland	20,043	11,785	7,603	83	258	314	15,383	9,338	5,546	66	203	230	13,662	8,470	4,961	231
St. Helena	10,920	4,527	6,031	39	134	189	8,463	3,805	4,371	28	109	150	8,321	3,628	4,565	128

Splits

Plan: HLS 221ES-2 (Schexnayder) Original

	Total Population	Total White	Total Black	Total Asian	Total American Indian	Total Other	VAP Total	VAP White	VAP Black	VAP Asian	VAP American Indian	VAP Other	Reg Total Dec 2021	Reg White Dec 2021	Reg Black Dec 2021	Reg Other Dec 2021
District 5																
St. Landry	82,540	43,611	35,836	499	636	1,958	61,811	34,209	25,497	353	451	1,301	54,482	30,093	23,005	1,384
*Tangipahoa	93,462	52,369	34,600	1,001	1,486	4,006	71,516	42,608	24,248	789	1,128	2,743	52,794	33,899	17,063	1,832
Tensas	4,147	1,744	2,312	23	26	42	3,235	1,446	1,728	12	23	26	3,455	1,503	1,917	35
Union	21,107	14,460	5,224	62	338	1,023	16,632	11,807	3,861	39	254	671	15,221	11,066	3,692	463
Washington	45,463	29,943	13,434	216	736	1,134	34,951	23,743	9,732	154	561	761	27,587	18,835	8,102	650
West Carroll	9,751	7,894	1,425	27	180	225	7,532	6,223	1,010	20	136	143	7,038	5,913	1,040	85
West Feliciana	15,310	10,883	3,740	89	225	373	12,783	9,283	2,951	56	174	319	7,407	5,092	2,180	135
Winn	13,755	8,594	3,727	210	263	961	10,906	6,932	2,695	170	207	902	8,406	5,988	2,292	126
District 5	776,275	459,595	273,524	7,843	11,916	23,397	597,284	367,334	197,336	6,102	9,057	17,455	484,754	309,664	162,222	12,868
	100.000%	59.205%	35.235%	1.010%	1.535%	3.014%	100.000%	61.501%	33.039%	1.022%	1.516%	2.922%	81.160%	63.881%	33.465%	2.655%
District 6																
*Ascension	105,608	75,516	18,374	2,160	1,834	7,724	76,531	56,464	12,373	1,410	1,277	5,007	66,737	52,932	10,020	3,785
*Assumption	14,329	10,852	2,598	73	214	592	11,346	8,811	1,943	42	164	386	9,683	7,703	1,808	172
*East Baton Rouge	362,456	190,445	127,605	15,942	4,358	24,106	284,652	158,787	93,158	12,217	3,458	17,032	220,281	135,242	70,421	14,618
*Iberville	9,168	6,380	2,414	29	127	218	7,455	5,280	1,869	24	107	175	6,832	4,777	1,942	113
*Lafourche	47,393	32,958	11,238	449	1,005	1,743	36,567	26,288	8,093	313	650	1,223	28,924	22,972	5,013	939
Livingston	142,282	116,855	12,658	1,697	3,111	7,961	105,141	88,432	8,136	1,099	2,311	5,163	84,568	76,062	5,425	3,081
*St. Charles	17,606	12,529	2,837	336	315	1,589	13,253	9,802	1,933	222	210	1,086	11,736	9,263	1,688	785
*St. John the Baptist	9,799	5,044	3,639	159	162	795	7,677	4,259	2,606	140	115	557	6,480	3,937	2,125	418
*St. Martin	1,368	1,285	13	7	34	29	1,154	1,091	11	5	30	17	993	979	1	13
*St. Mary	4,799	2,404	793	346	152	1,104	3,467	1,875	507	274	101	710	2,289	1,595	362	332
*Terrebonne	48,206	32,540	10,260	820	2,429	2,157	36,225	25,570	7,022	559	1,602	1,472	27,716	21,179	4,913	1,624
*West Baton Rouge	13,291	8,591	3,823	74	178	625	10,362	6,774	2,953	49	113	473	8,546	6,130	2,250	166
District 6	776,305	495,399	196,252	22,092	13,919	48,643	593,830	393,433	140,604	16,354	10,138	33,301	474,785	342,771	105,968	26,046
	100.000%	63.815%	25.280%	2.846%	1.793%	6.266%	100.000%	66.253%	23.677%	2.754%	1.707%	5.608%	79.953%	72.195%	22.319%	5.486%



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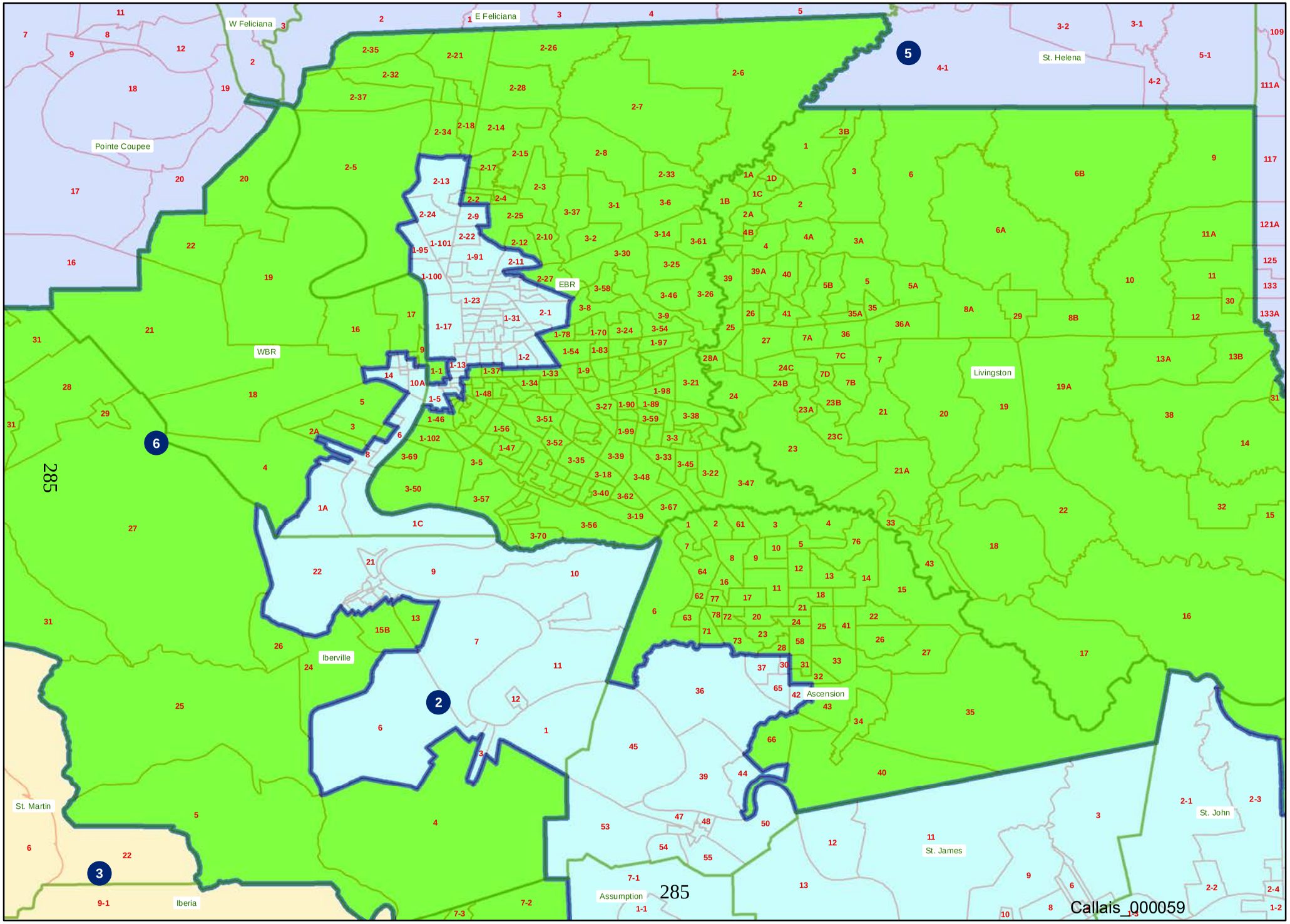
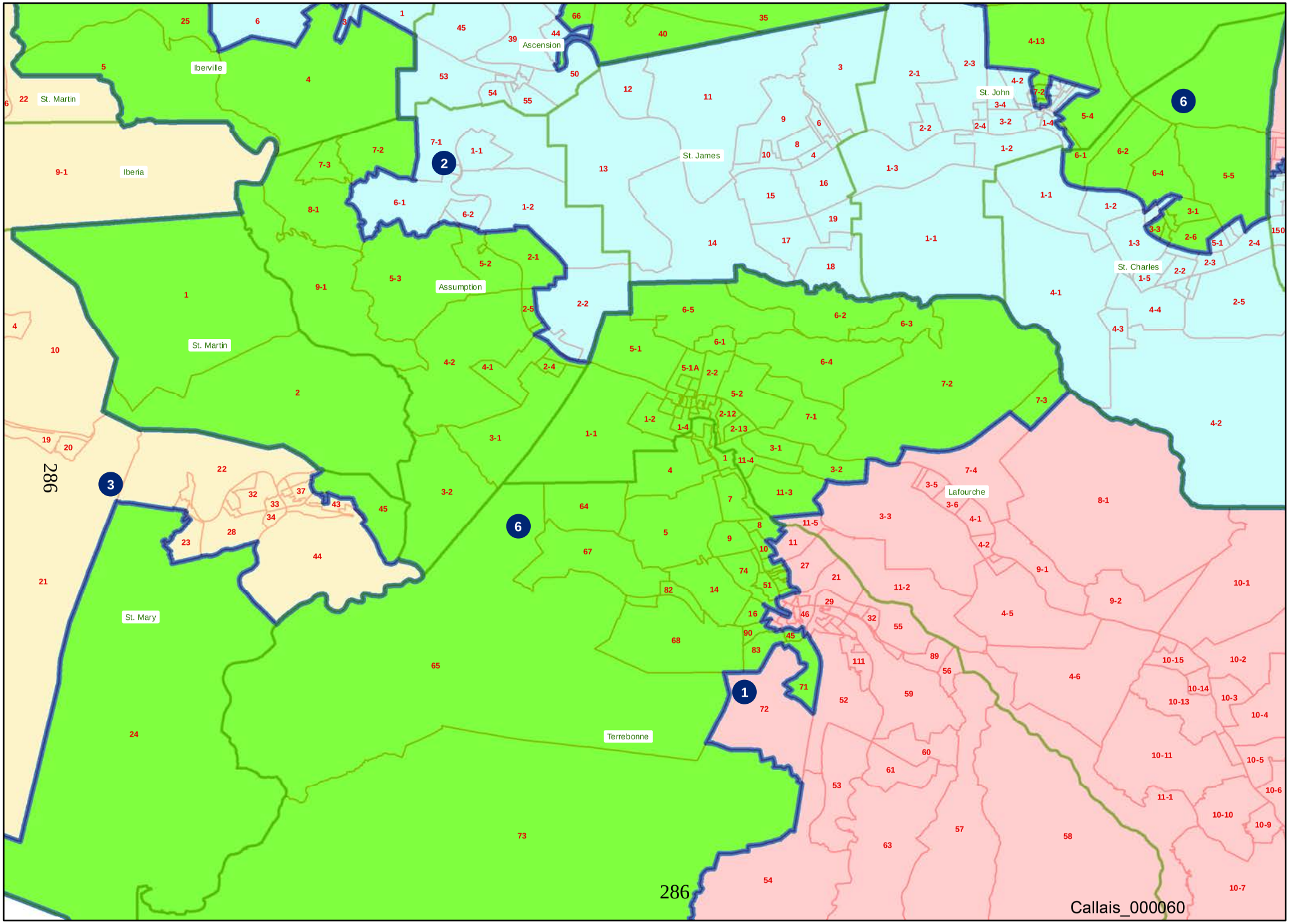
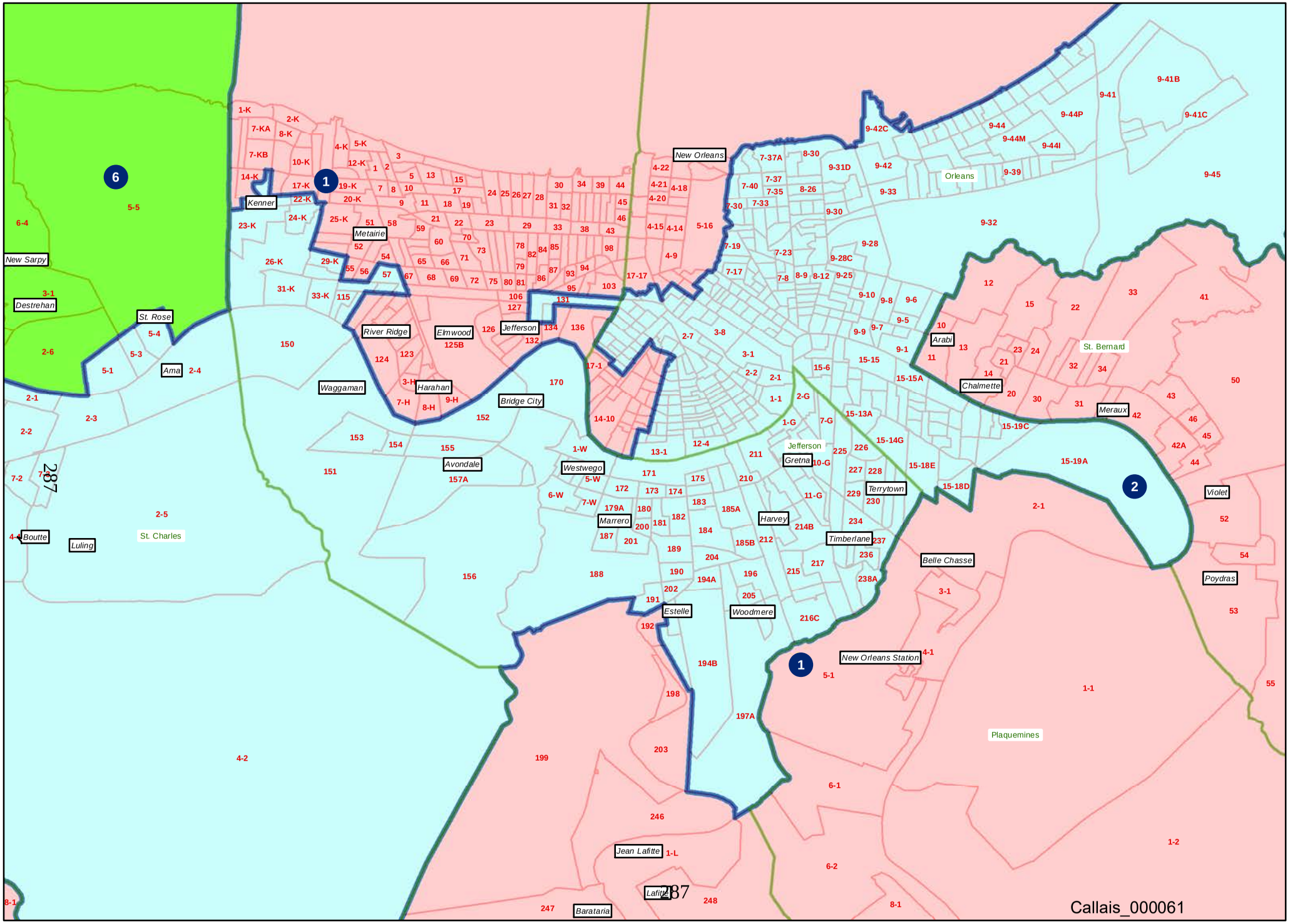
HLS 221ES-2 (Schexnayder) Original - Capital Region



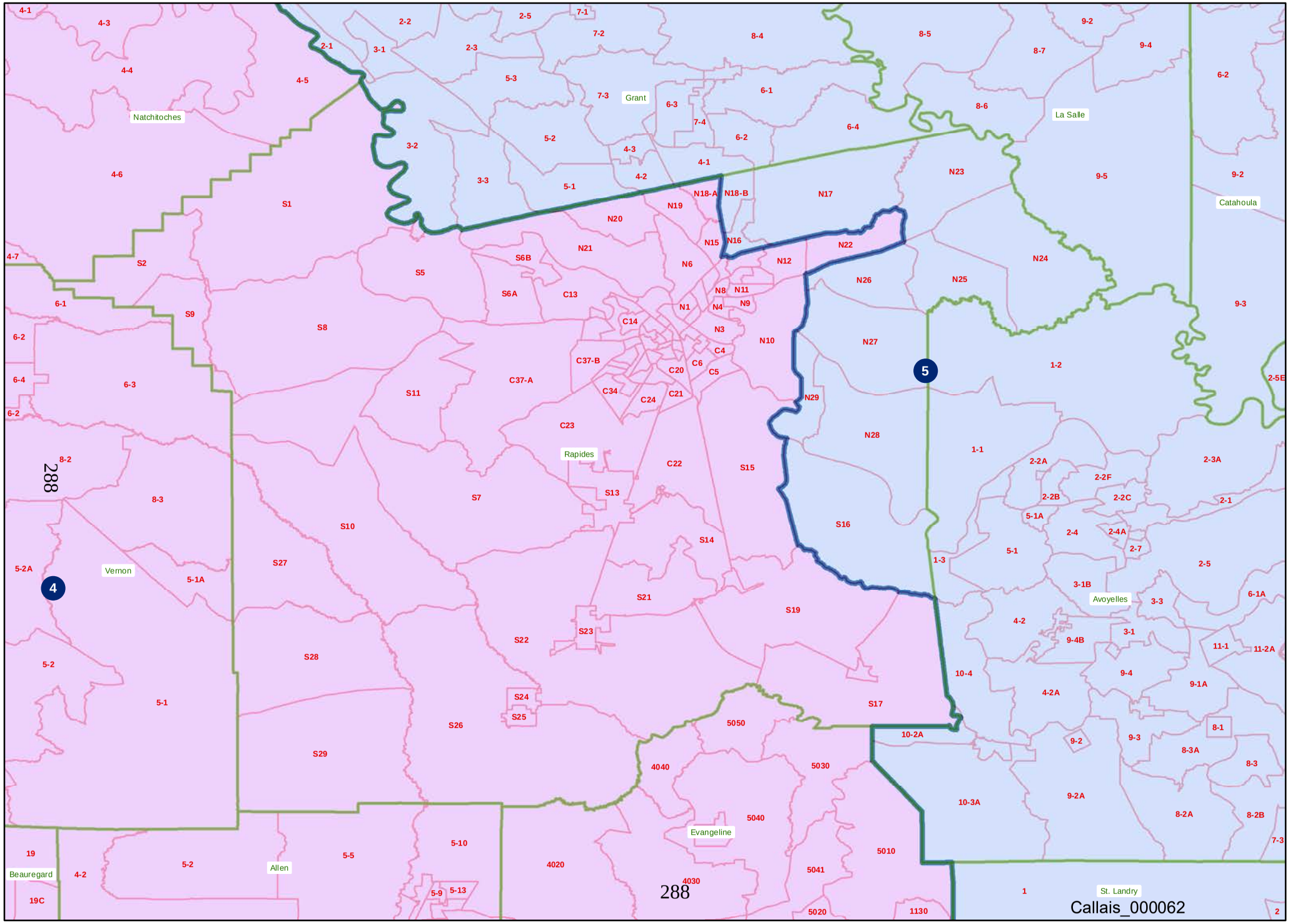
HLS 221LS-2 (Schexnayder) Original - Bayou/River Region



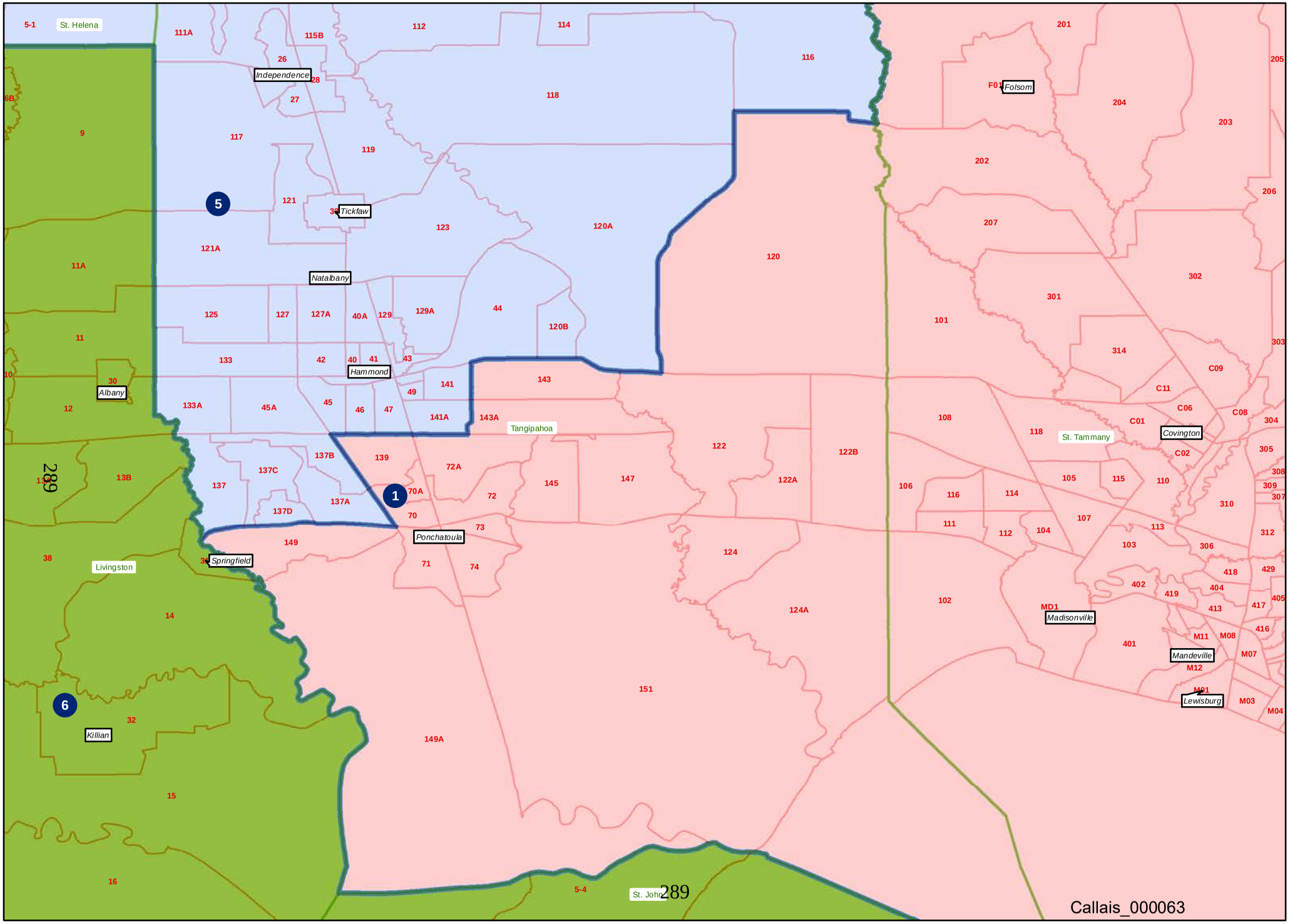
HLS 221ES-2 (Schexnayder) Original - Jefferson and Orleans



HLS221ES-2 (Schexnayder) Original - Rapides



HLS 221ES-2 (Schlexhayder) Original - Tangipahoa



HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE FOR THE POPULATION 18 YEARS AND OVER

Note: This is a modified view of the original table produced by the U.S. Census Bureau. This download or printed version may have missing information from the original table.

Label	Louisiana
Total:	3,570,548
Hispanic or Latino	223,662
Not Hispanic or Latino:	3,346,886
Population of one race:	3,248,981
White alone	2,082,110
Black or African American alone	1,066,511
American Indian and Alaska Native alone	19,531
Asian alone	67,983
Native Hawaiian and Other Pacific Islander alone	1,322
Some Other Race alone	11,524
Population of two or more races:	97,905
Population of two races:	91,451
White; Black or African American	18,172
White; American Indian and Alaska Native	34,949
White; Asian	8,985
White; Native Hawaiian and Other Pacific Islander	730
White; Some Other Race	16,982
Black or African American; American Indian and Alaska Native	4,858
Black or African American; Asian	1,215
Black or African American; Native Hawaiian and Other Pacific Islander	226
Black or African American; Some Other Race	4,426
American Indian and Alaska Native; Asian	174
American Indian and Alaska Native; Native Hawaiian and Other Pacific Islander	42
American Indian and Alaska Native; Some Other Race	149
Asian; Native Hawaiian and Other Pacific Islander	351
Asian; Some Other Race	161
Native Hawaiian and Other Pacific Islander; Some Other Race	31
Population of three races:	5,646
White; Black or African American; American Indian and Alaska Native	2,752

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Table Notes

HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE FOR THE POPULATION 18 YEARS AND OVER

Survey/Program: Decennial Census

Universe: Total population 18 years and over

Year: 2020

Table ID: P11

Note: For information on data collection, confidentiality protection, nonsampling error, subject definitions, and guidance on using the data, visit the 20 Census 118th Congressional District Summary File (CD118) Technical Documentation webpage.

To protect respondent confidentiality, data have undergone disclosure avoidance methods which add "statistical noise" - small, random additions or subtractions - to the data so that no one can reliably link the published data to a specific person or household. The Census Bureau encourages data users to aggregate small populations and geographies to improve accuracy and diminish implausible results.

Source: U.S. Census Bureau, 2020 Census 118th Congressional District Summary File (CD118)

State of Louisiana

EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
PROCLAMATION NUMBER 01 JML 2024

CALL AND CONVENE THE LEGISLATURE OF LOUISIANA INTO EXTRAORDINARY SESSION

By virtue of the authority vested in me by Louisiana Constitution Article III, Section 2(B), I, Jeff Landry, Governor of the State of Louisiana, HEREBY CALL AND CONVENE THE LEGISLATURE OF LOUISIANA INTO EXTRAORDINARY SESSION to convene at the State Capital, in the city of Baton Rouge, Louisiana, during eight calendar days, beginning at 4:00 o'clock p.m. on the 15th day of January, 2024, and ending no later than 6:00 o'clock p.m. on the 23rd day of January 2024. The power to legislate at this session shall be limited, under penalty of nullity, to the consideration of the following enumerated objects.

ITEM 1: To legislate relative to the redistricting of the Congressional districts of Louisiana;

ITEM 2: To legislate relative to amendments to the election code needed for implementation of the redistricting of the Congressional districts of Louisiana;

ITEM 3: To legislate relative to the redistricting and elections of the Supreme Court;

ITEM 4: To legislate relative to amendments to the Constitution relative to the Supreme Court:
a) composition;
b) number of justices;
c) number of districts;
d) method of electing justices to the Supreme Court; and
e) method of selecting the chief justice;

ITEM 5: To legislate relative to amendments to the election code needed for implementation of the redistricting of the Supreme Court;

ITEM 6: To legislate to provide funding, including the use of excess state general fund dollars, for the implementation of changes made to the Supreme Court;

ITEM 7: To legislate relative to the creation of a party primary system for elections;

ITEM 8: To legislate relative to campaign finance laws;

ITEM 9: To legislate relative to campaign qualifying fees for Presidential and Congressional elections;

ITEM 10: To legislate relative to amendments to the election code needed for the implementation of elections;

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ITEM 11: To legislate to provide funding, including the use of excess state general fund dollars, for the implementation of the party primary system for elections and corresponding changes to the election laws;

ITEM 12: To legislate relative to amendments to the Constitution relative to the implementation of elections;

ITEM 13: To legislate relative to calling a special statewide election for the purposes of allowing all voters, registered and qualified, to vote on the Constitutional amendments; and

ITEM 14: To legislate to provide funding, including the use of excess state general fund dollars, for purposes of calling and holding a special election on the Constitutional amendments.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana in the City of Baton Rouge, on this 8th day of January, 2024.

Jeff Landry
GOVERNOR OF LOUISIANA

ATTEST BY THE
SECRETARY OF STATE

Nancy Landry
SECRETARY OF STATE

2024 FIRST EXTRAORDINARY SESSION

SB8 by Senator Glen Womack

CONGRESS: Provides for redistricting of Louisiana congressional districts. (Item #1)(See Act) (EN INCREASE GF EX See Note)

Current Status (as of 1/31/2024 3:20 pm): **Signed by the Governor - Act 2**

Date	Chamber	Journal Page	Action
01/22	S		Effective date: See Act.
01/22	S		Signed by the Governor. Becomes Act No. 2.
01/19	S	6	Sent to the Governor by the Secretary of the Senate.
01/19	H		Signed by the Speaker of the House.
01/19	S	6	Enrolled. Signed by the President of the Senate.
01/19	S	4	Rules suspended. Amendments proposed by the House read and concurred in by a vote of 27 yeas and 11 nays.
01/19	S	3	Received from the House with amendments.
01/19	H		Read third time by title, amended, roll called on final passage, yeas 86, nays 16. Finally passed, ordered to the Senate.
01/18	H		Scheduled for floor debate on 01/19/2024.
01/18	H	3	Read by title, amended, passed to 3rd reading.
01/18	H	3	Reported without Legislative Bureau amendments.
01/18	H	1	Rules suspended.
01/18	H	1	Reported with amendments (14-1). Referred to the Legislative Bureau.
01/17	H	7	Received in the House from the Senate, rules suspended, read by title, referred to the Committee on House and Governmental Affairs.
01/17	S	2	Rules suspended. Read by title, passed by a vote of 27 yeas and 11 nays, and sent to the House. Motion to reconsider tabled.
01/16	S	3	Rules suspended. Reported with amendments. Rules suspended. Read by title; Committee amendments read and adopted. Ordered engrossed and passed to third reading and final passage.
01/15	S	5	Introduced in the Senate; read by title. Rules suspended. Read second time and referred to the Committee on Senate and Governmental Affairs.

Authors:

Glen Womack

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Tehmi Chassion

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Mandie Landry

Ed Larvadain III

Pat Moore

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Authors:

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Available Documents:

Text

SB8 Act 2	https://legis.la.gov/legis/ViewDocument.aspx?d=1341081
SB8 Enrolled	https://legis.la.gov/legis/ViewDocument.aspx?d=1340797
SB8 Engrossed	https://legis.la.gov/legis/ViewDocument.aspx?d=1340284
SB8 Original	https://legis.la.gov/legis/ViewDocument.aspx?d=1340141

Amendments

House Floor Amendment, #83, Beaullieu, Adopted	https://legis.la.gov/legis/ViewDocument.aspx?d=1340695
House Committee Amendment, #74, H&G, Adopted	https://legis.la.gov/legis/ViewDocument.aspx?d=1340645
House Committee Amendment, #68, H&G, Draft	https://legis.la.gov/legis/ViewDocument.aspx?d=1340501
House Committee Amendment, #70, H&G, Draft	https://legis.la.gov/legis/ViewDocument.aspx?d=1340478
Senate Committee Amendment, #48, S&G, Adopted	https://legis.la.gov/legis/ViewDocument.aspx?d=1340274
Senate Committee Amendment, #38, S&G, Draft	https://legis.la.gov/legis/ViewDocument.aspx?d=1340218
Senate Committee Amendment, #34, S&G, Draft	https://legis.la.gov/legis/ViewDocument.aspx?d=1340190
Senate Committee Amendment, #31, S&G, Draft	https://legis.la.gov/legis/ViewDocument.aspx?d=1340187

Digests

Summary of House Amendments to SB8	https://legis.la.gov/legis/ViewDocument.aspx?d=1340757
House Committee Redigest of SB8	https://legis.la.gov/legis/ViewDocument.aspx?d=1340646
Digest of SB8 Engrossed	https://legis.la.gov/legis/ViewDocument.aspx?d=1340304
Digest of SB8 Original	https://legis.la.gov/legis/ViewDocument.aspx?d=1340142

Notes

Fiscal Note - SB8 Enrolled	https://legis.la.gov/legis/ViewDocument.aspx?d=1340837
Fiscal Note - SB8 Engrossed With House Floor Amendments	https://legis.la.gov/legis/ViewDocument.aspx?d=1340767
Fiscal Note - SB8 Engrossed With House Cmte Amendments	https://legis.la.gov/legis/ViewDocument.aspx?d=1340657
Fiscal Note - SB8 Engrossed	https://legis.la.gov/legis/ViewDocument.aspx?d=1340336
Fiscal Note - SB8 Original	https://legis.la.gov/legis/ViewDocument.aspx?d=1340185

Votes

Senate Vote on SB 8, CONCUR (#20)	https://legis.la.gov/legis/ViewDocument.aspx?d=1340794
House Vote on SB 8, FINAL PASSAGE (#21)	https://legis.la.gov/legis/ViewDocument.aspx?d=1340770
House Vote on SB 8, AMENDMENT # 83 BY BEAULLIEU, MOTION TO ADOPT (#20)	https://legis.la.gov/legis/ViewDocument.aspx?d=1340769
Senate Vote on SB 8, FINAL PASSAGE (#9)	https://legis.la.gov/legis/ViewDocument.aspx?d=1340426

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District Summary with Parishes

Plan: Act 2 of the 2024 1st E.S. (Congress SB8)

	Total Population	Total White	Total Black	Total Asian	Total Other	Total Hispanic	VAP Total	VAP White	VAP Black	VAP Hispanic Total	Reg Total Dec 2023	Reg White Dec 2023	Reg Black Dec 2023	Reg Other Dec 2023	Reg Dem Total Dec 2023	Reg Rep Total Dec 2023	Reg Other Total Dec 2023
District 1																	
*Ascension	27,718	23,228	2,058	201	1,709	1,982	20,611	17,693	1,304	1,270	17,243	15,672	954	617	4,242	7,837	5,164
*Jefferson	240,081	155,518	30,822	11,880	37,505	46,887	192,148	129,999	22,555	33,607	144,399	112,491	12,528	19,380	38,705	60,529	45,165
*Lafourche	47,193	37,212	3,189	577	2,973	3,612	35,543	29,123	1,939	2,282	25,117	22,442	1,115	1,560	6,774	11,140	7,203
*Livingston	13,310	11,276	1,138	84	553	543	10,369	8,949	804	336	8,639	7,732	668	239	2,097	4,133	2,409
*Orleans	64,493	50,312	6,498	2,503	4,431	7,264	53,843	42,329	5,556	6,060	41,535	34,071	3,239	4,225	16,969	11,220	13,346
Plaquemines	23,515	14,287	5,428	1,317	1,786	2,236	17,334	10,856	3,857	1,377	13,143	8,996	2,934	1,213	4,601	4,964	3,578
*St. Bernard	20,543	11,907	5,780	617	1,803	2,466	14,871	8,992	3,854	1,697	12,975	8,866	3,231	878	5,210	3,529	4,236
*St. Charles	19,887	13,870	3,607	347	1,707	2,063	14,990	10,865	2,485	1,367	12,791	9,837	2,063	891	3,618	5,495	3,678
St. Tammany	264,570	196,641	38,643	5,774	17,852	20,844	202,228	154,621	26,761	14,310	174,307	141,262	21,129	11,916	38,066	82,670	53,571
*Tangipahoa	55,017	39,500	11,025	691	2,584	3,071	41,970	31,248	7,531	2,059	29,037	23,729	4,108	1,200	6,971	13,734	8,332
District 1	776,327	553,751	108,188	23,991	72,903	90,968	603,907	444,675	76,646	64,365	479,186	385,098	51,969	42,119	127,253	205,251	146,682
	100.000%	71.330%	13.936%	3.090%	9.391%	11.718%	100.000%	73.633%	12.692%	10.658%	79.348%	80.365%	10.845%	8.790%	26.556%	42.833%	30.611%
District 2																	
*Ascension	67,009	34,447	25,291	1,260	5,026	5,992	48,560	26,086	17,639	3,904	41,549	23,859	15,251	2,439	16,516	14,009	11,024
Assumption	21,039	13,722	6,220	96	743	914	16,616	11,145	4,707	631	13,323	8,977	4,131	215	6,706	3,918	2,699
Iberville	30,241	14,833	13,730	202	1,202	1,418	24,086	12,462	10,232	1,187	19,906	9,999	9,484	423	11,341	4,476	4,089
*Jefferson	200,700	65,417	95,395	11,144	25,414	32,170	152,506	54,136	69,620	21,877	109,034	40,445	53,674	14,915	55,583	20,032	33,419
*Lafourche	19,271	10,678	7,472	188	641	802	14,620	8,657	5,185	563	10,440	6,675	3,412	353	3,994	3,422	3,024
*Orleans	319,504	76,150	212,471	10,353	17,613	23,753	252,353	67,923	160,512	17,096	196,855	52,054	127,351	17,450	135,375	11,960	49,520
*St. Bernard	23,221	12,590	6,529	764	2,827	3,544	16,904	10,000	4,090	2,331	12,710	9,178	2,362	1,170	4,604	3,450	4,656
*St. Charles	32,662	19,680	10,321	490	1,602	2,078	24,551	15,289	7,405	1,370	20,791	13,574	6,207	1,010	7,844	7,494	5,453
St. James	20,192	9,973	9,762	60	315	343	15,505	7,883	7,297	237	14,531	7,116	7,196	219	8,732	3,364	2,435
St. John the Baptist	42,477	13,877	25,196	403	2,536	3,291	32,503	11,622	18,437	2,210	27,484	9,338	16,653	1,493	16,451	4,427	6,606
District 2	776,316	271,367	412,387	24,960	57,919	74,305	598,204	225,203	305,124	51,406	466,623	181,215	245,721	39,687	267,146	76,552	122,925
	100.000%	34.956%	53.121%	3.215%	7.461%	9.571%	100.000%	37.647%	51.007%	8.593%	78.004%	38.835%	52.659%	8.505%	57.251%	16.406%	26.344%
District 3																	
Acadia	57,576	44,480	10,864	238	1,421	1,641	42,943	34,071	7,383	1,026	36,151	29,438	5,995	718	11,965	15,645	8,541
*Calcasieu	131,299	69,747	50,290	3,564	5,934	7,180	99,893	55,812	35,987	4,860	65,841	39,808	22,822	3,211	26,412	20,997	18,432
Cameron	5,617	5,232	125	30	155	197	4,358	4,100	79	130	4,072	3,936	61	75	1,044	2,009	1,019
Iberia	69,929	39,206	24,556	2,123	3,250	3,897	52,791	31,295	17,069	2,657	42,188	26,848	13,441	1,899	15,505	15,542	11,141
Jefferson Davis	32,250	25,066	5,837	183	692	734	24,039	19,121	4,006	489	18,733	15,509	2,784	440	5,818	7,766	5,149
*Lafayette	180,411	131,849	29,263	5,960	10,674	12,528	137,635	103,919	19,952	8,666	111,925	91,759	13,498	6,668	25,819	53,386	32,720
*Lafourche	31,093	23,820	5,194	260	1,129	1,258	24,456	19,058	3,953	898	18,681	16,364	1,750	567	5,251	8,542	4,888
St. Martin	51,767	33,259	15,921	597	1,451	1,679	39,404	26,278	11,293	1,144	33,997	23,306	9,880	811	13,258	12,431	8,308
St. Mary	49,406	26,949	15,991	835	3,961	4,524	37,521	21,594	11,520	2,954	29,204	17,999	9,570	1,635	10,956	9,904	8,344

District Summary with Parishes

Plan: Act 2 of the 2024 1st E.S. (Congress SB8)

	Total Population	Total White	Total Black	Total Asian	Total Other	Total Hispanic	VAP Total	VAP White	VAP Black	VAP Hispanic Total	Reg Total Dec 2023	Reg White Dec 2023	Reg Black Dec 2023	Reg Other Dec 2023	Reg Dem Total Dec 2023	Reg Rep Total Dec 2023	Reg Other Total Dec 2023
District 3																	
Terrebonne	109,580	69,934	23,147	1,743	6,119	7,358	82,505	55,631	15,796	4,701	55,810	41,601	9,910	4,299	15,299	24,064	16,447
Vermilion	57,359	44,477	8,810	1,447	2,002	2,296	43,012	34,363	5,787	1,496	35,511	29,693	4,555	1,263	11,154	14,736	9,621
District 3	776,287	514,019	189,998	16,980	36,788	43,292	588,557	405,242	132,825	29,021	452,113	336,261	94,266	21,586	142,481	185,022	124,610
	100.000%	66.215%	24.475%	2.187%	4.739%	5.577%	100.000%	68.853%	22.568%	4.931%	76.817%	74.375%	20.850%	4.774%	31.514%	40.924%	27.562%
District 4																	
Allen	22,750	16,327	4,490	246	740	1,893	17,510	12,751	3,275	1,755	11,079	8,704	1,920	455	3,978	4,586	2,515
Beauregard	36,549	29,529	4,649	402	917	1,271	27,489	22,304	3,495	828	22,071	18,639	2,264	1,168	4,725	10,715	6,631
Bienville	12,981	6,950	5,600	57	167	211	10,073	5,486	4,284	141	8,336	4,509	3,728	99	3,947	2,751	1,638
Bossier	128,746	81,052	32,551	3,492	8,378	10,237	95,876	62,931	22,440	6,619	65,726	48,229	13,555	3,942	16,152	31,254	18,320
*Caddo	115,441	81,078	24,210	3,063	4,410	4,919	90,776	65,789	17,575	3,298	69,121	52,696	12,684	3,741	19,302	31,373	18,446
*Calcasieu	85,486	70,025	9,096	1,138	3,455	4,204	63,273	52,977	5,911	2,710	45,978	40,556	3,671	1,751	10,475	21,830	13,673
Claiborne	14,170	7,263	6,360	88	274	479	11,507	6,258	4,824	403	8,390	4,557	3,677	156	3,468	2,953	1,969
*De Soto	11,787	8,939	2,074	35	362	358	8,971	6,910	1,554	223	8,699	6,940	1,476	283	2,151	4,459	2,089
Evangeline	32,350	21,354	9,235	241	1,240	1,336	24,408	16,460	6,483	1,111	20,388	14,274	5,744	370	8,778	7,364	4,246
Grant	22,169	17,709	3,335	133	348	1,333	17,527	13,964	2,717	1,179	12,226	10,764	1,120	342	2,824	6,036	3,366
Jackson	15,031	9,967	4,166	175	468	468	11,783	7,967	3,125	372	9,375	6,570	2,610	195	3,302	4,022	2,051
Lincoln	48,396	26,034	19,364	892	1,444	1,754	38,655	21,306	15,119	1,187	24,408	15,139	8,357	912	8,622	9,457	6,329
*Ouachita	55,373	45,898	5,641	1,121	1,488	1,529	41,613	34,950	3,864	999	36,532	32,374	2,853	1,305	6,129	21,181	9,222
*Rapides	24,719	19,507	2,233	699	1,451	1,719	18,855	15,256	1,530	1,084	15,222	13,127	1,240	855	3,564	7,730	3,928
Red River	7,620	4,195	3,106	25	123	188	5,714	3,338	2,164	113	5,475	3,034	2,358	83	2,624	1,789	1,062
Sabine	22,155	15,036	3,861	94	441	710	17,064	12,054	2,655	502	13,570	10,287	1,912	1,371	3,894	6,441	3,235
Union	21,107	14,460	5,224	62	1,023	1,135	16,632	11,807	3,861	709	14,802	10,847	3,497	458	4,643	6,759	3,400
Vernon	48,750	35,087	7,611	1,442	3,010	4,175	36,261	26,765	5,133	2,740	22,409	18,129	2,608	1,672	5,398	10,320	6,691
Webster	36,967	22,735	12,679	208	658	688	28,753	18,144	9,464	434	21,259	14,068	6,744	447	7,781	8,369	5,109
Winn	13,755	8,594	3,727	210	961	1,023	10,906	6,932	2,695	941	8,262	5,916	2,218	128	2,865	3,175	2,222
District 4	776,302	541,739	169,212	13,823	31,358	39,630	593,646	424,349	122,168	27,348	443,328	339,359	84,236	19,733	124,622	202,564	116,142
	100.000%	69.785%	21.797%	1.781%	4.039%	5.105%	100.000%	71.482%	20.579%	4.607%	74.679%	76.548%	19.001%	4.451%	28.111%	45.692%	26.198%
District 5																	
*Ascension	31,773	23,466	4,867	839	2,104	2,409	22,786	17,357	3,196	1,487	19,854	16,011	2,623	1,220	4,371	9,557	5,926
*Avoyelles	20,125	14,889	4,417	132	290	313	15,393	11,696	3,076	225	11,431	8,976	2,117	338	4,518	4,148	2,765
Caldwell	9,645	7,646	1,632	51	166	221	7,478	5,969	1,224	163	5,813	4,959	762	92	1,567	2,846	1,400
Catahoula	8,906	5,776	2,395	46	570	614	6,951	4,557	1,736	558	6,113	4,363	1,695	55	2,411	2,397	1,305
Concordia	18,687	10,275	7,725	122	332	459	14,217	8,108	5,613	310	11,419	6,816	4,418	185	5,014	3,907	2,498
*East Baton Rouge	172,199	119,876	31,907	8,088	9,908	11,764	138,993	99,727	23,872	8,540	104,631	81,782	15,706	7,143	28,256	47,203	29,172
East Carroll	7,459	2,054	5,272	29	61	115	5,901	1,773	4,043	80	4,564	1,218	3,305	41	2,963	746	855

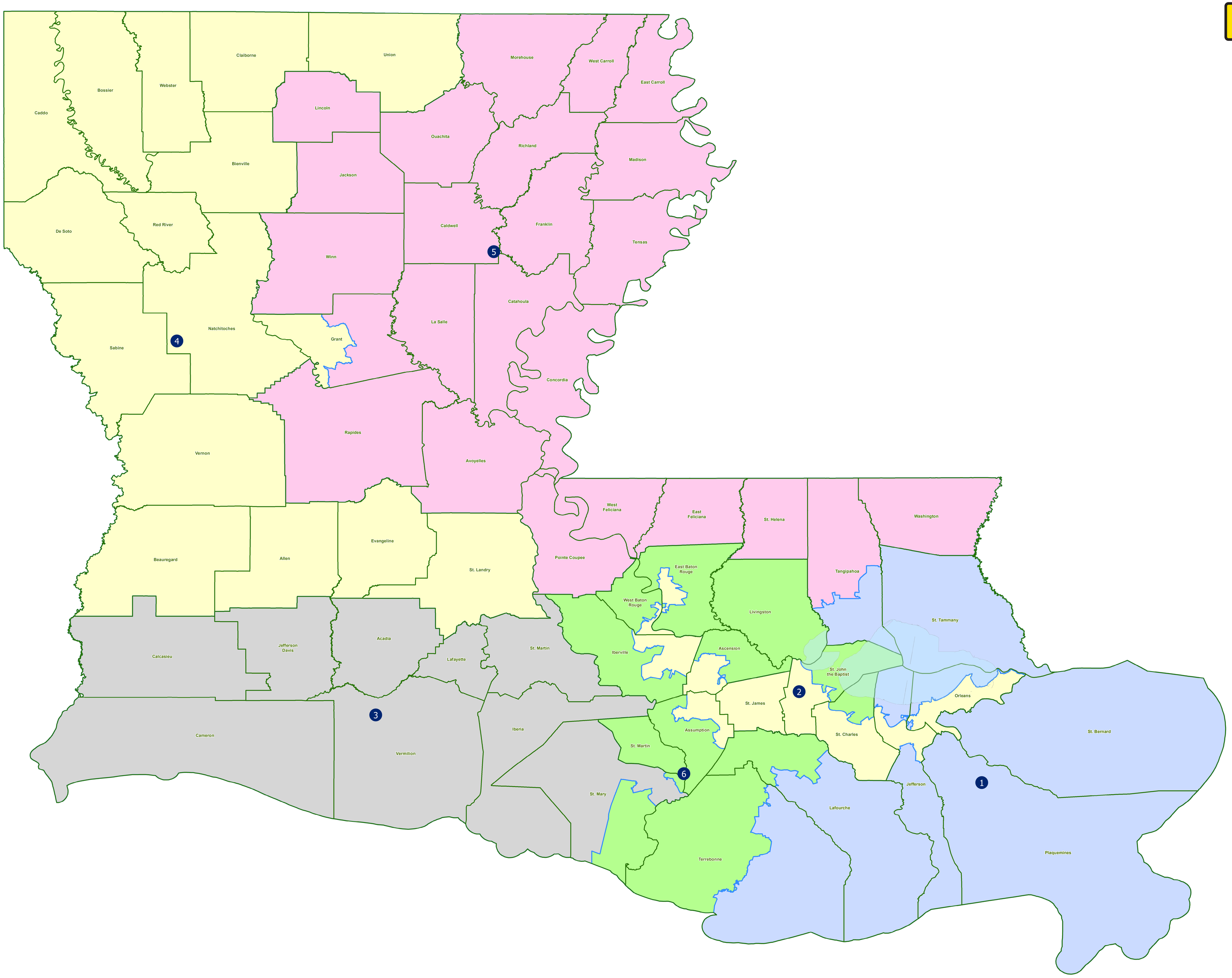
District Summary with Parishes

Plan: Act 2 of the 2024 1st E.S. (Congress SB8)

	Total Population	Total White	Total Black	Total Asian	Total Other	Total Hispanic	VAP Total	VAP White	VAP Black	VAP Hispanic Total	Reg Total Dec 2023	Reg White Dec 2023	Reg Black Dec 2023	Reg Other Dec 2023	Reg Dem Total Dec 2023	Reg Rep Total Dec 2023	Reg Other Total Dec 2023
District 5																	
East Feliciana	19,539	11,516	7,341	91	329	391	16,183	9,740	5,918	317	13,327	7,805	5,075	447	5,718	4,587	3,022
Franklin	19,774	12,492	6,802	70	205	276	15,028	9,901	4,779	183	12,350	8,524	3,718	108	4,501	5,318	2,531
La Salle	14,791	11,348	1,422	283	1,366	1,402	11,563	8,636	1,065	1,325	8,380	7,633	583	164	1,788	4,768	1,824
*Livingston	128,972	105,579	11,520	1,613	7,408	8,248	94,772	79,483	7,332	5,054	73,766	65,923	4,974	2,869	13,787	38,460	21,519
Madison	10,017	3,475	6,363	20	100	204	7,435	2,906	4,391	149	7,068	2,439	4,518	111	3,942	1,523	1,603
Morehouse	25,629	12,281	12,484	160	334	381	20,062	10,095	9,300	292	15,440	7,806	7,377	257	7,040	4,963	3,437
*Ouachita	104,995	42,647	55,576	1,667	3,669	4,129	78,587	35,024	38,426	2,947	59,098	25,775	31,168	2,155	28,272	15,621	15,205
Richland	20,043	11,785	7,603	83	314	400	15,383	9,338	5,546	293	13,141	8,144	4,753	244	4,806	5,216	3,119
St. Helena	10,920	4,527	6,031	39	189	216	8,463	3,805	4,371	149	8,260	3,626	4,492	142	4,845	1,934	1,481
*Tangipahoa	78,140	41,836	30,854	783	3,430	4,171	59,521	33,957	21,686	2,781	34,249	22,443	10,704	1,102	13,455	12,383	8,411
Tensas	4,147	1,744	2,312	23	42	67	3,235	1,446	1,728	46	3,485	1,510	1,937	38	2,051	868	566
Washington	45,463	29,943	13,434	216	1,134	1,410	34,951	23,743	9,732	901	27,151	18,603	7,892	656	10,457	9,868	6,826
West Carroll	9,751	7,894	1,425	27	225	325	7,532	6,223	1,010	192	6,871	5,770	1,013	88	1,785	3,400	1,686
West Feliciana	15,310	10,883	3,740	89	373	651	12,783	9,283	2,951	572	7,492	5,186	2,160	146	2,743	2,994	1,755
District 5	776,285	491,932	225,122	14,471	32,549	38,166	597,217	392,767	160,995	26,564	453,903	315,312	120,990	17,601	154,290	182,707	116,906
	100.000%	63.370%	29.000%	1.864%	4.193%	4.916%	100.000%	65.766%	26.958%	4.448%	76.003%	69.467%	26.655%	3.878%	33.992%	40.252%	25.756%
District 6																	
*Avoyelles	19,568	10,736	7,261	302	899	1,172	15,185	8,573	5,235	1,032	10,007	6,266	3,505	236	4,761	2,978	2,268
*Caddo	122,407	22,379	95,094	971	2,803	3,462	91,631	19,270	68,784	2,320	62,821	11,685	48,787	2,349	41,391	6,853	14,577
*De Soto	15,025	6,345	7,899	82	336	404	11,469	4,999	5,871	272	9,188	4,065	4,841	282	4,761	2,442	1,985
*East Baton Rouge	284,582	76,193	181,491	8,337	16,254	18,787	216,619	64,154	132,918	12,999	164,206	50,963	103,796	9,447	95,366	27,201	41,639
*Lafayette	61,342	21,514	35,873	494	2,916	3,455	46,240	17,689	25,965	2,163	36,884	14,039	21,247	1,598	18,876	7,821	10,187
Natchitoches	37,515	19,361	15,725	255	1,313	1,490	29,349	16,010	11,415	1,140	20,675	11,761	8,016	898	8,810	6,698	5,167
Pointe Coupee	20,758	12,395	7,504	107	593	625	16,250	10,108	5,502	429	14,107	9,040	4,837	230	6,811	4,198	3,098
*Rapides	105,304	58,003	40,359	1,729	2,940	3,371	79,937	46,117	28,675	2,358	60,064	36,829	20,719	2,516	22,711	21,347	16,006
St. Landry	82,540	43,611	35,836	499	1,958	2,178	61,811	34,209	25,497	1,374	52,429	28,933	22,135	1,361	25,477	15,081	11,871
West Baton Rouge	27,199	14,307	11,170	287	1,109	1,244	20,526	11,146	8,149	871	16,753	9,620	6,764	369	7,750	4,911	4,092
District 6	776,240	284,844	438,212	13,063	31,121	36,188	589,017	232,275	318,011	24,958	447,134	183,201	244,647	19,286	236,714	99,530	110,890
	100.000%	36.695%	56.453%	1.683%	4.009%	4.662%	100.000%	39.434%	53.990%	4.237%	75.912%	40.972%	54.714%	4.313%	52.940%	22.260%	24.800%
Grand Total	4,657,757	2,657,652	1,543,119	107,288	262,638	322,549	3,570,548	2,124,511	1,115,769	223,662	2,742,287	1,740,446	841,829	160,012	1,052,506	951,626	738,155
	100.000%	57.059%	33.130%	2.303%	5.639%	6.925%	100.000%	59.501%	31.249%	6.264%	76.803%	63.467%	30.698%	5.835%	38.381%	34.702%	26.917%

Act 5 (HB1) 1st ES (2022) - Congressional Districts

EXHIBIT
JE16



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Act 2 - 1st ES (2024) - Congressional Districts - Ascension

Precincts as of 01-10-2024

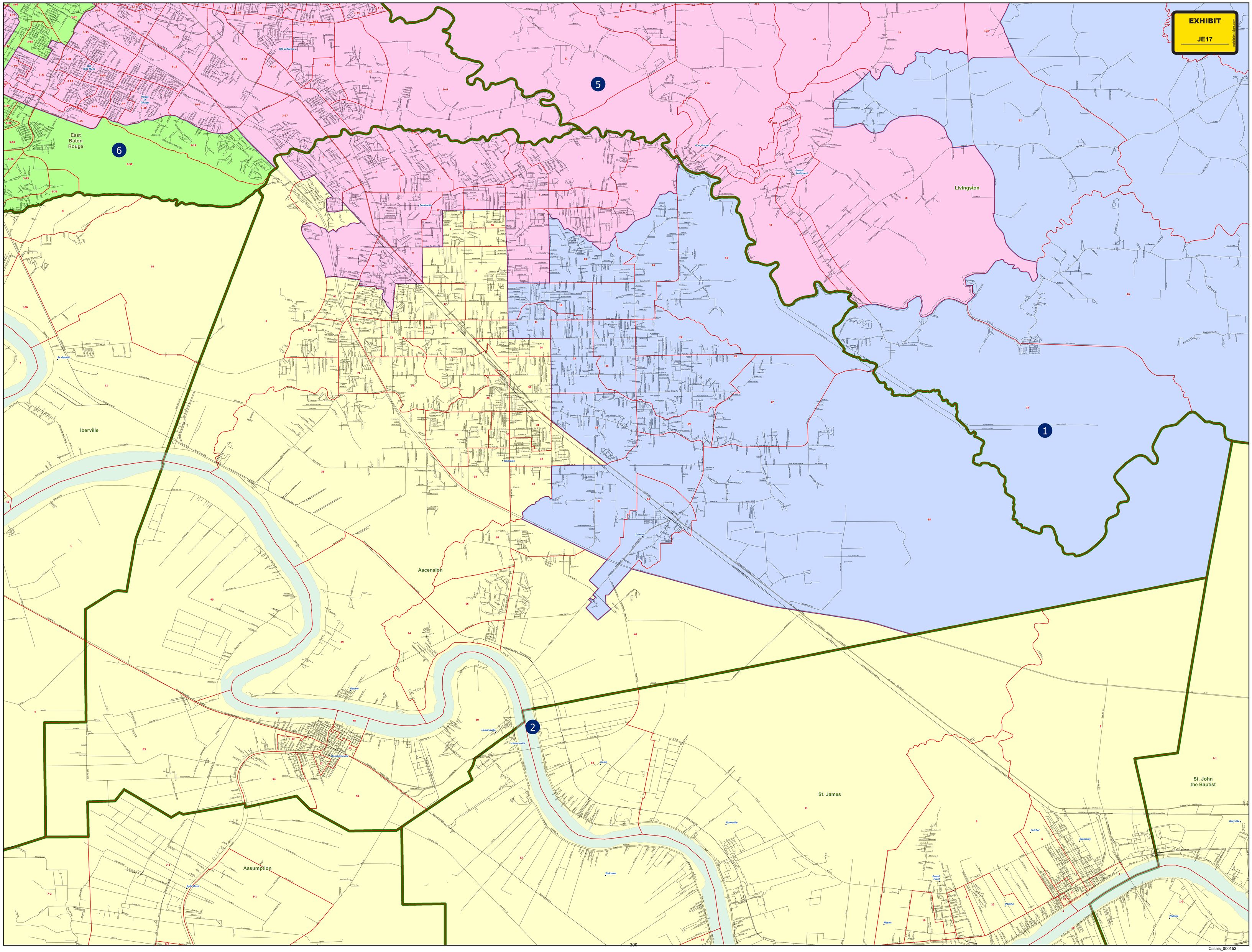

Exhibit T

Act 2 - 1st ES (2024) - Congressional Districts - Avoyelles

Precincts as of 01-10-2024

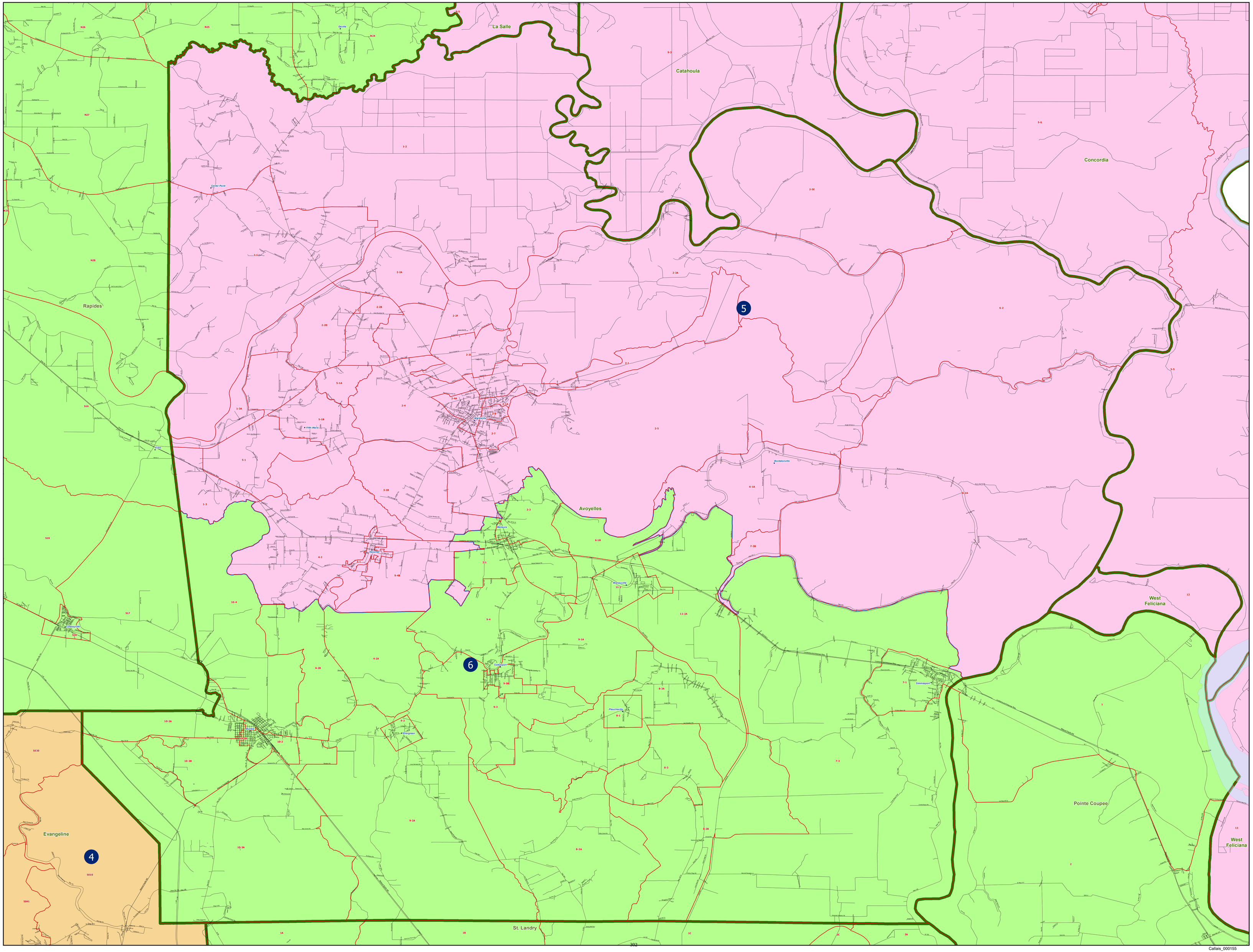

Exhibit U

Act 2 - 1st ES (2024) - Congressional Districts - Caddo

Precincts as of 01-10-2024

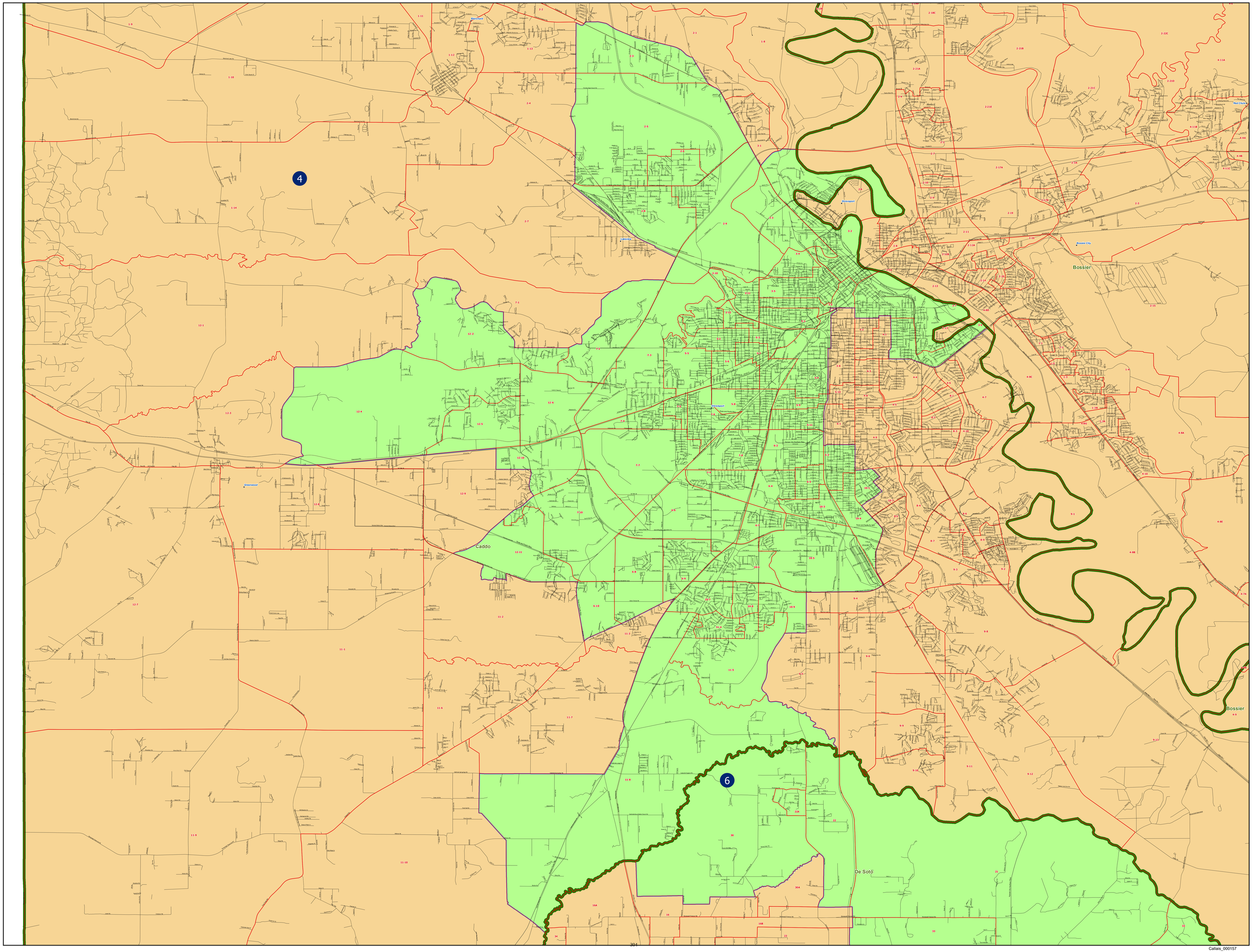

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Exhibit V

Act 2 - 1st ES (2024) - Congressional Districts - Calcasieu

Precincts as of 01-10-2024

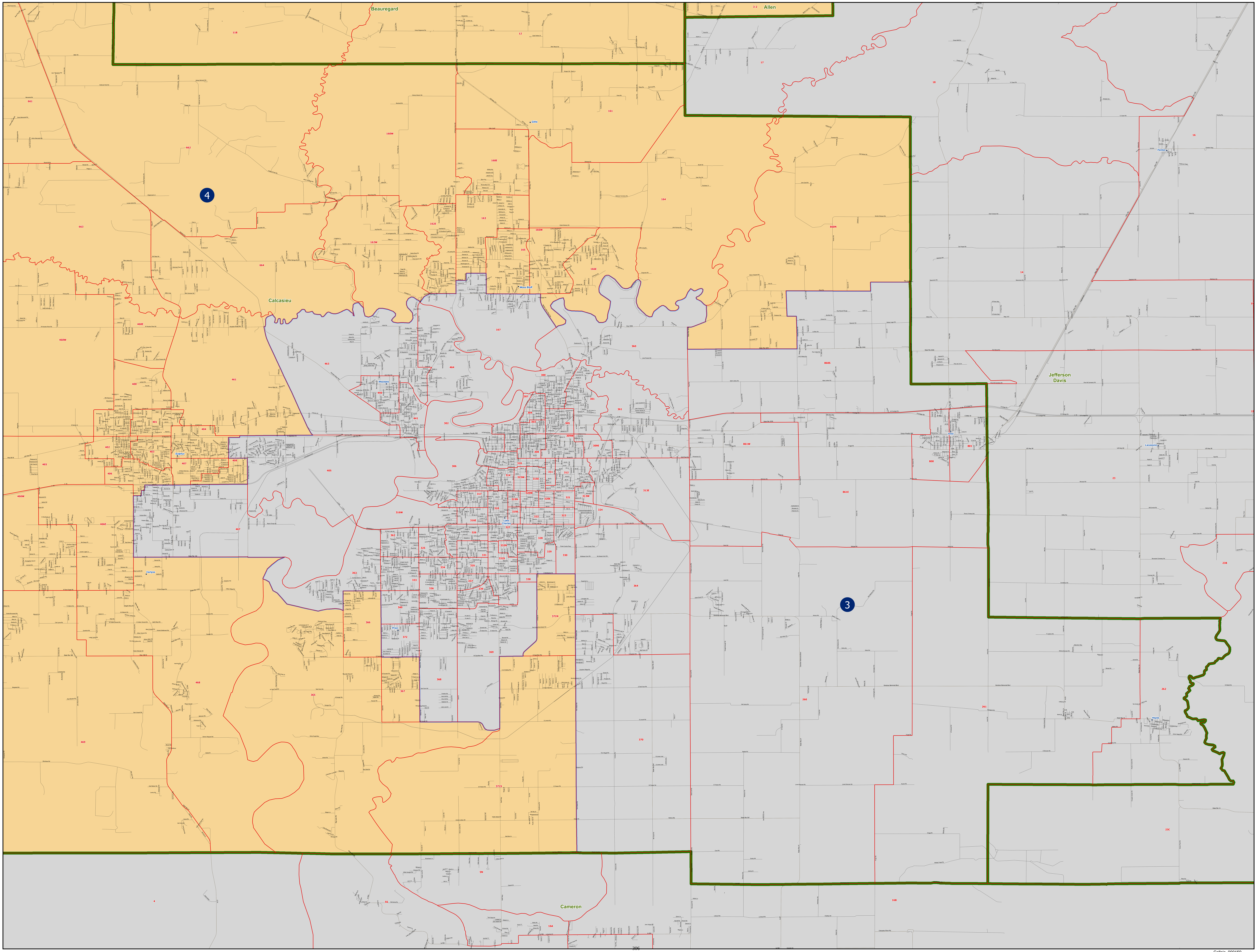

Exhibit W

Act 2 - 1st ES (2024) - Congressional Districts - DeSoto

Precincts as of 01-10-2024

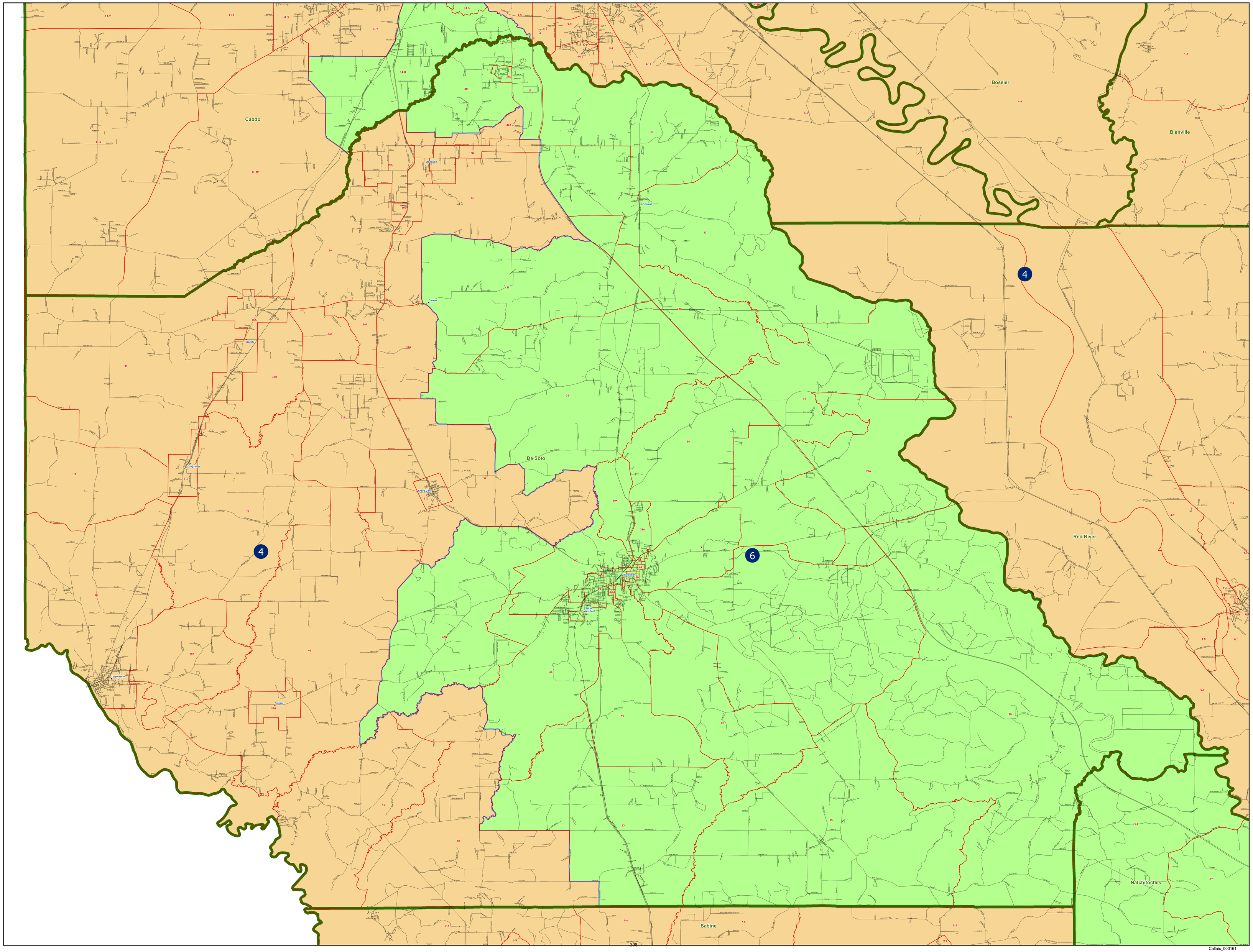

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Exhibit X

Act 2 - 1st ES (2024) - Congressional Districts - East Baton Rouge

Precincts as of 01-10-2024

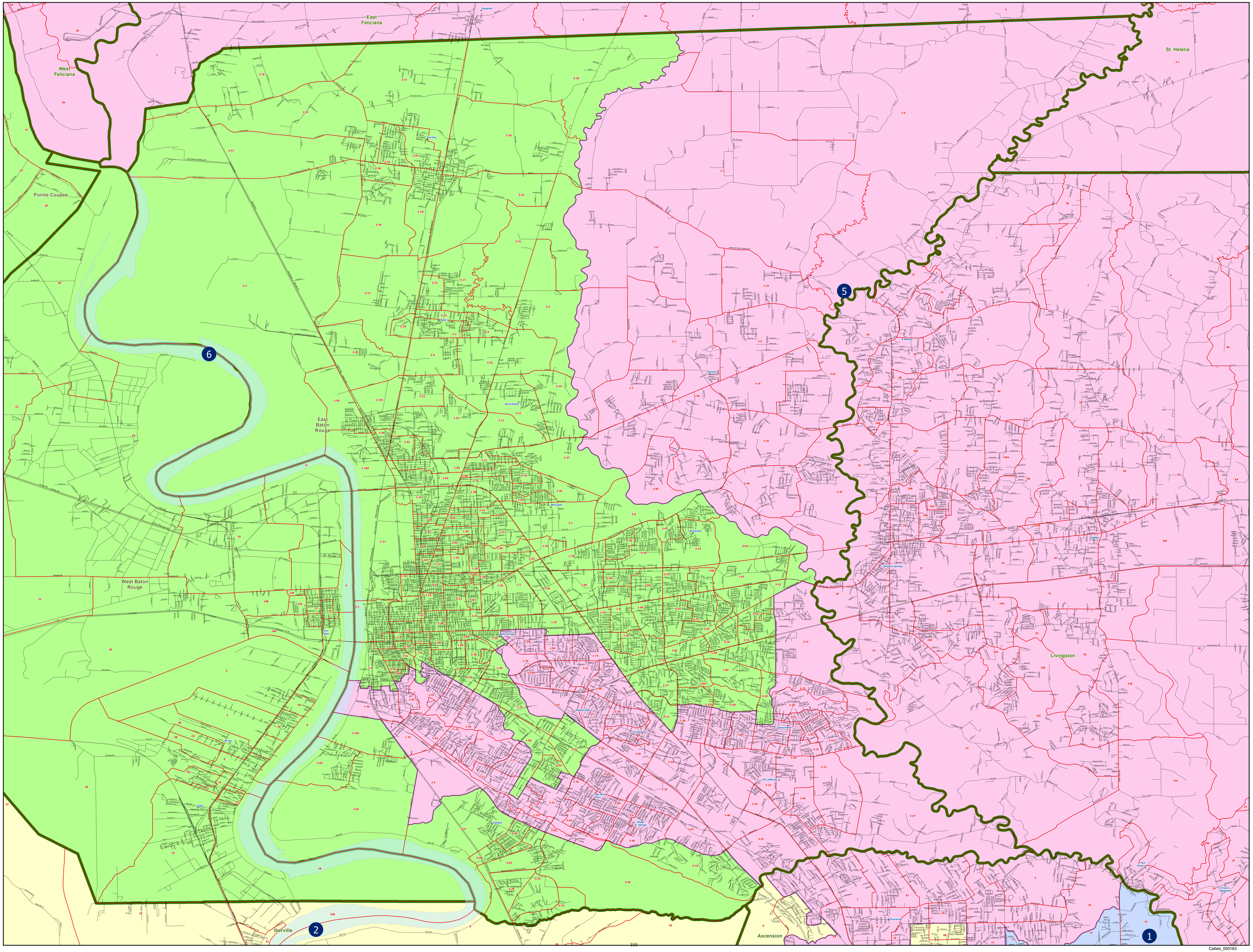

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Exhibit Y

Act 2 - 1st ES (2024) - Congressional Districts - Lafayette

Precincts as of 01-10-2024

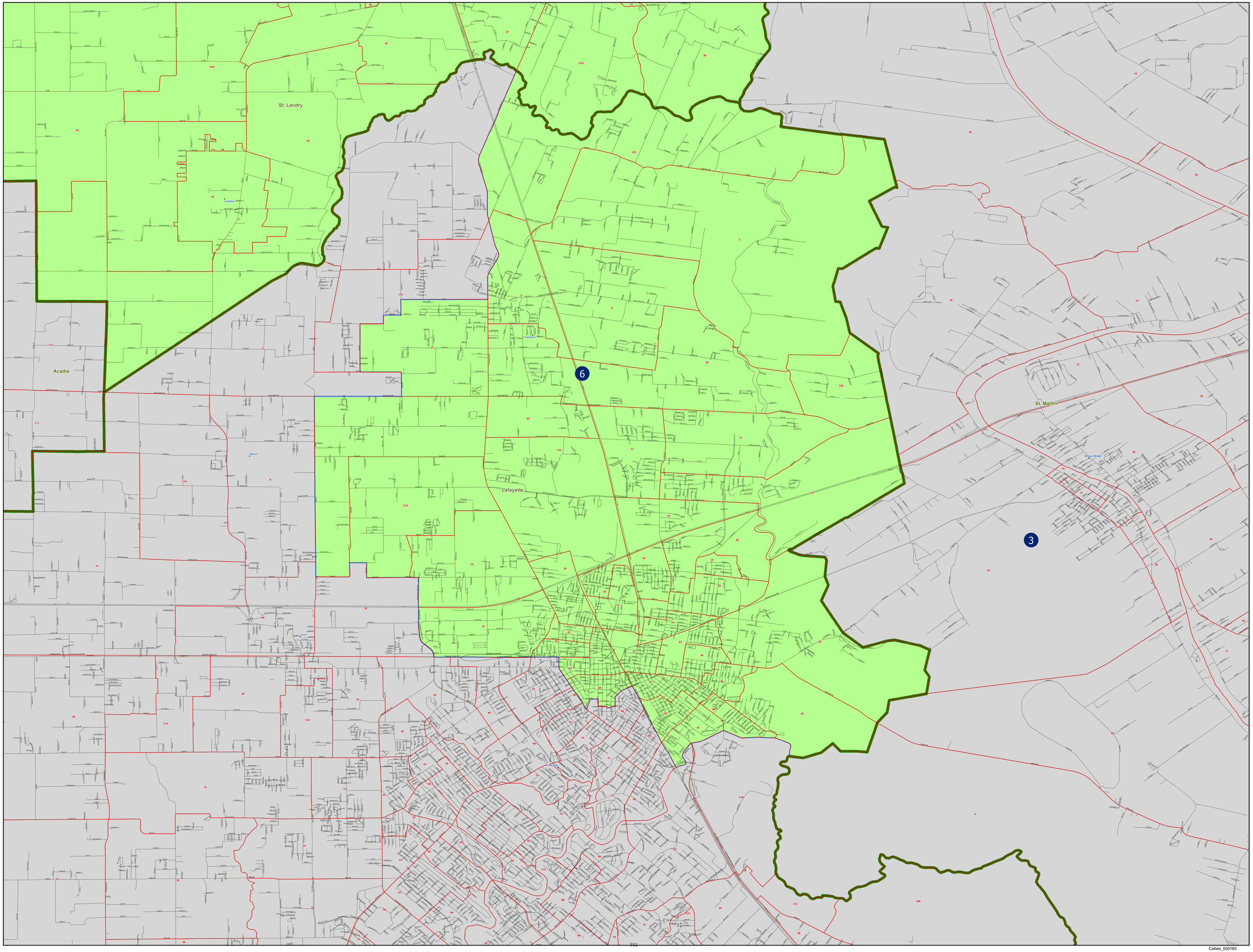

Exhibit Z

Act 2 - 1st ES (2024) - Congressional Districts - Orleans

Precincts as of 01-10-2024

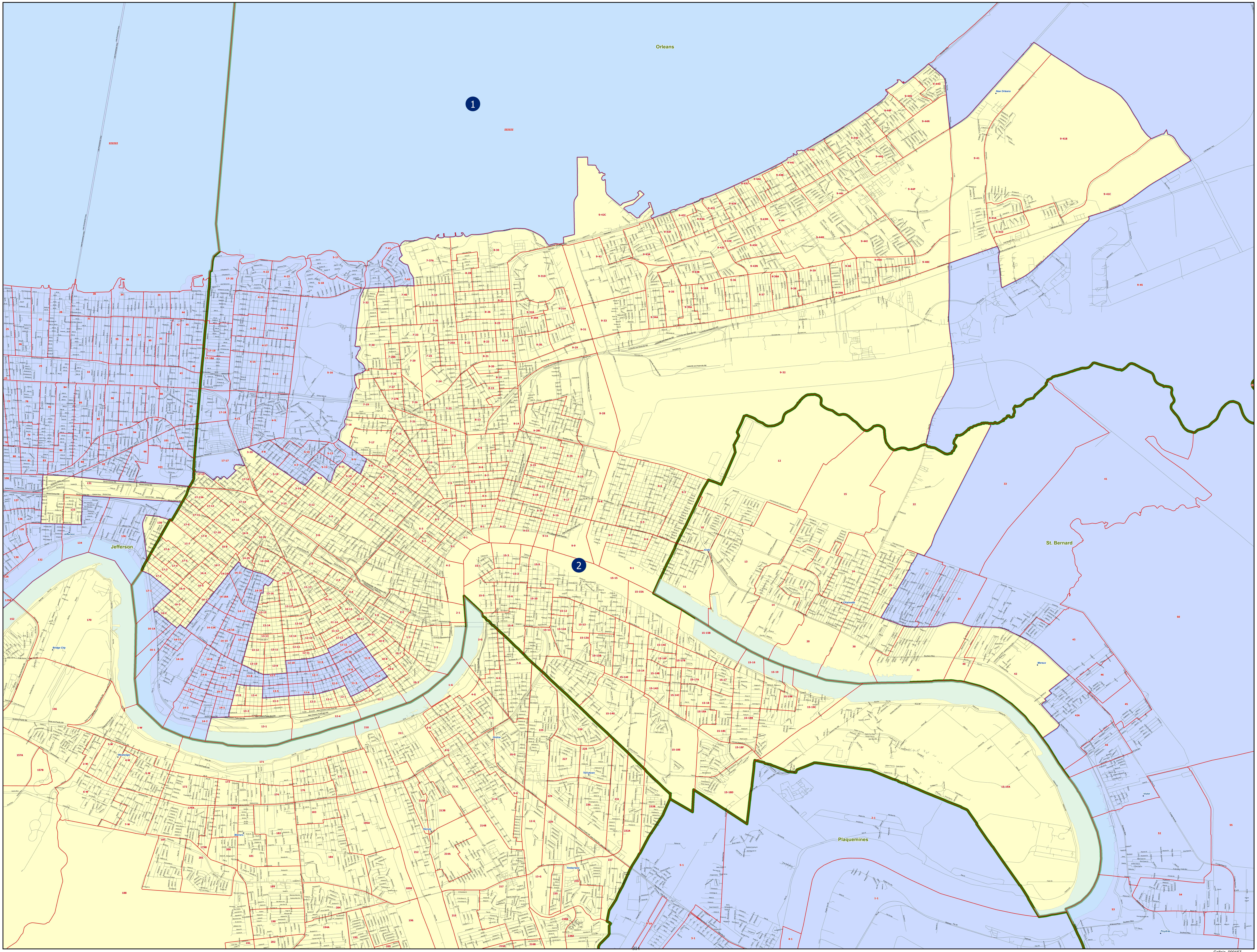

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Exhibit AA

Act 2 - 1st ES (2024) - Congressional Districts - Rapides

Precincts as of 01-10-2024

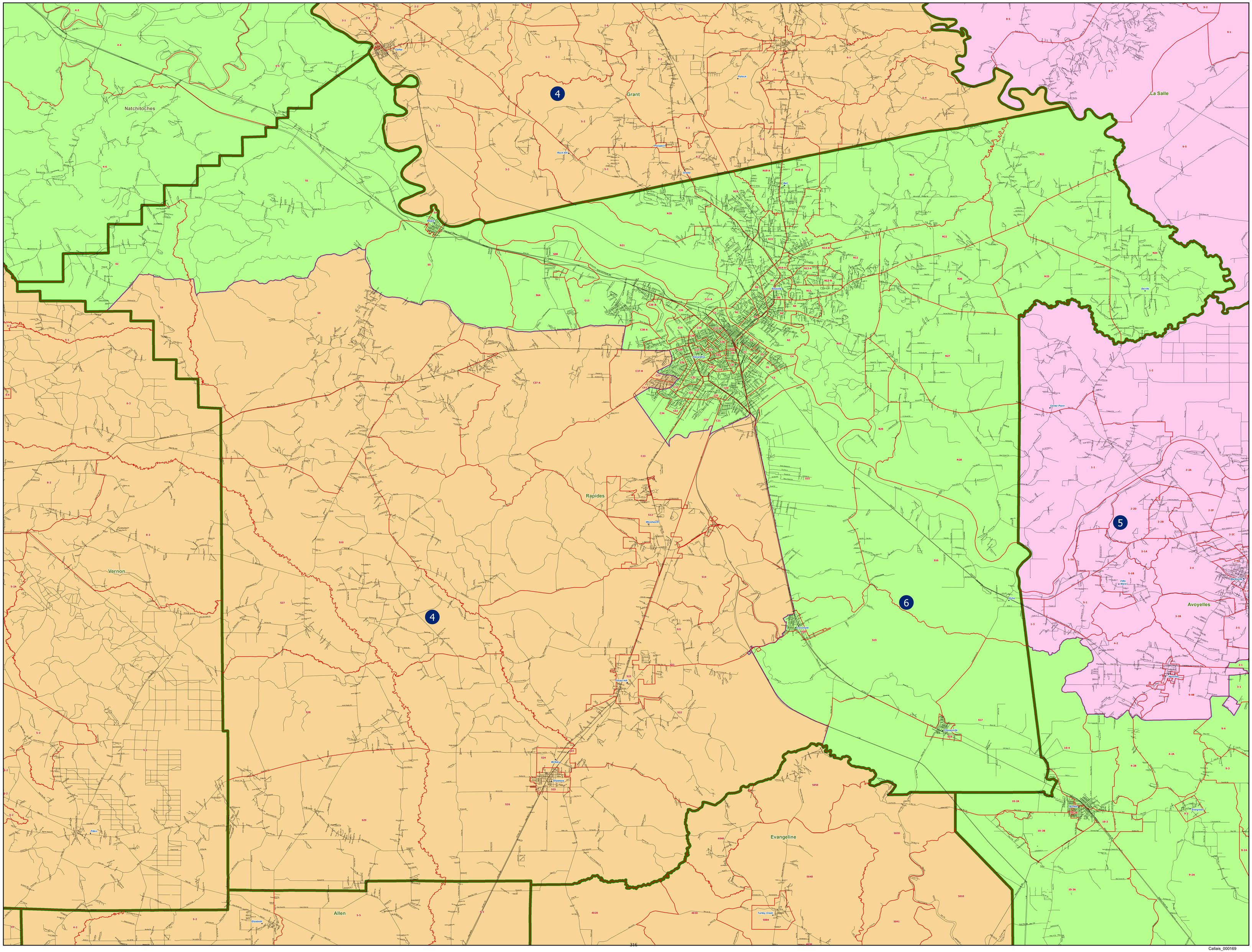


Exhibit BB

Act 2 - 1st ES (2024) - Congressional Districts - St. Bernard

Precincts as of 01-10-2024

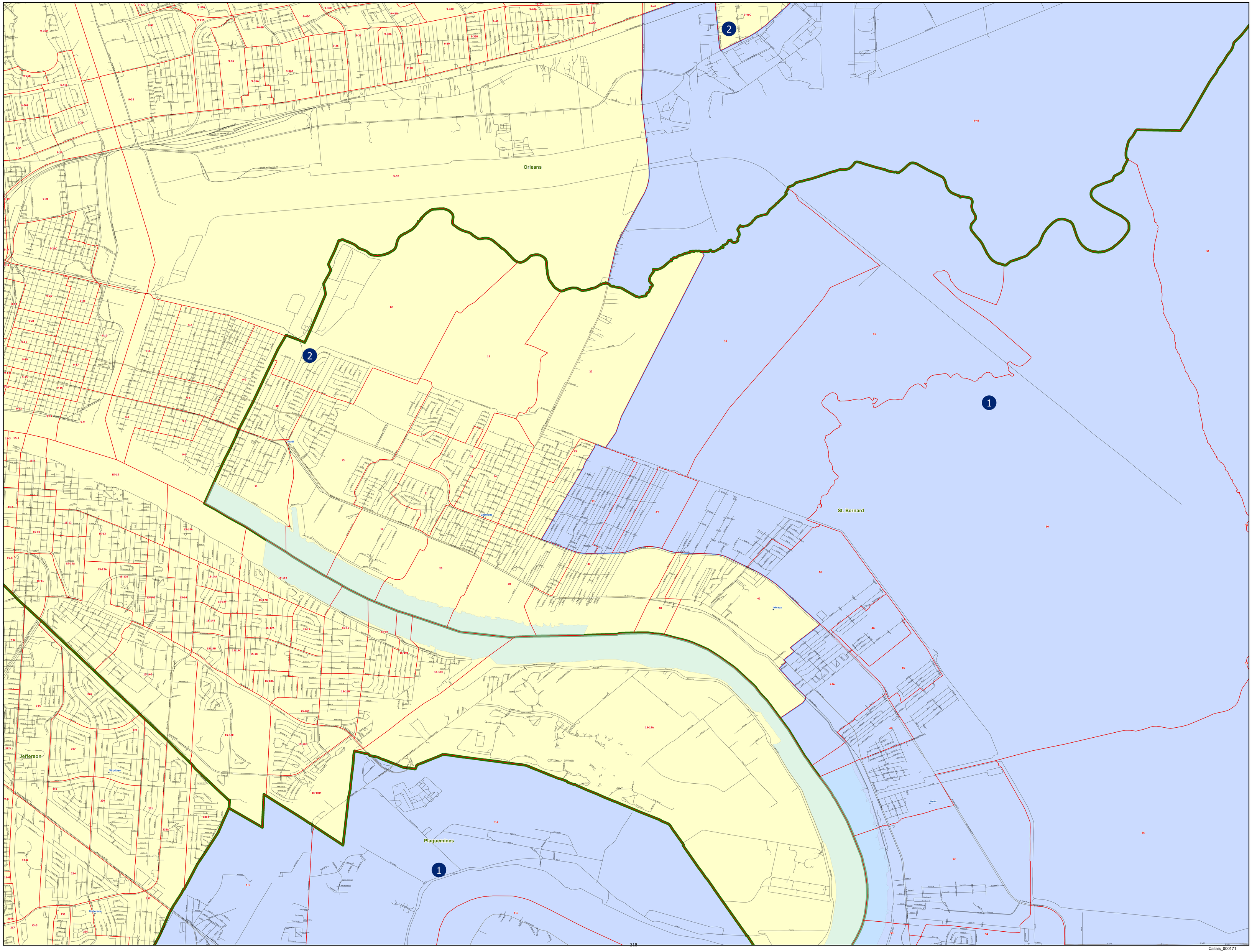
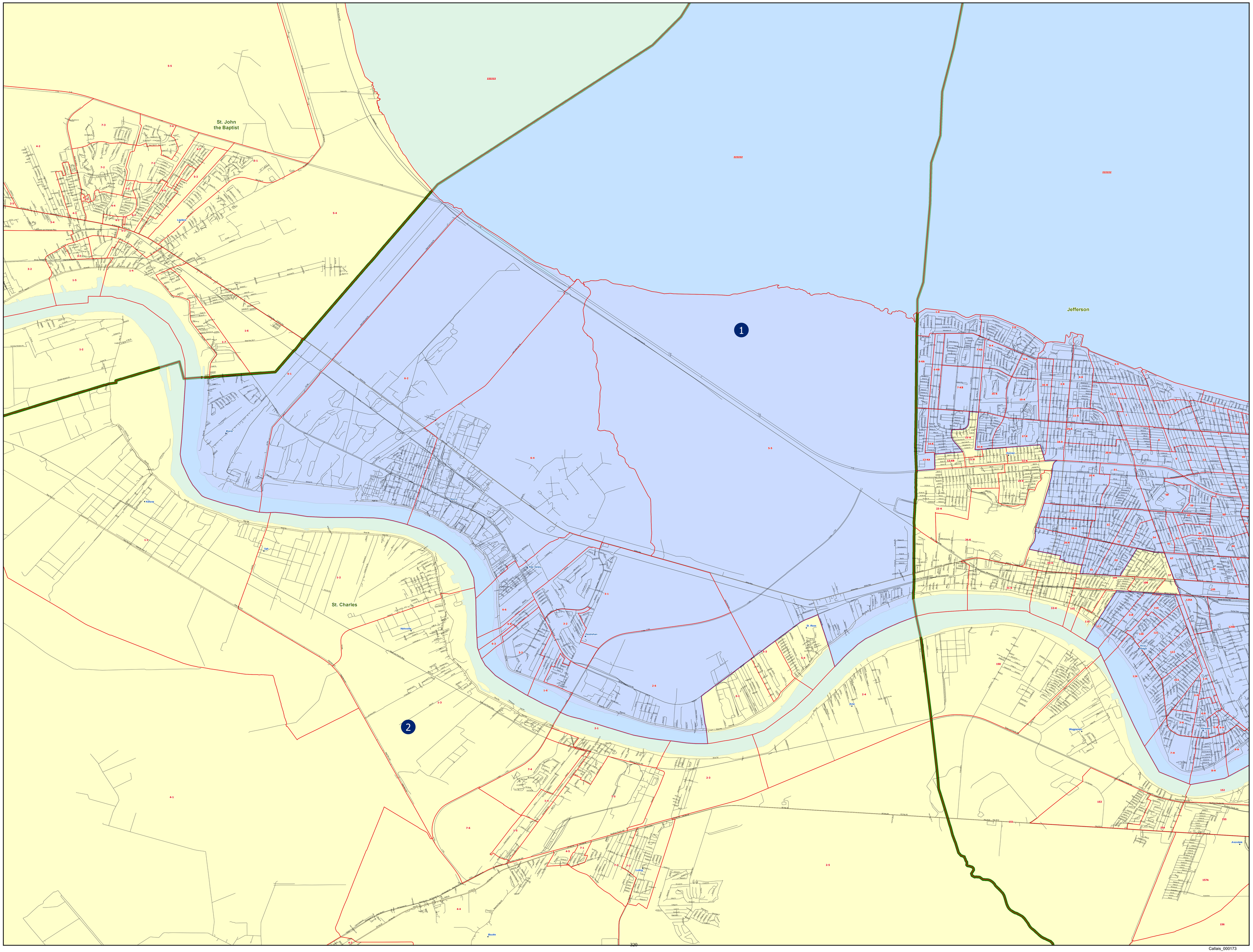


Exhibit CC

Act 2 - 1st ES (2024) - Congressional Districts - St. Charles

Precincts as of 01-10-2024



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House Governmental Affairs Committee Hearing -Audio Transcription

January 15, 2024

Phillip Callais, et al.

vs.

Nancy Landry

EXHIBIT
JE28

PLAINTIFFS' EXHIBIT
P23
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REPRESENTATIVE BEAULLIEU: Members, if you could please find your seats. Good morning, everyone. Today is January 15th, 2024. Welcome to the committee on House and Governmental Affairs. Welcome, members. Welcome, public. This is the -- from what I can understand, the first gavel of the new legislative leaders here at -- at the capital. So welcome, everyone.

A couple of things. If you have a cell phone, please silence it. If -- if you forgot to turn off your gumbo or you need to remind somebody to stir your gumbo back home, we ask you to step out and take all calls outside. We have some cards up here for witnesses although we won't be hearing bills today. And just reminding everybody, this is -- this is a preparatory committee meeting. The special session doesn't start until this -- this afternoon.

So what we're going to be doing here is educating members, educating the public, refreshing everyone on redistricting and redistricting principles, and then also hearing from our attorney general. So we won't be debating bills. If -- if everyone could, you know, keep questions and comments strictly to the -- the subject matter that -- we're going to be here from an education standpoint. And if you have questions as it

relates to certain bills, we ask you to hold those until we -- until we have -- have those bills. But, Ms. Baker, if you wouldn't mind, please call role.

MS. BAKER: Thank you, Mr. Chair. Chairman Beaullieu?

REPRESENTATIVE BEAULLIEU: Here.

MS. BAKER: Present. Vice-chair Lyons?

VICE-CHAIRMAN LYONS: Present.

MS. BAKER: Present. Representative Billings?

REPRESENTATIVE BILLINGS: Present.

MS. BAKER: Present. Representative Boyd? Representative Carlson?

REPRESENTATIVE CARLSON: Present.

MS. BAKER: Present. Representative Carter?

REPRESENTATIVE CARTER: Present.

MS. BAKER: Present. Representative Carver?

REPRESENTATIVE CARVER: Here. Present.

MS. BAKER: Present. Representative Farnum?

REPRESENTATIVE FARNUM: Here.

MS. BAKER: Present. Representative Gadberry?

REPRESENTATIVE GADBERRY: Here.

MS. BAKER: Present. Representative Johnson?

REPRESENTATIVE JOHNSON: Here.

MS. BAKER: Present. Representative Larvadain?

REPRESENTATIVE LARVADAIN: Here.

MS. BAKER: Present. Representative Marcelle? Representative Newell? Representative Schamerhorn?

REPRESENTATIVE SCHAMERHORN: Here.

MS. BAKER: Present. Representative Thomas?

REPRESENTATIVE THOMAS: Here.

MS. BAKER: Present. Representative Wright? Representative Wyble?

REPRESENTATIVE WYBLE: Here.

MS. BAKER: Present. We have 13, and a quorum.

REPRESENTATIVE BEAULLIEU: Thank you. Members, a couple of things. One, in your folders you're going to have a copy of the -- the rules for the House and Governmental Affairs Committee. These are the rules that have been adopted by this committee. If you would review them at -- at your leisure, we're not going to be discussing them today. But if you have questions regarding these rules or you would like to amend these rules or -- or make some changes, we're going to address that in the -- in the regular session. But I just wanted to point that out that we have those in -- in the folder for all of you.

Also, members, and -- and the viewing public, we don't want to forget all of the work that this

committee has done over the last several years as it relates to redistricting. On our website, if you go to the legislator's main page and you click on House page, and then there's a -- a button that says, "Additional Sites." Under that "Additional Sites" button is a Louisiana redistricting site where we have all the work that this committee has done over the last couple of years. We don't want to have to -- to -- we want -- we don't want to forget that hard work. And if anybody needs a resource, there's a lot of resources there.

But with that said -- so we're going to start off this morning with Ms. -- Ms. Lowery from here in the House and Governmental staff. She's going to update us on some principles with redistricting and -- and kind of get everybody up to speed. So, Ms. Lowrey.

MS. LOWREY-DUFOUR: Thank you so much, Mr. Chairman. Hi, members. My name is Patricia Lowrey-Dufour. I am the senior legislative analyst for House and Governmental Affairs. I have staffed this committee in some capacity since 1988. And the chairman has asked me to give y'all a brief redistricting 101 this morning, and it's going to be abbreviated.

And again, as the chairman said, there are a plethora of resources available on the redistricting website of the legislature, including links to the

videos of the hearings, the roadshow hearings, all public comments and documents that were received there. So again, you are encouraged to go look there.

REPRESENTATIVE BEAULLIEU: Anyone watching online, we're working on the technology.

MS. LOWREY-DUFOUR: Thank you, Anthony. Thank you. Okay. Briefly, we'll be giving an overview of redistricting terms concepts and law, redistricting criteria, the 2020 census population and population trends, malapportionment statistics and illustrative maps on Congress and the Supreme Court since those are items included in the call for this special session, and the act for Congress that was adopted in the 2022 First Extraordinary Session as well as the timeline related to the adoption of that act.

Okay. Briefly, Louisiana's resident population is 4,657,757. This is the number that we use to determine the ideal district. Now, why is this important to you? One of the main criteria for redistricting is to achieve population equality, so -- among the district. So the ideal district population is very important.

Just so you know, for congressional apportionment there is a different number that is used. It's called the apportionment population. And Louisiana

had an additional 3,711 overseas and uniform citizens allocated to Louisiana for the apportionment population which is how Congress uses the method of equal proportions to allocate the number of congressmen to the state.

Okay. Briefly, in Louisiana our 2020 census data showed that we grew by 2.74 percent while the growth rate of the nation was 7.35 and the southern region growth rate was 10.22. This is key because even though we are showing a population growth, we are lagging behind both the nation and the state. And just keep in mind that the nation grew at its lowest rate since 1940.

This is a map that shows the historical population trends in the state of Louisiana. And while you can see that there were some decade differences -- so, you know, clearly we had significant population growth from 1990 to 2000, you know, there were trends such as what you see in the 2000s to 2010 which were the effects of hurricanes Katrina and Rita on our coastal and Orleans metro areas.

But what I also want to tell you is this is important because, again, even though the state grew in each of these decades, when I first started working for this committee in the late eighties, we had eight

congressmen allocated to the state. So in the 1980 to '90, we had eight. Following the 1990 census, we were dropped to seven. And then we maintained seven from 2000 to 2010 and again from -- then we dropped another congressman.

So what you see is a pattern is emerging that every other decade, even though the state is growing, because we're lagging behind the nation we are losing our -- our number allocated to us for Congress.

So specifically with the 2020 census, you will see there is growth in this state along, really, the I-10/12 corridor. There is loss in north Louisiana generally, although there are a few spots of growth and, you know, there are areas of our coast that are clearly suffering population losses. So why is this important? Obviously, when the districts were drawn in 2010, the population, you know, was substantially equal -- or equal to the extent practicable in all of the districts. Over the decade, you can see, because of the shifts in population it necessitated a change in the district boundaries.

Now, our census population demographic change. In 2010, you can see there we had 62.56 percent of people who identified as single race White, 32.8 percent of people who identified as Black, and we had 1.8

percent of people who identified as Asian, 1.3 percent that identified as American Indian, and 1.83 as Other. And one thing I want to point out about this chart is Hispanic is an ethnicity. So when you look at these numbers across the board, they will not total to 100 because you can be any of these races and also Hispanic. Okay?

So Hispanic is separately reported as a number, and we have 4 -- we had 4.25 percent Hispanic in 2010. That number has increased to 6.92 in 2020. The White population is 57.06; the Black population, 33.13; Asian, 2.30; American Indian, 1.87. And again, the Other -- you'll see the most significant growth in the Other category. The sum of the race is interesting because it's not -- these are people who chose to respond to the census as being not White, not Black, not Asian, not American Indian. Okay. So it's just an interesting jump to see this increase.

REPRESENTATIVE BEAULLIEU: Yeah. Ms. Lowrey, also just to kind of point out, if -- if members look at the -- the decrease in the White population and look at the increase in the Other population, they're pretty close to the same from a number standpoint. Just if -- I don't know if it's more people. I -- we had talked about this in committee over the last couple of years,

if it's more people identifying as Other with mixed races. But just to kind of point that out for you all.

MS. LOWREY-DUFOUR: Right. And -- and I do want to point out that we -- so this will tell you how the census reports the -- the population to the state. So every person in the state can respond in a single race or any combination of six races. And so there are -- you know, you can respond that you are White, Black, and African -- you could be all six, okay? And you can respond to the census that way.

But in order for y'all to be able to analyze reports -- and I have included -- we've included some reports from Act 6 which was the congressional act that y'all adopted. And if you flip to this page called, "Total Population", it's numbered page 9 in your packet. And I just want to talk about it just a little bit so that y'all will become familiar because tomorrow, as we are hearing bills, you'll need to be familiar with these reports.

So each report will have a total population figure, will have White -- so in order -- so we -- the -- your six -- your predecessors on this committee and the Joint Senate Committee adopted a population allocation document that is available on the redistricting website. And so the White population

number that you see on this report indicates White alone. So this is not going to be any person that reported that they were White and any other race.

The Black category reflects all people who reported Black alone, plus any other race and Black, okay? Asian is Asian alone and any other race other than Black, okay? And total American Indian, the same, American Indian alone and any other race other than Asian or Black. And the Other is that category that we talked about, the people who reported that they were any other, and it also includes the Pacific Islanders that the population in Louisiana was not significant. So that is included in the Other category.

And the category that's labeled VAP total, that means voting-age population. And that's going to be key, as you will hear, I'm sure, from our attorney general. Okay. Moving on. Any questions about that? All right. Yes, sir.

REPRESENTATIVE CARTER: So (inaudible 0:13:18) --

REPRESENTATIVE BEAULLIEU: Hold on, let me -- let -- is it Carter?

REPRESENTATIVE CARTER: If -- if you reported --

REPRESENTATIVE BEAULLIEU: Representative

Carter, you're on.

REPRESENTATIVE CARTER: Thank you. Thank you, Mr. Chairman. If you reported White and -- and you -- you -- is any other -- only White -- is counted all the (inaudible 0:13:36) --

MS. LOWREY-DUFOUR: The White population category on your report is people who responded to the census as being White alone.

REPRESENTATIVE CARTER: White alone?

MS. LOWREY-DUFOUR: Not combination with any other race.

REPRESENTATIVE CARTER: Okay.

MS. LOWREY-DUFOUR: Okay?

REPRESENTATIVE CARTER: So, basically, the same way with the -- the Black population as --

MS. LOWREY-DUFOUR: No, sir.

REPRESENTATIVE CARTER: Okay. So go back through that because --

MS. LOWREY-DUFOUR: On the report -- and again, this population allocation document is on the website and it was adopted by the committee when we started the process. So the Black population category is people who reported to the census that they were Black and any other race.

REPRESENTATIVE CARTER: Okay.

MS. LOWREY-DUFOUR: Okay. So they could be a combination of up to the six.

REPRESENTATIVE BEAULLIEU: Oh, gotcha.

MS. LOWREY-DUFOUR: Okay?

REPRESENTATIVE BEAULLIEU: Thank you, Representative Carter. And members, also just to -- to let you all know, I know some of this -- this room -- this technology is new to some of y'all. The buttons on your -- your desk, the one to the left is -- is -- is dead. There's nothing on it. So if you want to be recognized, please hit the button towards your right, and you'll see your microphone light up when -- when it's your turn. Representative Gadberry for a question.

REPRESENTATIVE GADBERRY: A pleasure, Mr. Chair.

REPRESENTATIVE BEAULLIEU: Give me a second. It's giving me a little trouble here. All right. You're on.

REPRESENTATIVE GADBERRY: Pleasure, Mr. Chair. So when we proportion a district, we go by voting-age population and not total population?

MS. LOWREY-DUFOUR: No, sir. So the population of the district that is keyed into the ideal district population is the total population of the district.

REPRESENTATIVE GADBERRY: Okay. So what's the significance of voting-age population then if we --

MS. LOWREY-DUFOUR: That is the population that is 18 or over, and it is significant when you're analyzing voting rights issues because, obviously, the people who are 18 and over are of voting age.

REPRESENTATIVE GADBERRY: Right. So the -- I guess the question is -- is -- that I've always come up with is -- and I'm just taking the -- say, District 1 here, it shows 69 percent is White on total population and 100 -- I'm sorry, 71 percent on voting-age population. So -- so when we proportion or when we come up with a district, do we go by the percentage based on total population or voting-age population?

MS. LOWREY-DUFOUR: To achieve the population equality required on the districts, you go by population. To achieve other goals, you look at the totality of the circumstances including voting-age population, okay?

REPRESENTATIVE GADBERRY: Thank you.

MS. LOWREY-DUFOUR: You're welcome. Okay.

REPRESENTATIVE BEAULLIEU: You did that well, Ms. Lowrey.

MS. LOWREY-DUFOUR: Thank you, Mr. Chairman. What is redistricting? I will tell you the terms

1 apportionment and districting are sometimes used
2 interchangeably, and in fact, in our state constitution,
3 the term reapportionment is used. However, they are
4 different concepts. Apportionment is the process of
5 allocating seats in a legislature while districting is
6 the process of drawing lines to create geographical
7 territories from which officials are elected.
8 So, again, we talked about the apportionment
9 of numbers of members of Congress to each state. That
10 is allocating seats to the state in Congress, whereas
11 what -- the charge before you under the call for this
12 special session is to draw lines for the geographic
13 territories from which those officials will be elected.
14 Why do you redistrict? Well, there are many,
15 many, many legal requirements involving redistricting,
16 as we briefly touched on with Representative Gadberry
17 just a moment ago. One includes Article III, Section 6
18 of our constitution that includes deadlines and duties
19 regarding legislative redistricting. There are also
20 various statutes for your local governing bodies and
21 school boards to conduct redistrictings and as well as
22 deadlines. And then there are some general legal
23 requirements, including the Equal Protection Clause and
24 the Voting Rights Act of 1965.
25 So given that, who do you -- who are you

1 responsible for redistricting? Congress, the courts,
2 the House and the Senate, the Public Service Commission
3 and the State Board Of Elementary and Secondary
4 Education. All those have been enacted by the state
5 legislature as laws, so it takes a bill.
6 The issue's dealing with federal law, right,
7 so equal population. You know, you hear often the term,
8 "One man, one vote," you know. So how do you measure
9 it? Again, you measure it by looking at the ideal
10 population. And again, how do we come up with that
11 ideal population? We take the total resident population
12 of the state or the geographic area where the districts
13 are to be confected, and you divide that total
14 population by the number of districts, and you come up
15 with an ideal district population.
16 So I'm going to refer you now to the planned
17 statistic document that's in your folder. It's numbered
18 8. And again, this is all relevant to Act 5 of the 2022
19 First Extraordinary Session.
20 So this report -- and again, I encourage you
21 to become familiar with the structure of it and what it
22 is telling you. So this will tell you there are six
23 districts in a congressional plan, they are single
24 member districts, the actual population within the
25 district, the ideal population that you are basing the

1 calculation to determine your deviation off of. And so
2 you can see there that the absolute deviation ranges
3 from negative 24 to positive 41 for an overall deviation
4 of 65 people between all six districts and a relative
5 mean deviation of 0.00 and overall range of 0.01.
6 REPRESENTATIVE BEAULLIEU: Ms. Lowrey, if you
7 don't mind, just -- if -- for a question, if we -- if we
8 drew -- since we're -- one of the maps we're going to be
9 talking about is -- is Congress. And we were out of --
10 the deviation was 1 and a half percent which on -- on
11 the legislative maps, that's well within -- within
12 deviation range. What would 1 and a half percent or 2
13 percent do for Congress? Is that allowable? Is there
14 -- what's -- what's -- what's the wiggle room there?
15 MS. LOWREY-DUFOUR: So the courts have clearly
16 established that strict population equality among
17 congressional districts has to be the overriding
18 objective. Now that said, however, there have also been
19 some deviations that have been okay in certain states
20 provided the state has an overriding reason for it that
21 is rational and nondiscriminatory.
22 REPRESENTATIVE BEAULLIEU: So we want to be as
23 close to zero as we can?
24 MS. LOWREY-DUFOUR: Yes. Sir.
25 REPRESENTATIVE BEAULLIEU: Thank you.

1 MS. LOWREY-DUFOUR: Okay. Everybody clear on
2 population equality and deviations? Okay. And as the
3 chairman alluded to, the standards are different between
4 Congress and other representative districts that we
5 draw. They are based on different legal provisions.
6 Congress, the nearly as equal in population as
7 practicable is based on jurisprudence. Wesberry v.
8 Sanders is the seminal case there, based on Article 1,
9 Section 2 in the 14th Amendment, "Representatives shall
10 be apportioned," among the states, "according to their
11 respective numbers." And you must make a good faith
12 effort to avoid deviation and to be able to provide a
13 legally acceptable, nondiscriminatory justification for
14 any deviation.
15 Whereas for other representative districts
16 that you will draw, you are allowed to have a slightly
17 larger deviation field. It is substantial equality of
18 population among various districts. That derives from
19 the case of Reynolds v. Sims. Again, the 1960s created
20 a lot of cases dealing with population equality as well
21 as requirements for single member districts.
22 Again, based on the Equal Protection Clause of
23 the 14th Amendment, there's a generally accepted 10
24 percent standard that a legislative plan with an overall
25 range of less than 10 percent would not be enough to

1 make a prima facie case of invidious discrimination
2 under the 14th Amendment. However, so asterisk, it is
3 not necessarily a state harbor -- a safe harbor. I'm
4 sorry.
5 In Larios v. Cox, you -- any substantial
6 deviation must have a legitimate state interest behind
7 it. Okay. In Louisiana, in order to accomplish this
8 overall 10 percent range, we have adopted a criteria of
9 plus or minus five from the ideal to stay as close to
10 that ideal population among the districts as you can
11 get.
12 Okay. Again, and I know this seems like it's
13 very repetitive. It's important. Equality of
14 population must be the overriding objective of
15 districting, and deviations from the -- the principle
16 are permissible only if incident to the effectuation of
17 a rational state policy which would include allowing
18 representation to political subdivisions, compactness,
19 preserving cores of prior districts, and avoiding
20 contest between incumbents. And again, that is based on
21 Reynolds v. Sims.
22 Okay. Judicial districts, which, again, will
23 be the subject of this special session. In a Louisiana
24 case, Wells v. Edwards which was decided in the Middle
25 District of Louisiana, the court decided that the one

1 person, one vote standard does not apply to judicial
2 districts as judges serve the people. They do not
3 represent the people.
4 Now, we're going to talk about other issues of
5 federal law: discrimination against minorities, the
6 Voting Rights Act of 1965. And again, principles of
7 this are contained within the 14th and 15th Amendment,
8 but basically, Section 2 of the Voting Rights Act
9 prohibits the state or any political subdivision from
10 imposing a voting qualification, standard, practice, or
11 procedure that results in the denial or abridgment of
12 any citizen's right to vote on account of race, color,
13 status as a member of a language minority group.
14 So there have been a lot of litigation on this
15 issue. Section 2 of the Voting Rights Act was amended
16 in 1982 to clarify that a violation of Section 2 is
17 established if, based on the totality of circumstances,
18 it is shown that election processes are not equally open
19 to participation by members of a protected class in that
20 its members have less opportunity than other members of
21 the electorate to participate in the political process
22 and elect representative of their choice.
23 So there was a case, Thornburg v. Gingles,
24 1986, that established certain preconditions that courts
25 will look to to make determinations on violations of the

1 Voting Rights Act. They are size and geographical
2 compactness of the group. It requires that the
3 population be sufficiently large and geographically
4 compact; a constitutional majority in a single member
5 district; that the minority population is politically
6 cohesive; and that in the absence of special
7 circumstances, block voting by the majority defeats the
8 minority's preferred candidates.
9 Once courts have established those
10 preconditions, there are other objective factors that it
11 looks to to determine the totality of the circumstances.
12 And I'm not going to go into those at this moment, but
13 if you would like to talk later, we'll be happy to do
14 that.
15 Now, the other side of that is racial
16 gerrymandering. So again, the Equal Protection Clause
17 of the 14th Amendment found that -- you know, there have
18 been a series of cases, Reno v. Shaw in Louisiana, Hays
19 -- the Hays lines of cases where the courts have found
20 that if race was found to be the predominant overriding
21 factor, that strict scrutiny on the state's plan would
22 apply. And in order to survive that strict scrutiny,
23 the plan must have been narrowly tailored to serve a
24 compelling state interest.
25 So what would be a compelling state interest?

1 Remedying past discrimination, avoiding retrogression,
2 avoiding violations of Section 2 of the Voting Rights
3 Act. And key here is those interests must be strongly
4 supported in the evidence when the policymakers are
5 making their decisions on the plan. And this would
6 apply not only to plans that distinguish citizens
7 because of race, but also to plans that may be race
8 neutral but on their face are inexplicable except on
9 grounds other than race.
10 REPRESENTATIVE BEAULLIEU: Ms. Lowrey, we have
11 a question. Representative Marcelle.
12 REPRESENTATIVE MARCELLE: Thank you. Can you
13 go back over what you just said about the -- the strict
14 scrutiny and how -- how that's overridden? Why would
15 that be overridden? So I -- I know you -- you -- you
16 talked about the --
17 MS. LOWREY-DUFOUR: No, I --
18 REPRESENTATIVE MARCELLE: -- idea of
19 population, and I'm just --
20 MS. LOWREY-DUFOUR: -- think it's satisfied.
21 REPRESENTATIVE MARCELLE: So it has to be
22 satisfied?
23 MS. LOWREY-DUFOUR: That if you can prove that
24 it -- that the plan was narrowly tailored to further
25 your compelling governmental interest.

1 REPRESENTATIVE MARCELLE: And what would be an
2 example of that?
3 MS. LOWREY-DUFOUR: Remedying past
4 discrimination, avoiding retrogression, avoiding
5 violations of Section 2 of the Voting Rights Act. And
6 again, all those things must be firmly established on
7 the record as you are making your decisions on a plan.
8 REPRESENTATIVE MARCELLE: So in essence -- I'm
9 new on the committee, so, you know, you got to bring me
10 up to speed. So -- so in essence, if -- if a bill is
11 proposed and these criterias aren't met, what you're
12 saying is during the argument of the bill they have to
13 be laid out -- or they should be laid out. Is that what
14 the law says?
15 MS. LOWREY-DUFOUR: Okay. This is based on
16 jurisprudence, not, you know, necessarily the letter of
17 the law. But to -- I think, you know, because y'all
18 were elected to represent your districts and the state
19 of Louisiana. And y'all are the policymakers of the
20 state of Louisiana. And so as you're making the policy,
21 I think it's important that as you're presenting --
22 because, you know, individually, you -- you alone have
23 the right to present your bill, right?
24 REPRESENTATIVE MARCELLE: Right.
25 MS. LOWREY-DUFOUR: And I think it's important

1 for your -- for your colleagues to understand the
2 reasons why because you're asking them to vote -- or to
3 -- to vote for your bill. And I think that would be on
4 any bill that you present. You know, what is the policy
5 behind your legislation? Why is it important? So --
6 REPRESENTATIVE MARCELLE: Well -- well, I
7 understand, you know, that each of us have to, when we
8 present a bill, talk about how it's important to us at
9 our districts, but we also have to take into account of
10 the laws that are set and the criteria that we need to
11 meet. So when we don't do that, then we find ourselves
12 in court like -- like we are now.
13 MS. LOWREY-DUFOUR: Yes, ma'am.
14 REPRESENTATIVE MARCELLE: Thank you.
15 MS. LOWREY-DUFOUR: Thank you.
16 REPRESENTATIVE BEAULLIEU: Thank you,
17 Representative Marcelle.
18 MS. LOWREY-DUFOUR: And -- and one other thing
19 I want to say is the courts are very aware that
20 redistricting plans are not drawn in a vacuum. They
21 understand that this is a, you know, environment, a
22 political environment, that y'all have awareness of many
23 factors. So I just want to put that on.
24 All right. Redistricting criteria, the
25 legislature adopted, in the '21 Regular Session, Joint

1 Rule -- Joint Rule 21. So this is the criteria, and
2 copies of this rule, members, are in your packets. And
3 this is important because this is the standards that the
4 legislature has adopted for consideration of
5 redistricting plans.
6 So what are we talking about? Compliance with
7 the Equal Protection Clause of the 14th Amendment, the
8 15th Amendment, Section 2 of the Voting Rights Act, all
9 other applicable federal and state law; that all
10 redistricting plans must be composed of contiguous
11 geography - does anybody have a question about that? -
12 okay; contain whole VTDs - so that is the term -- the
13 census term for election precincts - to the extent
14 practicable, and a limitation on the number of divisions
15 that can be used in a precinct if they have to be split.
16 All redistricting plans have to respect
17 establish boundaries of parish municipalities - but that
18 is subordinate and not used to undermine maintenance of
19 communities of interest within the same district - to
20 the extent practicable. We must use the most recent
21 census data, that is the redistricting data file, the PL
22 94-171 data released by the census, as it is validated
23 through our data verification program.
24 If a member of the public wishes to submit a
25 plan, they must submit it electronically in a comma

1 delimited block equivalency file. The purpose for this,
2 members, is so we can import it into our system and be
3 able to produce the reports that you're going to be used
4 to seeing. Each redistricting plan for the House and
5 the Senate, PSC, BESE, Congress, and the Supreme Court
6 must be a whole plan which assigns all the geography of
7 the state. Now, why is this?
8 Well, I can tell you what. After many decades
9 of drawing districts, I can tell you: I can draw a
10 single perfect district every day all day, but drawing
11 105 or 39 or even 6 is much more difficult, so. And you
12 have to, again, consider the totality of the
13 circumstances there. So we require -- you can't just
14 submit the perfect district, you must submit a whole
15 plan.
16 Each redistricting plan for the House, Senate,
17 PSC, and BESE must contain single member districts;
18 contain districts substantially equal in population, and
19 that, again, is that plus or minus 5 percent from the
20 ideal; must give due consideration to traditional
21 district alignments to the extent practicable. For
22 Congress, again, single member districts, and contain
23 districts with as nearly equal to the ideal district
24 population as practicable.
25 Okay. Let's talk about what we've got. So

when the 2020 census came in and was reported to the state -- and again, this was a unique year for the census. They were seriously behind in reporting the data to the states, and they also employed a new privacy metric, the differential privacy, which has been a challenge. But anyway, the census data is considered the gold standard for data to use for redistricting.

So in 2010, the ideal population for congressional districts was 755,562. That increased by over 20,000 to 776,292 following the 2020 census. Why is this important? Well, here is the map of the prior congressional districts before the redistricting cycle following the 2020 census. This is the malapportionment. So what does that mean? That is the number by which the districts, both each individual district and the overall plan, deviate from the ideal. And as you can see, there is substantial deviation.

There is a difference of 88,120 between Congressional District number 4 and Congressional District number 6. And as a reminder, congressional districts have to be as close to equal in population as possible. Therefore, the legislature had to act to redraw the districts. I call this the heat map. This shows the -- and so the dark orange reddish color are deviations with -- that are furthest below the ideal.

The lighter orange is still below the ideal. The light yellow colors are population that is above. But obviously, District 6 was the most above the ideal district.

So to remedy the population inequality among the districts, the legislature passed a bill. That bill was introduced on February 1st. It was reported favorably by your predecessor committee on February 4th, 2022. It passed the House, 70 votes to 33 nays, on the 10th. It was received in the Senate on the 14th. The Senate and Governmental Affairs Committee reported it on the 15th. Senate passed it 27 to 10 on the 18th. The House concurred in amendments, 62 yeas to 27 nays, on the 18th.

Then it was sent to the governor on March the 10th. The governor vetoed the bill on May the 30th. The House overrode the veto, 72 yeas to 31 nays. On March 30th, the Senate also overrode the veto, 27 yeas to 11 nays. And on March 31st, the bill became Act number 5 of the 2022 First Extraordinary Session. This bill, Act 5, is -- this map represents the districts that were drawn pursuant to Act 5. And this is the map that, again, is in litigation currently.

This is the population, again, statistics, the deviations. You've looked at the report. I don't need

to repeat that to you, but you can see that they are as nearly equal in population, and certainly much more equal in population than where we started.

Malapportionment of the Supreme Court, and we're talking about this again because it is in the special session call. These are the current districts for the seven Supreme Court districts. These districts, while not subject to equal population requirements due to that case that we mentioned earlier -- when these districts were last drawn in 1997 using the 1990 census -- okay. So they were drawn in 1997 using 1990 census figures.

The legislature did draw them with substantially equal populations, and in fact, the mean deviation was less than 2 percent among the districts. The ideal district population at that time was 602,853.

This, members, shows you this current state of the deviations among each of the Supreme Court districts. District 1, well, the -- I'm just going to say the -- the population of the districts vary considerably from a low of 476,554 in District number 7 which is a Orleans and Jefferson-based district, to a high of 838,610 in District 5 which is the Baton Rouge metropolitan-based district, a difference among the districts of more than 362,000 people.

REPRESENTATIVE BEAULLIEU: Ms. Lowrey, just -- the original districts, they were -- they were built in the '20s; is that -- is that correct? And only changed once if -- if my memory --

MS. LOWREY-DUFOUR: Changed once. I believe, '21, they were -- Supreme Court districts were established.

REPRESENTATIVE BEAULLIEU: Let me -- since we're in the twenties again, like, we're talking the 1920s?

MS. LOWREY-DUFOUR: Yes. I'm sorry. Yes. Yes. Back before, I believe, anyone in this room had yet made an appearance.

REPRESENTATIVE BEAULLIEU: Yeah. Representative Thompson may have been in the legislature, but that's -- that's it.

(Laughter.)

MS. LOWREY-DUFOUR: He certainly has more seniority than anyone in the legislature. Whether or not he was actually here in the '20s, we'd have to ask. But, yes. So again, and here's that heat map showing the population deviations. Dark red, dark orange, furthest below the ideal, and then dark green representing population the furthest above the ideal.

REPRESENTATIVE BEAULLIEU: Ms. Lowrey, we have

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1 a question. Representative Wyble.
2 REPRESENTATIVE WYBLE: Thank you, Mr. Chair.
3 Ms. Lowrey, thank you for all of this information. It's
4 very helpful. I'm still trying to wrap my head around
5 how the census is counting population, what we talked
6 about earlier. So if a respondent checked White and
7 Asian, that respondent would be counted as --
8 MS. LOWREY-DUFOUR: Okay. The census reported
9 all of those population figures to the state, okay?
10 REPRESENTATIVE WYBLE: Right.
11 MS. LOWREY-DUFOUR: So if you really want to
12 know who reported -- not who, but numbers who reported
13 themselves as White and Asian, we can certainly provide
14 that to you. However, and I -- I just want to say
15 there's a limited number -- there's a limited space on
16 -- on reports. And in order for you to be able to
17 analyze voting-rights issues -- and we have a document
18 on our website, and it was a kind of guidance from the
19 justice department -- the United States Justice
20 Department about analyzing Section 2 guidance for that
21 where you really look at one -- the population of
22 "alone," so who reported single race.
23 And then you would allocate to the protected
24 class minority groups the White plus the minority group
25 as well as any other reporting. So you would look at it

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1 like that. So for simplicity and -- and to basically
2 allow y'all to look at, you know, categories of
3 population, this is how the reports are confected. But
4 the census reports hundreds of categories of racial
5 populations, you know, and they'll tell you. I mean,
6 it's, like, White alone, White plus Black, White plus
7 Asian, White plus Black plus Asian plus other. I mean,
8 all those things will be reported by the census.
9 But for simplicity, I mean, there's no way for
10 y'all to look at --
11 REPRESENTATIVE WYBLE: Sure.
12 MS. LOWREY-DUFOUR: -- the report --
13 REPRESENTATIVE WYBLE: Sure.
14 MS. LOWREY-DUFOUR: -- because it would be
15 hundreds of columns of data.
16 REPRESENTATIVE WYBLE: But -- but that
17 criteria is regarded equally regardless of what they
18 check off, I guess is what I'm trying to find out. If
19 -- if they were White -- White only, they're counted as
20 White. But if they're White and another, then they're
21 counted as Other. But if they check off Black and
22 others, then we count them a part of our Black
23 population; is that correct?
24 MS. LOWREY-DUFOUR: Right. And that's based
25 on that guidance.

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1 REPRESENTATIVE WYBLE: From the federal
2 government?
3 MS. LOWREY-DUFOUR: Yes, sir.
4 REPRESENTATIVE WYBLE: Has that guidance been
5 -- I -- I don't know if this is a fair question or not.
6 Was that similar guidance in 2020 --
7 MS. LOWREY-DUFOUR: Yeah.
8 REPRESENTATIVE WYBLE: -- compared to 2010?
9 MS. LOWREY-DUFOUR: Yes.
10 REPRESENTATIVE WYBLE: Has it always been that
11 way?
12 MS. LOWREY-DUFOUR: It's similar guidance.
13 REPRESENTATIVE WYBLE: All right. Thank you.
14 MS. LOWREY-DUFOUR: No. You're very welcome.
15 Okay. Well, that --
16 REPRESENTATIVE BEAULLIEU: I think
17 Representative --
18 MS. LOWREY-DUFOUR: -- concludes my
19 presentation, unless there's any other questions.
20 REPRESENTATIVE BEAULLIEU: Thank you, Ms.
21 Lowrey. Representative Gadberry does have a question.
22 Representative Gadberry.
23 REPRESENTATIVE GADBERRY: Thank you, Mr.
24 Chair. Just to make this clear, what was the ruling
25 from the judge against the maps that were submitted? I

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1 -- I assume we submitted a --
2 MS. LOWREY-DUFOUR: Representative Gadberry,
3 we do have the attorney general here today --
4 REPRESENTATIVE GADBERRY: Okay.
5 MS. LOWREY-DUFOUR: -- to address those issues
6 regarding the litigation, and I think it would be much
7 more appropriate coming from the chief legal officer of
8 the state.
9 REPRESENTATIVE GADBERRY: I figured that would
10 be your answer. We submitted Act 5 though, right? This
11 one?
12 MS. LOWREY-DUFOUR: Act 5 --
13 REPRESENTATIVE GADBERRY: Is what we submitted
14 --
15 MS. LOWREY-DUFOUR: -- was adopted by the
16 legislature.
17 REPRESENTATIVE GADBERRY: That's what we
18 submitted to the judge?
19 MS. LOWREY-DUFOUR: Well, the judge was
20 looking at it --
21 REPRESENTATIVE GADBERRY: Yeah.
22 MS. LOWREY-DUFOUR: -- as part of the
23 litigation.
24 REPRESENTATIVE GADBERRY: Right.
25 MS. LOWREY-DUFOUR: Okay?

REPRESENTATIVE GADBERRY: That's the one that she looked at though, that she rejected?

MS. LOWREY-DUFOUR: Well, I mean -- and -- and also there have been other plans --

REPRESENTATIVE GADBERRY: Okay.

MS. LOWREY-DUFOUR: -- that have been submitted by plaintiffs to the court.

REPRESENTATIVE GADBERRY: And -- and would you say that Act 5 did not meet the redistricting criteria?

MS. LOWREY-DUFOUR: Representative Gadberry --

REPRESENTATIVE GADBERRY: I know. You're not (inaudible 0:43:45) --

MS. LOWREY-DUFOUR: That is a -- that is a legal matter that is currently the subject of litigation in the Middle District, and again, much more appropriately addressed by our chief legal officer.

REPRESENTATIVE BEAULLIEU: Yeah. We can let our attorney general handle that one.

REPRESENTATIVE GADBERRY: Okay. Thank you.

MS. LOWREY-DUFOUR: Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Ms. Lowrey. Members, as -- as you all were just -- got a -- got a teaser from Representative Gadberry, we have our attorney general here with us, Ms. -- Ms. Liz Murrill. She's going to join us and give us an update on the

litigation. And I see Ms. Murrill has a familiar face with her, so I'd like to welcome back to the House of Representatives former colleague Representative Larry Frieman. Welcome, welcome, Mr. Frieman.

MR. FRIEMAN: Thank you, Chair. Thank you, members. It's -- I'm glad to be back. And sitting on this side of the table is a familiar place --

REPRESENTATIVE BEAULLIEU: Yeah.

MR. FRIEMAN: -- for myself as well. So thank you for having me.

REPRESENTATIVE BEAULLIEU: If you wouldn't mind, everyone, and introduce yourself for the committee, and then it's all yours.

MS. MURRILL: Thank you, Mr. Chairman, and members of the committee. It's great to be with you today as your new attorney general. I'm Liz Murrill. I also have with me Tom Jones who is the new director of the civil division and has been involved in the litigation. And now, chief deputy -- almost chief deputy, assuming you confirm him, is Larry Frieman. So that'll be before you soon, too.

I -- I -- I want to tell you that redistricting is hard. I'm not going to tell you this is easy. I -- I think that you did a -- you did the best job you could before. We've been in litigation.

The last time redistricting, in the 1990s, it -- it was -- when the second majority/minority map was drawn, we ended up in litigation for a decade. So there is no guarantee that when you do this again, we won't still be in litigation. But we are in litigation now.

The District Court judge has conducted a fact-finding mission - that's what will -- what always happens - and made fact findings regarding the map. She issued an injunction. That injunction is not currently in effect for reasons that I can explain to you, but I think the bottom line is it is not currently in effect because the deadlines for the election that it enjoined are -- are over.

The courts, nevertheless, have told us to draw a new map, and they have indicated that we have a deadline to do that or Judge Dick will draw the map for us. So you have an opportunity now to go back and draw the map again. And -- and I think that it is not an easy task because the United States Supreme Court has not made it an easy task. They've given you some directives that seem to be -- to not give you a lot of clear lines for doing your job. I -- I apologize on their behalf for -- but, you know, we tried.

I mean, I am defending that map, and so you won't hear me say that I believe that that map violated

the redistricting criteria. I'm defending that map, but I will defend your new map if you draw a new map. So, you know, it's an act of the legislature. My job is to defend the work of the legislature, and I will do that to the very best of my ability.

I think that the difficulty is that in the Merrill v. Milligan case, which was the Alabama litigation that preceded ours, the Supreme Court issued an opinion. And it says that in a Section 2 disparate impact claim, which is different really from the work that you did -- you did your work. You did it in good faith. But they can -- they -- the plaintiffs will go to court, and they will make a disparate impact claim, and that's what gets litigated.

That has nothing to do with whether your intent was nefarious or not. Everyone can have had the right intent and followed the rules as they believed they were given to them, and go to court. And the court can still say, "Under Section 2, there's a disparate impact. And because there's a disparate impact, you have to go back and do it again, or I will do it for you."

And that is -- that is the short version of what Judge Dick has held and what has not been overturned by any court that we have brought it before,

since then. There's no definitive ruling on that case. It is still in litigation. If you pass a new act of the legislature, that will become the new law. So I'm happy to take some more questions. I think that what -- what Merrill v. Milligan did, which is, I think, one question, is that it said, "You can't do this job once there's been some litigation over disparate impact. You can't really do the job without taking race into account."

And so that's not illegal or improper to -- to think about race when you're doing this. You can't really do it otherwise. I mean, that's the whole -- the litigation is because someone has made a claim about the disparate impact. And so there's no way to not give some thought to what you're doing in that context, especially when it's preceded by some litigation and some fact finding. But what the United States Supreme Court has said is that race can't predominate in the way that you draw your lines.

So there have to be other reasons that would justify the map. And those are some -- I thought Ms. Lowery did an excellent job of -- of giving you what the broad parameters are. They aren't -- you know, they're not going to be real -- it's not going to be easy because the Supreme Court hasn't made it real clear in

terms of how you can meet strict scrutiny, Representative Marcelle. I mean, it's -- it is -- it is a difficult task.

And I think that some of the other directives that the court has given, like trying to keep geographical compactness, doing the best you can in terms of meeting all the other requirements, I mean, those are things -- those are justifications that still apply. Maintaining communities of interest still apply. Balancing geographical -- I mean, population still applies. So all of those things are, you know -- and then the totality of the circumstances is ultimately what the test is going to be that the courts apply.

And so, you know, I -- I think that if that makes things even more confusing to you, I blame the courts. I mean, we -- we have tried to get them to explain and give you more clear directions. It is ultimately your job. The constitution makes this the job of the legislature to draw the maps, and then when we end up in litigation, it perverts that process.

Because the -- the -- the way that the -- the precedent is built, there's fact finding that occurs from a judge that can override the very fact finding that you've made and your legislative record. And -- and that's just a product of precedent and how these

cases have been litigated. It's not something I can change.

REPRESENTATIVE BEAULLIEU: So let me just -- to kind of -- you know, I sat on this committee last -- the last four years, and we spent a long time working on the map that we ultimately ended up drawing. And with over two-thirds vote of the legislature, we upheld it over a veto override and whatnot. Went through -- thought it was the most -- two-thirds of us thought it was the most representative of the state of Louisiana.

And even all the work we did, everything we've put into it, all the testimony we've heard, the -- the deviation being what it is, close to zero, none of that matters with the federal judge and control. She has the ability to draw it without our input and can do what she -- if we don't draw a map this week. Is that correct?

MR. FRIEMAN: Well, she -- yeah. She made fact findings of her own based on the evidence that was presented to her in court, and those fact findings are very difficult to overturn in the federal judicial system. There's -- you know, I can talk to you about precedent, I can talk to you about terms of our -- in terms of appellate review. But at the end of the day, her fact finding becomes very difficult to overturn.

REPRESENTATIVE BEAULLIEU: Okay. We have --

we have a couple of questions. Representative Thomas.

REPRESENTATIVE THOMAS: Thank you, Mr. Chair. Good morning. I think I heard you say that race is the predominant --

MS. MURRILL: No. No. Race cannot be the predominant factor in what you would draw. That would violate the Equal Protection Clause. So what you have to do is think about how to best draw the maps, given the criteria that the Supreme Court has established, without allowing race to be the predominant factor that drives the drawing of your lines. That's where the actual Equal Protection Clause violation will come in. So, you know, you need to stay south of that.

And then I -- I think that, you know, you're going to have a lot of other things that you have to think about when you draw these maps. Communities of interest is one of the -- the -- the most important ones. I think that's always been a driving feature of the maps -- or of the map drawing exercise.

Core retention is what was discussed very heavily in Merrill v. Milligan, and I think core retention has now become -- and -- and I'm just going to tell you my personal opinion in trying to decipher Merrill v. Milligan. It was not easy. There are a lot of -- it's a very fractured opinion. But I -- I think

that core retention is the part that the court has given the least amount of attention to in this process now, that once you are trying to redraw the map, I think that core retention takes -- is -- becomes a less important factor under Merrill v. Milligan.

REPRESENTATIVE THOMAS: Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Representative Thomas. Representative Marcelle.

REPRESENTATIVE MARCELLE: Thank you. Let me start by congratulating you. I don't know if I should say congratulations or condolences. I'm not really sure. Congratulations.

MS. MURRILL: Well, I asked for the job, so thank you.

REPRESENTATIVE MARCELLE: Okay. Let -- let me just go over a couple of things that you said, and -- and so I can be clear in what you're -- what you're telling us today. Number one, you said you're going to defend the map, Act 5, that they presented because that is your job to do so, correct?

MS. MURRILL: Yes.

REPRESENTATIVE MARCELLE: And so --

MS. MURRILL: I am defending it now.

REPRESENTATIVE MARCELLE: Correct. Because that's -- that's what we hired you to do, to defend us,

right? And if we pass another map, you'll defend that map as well?

MS. MURRILL: That's correct.

REPRESENTATIVE MARCELLE: The other thing that I -- I -- I -- I -- I -- I heard you say was this is a -- the judge has fact-finding matters. Can you kind of elaborate on what that means? Is that -- that's based upon the testimony that was presented by the plaintiffs; is that accurate? And -- and the -- and the defense, obviously, she took both -- both matters into consideration when she was doing her fact finding.

MS. MURRILL: She did. That doesn't mean I agree with them.

REPRESENTATIVE MARCELLE: Okay. So --

MS. MURRILL: And I -- and I think that it's also a product of -- this is part of what's frustrating, I think, for the legislature when it goes into litigation because people can -- like, experts, for example, that are hired by the plaintiffs, no matter who they are -- this could happen on the new map. Right? Those experts can come and testify in court, and the judge can control that testimony. In our case, it happened in a very, very short, short turnaround in a preliminary injunction hearing which is different from a trial on the merits. We've never had a trial on the

merits.

So, you know, the -- the -- the court -- the judge, whoever that judge may be, has an enormous amount of control over how much testimony is allowed and by whom, and -- and how much time we will have to do that. That was all very, very compressed when we litigated this right after the map was passed. We have not had any other fact finding because we haven't had a trial on the merits. I have raised an objection to that because I think that you are entitled to have a trial on the merits, but the courts have not accepted those arguments at this point.

They have told us to go back and draw the map, and they have given us a deadline. So, you know, I am making the same arguments that I would make on the new map. But at the -- at the same time, you know, the -- the courts haven't given us a lot of safe harbor to go litigate --

REPRESENTATIVE MARCELLE: Okay.

MS. MURRILL: -- the rest of this case. They've said, "Go do this."

REPRESENTATIVE MARCELLE: So it's -- it -- it is a fact that we do have six congressional districts in Louisiana? That is --

MS. MURRILL: It is.

REPRESENTATIVE MARCELLE: -- a fact, right? Is -- is it also a fact that a third of that -- the population is African American?

MS. MURRILL: Approximately, based on the data. I would also point out that 50 percent are women. I mean, there are other -- there are other population, you know, and gender and differences -- like, that's why Section 2 has never been -- I mean, it is expressly stated in Section 2 of the Voting Rights Act that this is not an act of proportionate dividing. That is not permitted under Section 2. And so we can't just take that number and say that's -- that's how we do this, because it's not that simple and that's actually not permitted under the law.

REPRESENTATIVE MARCELLE: So -- so it's not permitted to say that we have six congressional districts, and of those six congressional districts, we -- we talk about community interests, I think was one of them. So do you believe that all five of the other districts has all the community interests impacted in those, and African American districts only should have one?

MS. MURRILL: Representative Marcelle, the -- the -- the -- the job of drawing the districts is yours.

REPRESENTATIVE MARCELLE: I get it.

1 MS. MURRILL: It's not mine.
2 REPRESENTATIVE MARCELLE: Right.
3 MS. MURRILL: And I -- I am defending what I
4 believe to have been a -- a defensible map. And if you
5 draw a new map, I will defend that map. Judge Dick has
6 put us in a -- in a position -- and the Fifth Circuit,
7 the panel that reviewed that decision, and the whole
8 court, when I asked them to go en banc, by declining to
9 go en banc, have put us in a position of where we are
10 today, where we -- we need to draw a map. So I'm here
11 to tell -- I'm not here to tell you don't draw a map. I
12 mean, I think we do have to draw a map --
13 REPRESENTATIVE MARCELLE: And -- and --
14 MS. MURRILL: -- and I will defend that map.
15 REPRESENTATIVE WYBLE: And -- and my final
16 question. I heard Representative Beaullieu talk about
17 two-thirds of the legislature approving this map and --
18 and -- and voting for it. Beaullieu. I'm sorry.
19 (Simultaneous speaking.)
20 REPRESENTATIVE MARCELLE: Beaullieu?
21 (Simultaneous speaking.)
22 REPRESENTATIVE MARCELLE: I just call you
23 Beau, so I'm -- I'm trying to get your real name because
24 --
25 REPRESENTATIVE BEAULLIEU: We'll -- we'll --

1 REPRESENTATIVE MARCELLE: -- I been calling
2 you Beau.
3 REPRESENTATIVE BEAULLIEU: -- we'll work on
4 you --
5 REPRESENTATIVE MARCELLE: Yes.
6 REPRESENTATIVE BEAULLIEU: -- Representative
7 Marcelle.
8 (Laughter.)
9 REPRESENTATIVE MARCELLE: So Beaullieu -- I
10 always call him Beau. But Beaullieu, I -- I -- I -- I
11 heard him say that two-thirds of the legislature voted
12 for this map. And he's absolutely accurate because the
13 majority of the legislature would support this map
14 because it benefits them. We talked about, you know,
15 our districts and our interests. What I did not hear
16 him say is -- because I sat at that table on the other
17 side and presented a map, and none of the maps that we
18 presented got out of this committee.
19 So it's, you know, it's unfair to say, "Okay,
20 we passed it with the majority of the people," because a
21 majority of the people would support us not having an --
22 an additional African American representation in another
23 district. I get that. But it's not fair to say that
24 those arguments weren't made to -- to support that. I
25 was one of those that made the argument to support an

1 additional congressional map. And I think what we're
2 hearing from Judge Kelly Dick is --
3 MS. MURRILL: Shelly Dick.
4 REPRESENTATIVE MARCELLE: -- Shelly Dick is
5 that the map is not fair for the state of Louisiana.
6 And -- and what I -- what I agree with her on is that if
7 we cannot -- and we had an opportunity to draw this map
8 ourselves and we did not do it as it supports Section 2,
9 in my opinion. I know you gave yours, but this is my
10 opinion. So then we will allow her to draw that map if
11 we can't do that. We can't draw a map right now, right?
12 Is that accurate?
13 MS. MURRILL: So what will happen if you do
14 not draw a map is that she has set a trial date. It's
15 very, very quick, and we will still be operating under
16 the old map. So we will move forward then with a trial
17 on the -- under the old map. There'll be a trial on the
18 merits, the same record I think that was presented, and
19 Tom can affirm or -- or correct me if I'm wrong, but the
20 -- the record from the preliminary injunction hearing
21 will all go into the -- into the -- into the court
22 record, and we will look at whether we want to have
23 additional testimony. And that trial will move forward.
24 I -- I don't expect Judge Dick to change her
25 position. I think she will draw a map, and -- and so

1 you are getting the first opportunity to do that. I
2 mean, we could have -- in theory, we could have had a
3 trial on the merits, and she could have said, "I don't
4 --" you know, again, "I don't like the old map," and --
5 or, "I don't like the map that you drew and I'm going to
6 redraw your map." But as a matter of law, you get the
7 first shot at doing that, so.
8 REPRESENTATIVE MARCELLE: No. We get the
9 second shot at doing it. Thank you very much, though.
10 REPRESENTATIVE BEAULLIEU: Thank you.
11 Representative Marcelle. Representative Farnum.
12 REPRESENTATIVE FARNUM: Thank you, Mr.
13 Chairman. So a couple of things. So the -- the
14 parallel that the argument has been based on is the --
15 the case in Alabama; was that the one?
16 MS. MURRILL: Yeah. The Alabama case was
17 litigated just, you know, a few months ahead of ours,
18 and so it went up to the Supreme Court before ours did.
19 And so we've basically been held -- our case was held in
20 abeyance pending the outcome of that case.
21 REPRESENTATIVE FARNUM: So -- and that was a
22 seven-member district, right?
23 MS. MURRILL: I believe so.
24 REPRESENTATIVE FARNUM: So -- so they were
25 trying to reach a second district in a seven-member

1 state. So would you say, just in your opinion, is it
2 harder to -- to draw two of six than it is two of seven,
3 just based on the compactness of the population of that
4 state? Because wouldn't you say that every state has a
5 different compactness, there's no two states that are
6 identical, and maybe it's easier in one state, that
7 maybe the compactness is -- is much more centrally
8 located to reach that conclusion. Wouldn't -- would you
9 agree with that?
10 MS. MURRILL: I -- I would agree with you that
11 every state is different and that -- that our population
12 -- how our population is spread out is -- is different
13 from every other state.
14 REPRESENTATIVE FARNUM: Would -- would you --
15 MS. MURRILL: So our population is -- our
16 population, I think, is relatively close to theirs. I
17 -- they'd probably have a little more population because
18 they still have seven districts. You know, we -- this
19 isn't going to be easy. I -- I didn't -- that's why I
20 started out by saying, "I'm not here to tell you this is
21 an easy job." You have a hard job. Our state is
22 different. Every state is different from each other,
23 and -- and you have to do this based on the facts in our
24 state.
25 We have argued in our case that our state is

1 different from Alabama with regard to -- so that they --
2 the fact findings aren't -- can't be the same. We're
3 not the same. Our history isn't the same. Our history
4 of redistricting and redistricting litigation is not the
5 same. And we -- we brought those issues up, and here we
6 are still, so.
7 REPRESENTATIVE FARNUM: I -- I -- I know. I
8 spent the better part of three years going over this. I
9 was on the committee last time and sat through numerous,
10 numerous meetings on -- on this across a period of the
11 three years. Help -- help me understand how the -- the
12 voting-age population factors in when the voting -- the
13 Black voting-age population is lower than the total
14 population in the state. How does that factor in?
15 MS. MURRILL: You want to take that one?
16 MR. JONES: Yeah. The -- the judge --
17 MS. MURRILL: Introduce yourself just quickly
18 again.
19 REPRESENTATIVE BEAULLIEU: You're on. You're
20 on.
21 MR. JONES: The judge here in the Middle
22 District has based her rulings on the Black --
23 REPRESENTATIVE BEAULLIEU: If you don't mind,
24 could you kind of speak into the mic a little bit? Or
25 you can pull the mic to you, I believe, as well.

1 MR. JONES: I'm sorry. My name is Tom Jones.
2 I'm the director of the civil division in the attorney
3 general's office.
4 The judge has principally based her ruling on
5 Black voting-age population. That's what she's used as
6 the primary criteria. Then the experts take that Black
7 voting-age population, and they're very clever people,
8 and they do very clever things with those numbers. They
9 can persuade you on one side that the Black voting-age
10 population should be analyzed this way, and the other
11 experts can convince you of just the opposite the next
12 day. But Black voting-age population has been the
13 primary criteria for this judge's rulings.
14 REPRESENTATIVE FARNUM: Because you did say
15 something earlier, that -- that race cannot be a
16 determining factor of -- of why you draw maps.
17 MS. MURRILL: It can't be the predominant
18 factor.
19 REPRESENTATIVE FARNUM: Isn't that the only
20 reason we're here right now?
21 MS. MURRILL: You know, we're here because of
22 --
23 REPRESENTATIVE FARNUM: But isn't that the
24 predominant reason?
25 MS. MURRILL: -- the court's telling us we

1 have to be here. I mean, I -- I think that's part of
2 it. You know, the -- I mean, I'm defending the map.
3 I'm going to defend the new map. I -- I want you to
4 know, I mean, if you draw a new map, I'm defending that
5 map, so.
6 REPRESENTATIVE FARNUM: I -- I agree.
7 MS. MURRILL: I'm not going to say that, you
8 know, I mean, I think -- I don't -- I have complaints
9 about how this case was managed, I mean, not by our
10 litigators, not -- you know, I just think that we need
11 -- we should have a trial on the merits. I've always --
12 I have argued that in court. I have signed off on those
13 pleadings. I still believe that that's true. The
14 courts have told us to do this by a certain date or it's
15 going to be done for us.
16 REPRESENTATIVE FARNUM: I -- I think the
17 circular fashion of -- of the 14th, the 15th Amendment,
18 and this Section 2 of the Voting Rights Act is a circle.
19 So it -- it -- it sends you in this race to chase your
20 tail to try and accomplish what you're trying to
21 accomplish. And -- and each one contradicts the other
22 one in the circle. So you end up in this never ending
23 loop of -- of how do you accomplish what we're tasked to
24 do here.
25 We did look at a lot of maps and -- and, you

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1 know, I -- I personally think that the one we passed was
2 -- was a very legal, legitimate map. And -- and -- and
3 we'll do the best we can with what we have. So,
4 appreciate your time today. Thank you, Mr. Chairman.
5 REPRESENTATIVE BEAULLIEU: Thank you,
6 Representative Farnum. Representative Carter.
7 REPRESENTATIVE CARTER: Thank you, Mr.
8 Chairman. I -- because this committee meeting is being
9 viewed by people throughout the state, I think it's
10 important that we be honest and -- and -- and -- and put
11 the whole picture, why we here, how we got here. It
12 seemed to be an impression that the old Judge Dick's
13 begging us, trying to make us do something even though
14 we've done the right thing.
15 Is it not true that the judge's job, her task,
16 is to look at the law, first the law, the -- the
17 jurisprudence of reapportionment, and look at the -- the
18 -- the -- the statute that's been passed,
19 reapportionment and other criteria that Congress and --
20 has given us, to see if we went about this the right
21 way. She just didn't come up the side to say, "I'm
22 going to make them have another Black district." That
23 is not her job. And -- and -- and she did anything
24 contrary to that, she certainly would have been reversed
25 quite quickly.

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1 But -- but -- but what she did, she looked at
2 the law, and there was -- there was -- there was a
3 request made by motion to -- to -- as to whether or not
4 the plaintiff would succeed on this problem with
5 disparity and what have you if they went to trial. And
6 she pretty much said, after studying the law and
7 studying the facts and what actually took place in this
8 legislature, she decided it would probably succeed. So
9 she asked the legislature to go back and try to do this
10 over again the right way. And the legislature has that
11 opportunity. We could get nothing done, okay?
12 So now the judge -- it will stay -- the
13 attorney general office -- she -- she expressed that she
14 wanted another map and she -- a better map, she thought,
15 that's more legal. And so she -- she asked the
16 legislature to -- there was a state made by the attorney
17 general's office, and that was granted by the Fifth
18 Circuit.
19 And because of the Alabama case -- and Alabama
20 is different from -- first of all, Alabama has 26
21 percent population of African Americans. Louisiana, 33
22 percent. Alabama has a larger overall population than
23 Louisiana as well. That's why they have seven
24 congressman. But -- but you can't compare Alabama to
25 Louisiana.

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1 But the law is pretty much the -- it's the
2 same. So based on that law, that judge says, "Well,
3 y'all either going to do a map, or I'm going to do a
4 map." So -- so he gave us another -- a third time to do
5 the map. Now, if you look at the analysis of the -- of
6 what we done the last time, there was about eight maps
7 that were presented to this House and Government Affairs
8 Committee, but there's only one map, the speaker map,
9 House Bill 1, that was even considered, seriously
10 considered.
11 I mean, there was some people came to the --
12 to the table and -- and talked about these other maps,
13 but -- but -- but it was asked by the speaker then --
14 the then speaker who was carrying the House Bill 1, "Did
15 you look at Section 2 of the Voters Right Act? And did
16 you try to comply this map with Section 2?" And the
17 speaker said no.
18 "Well, did you look at the disparity that this
19 map represents? It's just common sense. If you got a
20 third of the population that is African American and --
21 and -- and 33 -- over 33 percent, did you look at those
22 -- those figures? You don't have to be the primary
23 criteria, but you got to first look at whether or not
24 it's a -- it's appears to be a fair map and complying
25 with the 14th Amendment, Section 2 and other -- other of

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1 Supreme Court jurisprudence?" He said no.
2 He said that he -- he -- he -- he -- this is
3 his map that he's presenting, and he didn't -- let the
4 lawyers worry about all this other stuff. This is his
5 map. So the -- the -- the record -- the record of the
6 -- and I tried to tell him this because I was asking
7 questions to this -- to -- on House Bill 1, like
8 everybody else, "Why this map have a problem?" And so
9 -- so -- so the legislature knew the map had a problem,
10 but they wouldn't listen to anybody else.
11 So while I agree that the -- your
12 representation that race is not the -- the sole factor,
13 the -- the fact is you got to have six divided equally,
14 okay? And -- and if it -- but -- but -- but Section 2
15 says if you've got a group that is compact, that is
16 compact and that vote certain voting patterns, that you
17 should try to create a map that allow that group to
18 represent a person of their choice. That's all it says.
19 So I asked the speaker, "Did you look at Section 2 and
20 try to come up with a map that does that?" He said,
21 "No, I didn't."
22 So it's the speaker's and -- and -- and the
23 legislators' testimony in the record that caused them
24 the problem they had when it went to the judge. Had
25 they said, "We looked at Section 2, we tried to comply

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1 with Section 2 but we couldn't because the Black
2 population is so dispersed in the state. We could not
3 get another district that was compact," they didn't say
4 that, didn't even try. So that's why the state is in
5 the position it's in, not because somebody is out there
6 -- some federal judge is out there trying to make
7 Louisiana have another -- another minority district now.
8 However, I do agree that we need to have this
9 opportunity, and it's wonderful to have this opportunity
10 to try to create a map that will comply. Now -- now --
11 and I think that I applaud the governor because I think
12 the governor wants to do the right thing. The new
13 governor wants to do the right thing. He wants to have
14 a map to -- so we can do our own map and not a federal
15 judge. And I support that. And so -- but I don't want
16 to give the impression that federal judge is just a bad,
17 bad monster, is trying to make us do something we
18 shouldn't do. She has to comply with the law.
19 Now, the Supreme Court has reviewed what the
20 -- the -- the -- the attorney general's office presented
21 there on confection of the state, and it's really --
22 they -- they denied that. It's the United States
23 Supreme Court saying you got to go back and do this map,
24 not just Judge Dick, okay? So -- so we need to accept
25 the fact that the map we had, based on the record, based

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1 on the testimony presented here in the legislature,
2 based on the debate in the legislature, based on the
3 law, that it was not in compliance.
4 Now, you can differ. People can differ
5 because they -- they don't like what the law says,
6 maybe, or they want to twist the law. But the fact of
7 the matter is it's not a sustainable map. This map is
8 not sustainable that we have now. And so we have a
9 chance to do that and not offend too many political
10 notions at the same time.
11 And so I just -- I just want to make that --
12 put that in the record that -- that this is a effort on
13 the part of people of different political interests to
14 try to resolve the issue that had been defined by -- by
15 Supreme Court decision and by federal statute, and --
16 and try to come up with a district that is acceptable.
17 That's what we're trying to do, you know. And
18 it doesn't mean that you're a bad person or you -- or
19 you got a problem because you supported that last map.
20 It's just that the record did not support -- we didn't
21 get enough input from other people that had concerns
22 about it. We didn't allow people to have -- have -- put
23 their input in. Had we putting three or four maps on
24 the floor and explain why we putting on the floor, that
25 might have been different. Have we tried to do what the

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1 -- what the Supreme Courts over the years have told us
2 to do?
3 I happened to be on the legislature in '84 to
4 '92 when we wrote a lot of the reapportion maps. Okay.
5 So this problem been around a long time. So we -- and
6 -- and so we had -- oftentimes, federal judges had to
7 put us on the right track, say, "Okay. Y'all doing
8 good. Y'all working in the right direction, but y'all
9 got to go back and do this over again." And that's what
10 she did.
11 REPRESENTATIVE BEAULLIEU: Thank you, Judge
12 Carter. Vice-chairman Lyons.
13 VICE-CHAIRMAN LYONS: Thank you, Mr. Chairman.
14 Is it Ms. Murrill?
15 MS. MURRILL: Murrill.
16 VICE-CHAIRMAN LYONS: Murrill. I'm sorry,
17 sorry. I -- I -- I have a question for you, but before
18 I get into my question, I just wanted to note that as we
19 talk about the Voting Rights Act and -- and the premise
20 of a lot of things that we've done, today is actually
21 the holiday of Martin Luther King Day, today, which his
22 actual birthday is tomorrow. This is -- the observance
23 of it is today. So a lot of us question, you know, as
24 the federal holiday (inaudible 1:14:43) was -- was
25 empty, what have you, is why we're here today.

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1 So I just want to just remind everyone that
2 one of the things that Martin Luther King did say was
3 there's never a wrong time to do the right thing. So
4 we're here today and we would not have any other, I
5 guess, issue -- he wouldn't. Now we're doing something
6 that we'll be doing to correct where we at and -- and so
7 forth. But my question to you, ma'am, is you alluded to
8 earlier that you want to have a -- preference to have a
9 trial on the merits, that you were requesting -- asking
10 for.
11 So as a body here, as we're going to be going
12 through this process, can you outline to us in any form
13 necessary that -- to get it across, what were some of
14 those merits? Because I'm assuming when you say the
15 trial on the merits, you mean that the merits of -- of
16 the decision that you may have had difference with, you
17 had other merits that you wanted to talk about or maybe
18 defend in the -- in the fact-finding portion that was
19 not revealed.
20 MS. MURRILL: So, Representative Lyons, when
21 we went into this litigation right after the legislature
22 completed the map drawing process, we went into a very,
23 very compressed hearing on a motion for a preliminary
24 injunction. That is a different standard. It was very
25 compressed. We did not have the -- the length of time

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that we would ordinarily have for a full trial.
I believe that -- I mean, this is -- you can blame it on the litigator in me, which is fine, but I believe that it -- that -- that the state and -- and I believe this under the new map that you pass, that we should be entitled to have a trial on the merits -- merits before we are forced to go in and change an act of the legislature. That is just a fundamental premise that I have about acts of the legislature and us being required by the courts to redo them. That -- that -- as a practical matter, we did not have a lot of time, but I have lost -- we lost on that issue.
I mean, we -- we did. Not just me, but the entire litigation team, including the lawyers who represented the legislature or the -- the -- the speaker and the -- the president of the Senate at the time and the secretary of state. We asked to have a trial on the merits set before you were required to go into session, and we offered to do it quickly. So just to be clear, we were not trying to delay. We offered to do it in November. There was another trial set. I mean, we tried to do this quickly so that we could have a complete record upon which whatever the decision was.
And we did not believe that Judge Dick would change her decision, but we still believe that the case

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should be before the courts on a complete record. It is not, because we weren't -- we never had a trial on the merits. The courts have told you to go back and draw a map. And they said, "We can have a trial on the merits, but we can do that after you draw a map."
So as a -- I mean, just fundamentally as a lawyer who represents the -- you and defends the laws that you pass, your laws -- if you have a law that you pass, that you feel very strongly about, and the entire legislature has voted for it even though some people may disagree with it, then I will defend your law. And I -- I think that -- that you are entitled and the legislature is entitled to that defense. So that's the point that I was making. I -- I don't think any of these cases should be tried and decided at the preliminary injunction stage. I think we are entitled to a trial on the merits.
And -- but at this point, the courts have told you -- the federal courts have told me and they have told you that we don't get that right now. You -- you get to have this session right now, or Judge Dick is going to draw the map for you. So, you know, I'm not here to say, "Don't draw the map." I'm here to tell you, "Draw the map."
VICE-CHAIRMAN LYONS: Okay. Thank -- thank

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you very much. Thank you, Mr. Chairman.
REPRESENTATIVE BEAULLIEU: Thank you, Representative Lyons. Representative Gadberry.
REPRESENTATIVE GADBERRY: Thank you, Mr. Chair. Ms. Murrill, if we draw a new map and Judge Dick decides she don't like that one, do we start all over again, or will she immediately draw a map? I don't think she's capable of drawing a map, number one. I just don't think she could do it. But --
MS. MURRILL: She -- I mean, no federal judge does this without a demographer helping. I mean, they're -- she'll appoint -- she will ask for experts. She will ask for the maps to be submitted to her with expert testimony, and then she will -- typically, she's probably going to decide which map to take, but she can tweak those lines. She can decide how to draw the map, how she wants to draw this map based on the input of the experts from both sides. She could appoint her own expert and have that expert assist her in the map-drawing exercise.
And remember, you've been through this before. A large part of this exercise is done through computer generated maps. So, you know, you put the numbers in, you start changing -- you change the inputs, it spits out a new map. She's going to have to go through that

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same process that you did, and then -- and then we continue. So I -- I mean, I can't tell you that the plaintiffs will accept the map that you draw. She has established a timeline for the plaintiffs to amend their petition and challenge that map, and then we will -- we will go through the process again to determine whether or not that map is acceptable.
REPRESENTATIVE GADBERRY: And for four years on this committee previously, I spent hours upon hours looking at this map, all the maps. And I looked at the plaintiff's map, so to speak, that they presented before this group, and I didn't feel like any of those met the criteria. The -- the -- the overriding factor, I guess, was they had gerrymander lines, which is against the Voting Rights Act. So I'm hearing that you said that the map -- that the current map that's been rejected, I guess, by the judge, has it been to the US Supreme Court? Because that's the next step.
MS. MURRILL: It has not. It -- the -- the -- the US Supreme Court can decide whether to take a case or not take a case.
REPRESENTATIVE GADBERRY: Right.
MS. MURRILL: They have not taken our case. They took our -- they -- they stayed our case last summer while the Alabama case went forward and was

1 litigated. They said, "You just wait." They thought we
2 had made a good case for a stay and so they paused our
3 case while they decided that one. But they did
4 something and these -- this is kind of a term of art,
5 but I mean, they granted cert in advance of judgment.
6 That means they actually took our case, and then after
7 they decided the Merrill case, the Alabama case, they
8 just vacated their own grant and sent it back to us.
9 So in a way, they took our case, and then they
10 vacated their own decision to take our case and they
11 sent it back down to the Fifth Circuit and to judge
12 Dick. And so it's -- it's back in the hands of the
13 District Court judge who is supervised by the Fifth
14 Circuit Court of Appeals. And so there has been some
15 litigation between August and, really, through the
16 summer since the Merrill case came out all the way
17 through the time that the opinion was issued in
18 November, I think, from the Fifth Circuit where a panel
19 of the Fifth Circuit said, "You need to go draw a map by
20 February 15th."
21 So they actually suggested we should have done
22 this before -- before we legally, really -- or -- or --
23 or I think it was practically possible to even get it
24 done. But, you know, here you are. I think the
25 governor heeded that call that -- that -- that demand.

1 I mean, we've had it reviewed by a number of judges.
2 They have had nothing to say about our arguments. It's
3 been radio silence. And so the only decision that
4 remains in front of us right now is Judge Dick's.
5 And -- and so Judge Dick has set a timeline
6 for us to have a trial. They did say we get to have a
7 trial, but we don't get to have that trial until after
8 you go through this exercise. And, you know, she will
9 do it for you.
10 REPRESENTATIVE GADBERRY: And once we have
11 that trial, we have the opportunity, if she still
12 rejects the map, to appeal that?
13 MS. MURRILL: If she -- if she rejects the new
14 map?
15 REPRESENTATIVE GADBERRY: Or the existing one
16 again.
17 MS. MURRILL: Well, I mean, if she -- if you
18 don't draw a map, then we will be back in front of her
19 for the trial on the merits in very short order and that
20 -- that case will continue. If you do draw a map, then
21 the plaintiffs will have to decide whether they wish to
22 challenge that map, whether they accept that map. And
23 if they accept that map, then -- then the whole case
24 should be over.
25 REPRESENTATIVE BEAULLIEU: Yeah.

1 MS. MURRILL: If they do not accept that map
2 for whatever reason, then if they don't like it, I mean,
3 they may -- it may be a perfectly acceptable map for
4 some people. It may be a second majority/minority map
5 that -- that some people like or that some people don't.
6 So there's no guarantee that someone won't, that they
7 -- that the plaintiffs will like the map. But if they
8 -- they can -- so they could continue to challenge it,
9 and now they will have to go and amend their pleadings
10 and we, basically, will start over because it is a new
11 act of the legislature.
12 REPRESENTATIVE BEAULLIEU: It's going to
13 replace the existing map --
14 MS. MURRILL: It will replace the existing
15 map.
16 REPRESENTATIVE BEAULLIEU: -- Representative
17 Gadberry.
18 REPRESENTATIVE GADBERRY: Well, I mean, along
19 what Representative Farnum -- Farnum was saying earlier,
20 you chase your tail on this thing.
21 MS. MURRILL: Well, that's why I said it's not
22 easy.
23 REPRESENTATIVE GADBERRY: You comply with one
24 part, and you check another part and it doesn't meet the
25 criteria. So you go back and rework your population or

1 your districts, and that doesn't meet. So you're --
2 you're constantly going in a circle.
3 MS. MURRILL: Look, I believe that the United
4 States Supreme Court should give you better
5 instructions. I -- I do. I think that -- that -- that
6 is the argument that we made last summer. And, you
7 know, if -- if you pass a map and somebody else
8 challenges that map, it -- I will make that argument
9 again. I mean, I think that they -- the courts have
10 made this a difficult task for you and -- and so you are
11 doing the best that you can now within the constraints
12 of the rulings of the federal court.
13 So, you know, it's -- it's not an easy task
14 that you have and I believe that the jurisprudence has
15 made it confusing and that the Supreme Court would be
16 well -- I mean, you know, in my opinion, that the
17 Supreme Court ought to make its own jurisprudence
18 clearer to those of you who have the job of drawing the
19 maps. I think that's fair.
20 The constitution makes it clear that it is
21 your job to draw the maps. I believe that it is not
22 correct in terms of the balance of power between the
23 state and federal government, between the constitution,
24 you know, purview of how this should be happening, for
25 the courts to create precedent that makes it impossible

for you to follow. So I think they should give you better guidance. And you are -- you know, you are here to do the best job that you can to try and draw the map. And I will defend the map, and then we will see what happens.

REPRESENTATIVE BEAULLIEU: Yeah. Members, look. We're not going to be able to litigate the litigation here in committee.

REPRESENTATIVE GADBERRY: Well, you know, my -- my problem is we had a year to draw this map, at least a year. Now we've got eight days.

MS. MURRILL: That's right.

REPRESENTATIVE BEAULLIEU: That's nothing.

MS. MURRILL: That's because the judge gave you deadlines.

REPRESENTATIVE GADBERRY: That's probably not going to work then. Thank you, Mr. Chair.

REPRESENTATIVE BEAULLIEU: Thank you, Representative Gadberry. Representative Newell.

REPRESENTATIVE NEWELL: Thank you very much, Mr. Chairman. I don't have very many questions because I just don't have very many questions. To add what Judge Carter said, as far as ensuring that people are educated about this process, most of us who are attorneys or have some information or some kind of

experience with a court system in process, we know that sometimes you do need a preliminary injunction when things need to happen quickly, particularly when there is going to be irreparable harm, irreparable harm to the applicants.

And in this case, the applicants were the minorities of this state who would have not been given the opportunity to vote for a candidate of choice in the elections that were quickly coming upon us at the end of the session, the first redistricting session. So those citizens, once again, did not have the opportunity to have a candidate of choice because this legislature could not come to an agreement. The process is not difficult. The rules, the guidelines, are not difficult if you want to understand the rules and guidelines that have been put before you.

What comes to -- what -- what makes it difficult is when we are choosing not to do what is right, not to do what is fair for all of the citizens that we represent. I have a lot of folks in my district that did not vote for me, but you know what I do? I still represent them in this body. Some of us do not take -- take upon that task.

This is the first redistricting session that we have had -- well, '21 was the first redistricting

session that the United States had after the expiration of Section 5 of the Voting Rights Act which required all of our maps and every law that we made -- and I'm saying we, states that have had a history of discrimination. Laws that we put in place before had to be reviewed by the United States attorney general's office or by United States District Courts if they were challenged in court.

This is why this has been such a foreign task, I guess, this second part. Because we are taking on all of the onus, creating the maps and then going back and reviewing and redrawing and rewriting the maps, because this is the first time we've had to. Before, we would just throw something together and the United States would take -- take over it. We don't have that luxury anymore. We don't have that opportunity of having someone else to say, "All right. You messed this up. We've got to do it." Thank God for Judge Dick.

Just as it was stated that she doesn't have the knowledge or the know-how to write a map -- Judge, I didn't say it. It -- clearly, we don't have it either. And we've given -- been given every opportunity to learn, every opportunity to educate ourselves, but some of us take that information and -- sir, what's your name again? I -- I apologize.

MR. JONES: Tom Jones.

REPRESENTATIVE NEWELL: (inaudible 1:30:56). Just as Mr. Jones said in his opening statement, you have -- or you determine -- okay. Thank you. Just as Mr. Jones said in his opening statement, you got one side that it's their job to confuse you and make you think this. The other job is -- the other side, it's their job to confuse you and make you think that. We are not here to confuse anybody. We should not try to confuse ourselves with trying not to do right.

If we as a body task ourselves with representing the interests of all the citizens that we represent, whether they voted for us or not, whether we want them in our district or not, if we set ourselves to representing all, this is not going to be a difficult task. And the more we argue amongst ourselves and the more we try to go and appease a national agenda that does not care for the state of Louisiana, the longer we're going to continue to have these fights and the more divided the state will be. I've never seen this state as divided as it is now.

We used to have the divisions on just basic moral value things, but we always, as Louisiana, looked at family, looked at community, and tried to do what was right by our neighbors. I don't see that anymore, and that is what's making this process difficult. Judge

also said that we had maps, and he pointed out the fact that the -- we as -- and I want -- I think it was Rep. Marcelle that said it. We did not have an opportunity to vote on all maps because all maps were not allowed to come out of this committee.

There were options upon options to draw a second minority/majority congressional district, and they went all across the state to give minorities an opportunity to vote for their candidate of choice. They were not allowed to come out of this committee. We sat for a month, six hours, at least, a day, listening to the arguments of -- and the -- the makeup of each map and discussing voting -- voting-age population vs. population. So I understand why we still having those questions because we talked about it ad nauseam.

But when you choose not to do right, that is when the process becomes difficult and it -- it seems as though we can't make a headway. But I want to put it on the record that I didn't vote for none of them maps that came out. I didn't vote for any of the maps that Judge Dick had in front of her because they were not maps that were fair and they were not maps that were taking consideration of all of the citizens of this great state that I call home no matter how unfair or how unjust it is to me.

We still need to look and make sure that Louisiana is a state that it used to be, considering all of her citizens. And thank you for your time, Mr. Chair. I don't have a question for anybody.

REPRESENTATIVE BEAULLIEU: Yeah. Let's try and -- and look -- let's try and keep this to questions for the attorney general. We -- we going to have a time to -- to talk about maps and -- and all that, but if -- like to try and stick to any kind of questions out of respect for the attorney general's time. Representative Schamerhorn.

REPRESENTATIVE SCHAMERHORN: Thank you, Mr. Chairman. Good morning.

MS. MURRILL: Good morning.

REPRESENTATIVE SCHAMERHORN: Welcome aboard.

MS. MURRILL: Thank you.

REPRESENTATIVE SCHAMERHORN: My question is if we do not present a different map, Judge Dick has threatened to draw her map. Is it not our --

MS. MURRILL: Promised, not threatened.

REPRESENTATIVE SCHAMERHORN: Well, okay. Is it not our responsibility as legislators by the -- and protected by the constitution, that our map should be the one that is approved? Now if she draws her own map, when she does, do we still have to approve -- would we

have to approve her map --

MS. MURRILL: No.

REPRESENTATIVE SCHAMERHORN: -- or would it automatically go in force above what the constitution says is our duties as representatives?

MS. MURRILL: So let me kind of -- let me untangle that a little bit. If you draw a map now, that map will become an act of the legislature and it will supersede the prior act of the legislature. The old map goes away.

REPRESENTATIVE SCHAMERHORN: Okay.

MS. MURRILL: If -- if you do not draw a map, then the -- the map that you drew before will remain -- will be the map, and the plaintiffs will continue to litigate that. We will have a trial on the merits. The -- the record from the preliminary injunction will be, probably, supplemented with some additional testimony. She will issue a new ruling and she will issue a permanent injunction against the map. And then that will be litigated, which is my duty. And so I will continue to carry forth my duty to defend against the injunction. That's the process.

If she draws the map herself, then someone could intervene and challenge that map. You know, there are a number of different potential outcomes if she

draws the map. If she draws the map, you know, we could accept that map. You don't get it back. You don't get a second -- you don't get another opportunity to approve her work. The only question is can her work survive the scrutiny of the Fifth Circuit who grades her papers, and potentially, the United States Supreme Court who grades their papers.

And, you know, I think what makes your job a little more complicated is that the prior -- not the -- the exact prior map, but the map before that had been pre-cleared, there had been litigation in the past over a majority/minority map that was declared unconstitutional. So, you know, that's why I have never taken the position that our history is -- or at least our recent history is the same in redistricting as Alabama.

And I believe that the courts need to make it more clear what your job is so that you can do it properly the first time and we can all avoid the litigation side of this and -- and continue to move forward with -- with an act that -- that, as I believe all your acts are, presumed to be constitutional. That is, you know, that's how I'll approach the next -- the next act that you issue. So I'm not picking and choosing. I mean, I think unless it's very clearly

unconstitutional based on existing precedent, then my job is to defend the map. I mean, not just that map, any act of the legislature.

REPRESENTATIVE SCHAMERHORN: Thank you, ma'am.

REPRESENTATIVE BEAULLIEU: Thank you Representative Schamerhorn. Attorney General, that clears the board. Thank you for your time this morning. Mr. Frieman, Mr. Jones, thank y'all for being here with us today, look forward to working with y'all in the future. And again, congratulations on -- on your election.

MS. MURRILL: Thank you very much. Thank you for having me, and good luck.

REPRESENTATIVE BEAULLIEU: Thank you.

MR. FRIEMAN: Thank you, Mr. Chairman. Thank you, members.

REPRESENTATIVE BEAULLIEU: Members, we have a -- a couple of witness card that -- that would like to speak. Again, I want to remind the witnesses as well. We don't -- we're not debating any bills today. We want to hear your voices. So we have an information -- call for information only card, but would like to speak. Mr. Scott -- Edward Scott Galmon, if you want to please come on up. Do you mind introducing yourself?

MR. GALMON: Yes. I'm Edward Scott Galmon

from St. Helena Parish, Greensburg, Louisiana. And just (inaudible 1:39:31), I'm -- I'm a plaintiff on the map. My name is Galmon. If you look at the -- at the original lawsuit, it bears my name. And you guys have a -- a tremendous job ahead of you. And I just want to thank y'all in advance, number one, because I -- I think that this time that you -- you guys are going to produce a map that both the plaintiff and the courts can agree with.

I think the last map that we produced, it went away from some of the -- of the -- the challenges that set before. Because, number one, this would be a lot easier if we pulled all the -- the congressmen off the map and just looked at geography and the people. It'd be very easy to do a map. The challenge comes in is that the geography and the people that are already elected, if you leave them on the map, you have another caveat that you have to overcome.

So once again, you guys have a challenge. I just thought I'd come this morning just to look at y'all face and thank y'all. I thank y'all in advance because I think we -- this time we going to achieve where we trying to go. And for me, 33 percent is one-third. Six divided by three is two. Pretty simple for me, not so simple for you guys. But once again, I want to thank

y'all in advance, and I know that at the end of this process, we going to have something that we all can live with. Thank y'all.

REPRESENTATIVE BEAULLIEU: Thank you, sir. We have two witness cards. They're red cards. I'm -- I'm not sure what we are -- this is just an educational meeting this morning. But if you -- you're welcome to come to the table, Ms. -- Ms. Labry, or if you wanted to save it for the bills that are presented -- or I mean, you're welcome to come to the table. Come on up. You're welcome.

MS. LOWREY-DUFOUR: This is just -- can -- can we come up together?

REPRESENTATIVE BEAULLIEU: Sure. Is -- is this Mr. Harmon?

MR. HARMON: Yes, sir.

MS. LABRY: I wanted him to speak.

REPRESENTATIVE BEAULLIEU: Okay. Go ahead and y'all have a seat and introduce yourselves.

MS. LABRY: Okay. You want to do you? And then I'll do me.

MR. HARMON: You want me to go first?

MS. LABRY: Yes. You need to.

MR. HARMON: All right. JC Harmon from -- I'm speaking for myself, but I'm on the benefit of working

with a bunch of groups that are interested in the process. What I did is I actually submitted to the -- to the committee a -- a --

REPRESENTATIVE BEAULLIEU: Yeah. We --

MR. HARMON: -- a -- a PowerPoint --

REPRESENTATIVE BEAULLIEU: Yeah. We --

MR. HARMON: -- if you got to look at that.

REPRESENTATIVE BEAULLIEU: -- we -- we received -- the -- the committee -- we're going to hear it when -- we're not in the special session yet, so the committee is going to receive it and it's going to be part of tomorrow's testimony.

MR. HARMON: Okay. So you want me to hold it till then, or?

REPRESENTATIVE BEAULLIEU: Yeah, that might be -- that might be best. If it's having to do with maps, I -- I would suggest that.

MR. HARMON: I can do a brief overview right now if -- if --

REPRESENTATIVE BEAULLIEU: We -- we're not debating maps at all today.

MR. HARMON: Okay.

REPRESENTATIVE BEAULLIEU: So if -- if there was, like, an educational thing that you had for the committee real quick, we'll be happy to take it. But if

it's on a map, we would like to hold that.
MR. HARMON: Well, it's kind of a -- just a -- just let me give a brief overview. I won't go over the report. Basically, what I did is I took a map of the -- of Louisiana, and I color-coded it based on the breakdown of Black, White, Republican, Democrat, and looked at the state from an overview standpoint. And I had some people asking me to do that. And what I did is when I did that, you could see that the northern part of the state only had what -- I based it on senatorial districts. So if you look at the northern part of the state, you have three senatorial districts that would fit the criteria that you were looking for.
The issue there is if you take the 39 senatorial district divided by 6, which is the number of representatives you get, you have -- you get 6 and a half. So you need 6 and a half district -- senatorial districts to make a US representative. So if you -- if -- so from a breakdown standpoint, it gives you a good breakdown to start -- or a preference to start what you're looking to do. So that -- but when you do that, you immediately see that you take the northern part of the state off because it doesn't work. So then you can -- so now you're down at the southern part of the state.
So what I was trying to do is make it -- I

know you have a big job and it's not easy to do what you're trying to do, but if you can break down the state into geographical sections and take certain sections off, that makes you focus on the other part of the state to where you need to do what you're looking to do. So -- and I'll hold the rest of it till later. But hopefully, if you take a look at what I did, I think you'll see.
And -- and I did it to try and help the process because I agree that what you want to do is you want to look at what you can do to unite the state. Because I would agree with -- I think it was Representative Newell that said, you know, we're divided now. And I think, if anything, because we're not working to unite the state, that we -- I -- I did a breakdown and if you look at the parishes and you break it down, I actually came up where the parishes actually split out into perfect six representatives.
And I didn't know what the number was as far as the plus/minus number. I was just looking at population. So it gives you a good starting point. So Representative Beaullieu, I'll -- I'll leave it there.
REPRESENTATIVE BEAULLIEU: Thank you, Mr. Harmon. Ms. Labry, you have something you'd like to add?

MS. LABRY: Yes. I'm Susie Labry, and I'm representing myself. I'm -- I'm an appropriate individualist, not as a part of a collective class of color, of skin, height, genealogy, gender, physical descriptions. As for districting, I tried to find a way to create an additional minority district. After studying up myself and with JC Harmon here, I still cannot come up with an additional majority district without gerrymandering, which I consider as illegal if I wanted to or not. But I did try. Gerrymandering, you know, is illegal. I also see it, myself, as reverse discrimination.
Those I see, in my opinion, as other ethnicities such as the Vietnamese, Spanish, et cetera, farmers, rural communities and interests, small business -- so proprietors, main street USA where I have seen that liberals poorly represent by unfair overtaxation in the working people and agriculture, farmers, and businesses.
Three, it would pose more central power, lessening individual power. Individual constituents would fall between the cracks and get less attention by congressmen or be hurt or heeded-to less in a one-size-fit-all class approach which is -- I've seen happen to me. When you represent a collective class as

a one-size-fit-all, too many of us individuals fall between the cracks as -- especially special needs, self identity, talents, ethnicities, nativities, et cetera.
Four, it would cause us one vote short for conservatives in the United States House of Representatives and remove and keep Louisiana in a less-empowered position in the United States. Five, the only way I could see myself to add a minority district is to draw it as a Z, S, coil, or snake which all have been rejected over the decades -- which all have been rejected over -- if we have to do so, I'm suggesting we pop up a minority district as a set of archipelago island -- looking like different-size polka dots as the archipelago islands were scattered between a water.
A majority districts are districts -- majority district's a district. Or we can make a district as a coil, like a slinky toy and -- and draw that around the minorities. And after studying up with myself and JC, I find it mathematically impossible. So I would say, please -- and he'd adapt to -- his maps, we presenting later. He is -- JC here is a genius in research, numbers, statistics, and science. Being an actor myself and also a great devil's advocate, and also trying as a fair approach, I have tried justifying both sides. And I'm just going to ask you, please do not add another

minority district. Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Ms. Labry. The -- the board is clear. Members, this is going to conclude our educational meeting this morning. I appreciate you all being here this morning and -- and your attentiveness and your questions. We're going to have a busy week. I ask you all to stay close to your computers. As bills are uploaded, read them, become familiar with them. If you have amendments, please get them to staff as soon as possible.

Remember, you also -- if anybody in any -- from the outside is submitting information or submitting maps, to include shapefiles as well so we can have the -- the equivalency -- block equivalency files so that we can -- we can have that data and -- and get it to staff as -- as soon as possible. But, members, look forward to it. It'll be a fun week. Thank you.

MS. BAKER: Move to adjourn?

REPRESENTATIVE BEAULLIEU: Yeah. Representative Thomas has moved to adjourn.

(Meeting adjourned.)

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January 17, 2024

In Re: Louisiana House Floor/Committee Video

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JE30

MALE SPEAKER: Senate will come to order. Sector, open machines. Members, vote your machines. OCHA, machines. Senator McMath is here. Senator Pressly. Senator Morris. Senator Talbot. Senator Talbot is here. Senator Connick is here. 36 members are present for a quorum. Senate will rise. Senator Mizell will -- will open the senate in prayer and also lead us in the -- for the Pledge of Allegiance.

MS. MIZELL: Thank you, Mr. President. Members, before we pray, I just want to say, we are all here for a time such as this. I -- I haven't heard one member say this is easy, and I -- I just -- I think it would be appropriate if we join together in the Lord's Prayer of unifying our body and reaching out to God. If you'd join me. Our Father, who art in Heaven, hallowed be Thy name. Thy kingdom come. Thy will be done on earth, as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive those who trespass against us.

And lead us not to temptation, deliver us from evil. For thine is the kingdom and the power and the glory forever. Amen. Thank you. Join me in the pledge, please.

(Pledge of Allegiance.)

MALE SPEAKER: Reading of the journal.

MS. MIZELL: Official Journal of the Senate of the state of Louisiana, Second day's proceedings, Tuesday, January 16th, 2024.

MALE SPEAKER: Senator Hodges moves to dispense the reading of the journal without objection.

MS. MIZELL: Petitions, memorials, and communications, I am in receipt of a letter from the president appointing the parliamentarians, Senator Gregory Miller. Messages from the house, the house is finally passed and asked for concurrence in the following house bills and joint resolutions. House Bill 16. House Bill 8, respectfully submit headed. Michelle Fontenot, Clerk of the House. Introduction of House bills. Senator Talbot now moves for suspension of the rules for the purpose of reading the house bills the first and second time and referring them to Committee.

House Bill 8 by Representative Mike Johnson is an act to Entitled 13 relative to the Supreme Court to provide relative to redistricting Supreme Court Justice districts. It is referred to senate and governmental affairs. House Bill 16 by Representative McFarland is an act to appropriate funds and to make certain reductions from certain sources to be allocated to the designated agencies and purposes in specific amounts for making of supplemental appropriations. Refer to

finance.

MALE SPEAKER: Oh, Senator O'Connor for an introduction.

MALE SPEAKER 2: (inaudible 0:04:15).

MALE SPEAKER: Oh, okay.

MALE SPEAKER 2: It's okay.

MALE SPEAKER: Never mind. It's -- that zip sound? Senate bills on third reading and final passage.

MS. MIZELL: First bill? Senator Womack now moves for a suspension of the rules for the purpose of calling out of order, Senate Bill 8 by Senator Womack. It's an act to amend Title 18 relative to congressional districts to provide for the redistricting of Louisiana's congressional

FEMALE SPEAKER: To provide with respect to positions and offices other than congressional, which are based on congressional districts.

MALE SPEAKER: Senator Womack, on your bill.

SENATOR WOMACK: Thank you, Mr. President. Colleagues, I bring Senate Bill Number 8 before you this evening. As you know, Louisiana congressional districts must be drawn, given the Federal Voting Rights Act litigation that is still ongoing in the US District Court for the Middle District of Louisiana. This map in the bill that I'm introducing, which is the product of a

long, detailed process, achieves several goals.

First, as you know and you're aware of, Congresswoman Julia Letlow is my representative in Washington, DC. The boundaries in the bill I'm proposing ensure that Congresswoman Letlow remains both unpaired with any other incumbents, and in a congressional district that should continue to elect a Republican to Congress for the remainder of this decade. I have great pride in the work of Congresswoman Letlow and -- that she's accomplished, and this map will ensure that Louisianans will continue to benefit from her presence in the halls of the Congress for as long as she decides to continue to serve this great state.

Second. Louisiana has six congressional districts. The map that's proposed bill ensures that four are safe Republican seats. Louisiana Republican presence in the United States' countours has contributed tremendously to the national discourse, and I'm very proud that both Speaker of the US House of Representatives, Mike Johnson, and US House Majority Leader Steve Scalise are both from our great state. This map ensures that two of them will have solidly Republican districts at home, so they can focus on the national leadership that we need in Washington, DC. The map that's proposed in this bill ensures conservative

principle is retained by the majority of those in Louisiana and will continue to extend past our boundaries to the nation's capital.

Third. The corridor that you see on the map that -- that you have on your -- your table, if you'll notice the map runs up Red River, which is barge traffic, commerce. It also has I-49, which is a -- which is -- goes from Lafayette to Shreveport, which is also a corridor for our state that is very important to our commerce. We have a college. We have education along that corridor. We have a presence with ag with our row crop, as well as our cattle industry all up along Red River in those parishes.

A lot of people from that area, the Natchitoches Parish, as well as Alexandria, use Alexandria for -- for -- for their healthcare, their hospitals, and so forth in that area. So finally, the amounts in the proposed bill responds appropriate to the ongoing Federal Voting Rights Act in the Middle District of Louisiana. For those who are unaware, the congressional amounts that we enacted in 2022 of March have been the subject of litigation, roughly since the day -- the 2022 Congressional Redistricting Bill went into effect. Even before we enacted it.

After a substantial amount of prolonged

1 litigation, the Federal District Court has adhered to
2 its view that the federal law requires that the state
3 have two congressional districts with a majority of
4 Black voters. Our secretary of state, attorney general,
5 and our prior legislative leadership appealed that, but
6 have yet to succeed. And we are now here because of the
7 federal court order, that we have to have first
8 opportunity to act. The district court order that we
9 must have two majority voting-age population districts,
10 combined with the political impurities I just described,
11 have largely -- largely driven the boundaries of
12 District Two and District Six on your map, both of which
13 are over 50 percent voting -- Black voting age
14 population.
15 Given the state's current demographics, there
16 is not enough high Black population in the southeast
17 portion of Louisiana to create two majority Black
18 districts, and to also comply with the US Constitution
19 one person, one vote requirement. That is the reason
20 why District Two is drawn around Orleans Parish, while
21 District Six includes the Black population of East Baton
22 Rouge Parish and travels up the I-49 quarter to include
23 Black population in Shreveport. While this is a
24 different map than the Plaintiffs' litigation have
25 proposed, this is the only map I reviewed that

1 accomplishes the political goals I believe that are
2 important for my district, for Louisiana, and for the
3 country.
4 While I did not draw these boundaries myself,
5 I carefully considered the number of different map
6 options. I firmly submit that the congressional voting
7 boundaries represented in this bill best achieve the
8 goals of protecting Congresswoman Letlow's seat,
9 maintaining a strong district for Speaker Johnson, as
10 well as Majority Leader Steve Scalise, ensuring four
11 Republican districts, and adhering to the command of the
12 Federal Court in the Middle District of Louisiana. And
13 I ask for favorable passage.
14 MALE SPEAKER: We have -- we have one question
15 by Senator Morris for --
16 SENATOR MORRIS: Senator Womack, among the
17 factors that you considered was the community of
18 interest of the district. Something that was considered
19 in coming up with this version of the map that we have
20 before us.
21 SENATOR WOMACK: Senator Morris, this map was
22 strictly drawn from the political aspect of our
23 congressman in -- in office is how it was drawn.
24 SENATOR MORRIS: Did -- you didn't consider
25 the community of interest of people having something in

1 common with one another within the district?
2 SENATOR WOMACK: No, I didn't because it was
3 -- it was -- we had to draw two districts, and that's
4 the only way we could get two districts. One of the
5 ways we could get two districts, and still protect our
6 political interest.
7 SENATOR MORRIS: Well, one of the things you
8 said earlier was that -- that we had in common the
9 agriculture. You mentioned that. That's a community of
10 interest. So you did consider agriculture as being
11 something that everybody had in common with this
12 district, or?
13 SENATOR WOMACK: My comment was -- was the
14 fact that it was along that corridor. Ag was along that
15 corridor some -- some -- not so much in that community
16 interest. Just maintaining -- bringing out the fact
17 that I-49 does go through there, and it does encompass
18 your -- your timberland, your ag, your hospitals. Just
19 trying to bring to light some of the positives going up
20 that corridor.
21 SENATOR MORRIS: So would you -- would you say
22 that the heart of this district is Northeast Louisiana
23 and North Central Louisiana?
24 SENATOR WOMACK: I wouldn't say the heart of
25 the district is that way, but the way the district -- to

1 pick up the -- the -- and honor the courts, it had to be
2 drawn like it had to be drawn to pick that up.
3 SENATOR MORRIS: So the -- is there a heart of
4 the district?
5 SENATOR WOMACK: If it is, it'll be a small
6 majority of the heart. I don't think it's a -- it's a
7 -- it -- it has a heart of the district, but it had to
8 start somewhere.
9 SENATOR MORRIS: Do you know what the most
10 populated parish is of Congressional District Five at
11 the current moment?
12 SENATOR WOMACK: I do not. I hadn't looked at
13 that to -- to prove that myself. I (inaudible 0:08:54)
14 -- could be Ouachita Parish.
15 SENATOR MORRIS: Right. So Ouachita Parish,
16 which is the most populated parish in Congressional
17 District Five, which you seek to protect for
18 Congresswoman Letlow. Your map cuts Ouachita Parish
19 into various pieces, does it not? And puts a lot of
20 that in Congressman Johnson's District Four, correct?
21 SENATOR WOMACK: That's true. The way the map
22 is drawn. That's in my bill. That is the way it's
23 drawn.
24 SENATOR MORRIS: And like you, your -- I -- I
25 think you indicated that Congresswoman Letlow is your

1 congressperson, and -- and it's important to you for her
2 to remain to be your Congresswoman; is that correct?
3 SENATOR WOMACK: Very important.
4 SENATOR MORRIS: Well, under your map, I would
5 be Congressman Johnson's -- in his district, and so
6 would Senator Cathey, and so would Representative
7 Echols; is that correct?
8 SENATOR WOMACK: That would be correct. I
9 don't -- I know -- I've been to your house, but I hadn't
10 been in any of the others, but I think you're correct.
11 SENATOR MORRIS: So that would be important to
12 me; did you know? But -- but this district as it's
13 drawn now, would move Lincoln Parish and Louisiana Tech
14 into Congressman Johnson's district; would it not?
15 SENATOR WOMACK: That's a possibility.
16 SENATOR MORRIS: Well, your map does -- map
17 does put Lincoln Parish -- all of Lincoln Parish into
18 Congressman Johnson's district; does it not?
19 SENATOR WOMACK: It does do that, yes.
20 SENATOR MORRIS: So -- but the district does
21 reach down into Baton Rouge; does it not?
22 SENATOR WOMACK: It does.
23 SENATOR MORRIS: And the district includes
24 Tiger Stadium in the district and also Joe Aillet
25 Stadium at -- in Louisiana Tech in Ruston.

1 SENATOR WOMACK: In the minority district, in
2 district -- in District Two -- or District Six.
3 SENATOR MORRIS: Isn't it true that Tiger
4 Stadium in your -- on your map is located in
5 Congresswoman Letlow's district?
6 SENATOR WOMACK: Yes.
7 SENATOR MORRIS: And so is Joe Aillet Stadium
8 at Louisiana Tech.
9 SENATOR WOMACK: Not -- not in -- not in that
10 district. She don't go into -- under my map, she
11 doesn't go into Ruston.
12 SENATOR MORRIS: Under your map, all of
13 Lincoln Parish is in Congresswoman -- that's Lincoln on
14 the map right there. That's where Ruston is.
15 SENATOR WOMACK: Right.
16 SENATOR MORRIS: And so that is Congresswoman
17 -- that would be -- it's currently Congresswoman
18 Letlow's, but now it's going to be Congressman
19 Johnson's.
20 SENATOR WOMACK: Right.
21 SENATOR MORRIS: Okay. Right.
22 SENATOR WOMACK: Yeah.
23 SENATOR MORRIS: So they will be in different
24 districts. Tiger Stadium will be in Congresswoman -- I
25 mean, yeah, Congresswoman Letlow's district, but

1 Louisiana Tech will be in Congressman Johnson, even
2 though Louisiana Tech is only 30 mile -- 30, 40 miles
3 away from Congresswoman Letlow's home.
4 SENATOR WOMACK: I -- I agree with that --
5 with that totally, where we had to draw two minority
6 districts. That's -- that's the way the numbers worked
7 out. You've worked with -- with -- with redistricting
8 before, and that's -- that's -- you have to -- you have
9 to work everybody around the best you can. This is --
10 SENATOR MORRIS: Well, as of yesterday before
11 Committee, the map -- my home and Senator Cathey's home,
12 but you amended it to put even more in Congressman
13 Johnson's district; did you not?
14 SENATOR WOMACK: Senator Morris, my
15 understanding that -- that -- that my amendment put you
16 all in Congresswoman Letlow's district.
17 SENATOR MORRIS: In Congressman Johnson's
18 district under the -- under your amendment because it
19 added more Ouachita Parish into District Four; did it
20 not?
21 SENATOR WOMACK: My understanding that when we
22 moved that, that it added y'all. I could be wrong on
23 that, but it added y'all.
24 SENATOR MORRIS: The -- the amendment as I
25 understand it and looked at it in Committee before

1 yesterday, the bill as filed -- but now, under the
2 current version of the bill, I am in Congressman
3 Johnson's district.
4 SENATOR WOMACK: Okay.
5 SENATOR MORRIS: Don't you think we should
6 have moved -- included Louisiana Tech and Ouachita
7 Parish in the Northeast Louisiana Congressional
8 District?
9 SENATOR WOMACK: Senator Morris, it's -- it's
10 a lot of could have, and -- and -- and I regret that
11 it's not, but we also have to look at the other members
12 of Congress, and what we can live with concerning that.
13 SENATOR MORRIS: If your bill gets out of --
14 off the floor today and goes over to the House, would
15 you be amenable to amendments that would allow this
16 district, as long as all the other requisites are -- are
17 there for -- to comply with the judge's order, and to
18 comply with, you know, the -- the community of interest
19 and all the other redistricting principles that we have
20 to abide by?
21 SENATOR WOMACK: Senator Morris, I have no
22 problem in that, as long as it -- it -- it -- it -- it
23 meets the requirements of the bill.
24 SENATOR MORRIS: Thank you, Senator. I
25 appreciate your efforts, and I'm hopeful that we can --

as if -- assuming the bill does move, that we can perhaps find a resolution that can make everybody, if not absolutely happy, a little happier. Thank you.

SENATOR WOMACK: Thank you, Senator Morris.

MALE SPEAKER: Senator Stine for the floor.

(Pause.)

SENATOR STINE: Thank you, Mr. President. Members of this esteemed chamber, today we stand at a crossroads, burdened with a decision that weighs heavily on each of us. The congressional map before us, a construct far from our ideal, now demands our reluctant endorsement. It pains me, as it does many of you, to navigate these troubled waters not of our own making, but of a heavy-handed, Obama-appointed federal judge, who has regrettably left us little room to maneuver. This map, imperfect as it is, stands as a bulwark protecting not just lines on a map, but the very pillars of our representation in Congress.

It safeguards the positions of pivotal figures, the United States Speaker of the House, the majority leader, and notably, the sole female member of our congressional delegation. Her role is not merely symbolic. She is a lynchpin in the appropriations, education, and workforce committees which are vital to the prosperity and well-being of our state. We are the

guardians of Louisiana's voice on the national stage. Our decision today, while constrained, is crucial.

It's about more than lines on a map. It's about ensuring our state's continued influence in the halls of power where decisions are made that affect every citizen we represent. So with a heavy heart, but a clear understanding of the stakes, unfortunately, we must pass this map before us instead of giving the pen to a heavy-handed, Obama-appointed federal judge who seeks to enforce her will on the legislature. Into an untenable situation, rather than acting as a co-equal branch of government as laid out in our constitution.

MALE SPEAKER: Senator Carter for the floor.

SENATOR CARTER: Thank you, Mr. President, members. This proposed map by Senator Womack -- well, let me start with the current district, District Two. The current African American voting age population in District Two is currently 58 percent. This map proposed by Senator Womack reduces it to barely 51 percent, and, Committee, the bill's author testified that no sort of performance analysis had been conducted to determine whether or not District Two continues to consistently perform as an African American district. There are serious concerns about this map. There are serious concerns about this proposal.

Despite those concerns, I stand in support of this legislation. It still needs work, it must be amended, but I stand in support of it today, and I speak only for today. I would like to read to you all a statement from Congressman Carter, who currently represents the Second Congressional District. Many of us served with him either when we were in the House, or those of us who served with him in the Senate. Here's a statement.

"My dear friends and colleagues, as I said on the steps of the capital, I will work with anyone who wants to create two majority-minority districts. I am not married to any one map. I have worked tirelessly to help create two majority-minority districts that perform. That's how I know that there may be better ways to create -- to craft both of these districts. There are multiple maps that haven't been reviewed at all. However, the Womack map creates two majority-minority districts, and therefore I am supportive of it. And I urge my former colleagues and friends to vote for it while trying to make both districts stronger with appropriate amendment."

"We do not want to jeopardize this rare opportunity to give African American voters the equal representation they rightly deserve." And that's the

statement from Congressman Troy Carter. I expressed my concerns. They're serious concerns. It is my expectation and my hope that this bill continue to be worked on, that amendments continue to happen, but today I stand in support. Thank you.

MALE SPEAKER: Senator Jackson for the floor.

(Pause.)

SENATOR JACKSON: He tried to cut off my mic.

(Pause.)

MALE SPEAKER: Members, you have to talk directly into the mic, unlike in previous times, where you could kind of talk around the mic. You have to literally talk directly into the mic for it to work. We're going to adjust that for the next --

SENATOR JACKSON: Hello. Okay. Good. (inaudible 0:23:11) was going to have a fit if I wasn't able to speak. I stand in support of this map. I first want to thank Senator Womack, who had the fortitude, regardless of how we got here, but to stand up and do what the last body couldn't do, and that's to come together. But I do stand to say this because I said it in Committee. I reluctantly came to the floor to support this map because my constituents and a lot of our constituents in North Louisiana right now are still experiencing an ice state. That's what I call it

because we didn't get snow.

And so a lot of them don't even know that we're down here right now passing maps. And so this is the first time in a long time I'm probably going to vote for something that I haven't vetted through my constituency because tonight, myself, Representative Fisher and Representative Morrell will have a Zoom community meeting to catch them up on what they have lost while they were at home, because my legislative assistant was finally able to get to the office and at least send something out to our constituency.

However, at some point, what they did tell me over and over again for the last year, year and a half that we've been going through this process, that they were supportive of fair and equitable maps, and that they knew a fair and equitable -- equitable map would be something that created fair representation for all people in the State of Louisiana. I will end with this. I don't think we're in a -- in the hands of a heavy-handed judge, but we're in the hands of consequences that the last legislature created in our failure to act. And I say that with a heart of hope that we act today on what is right, on what is just, and what is fair.

I don't believe, and I said this before, any

of my colleagues in this chamber would have it to be that a certain group of people in the State of Louisiana would not be properly represented. I am an American who stands every time the flag is presented. I proudly say one nation under God. And I hope today that in this senate we will stand as one Louisiana under God, because God is for what's just and what's equitable and what helps all people.

There is nothing that says that a second African American serving in Congress in Louisiana will not help the masses. Well, if we think that, then we think that we're less or better than a person based on race. If anyone in this chamber could articulate a reason why they believe that any African American that sits before you today wouldn't go to Congress with the same zeal and vigor and heart for the people, then maybe we can say that there's not an African American in this state that's going to stand in Congress and represent us.

But I literally do not believe that there's a colleague in here that looks across this chamber at any member of the Black caucus and does not believe that we wouldn't go to Congress and represent Louisiana. And so I stand in support, with reluctancy of having to talk to my constituents after this vote, but with carrying the

spirit of fairness that they asked me to carry in the last redistricting session. And I want to thank Senator Womack because the mark of a true leader is a leader that not only does what he wants to do, but what's necessary to bring resolve and wholeness to a body that has to work together on a number of issues. Thank you.

MALE SPEAKER: Thank you, Senator Jackson. Senator Duplessis for the floor.

SENATOR DUPLESSIS: Thank you, Mr. President. Thank you, Chairman Womack. I just want to make a few brief comments based on some comments that have been made earlier today. I was not necessarily planning to speak, but I think it's important that I just share a thought or two. It was said that this is much more than just lines on a map, and I agree. It is much more than just lines on a map. We've heard a lot from Chairman Womack and my colleague, Senator Stine about the importance of protecting certain elected officials, but it's about more than lines on a map. It's about the people of this state. It's about one-third of this state going underrepresented for too long.

It's about a federal law called the Voting Rights Act that has not been interpreted just by one judge in the Middle District of Louisiana who was appointed by former president Barack Obama, but also a

US Fifth Circuit Court of Appeals that's made up of judges that were appointed by predominantly Republican presidents, and a United States Supreme Court that has already made rulings. That has been made up of justices that were appointed by a majority of Republican presidents, primarily former president Trump. This is not about one judge that was appointed by former president Barack Obama. This is about the people of this state, and one-third of that state, 33 percent, to be exact, being underrepresented.

So I think it's important that we keep the focus on why we're here today. None of us want to be here today. We've been at this for well over two years, and all of us have a level of reluctancy with the maps that are before us. Just like Senator Carter, I'm not thrilled about what's happening to send it to Congressional District Two, and the way that it's lowering the numbers.

Senator Price and I, we coauthored a bill that we felt performed better, but we too are going to support this map because not only have we been ordered to do it by, yes, a judge who was appointed by President Obama, but if we felt like the -- the -- the -- the appellate judges would overrule her, then we'd be right back in court. We're at the end of the road, and I too

will support this -- this map. Not because I think it's perfect, not because I think it's the best thing that we could do, but because it's time to give people of this state fair representation. Thank you.

MALE SPEAKER: Thank you, Senator Duplessis. Senator Pressly for the floor.

SENATOR PRESSLY: Thank you, Mr. President, and members. Senators, I rise today in opposition of this bill, and I rise in opposition because I represent a community that's unique and wonderful in many ways, very diverse, and clearly a passionate part of my life in Northwest Louisiana. I believe that Shreveport and Bossier City and the surrounding parishes of De Soto and Red River and Webster are unique from the rest of our state, and I believe that commonalities of -- of interest are important.

I agree with -- with Senator Jackson. I would have no issue whatsoever of having any member of this body, and many others from throughout our state of any background, of any creed, of any race represent our great, wonderful, diverse state in Washington, DC. But I cannot support a map that puts Caddo Parish and portions of my district, which is over 220 miles from here, in a district that will be represented by someone in East Baton Rouge that may or may not have ever even

been to Northwest Louisiana, and certainly doesn't understand the rich culture, rich, important uniqueness of our area of the state.

When we look at -- at Louisiana, we often talk about north and south, and that division is true. It's real. I think all of us acknowledge that. The I-10 corridor has unique needs. When you look at -- at the challenges that you face with storms, often you think of hurricanes. In North Louisiana, we think of tornados and ice storms. When you look at the -- the important region of our states and the -- the diverse industries that we have in Northwest Louisiana, Barksdale is vitally important. Certainly, having Barksdale and Fort Johnson now, previously Fort Polk, together in one district is the one positive thing that I see in this map, and I think that is something that we must keep in mind as we continue through this process.

But I am concerned with the important part of -- of this state, Northwest Louisiana, not having the same member of Congress. With having a -- two members of Congress, that has the potential to split our community even further along a -- a -- a -- a -- a -- line that's based purely on race, and I'm concerned about that. Therefore, I'm voting no, and I urge you to do the same.

MALE SPEAKER: Thank you, Senator Pressly. The board is clear. Senator Womack, to close on your bill.

SENATOR WOMACK: Colleagues, appreciate the questions and the comments, and I just ask that we move this bill favorable.

MALE SPEAKER: Senator Womack has moved favorable passage of Senate Bill 8. When the machines are open, all those in favor, aye. Those opposed, vote nay. Open the machines. Madam Secretary, open the machines. Go to a machine, members. Senator -- Senator Miguez. There we go. Secretary, close the machines. 27 ayes, 11 nays. The -- the -- the bill is passed. Senator Womack moves of reconsideration. The -- the vote by which the bill was passed. I lay the motion on the table without objection. So ordered.

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Dated this 8th of March, 2024.

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P26

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CHAIRMAN BEAULLIEU: Good morning. Today is Thursday, January 18th, 2024. You're in the Committee of House and Governmental Affairs. We ask everyone to please silence your cell phones. If you need to take a call, please step out. There's witness cards that are maintained in committee records. Red is in -- in -- opposed. Green is in favor. If you plan on testifying, please fill out one of those cards. Ms. Baker, would you please call the roll?

MS. BAKER: Thank you, Mr. Chairman. Chairman Beaullieu.

CHAIRMAN BEAULLIEU: Here.

MS. BAKER: Present. Representative Billings.

REPRESENTATIVE BILLINGS: Here.

MS. BAKER: Present. Representative Boyd.

REPRESENTATIVE BOYD: Present.

MS. BAKER: Present. Representative Carlson.

REPRESENTATIVE CARLSON: Present.

MS. BAKER: Present. Representative Carter. Representative Carver.

REPRESENTATIVE CARVER: Here.

MS. BAKER: Present. Representative Farnum. Representative Gadberry.

REPRESENTATIVE GADBERRY: Here.

MS. BAKER: Present. Representative Johnson.

Representative Larvadain. Vice Chair Lyons.
VICE CHAIRMAN LYONS: Present.
MS. BAKER: Present. Representative Marcelle.
REPRESENTATIVE MARCELLE: Here.
MS. BAKER: Present. Representative Newell.
REPRESENTATIVE NEWELL: Here.
MS. BAKER: Present. Representative Schamerhorn.
REPRESENTATIVE SCHAMERHORN: Here.
MS. BAKER: Present. Representative Thomas.
REPRESENTATIVE THOMAS: Here.
MS. BAKER: Present. Representative Wright. Representative Wyble.
REPRESENTATIVE WYBLE: Here.
MS. BAKER: Present. We have 12 members in a quorum.
CHAIRMAN BEAULLIEU: Thank you, Ms. Baker. Members, we have one item on the agenda today. It's Senate Bill 8 by Senator Womack. Senator Womack is -- is delayed this morning, so what we're going to do -- until I hear back from Senator Womack, we're going to stand at ease until then. So we just ask you all to kind of stay nearby.
We'll give you all some time to -- to be able to get back, but until we hear back from Senator Womack,

we're going to go ahead and stand at ease. And so just viewer -- members that are listening online or watching online, just kind of be aware. We are hoping to come back in at some time later this morning. Thank you all.
(Pause.)
CHAIRMAN BEAULLIEU: Good afternoon, members, viewing audience. Thank you for your patience. We are ready to resume our House and Governmental Affairs Committee. Today is Thursday, January 18th, 2024. Ms. Baker, can you give me an updated roll call, please?
MS. BAKER: Chairman Beaullieu.
CHAIRMAN BEAULLIEU: Here.
MS. BAKER: Present. Representative Billings.
REPRESENTATIVE BILLINGS: Here.
MS. BAKER: Present. Representative Boyd.
REPRESENTATIVE BOYD: Present.
MS. BAKER: Present. Representative Carlson.
REPRESENTATIVE CARLSON: Present.
MS. BAKER: Present. Representative Carter. Representative Carver.
REPRESENTATIVE CARVER: Here.
MS. BAKER: Present. Representative Farnum.
REPRESENTATIVE FARNUM: Here.
MS. BAKER: Present. Representative Gadberry.
REPRESENTATIVE GADBERRY: Here.

MS. BAKER: Present. Representative Johnson. Representative Larvadain.
REPRESENTATIVE LARVADAIN: Here.
MS. BAKER: Present. Vice Chair Lyons.
VICE CHAIRMAN LYONS: Present.
MS. BAKER: Present. Representative Marcelle. Representative Newell.
REPRESENTATIVE NEWELL: Here.
MS. BAKER: Present. Representative Schamerhorn.
REPRESENTATIVE SCHAMERHORN: Here.
MS. BAKER: Present. Representative Thomas.
REPRESENTATIVE THOMAS: Here.
MS. BAKER: Present. Representative Wright. Representative Wyble.
REPRESENTATIVE WYBLE: Here.
MS. BAKER: Present. We have 13 in a quorum.
CHAIRMAN BEAULLIEU: Thank you, Ms. Baker. Members, we have one item on our agenda today. That's Senate Bill 8 by Senator Womack. Ms. Lowery, would you please read-in the bill?
MS. LOWERY: Thank you so much, Mr. Chairman. Members, Senator Womack brings Senate Bill Number 8 to provide relative to the redistricting of Louisiana's Congressional District, to provide with respect to

positions and offices other than congressional based upon congressional districts, and to provide related matters.
CHAIRMAN BEAULLIEU: Senior Womack, on your bill.
SENATOR WOMACK: Thank you, Mr. Chairman. Committee members, good evening. Thank you for letting me come in today and present this bill. As you know, Louisiana Congressional Districts must be redrawn, given the Federal Voting Rights Act litigation that is still ongoing in the US District Court for the Middle District of Louisiana. The map and the bill that I'm introducing, which is the product of a long, detailed process, achieves several goals.
First, as you all are aware, Congresswoman Julia Letlow is my representative in Washington, DC. The boundaries in this bill I'm proposing, ensure that Congresswoman Letlow remains both unpaired with any other incumbents, and in the congressional district that should continue to elect a Republican to Congress for the remainder of this decade.
I have great pride in the work that Congresswoman Letlow has accomplished, and this map will ensure that Louisianans will continue to benefit from her presence in the halls of Congress for as long as she

1 decides and continues to serve our great state. As you
2 know, Congresswoman Letlow sits on appropriations. She
3 sits on ag, which is a big part of my district.
4 Second, the Louisiana 6th Congressional
5 District. The map and the proposed bill ensures that
6 four are safe Republican seats. Louisiana's Republican
7 present in the United States Congress has contributed
8 tremendously to the national discourse, and I'm very
9 proud that both Speaker of the US House of
10 Representatives, Mike Johnson, and US House Majority
11 Leader Steve Scalise are both from our great state.
12 This map ensures that the two of them will
13 have solidly Republican districts at home, so they can
14 focus on the national leadership that we need in
15 Washington, DC. The map proposed in this bill ensures
16 that the Conservative principles retained by the
17 majority of those in Louisiana will continue to extend
18 past our boundaries to our nation's capital.
19 Third, the map that I've presented is -- goes
20 along the Red River. It's the I-49 corridor. We have
21 commerce through there. We have a college through
22 there. We have a lot of ag cattlemen as well as farm
23 row crop, and a lot of people up through that corridor
24 comes back to Alexandria using that corridor for their
25 healthcare. Finally, these maps in the proposed bill

1 respond appropriate to the ongoing Federal Voting Rights
2 Act case in the Middle District of Louisiana.
3 For those who are unaware, the congressional
4 maps that we enacted in March 2022 have been the subject
5 of litigation, roughly since the day the 2022
6 Congressional Redistricting Bill went into effect and
7 even before we enacted it. After a substantial amount
8 of prolonged litigation, the Federal District Court has
9 adhered to its view that the federal law requires that
10 the state have two congressional districts with a
11 majority of Black voters.
12 Our secretary of state, attorney general, and
13 our prior legislative leadership appealed, but have yet
14 to succeed, and we are now here because of the Federal
15 Court's order that we have a first opportunity to act.
16 The District Court's order that we must have two
17 majority Black voting age population districts, combined
18 with the political imperative I just described, have
19 largely driven the boundaries for District 2 and
20 District 6, both of which are over 50 percent Black
21 voting age population.
22 Given the state's current demographics, there
23 is not enough high -- high enough Black population in
24 the southeast portion of this -- Louisiana to create two
25 majority Black districts, and to also comply with the US

1 Constitution one person, one vote requirement. That is
2 the reason why District 2 is drawn around the Orleans
3 Parish and why District 6 includes the Black population
4 of East Baton Rouge Parish and travels up I-49 corridor
5 to include Black population in Shreveport.
6 While this is a different map than the
7 plaintiffs' litigation have proposed, this is the only
8 map I reviewed that accomplishes the political goals I
9 believe are important for my district, for Louisiana,
10 and for the country.
11 While I did not draw these boundaries myself,
12 I carefully considered a number of different map
13 options, and I firmly submit the congressional voting
14 boundaries represented in this bill best achieve the
15 goals for protecting Congressman Letlow's seat,
16 maintaining strong districts for Speaker Johnson and
17 Majority Leader Scalise, ensuring four Republican
18 districts, and adhering to the command of the Federal
19 Court in the Middle District of Louisiana. I'd be happy
20 to answer any questions.
21 CHAIRMAN BEAULLIEU: Thank you, Senator
22 Womack. Representative Marcelle for a question.
23 REPRESENTATIVE MARCELLE: Thank you, Senator
24 Womack, for presenting this bill. Were -- did you have
25 the opportunity to view the map that I filed?

1 SENATOR WOMACK: I -- I reviewed several maps,
2 Representative Marcelle.
3 REPRESENTATIVE MARCELLE: HB5.
4 SENATOR WOMACK: HB5. I didn't -- I didn't
5 look at the HB5 --
6 REPRESENTATIVE MARCELLE: Did not.
7 SENATOR WOMACK: -- per se. I looked at
8 several maps. One of them could have been that.
9 REPRESENTATIVE MARCELLE: Okay. Because I
10 heard you say that you thought that your map was the
11 best possible route. A pathway to get to what we needed
12 to, first of all, make sure that we get out of the
13 litigation, apply with Section 2, and go about the
14 deviations and the compactness and all of those
15 different things that we needed to do in order to create
16 a second Black seat -- congressional seat. Is that what
17 I heard you say?
18 SENATOR WOMACK: Yes, ma'am.
19 REPRESENTATIVE MARCELLE: Okay. Well, I -- I
20 certainly want to thank you, and I know -- I spoke to
21 you yesterday about putting an amendment on your bill to
22 make sure that we could reduce the parish splits and
23 that we had some conversations, and it's a short period
24 of time. Certainly, I don't know when the amendments
25 are going to be offered up, but I certainly want to go

1 down those same lines of -- since I could not get my map
2 through, which I thought was the best path, that I -- I
3 would support this map, with some cleanup done to it.
4 So I -- I just want to make sure that I go on
5 the record of saying that I spoke to you. The things
6 that my amendment would do would certainly be to add Red
7 River Parish to Congressional District 6, and preserving
8 the things in Red River community as well. So I want to
9 go on the record of saying that I -- I believe that we
10 have had several maps that would have gotten us there,
11 but I think because of political reasons, we are here
12 where we are today.
13 CHAIRMAN BEAULLIEU: Representative Marcelle,
14 just if I can chime in for a second, so I can let the
15 viewing members know that online there are two different
16 amendments that -- that will likely be proposed today,
17 and both of those are available online for the -- for
18 the viewing public. If we could hold off on those
19 amendments for -- we have a -- a handful of questions on
20 the board, Representative Marcelle, and then we'll come
21 back. Is that okay with you?
22 REPRESENTATIVE MARCELLE: Yes. I just --
23 CHAIRMAN BEAULLIEU: Okay. Good.
24 REPRESENTATIVE MARCELLE: I just wanted to --
25 to make mention to that why -- why I was asking him some

1 of the questions. So when you did this map, you -- you
2 considered the population deviation.
3 SENATOR WOMACK: Well, we had -- had to -- to
4 create the two districts, we had to think about the
5 population.
6 REPRESENTATIVE MARCELLE: And the parish
7 splits as well?
8 SENATOR WOMACK: The parish splits as well.
9 REPRESENTATIVE MARCELLE: So you felt like
10 this was the best pathway after you viewed those areas
11 that we certainly had to do to enact this map.
12 SENATOR WOMACK: Representative Marcelle, I --
13 I -- I want to be -- and -- and I -- I was hoping that
14 it -- that covered that in my opening statement, but it
15 -- it -- my map is politically drawn to protect our
16 members of Congress as it stands, as well as create the
17 two districts, minority district, Black districts.
18 REPRESENTATIVE MARCELLE: So in your opinion,
19 your map does two things. It satisfies the Court, and
20 it also protects the politics, or our congressional
21 members. Is that -- is that --
22 SENATOR WOMACK: Yes, ma'am.
23 REPRESENTATIVE MARCELLE: -- accurate to say?
24 SENATOR WOMACK: Yes, ma'am.
25 REPRESENTATIVE MARCELLE: Okay. Thank you

1 very much and thank you for your work.
2 SENATOR WOMACK: Thank you.
3 CHAIRMAN BEAULLIEU: Thank you, Representative
4 Marcelle. Representative Boyd.
5 REPRESENTATIVE BOYD: Good afternoon, Senator.
6 How are you?
7 SENATOR WOMACK: Fine, thank you.
8 REPRESENTATIVE BOYD: So I agree with Rep
9 Marcelle. This is not, in my opinion, the best map that
10 I've seen, but I do understand what it took to get here,
11 and my congressman seems to also be in support of the
12 map. Therefore, I do plan on supporting the map,
13 hopefully with some amendments. Are you open to an
14 amendment on this?
15 SENATOR WOMACK: Yes, ma'am, once -- once I
16 see some amendments.
17 REPRESENTATIVE BOYD: Okay.
18 SENATOR WOMACK: You know, we'll look at
19 amendments.
20 REPRESENTATIVE BOYD: And then she mentioned
21 the parish splits. How many parish splits are they; do
22 you know?
23 SENATOR WOMACK: I think we're 16 at the -- at
24 the present time.
25 REPRESENTATIVE BOYD: And do you know the

1 BVAPs for 2 and 6?
2 SENATOR WOMACK: I'm sorry?
3 REPRESENTATIVE BOYD: The BVAPs for 2 and 6,
4 do you know what they are right now?
5 SENATOR WOMACK: No, I don't.
6 REPRESENTATIVE BOYD: Okay. Did you have any
7 communication with anybody from -- with community
8 influences on this? Have you met with other groups?
9 Who did you meet with to come up with this map?
10 SENATOR WOMACK: I've had several meetings
11 over the period of time with several groups.
12 REPRESENTATIVE BOYD: With community of
13 interest as well?
14 SENATOR WOMACK: It -- it was hard to -- to
15 create communities of interest with this map and -- and
16 -- and still achieve some of the goals that we were
17 trying to achieve from the congressional, political
18 standpoint.
19 REPRESENTATIVE BOYD: Okay. Again, based on
20 the map and my conversation with our congressman, if we
21 can get some things cleared up and straightened up on
22 it, I would be in support of the bill as well.
23 SENATOR WOMACK: Okay. Thank you.
24 CHAIRMAN BEAULLIEU: Thank you, Representative
25 Boyd. Representative Newell.

REPRESENTATIVE NEWELL: Thank you very much, Mr. Chairman. Senator Womack, thank you for the time that you've spent because I know myself, we've been in this redistricting process for almost three years now, so I -- I knew the time it took for me just to try to redraw my house district because of the growth in Orleans Parish. So I do understand when you're looking at congressional districts. So again, I want to thank you for the time that you dedicated to -- to doing -- to -- to redrawing this map and submitting this bill, but I must say that I am along the lines of my two colleagues that just spoke.

That although this is a good map, this isn't the best map that has come before us. It does meet the -- it does meet the Court requirements. It does meet -- meet the statute and the -- the -- the jurisprudence that is before us that guides us as to what needs to be to satisfy congressional districts. I did look at your numbers, the BVAP in 2 and 6, as well as the total population for the -- these two minority-majority districts.

However, there were two that were -- two other maps that were presented that were stronger for those two minority-majority districts and didn't do as many splits. That's House Bill 5 and Senate Bill 4.

However, the politics of those two individuals that submitted those two maps, I guess, have led us to having to work with yours. And -- and -- and it's -- it's disheartening that we do have so much politics that are guiding our maps instead of the policy, and the people helping us to guide our maps and our decisions.

Because your map gives us what we're -- what we're wanting, I am going to support your map. And again, I'm going to say it's not because it's the best map, but it is because it -- it -- it looks that -- it looks as though it's giving what we -- what we need. It does not reflect what the African Americans that we've heard from across the state during the road shows in 2021 asked for. It does not reflect all of what the Black Caucus and the Democratic Caucus has asked for these past three years.

But it's the closest that we've gotten thus far, and it seems like it's the closest one that we're going to get that we could possibly get support from my other Republican colleagues on. But I just wanted to make that clear, that it is not all that we asked for, and there have been better ones that were submitted by Democrats. But this is the best one that we've seen that's been submitted by you, sir. And again, I thank you. That's all I have for now, Mr. Chair. I'll

probably press my button again.

SENATOR WOMACK: Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Newell. Representative Marcelle would like to just make a clarification for the Committee.

REPRESENTATIVE MARCELLE: Thank you. Senator Womack, we keep using the term BVAP, and we know that there are many people in the audience who may not understand that terminology. So do you want to tell them what BVAP means, or you want me to do it?

SENATOR WOMACK: Go ahead. You got the mic.

REPRESENTATIVE MARCELLE: I got -- okay, sir. I didn't want to take over your bill. It's the Black voting age population for those that are -- that are looking online, and maybe across the state. We -- because we keep using those terms, and I want to make sure that everybody understands what BVAP means. Thank you, Senator Womack.

SENATOR WOMACK: Thank you. When she -- when she asked that question, I started running through my mind. It's got to be voting age population. And -- and I hadn't heard the term BVAP. It's voting age population, which does meet the -- I don't know exactly, but it's in a high percentage, 50 percentile on that -- on voting age population.

CHAIRMAN BEAULLIEU: Thank you, Senator Womack. And look, for the -- again, the viewing audience, those numbers are all on the bill. They're part of the bill that's been filed. So if you -- if you're listening online and you want to scroll through and -- and look at different statistics on the maps and on the amendments, they're all there for you. Vice Chairman Lyons.

VICE CHAIRMAN LYONS: Thank -- thank you, Mr. Chairman. Thank you, Senator Womack, for -- for -- for bringing this like that, even though we're looking at this piece, and I'm studying it as -- as it is there. And you mentioned in your opening statement about the -- the plaintiffs and -- and the cause of -- of why you're doing this, but my question is: did you do any -- any comparisons to the -- the plaintiffs' map or the first map that was -- that was issued, drawn on this piece with your map?

SENATOR WOMACK: Representative Lyons, I've looked at so many maps in the last three days till -- till -- to say I did or didn't would be -- be -- I couldn't answer that. I'm sorry, but -- but I've looked at so many maps from what -- even through our roadshow. But in the last two or three days to -- to say that -- that my map and how it compares to another map, I'm kind

of where I'm at right now, and I -- I can -- I know what my map looks like now.

VICE CHAIRMAN LYONS: Well, the reason why I asked that question was I wanted to know if you did any type of analysis to see how it would perform. I mean, it looks, in particular, according to certain criteria, that it is a -- a -- a workable map of some sort, but how does it perform in comparison to the plaintiffs' map that was out there, that existing map? I -- I would think that you would compare it to that one because that was the map of -- not of choice, but that was the map in litigation. How would your map perform along with that one?

SENATOR WOMACK: I -- I didn't look at a map. I looked at a performance chart --

VICE CHAIRMAN LYONS: Performance. Yes.

SENATOR WOMACK: -- and it -- it -- right. That was printed. It's online. That -- that we --

VICE CHAIRMAN LYONS: Okay.

SENATOR WOMACK: -- pull, and it does -- it does perform very well. It does in the election. It -- it performs.

VICE CHAIRMAN LYONS: Okay. And --

SENATOR WOMACK: I -- I don't have that map in front of me, I'm sorry. I thought -- I'm looking for

it. But I thought it was here, but it's not. But I did have -- I did have that with me.

VICE CHAIRMAN LYONS: Okay.

SENATOR WOMACK: But it's not with me, but I -- I do remember us looking at that.

VICE CHAIRMAN LYONS: Okay. Okay. I want -- I just wanted to know if you did analysis and it was done and how it compared. I know it could perform. Basically, as I'm looking at it now, I would think it does. And I don't think it would perform better -- better than the original map of -- of the plaintiff, but it does perform. I kind of want to see if something at least close to that performance measures there, but this is a performing map. Thank you for answering my questions.

CHAIRMAN BEAULLIEU: Thank you, Vice Chairman Lyons. Representative Farnum for a question.

REPRESENTATIVE FARNUM: Yeah. Thank you, Mr. Speaker. If it's the proper time, I'd like to offer an amendment.

CHAIRMAN BEAULLIEU: Do we have any other questions before we go into the amendments? Because we do have -- we have two amendments. No other button's pushed. So give me two seconds, and we'll -- we'll come right back to you. Give me -- we've got one more

question. Representative Larvadain.

REPRESENTATIVE LARVADAIN: Thank you, Senator Womack. I want to thank you for -- for trying to make an effort to comply with the federal judge. But when I look at your map - and you have a copy in front of you - it goes from East Baton Rouge to West Baton Rouge to Pointe Coupee to Saint Landry, some of Avoyelles, some of Rapides, all of Natchitoches, DeSoto, and then some of Caddo; is that correct? Am I right? We're looking at the right map?

SENATOR WOMACK: Which district are you going through, 2 --

REPRESENTATIVE LARVADAIN: Yeah. District 2.

SENATOR WOMACK: -- or 5 -- 6? 2?

REPRESENTATIVE LARVADAIN: 6.

SENATOR WOMACK: Right.

REPRESENTATIVE LARVADAIN: 6.

SENATOR WOMACK: You're right.

REPRESENTATIVE LARVADAIN: Okay. Now, when you look at the community of interest -- I'm in Rapides. I've got -- my district is cut up two -- two spots. I'm in District 4 and District 6. I know in the community of interest, you've got Rapides and Natchitoches, and I think that you've got the Creole Nation. You've got Northwestern State University. A

lot of my students in my district attend those, so that's the community of interest; would you agree?

SENATOR WOMACK: I agree.

REPRESENTATIVE LARVADAIN: When you look at Natchitoches, there's a community of interest with Natchitoches and Caddo. You've got a lot of -- you've got lumber companies in the Natchitoches area. A lot of people work. RoyOMartin has a big -- big plant in Natchitoches --

SENATOR WOMACK: Right.

REPRESENTATIVE LARVADAIN: -- and a lot of folks in my area work there. RoyOMartin from Alexandria. And a lot of folks work in DeSoto where you have a lot of timber. And would you agree with that?

SENATOR WOMACK: I agree.

REPRESENTATIVE LARVADAIN: You look at Saint Landry. Saint Landry has -- Opelousas has a nice-sized, medium-sized hospital. So those folks in Pointe Coupee, they will go to Saint Landry to get their medical care and so forth in the Opelousas area. Would you agree with that?

SENATOR WOMACK: I agree.

REPRESENTATIVE LARVADAIN: And you look at West Baton Rouge-East Baton Rouge Parish. Is East Baton Rouge Parish cut in one district or two districts in

your map? Because I'm having problems seeing it. Is it two?

SENATOR WOMACK: I would have to look at the --

REPRESENTATIVE LARVADAIN: Two. Okay. I've seen maps to infinitum. So I think East Baton Rouge is divided into two.

SENATOR WOMACK: It's --

REPRESENTATIVE LARVADAIN: Is that two? It's yellow, and I guess a white piece.

SENATOR WOMACK: Yeah. Right. Two.

REPRESENTATIVE LARVADAIN: Okay. And it goes all the way to the great city of Shreveport.

SENATOR WOMACK: Right. Where our LSU hospital is.

REPRESENTATIVE LARVADAIN: And the hospital is vital because in Alexandria, we had a HOEPA loan. You're familiar with that. And Jindal shut my HOEPA loan. So my folks --

SENATOR WOMACK: Right.

REPRESENTATIVE LARVADAIN: -- in Rapides have to go to LSU. So that's a community of interest. Now, with your hospital, with your district, it goes from East Baton Rouge all the way to Caddo, which is probably about a two-hour ride, give or take, because I take that

ride a lot going up to Meyer in Alexandria. There was a -- a different map that was heard in the Senate, but it was a much cleaner map. That map didn't get out of the Senate, and it didn't get out of this area. The map I'm talking about is Ed Price's. I think Ed Price had a map.

FEMALE SPEAKER 1: It was Price and Marcelle.

REPRESENTATIVE LARVADAIN: Price-Marcelle map. I'm sorry. Did you get a chance to look at that map? That map was heard on the Senate side.

SENATOR WOMACK: Yes.

REPRESENTATIVE LARVADAIN: Those districts were a lot closer, a lot compact, but you're presenting this district. When you look at District 4, that's -- that is the district for the Speaker, Mr. Johnson; is that correct?

SENATOR WOMACK: Right.

REPRESENTATIVE LARVADAIN: Does he have a problem with his district being cut in -- in half like that? If you look at Winnfield, if he's in Winnfield and he goes to Sabine, he has to go through Natchitoches, which is not (inaudible 0:26:54) district. Yet you think he has a problem with that?

SENATOR WOMACK: No. It looks like the shortest route would be through Natchitoches.

REPRESENTATIVE LARVADAIN: But his prior map was just one continuous area. Now he has to leave one district and go to another area, which is -- which he'll be representing; is that correct?

SENATOR WOMACK: Yeah, that.

REPRESENTATIVE LARVADAIN: Okay. Have you had a chance to talk to -- to Congressman Johnson about this map?

SENATOR WOMACK: Not directly to him.

REPRESENTATIVE LARVADAIN: Okay. Is he content with this map?

SENATOR WOMACK: He's content.

REPRESENTATIVE LARVADAIN: Even though it slashes right through the middle of his district.

SENATOR WOMACK: Yeah. It -- it --

REPRESENTATIVE LARVADAIN: Now, Ed Price and Denise Marcelle. Let's go to District 5. Let's go the District 5 area. Their map, they were looking at District 5, which is the eastern part of Louisiana. And their map, they had that as the minority -- majority-minority district, I think, but you kept that map so you can help your friend, Congressman Letlow; is that correct?

SENATOR WOMACK: Yes. Yes, sir.

REPRESENTATIVE LARVADAIN: So this is more of

a political map.

SENATOR WOMACK: Exactly.

REPRESENTATIVE LARVADAIN: So our objective is to get two majority-minority districts, but you have presented us a political map; isn't that correct?

SENATOR WOMACK: The influence is political. I created -- we created two minority Black districts.

REPRESENTATIVE LARVADAIN: But you also said earlier that you were trying to do your best to protect Congressman Scalise.

SENATOR WOMACK: That was -- that -- that -- Scalise, as well as Johnson, Letlow, which is my representative, and Higgins.

REPRESENTATIVE LARVADAIN: You were trying to protect your Republican team.

SENATOR WOMACK: That was a primary driver.

REPRESENTATIVE LARVADAIN: So this is a political matter. But the judge wanted you to make sure that you presented two --

SENATOR WOMACK: Two Black.

REPRESENTATIVE LARVADAIN: -- majority-minority districts.

SENATOR WOMACK: And I've done that.

REPRESENTATIVE LARVADAIN: I don't know if you've done -- you've -- you've made a effort at it, but

there was another map. There's a lot cleaner map because the map that I see goes from Shreveport to Baton Rouge, which you're just zigzagging. And you picked up Alexandria, you picked up Natchitoches, you picked up DeSoto, but it's more of a political map. The map that the Democrats pursued, it was a map that we agreed on two majority-minority districts, and this is more of a political map.

SENATOR WOMACK: Yeah, I know.

REPRESENTATIVE LARVADAIN: Okay. Thank you.

SENATOR WOMACK: Thank you.

CHAIRMAN BEAULLIEU: Senator Womack, why are we here today? What -- what brought us all to this special session as it -- as it relates to, you know, what we're discussing here today?

SENATOR WOMACK: The middle courts of the district courts brought us here from the Middle District, and said, "Draw a map, or I'll draw a map."

CHAIRMAN BEAULLIEU: Okay.

SENATOR WOMACK: So that's what we've done.

CHAIRMAN BEAULLIEU: And -- and were you -- does -- does this map achieve that middle court's orders?

SENATOR WOMACK: It does.

CHAIRMAN BEAULLIEU: Okay. When you were

drawing the maps, you also took into consideration incumbency, correct?

SENATOR WOMACK: Right.

CHAIRMAN BEAULLIEU: Okay. To protect not just our state, but our national interest as well.

SENATOR WOMACK: Our national.

CHAIRMAN BEAULLIEU: Is that correct?

SENATOR WOMACK: Right.

CHAIRMAN BEAULLIEU: This is -- this is bigger than just us.

SENATOR WOMACK: It's bigger than just us, and Louisiana has never been sitting in the poor position that they are today.

CHAIRMAN BEAULLIEU: What -- what position does Congressman Mike Johnson have in the United States House of Representatives?

SENATOR WOMACK: He's a speaker of the house.

CHAIRMAN BEAULLIEU: Okay. And what about Congressman Steve Scalise?

SENATOR WOMACK: Majority leader of the house.

CHAIRMAN BEAULLIEU: Okay. So if we've been able to accomplish what the judge has ordered through your map, and also been able to protect the political interest, that is kosher, correct?

SENATOR WOMACK: That's exactly.

CHAIRMAN BEAULLIEU: Okay. That's what -- that's what I was thinking. That's what I've learned through the process, and I just wanted to make sure that your map achieved that. Yeah.

SENATOR WOMACK: Yes, sir, Mr. Chairman.

CHAIRMAN BEAULLIEU: All right. Senator, the board's cleared. We're going to go ahead, if you don't mind, and -- and take up the amendments right now. Bear with me for two seconds. Senator Marcelle, and -- and -- excuse me. Sorry about that promotion, Representative Marcelle.

REPRESENTATIVE MARCELLE: That's okay.

CHAIRMAN BEAULLIEU: And -- and Representative Farnum both have amendments.

FEMALE SPEAKER 2: Here. This card's in Marcelle's name.

CHAIRMAN BEAULLIEU: Okay. Hold that -- hold that for me. Bear with me. So the first amendment is how -- is Amendment 68. That is Amendment 60. Give me a second while it's loading. What amendment is 68?

MS. LOWERY: That is the one offered by Representative Farnum.

CHAIRMAN BEAULLIEU: Representative Farnum, we're going to take up your amendment first. Representative Farnum, on your amendment.

REPRESENTATIVE FARNUM: Thank you, Mr. Speaker. So I offer -- does -- do we need to read it in?

MS. LOWERY: Certainly.

CHAIRMAN BEAULLIEU: Ms. Lowery, please read-in the amendment.

MS. LOWERY: Thank you so much, Mr. Chairman. Representative Farnum is offering up HCASBA-36268. And on page 1, it's going to delete lines 13 through 17, and delete pages 2 through 6, and we'll be inserting a new district configuration for the congressional districts for the State of Louisiana. This amendment is available online and is available in your packets, members, and contains maps and statistics relevant to the plan.

CHAIRMAN BEAULLIEU: Thank you, Ms. Lowery. Representative Farnum, on your amendment.

REPRESENTATIVE FARNUM: Thank you, Mr. Chairman. So in the -- in the beginning of this process, me and my colleagues from Southwest Louisiana set out to accomplish making Calcasieu whole. In the history of -- of our -- our great parish, we've always had one congressman that represented us. And -- and -- and with the current map as presented from Senator Womack, it -- it split Calcasieu Parish basically in half in population. And -- and with the community of

1 interest in our industrial sector down there, we thought
2 that was not just for our area.
3 We -- we have -- we're -- we're probably one
4 of the top two or three economic engines for the State
5 of Louisiana with our oil and gas industries and our LNG
6 industry that's going on in -- in our region. So we
7 thought it would be -- be great to make an effort to get
8 back to one congressman.
9 We have issues with -- with all sorts of
10 natural disasters in our area, and we have a hard enough
11 time getting -- getting the -- the adequate supplies and
12 -- and resources to our region in those situations with
13 one congressman, and I -- I can imagine it might be a
14 little more difficult with two. So in that effort, we
15 set out to make -- make ourselves whole. And in the
16 process, a lot of folks in -- in other areas wanted to
17 come along and -- and get -- be a part of this to -- to
18 correct little -- little tweaks in their area.
19 So last night a group of senators and
20 representatives got together. I wasn't able to attend
21 that meeting. So this is the product of that meeting.
22 At the end of the day, we -- we accomplished a few
23 things. We -- we kept the, the basic intent of what
24 Senator Womack's bill is in place, and with a -- a --
25 kind of a counterclockwise shift that would -- but the

1 process has to happen that way to increase some areas in
2 -- in Northeast Louisiana to help that district to make
3 Congressman Johnson come down some.
4 That inherently makes Congressman Higgins have
5 to shift to the east, and so on and so forth. In the
6 process, we increase the -- the -- both the Black
7 population and the voting population of both of the
8 minority districts by almost a percent each in most
9 cases.
10 So it helps -- it helps the -- the workability
11 of the two new districts and -- and what they're trying
12 to accomplish, and it accomplished the -- the -- making
13 more -- more parishes whole. I think we -- we only --
14 we're down to 15 split parishes with this map, and so I
15 think we've accomplished several things in the process.
16 And -- and with that, we can answer questions or ask for
17 your passage.
18 CHAIRMAN BEAULLIEU: Representative Farnum,
19 does your -- does your amendment meet the judge's order?
20 REPRESENTATIVE FARNUM: Absolutely.
21 CHAIRMAN BEAULLIEU: Okay. And so we have two
22 majority-minority districts, or two Black districts that
23 have a voting -- a majority voting age population over
24 50 percent?
25 REPRESENTATIVE FARNUM: I -- I think it

1 accomplished that, but it -- it actually increases the
2 -- the viability of the two minority districts.
3 CHAIRMAN BEAULLIEU: Okay. And what about
4 incumbency, are the -- the current members protected?
5 REPRESENTATIVE FARNUM: Protects all the
6 current incumbencies. I think it -- it -- it meets all
7 the -- all the checkboxes.
8 CHAIRMAN BEAULLIEU: Okay. Thank you.
9 Representative Marcelle. Again, give me a second,
10 Representative Marcelle, because I'm going to get
11 Representative Farnum added back on. Bear with me.
12 (Pause.)
13 REPRESENTATIVE MARCELLE: You ready? Thank
14 you. Representative Farnum.
15 REPRESENTATIVE FARNUM: Yes, ma'am.
16 REPRESENTATIVE MARCELLE: You said that some
17 senators and some representatives met last night, but
18 you weren't able to be there. Is that -- is that what
19 you said?
20 REPRESENTATIVE FARNUM: That's correct.
21 REPRESENTATIVE MARCELLE: So whose map is
22 this?
23 REPRESENTATIVE FARNUM: This is Senator
24 Womack's map.
25 REPRESENTATIVE MARCELLE: No, no, no, no. The

1 amendment.
2 REPRESENTATIVE FARNUM: The amendment. I'm
3 the author because --
4 REPRESENTATIVE MARCELLE: Because if senator
5 -- I don't mean --
6 REPRESENTATIVE FARNUM: -- it has -- it has to
7 have an author from this committee, and -- and I'm --
8 REPRESENTATIVE MARCELLE: Okay. It has to
9 have an author from this committee, so that's why. Who
10 asked you to carry it is my question.
11 REPRESENTATIVE FARNUM: I started it myself
12 without anybody asking me. Now, I -- I allowed input
13 from other members of this body to -- to better my
14 amendment because it -- mine was -- mine was from my
15 region's perspective.
16 REPRESENTATIVE MARCELLE: It's Calcasieu.
17 REPRESENTATIVE FARNUM: Calcasieu's
18 perspective.
19 REPRESENTATIVE MARCELLE: And so let me -- let
20 me see -- let -- let me walk down this really quick. In
21 Calcasieu, you said that you wanted to make your parish
22 whole. Did I understand that correctly?
23 REPRESENTATIVE FARNUM: Correct.
24 REPRESENTATIVE MARCELLE: So instead of having
25 two congressional representatives, you wanted to make

sure you were whole, and you just wanted one; is that accurate?

REPRESENTATIVE FARNUM: Correct. That's correct.

REPRESENTATIVE MARCELLE: Okay. But over in East Baton Rouge, if I'm reading it correctly, we now have three congressional districts; is that accurate?

REPRESENTATIVE FARNUM: That's accurate.

REPRESENTATIVE MARCELLE: That's accurate. Okay. Good. So on the one hand, you want to make yourself whole, and you want to split us three ways in East Baton Rouge Parish.

REPRESENTATIVE FARNUM: That's the net result.

REPRESENTATIVE MARCELLE: That's the net result. Okay. Got it. So are you aware of the population shift in Louisiana? You know, we had these hearings a year and a half ago, two, whatever. It was two years ago. Whenever it was. Are you aware -- because I think you were on this committee.

REPRESENTATIVE FARNUM: Yes, ma'am.

REPRESENTATIVE MARCELLE: Okay. So are you aware of the growth, the largest growth in the state?

REPRESENTATIVE FARNUM: Yes.

REPRESENTATIVE MARCELLE: Where was that?

REPRESENTATIVE FARNUM: Northshore.

REPRESENTATIVE MARCELLE: Where? Northshore.

REPRESENTATIVE FARNUM: Northshore.

REPRESENTATIVE MARCELLE: And where was Baton Rouge in that?

REPRESENTATIVE FARNUM: It's probably middle of the road.

REPRESENTATIVE MARCELLE: Middle of the road.

REPRESENTATIVE FARNUM: Yeah.

REPRESENTATIVE MARCELLE: Would you say that Baton Rouge had more growth than Calcasieu?

REPRESENTATIVE FARNUM: I don't know if that's accurate. I -- I couldn't speak to that.

REPRESENTATIVE MARCELLE: They did. My -- my point to you is that there was growth in -- in Baton Rouge. They lost population in North Louisiana. Is that accurate?

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: They did lose population, and I'm just trying to --

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: -- refresh my memory. In North Louisiana, so, but you wanted to make sure that North Louisiana -- because it looks like -- I'm looking at his map and your map, and it looks like you shift Letlow back over --

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: -- and she picked up some more, right?

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: His map -- Womack's map didn't do that. So you added back Lincoln, Jackson, and you made her whole in Ouachita.

REPRESENTATIVE FARNUM: Ouachita.

REPRESENTATIVE MARCELLE: Ouachita. Ouachita.

REPRESENTATIVE FARNUM: Ouachita whole.

REPRESENTATIVE MARCELLE: Ouachita, right?

REPRESENTATIVE FARNUM: Correct.

REPRESENTATIVE MARCELLE: Is that right? Okay.

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: I -- I want to make sure I -- I got that straight. So it -- are you aware that this map that you're proposing has less compact overall than Womack's map or the enacting map? Are you aware of that? It has less compactness.

REPRESENTATIVE FARNUM: No.

REPRESENTATIVE MARCELLE: I know you didn't have a whole lot of time to study it because it was last minute.

REPRESENTATIVE FARNUM: Yeah. I don't know if

I agree with that.

REPRESENTATIVE MARCELLE: You don't know if you agree with it.

REPRESENTATIVE FARNUM: No.

REPRESENTATIVE MARCELLE: Okay. Well, it does. In fact, it's the lowest compactness of all of the maps. That's A. The district level in Congressional District 6 is less compact than Womack's map, and the Congressional District 2 is half as compact as Womack's map. Are you aware of that?

REPRESENTATIVE FARNUM: So what I do know is that the -- the BVAP increased.

REPRESENTATIVE MARCELLE: I'm not asking about the BVAP.

REPRESENTATIVE FARNUM: The population increased, and it helps those -- the electability of those minority candidates in those areas.

REPRESENTATIVE MARCELLE: I -- I guess that's your opinion, but what I'm asking you for right now is facts in -- in -- in -- in terms of the compactness of the districts. So let me go to another one. Are you aware that it splits more municipalities than Womack's and almost twice as many as the -- the bill that I brought?

REPRESENTATIVE FARNUM: I'm not familiar --

REPRESENTATIVE MARCELLE: Are you aware of that?
REPRESENTATIVE FARNUM: I'm not familiar with your bill.
REPRESENTATIVE MARCELLE: Okay. Was HB5 up?
REPRESENTATIVE FARNUM: We didn't -- we didn't have a chance to hear that.
REPRESENTATIVE MARCELLE: I presented it in here. You were -- you were here.
REPRESENTATIVE FARNUM: You -- you voluntarily withdrew it.
REPRESENTATIVE MARCELLE: Pardon me?
REPRESENTATIVE FARNUM: You voluntarily withdrew it.
REPRESENTATIVE MARCELLE: But I presented it. But you had an opportunity to get it on your laptop and see it like we get all bills, right, because you're on this committee.
REPRESENTATIVE FARNUM: Yes.
REPRESENTATIVE MARCELLE: Okay. So this map, the -- well, not map, the amendments. If these amendments get on this bill, it will split more municipalities than Womack's. The deviation on these amendments that go to this map is a 129, which is both higher than Womack's bill, which is almost twice as much

as the enacted map at 65. I -- I think what I'm saying is there were more than one goal to meet when we were told to draw these maps.
It was more than one thing that we had to consider: compactness, communities of interest, not splitting municipalities. And it appears that this map -- or these amendments, if we were to vote on this, does far more harm than good.
REPRESENTATIVE FARNUM: So -- so it's my opinion that -- that we -- we addressed all of the issues that we were set out to do. We've accomplished all the goals that we were mandated by the Court to do. We have the -- the two minority districts were very, very lightly touched, and -- and mostly White population was pulled out of those districts.
REPRESENTATIVE MARCELLE: Well, let -- let me just say this, Representative Farnum, with all due respect. If you were just trying to make Calcasieu whole and that was your parish and you were trying to do that, I might have a little bit more respect for this amendment. But since you are trying to make yourself whole, and East Baton Rouge Parish split between three congressional districts, that would mean that for the public that's watching -- because you can't see the map, or you may not be able to understand it.

That would mean that Clay Higgins would represent the people on Lakeshore Drive in Baton Rouge. That's what that would mean.
REPRESENTATIVE FARNUM: So -- so in -- in my area, Clay Higgins represents my house, and if I drive 10 houses down the road, Congressman Johnson represents those people --
REPRESENTATIVE MARCELLE: I guess --
REPRESENTATIVE FARNUM: -- 10 houses away from my house.
REPRESENTATIVE MARCELLE: I imagine because you're on the line. But what I'm saying is that's a far distance from where his district starts, to bring him down to Baton Rouge, and I'm just trying to -- it's unclear to me what the motivation of offering this amendment is, other than political reasons. It -- it -- it certainly doesn't help us in Baton Rouge.
REPRESENTATIVE FARNUM: Well, all -- all I can say is my constituents at home expressed a strong desire to remain whole. Now, whether we were in District 3 --
REPRESENTATIVE MARCELLE: So do mine.
REPRESENTATIVE FARNUM: -- or District 4 -- I -- I can appreciate that. I really can appreciate that, and that's why we all get a vote here. And so it's -- this is -- this is my attempt to -- to help my citizens

in my area.
REPRESENTATIVE MARCELLE: I get that.
REPRESENTATIVE FARNUM: And in the process, I included -- a lot of other people from a lot of other regions were included in the conversation. I can't speak to who all was included that night because I wasn't able to attend that. So it -- it was people from New Orleans. I think Senator Womack was in the room when -- when it was discussed, and -- and feel free to jump in any time.
SENATOR WOMACK: Okay. I -- I was in that meeting, and -- and the -- back to the BVAP. And in the districts, District 2 and District 6 went up -- up as far as Black voter age population. Senator Gary Carter was in the room with us looking at this and -- and working on this to -- to try to come up with the best outcome. We did --
REPRESENTATIVE MARCELLE: That would be --
SENATOR WOMACK: -- include --
REPRESENTATIVE MARCELLE: I'm sorry. That -- you said Senator Carter.
SENATOR WOMACK: Carter. Gary Carter.
REPRESENTATIVE MARCELLE: And that we be Congressional District 2, right?
SENATOR WOMACK: He was in the room.

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REPRESENTATIVE MARCELLE: Okay.
SENATOR WOMACK: He was in the room, and -- and -- and looking at these districts with us. This wasn't -- this wasn't -- this was several senators trying to work to -- to try to accomplish, I guess, a lot of maybe concerns from different ones, but I know Red River Parish was put in.
REPRESENTATIVE MARCELLE: Well, the -- the only one that could have been concerned about Congressional District 2 would be Congressman Troy Carter; is that accurate? Who -- did he have a concern about your map?
SENATOR WOMACK: I -- I would think that Congressman -- Senator Carter would -- would be speaking in -- in that capacity, as to watching the -- the -- the VAP, the -- the -- the -- the voting age population. He was watching that. He was working with us to try to best fit everything that we -- that -- that people was wanting and -- and -- and concerns from each side that we're asking for and -- and to still maintain the -- the fact that -- that we -- we got a map to draw. And we had to draw this map to get --
REPRESENTATIVE MARCELLE: So let me -- let me ask you, Senator. Was somebody from Baton Rouge asking to be split three ways in that room? Because I want to

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know who that was.
SENATOR WOMACK: I -- I -- I don't know where these people -- all the people live.
REPRESENTATIVE MARCELLE: Don't know where the --
SENATOR WOMACK: I -- I think Carter lives back toward New Orleans.
REPRESENTATIVE MARCELLE: Yeah. That's what I said.
SENATOR WOMACK: Okay. All right.
REPRESENTATIVE MARCELLE: Right. That's what I said. And this is --
SENATOR WOMACK: And -- and -- and that's -- and I can't say he's been on the phone, but he was in the room and worked with us on this.
REPRESENTATIVE MARCELLE: Let -- let -- let me say this, and I'll -- I'll leave it alone at this. I -- I respect you, Senator Womack. That's why when I proposed a cleanup amendment to your bill, I came over to talk to you about exactly what I was going to propose on your bill. I think it's disingenuous that we sit here, and we drop maps that changes Baton Rouge because some senators got in a room and decided to change my district. This is what I represent. I -- I -- I don't mean -- I'm -- and you --

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SENATOR WOMACK: I'm sorry.
REPRESENTATIVE MARCELLE: It's not your amendment.
SENATOR WOMACK: Yeah. I'm sorry.
REPRESENTATIVE MARCELLE: I'm just making a statement.
SENATOR WOMACK: Yes, ma'am.
REPRESENTATIVE MARCELLE: And I'm not voting for any map that has Baton Rouge split three ways because that's insane. It's insane. And so for whatever motive that they had, I believe that they threw a monkey wrench in a bill that I think would have gotten out of here without any opposition, which is your bill. So I don't -- I don't know if you realize it --
SENATOR WOMACK: Yeah. Yeah.
REPRESENTATIVE MARCELLE: -- but, I mean, I don't think what they have done has helped your bill. And if Farnum wanted to protect Calcasieu, that's Calcasieu. It ain't got nothing to do with Baton Rouge. So he should have put amendment on this bill that protects Calcasieu, not Baton Rouge. Not change anything in Baton Rouge. And that's just my honest opinion. So I -- I -- I could not -- so I would object.
REPRESENTATIVE MARCELLE: I -- I -- I could not -- so I would object to this amendment being added.

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And I want everybody in Baton Rouge who's listening to please call your senators and the people that represent you and tell them we do not want to be split in three ways in Baton Rouge. Thank you.
SENATOR WOMACK: Thank you. Just for correction, Senator Fields was in the room with us. So that -- that -- I appreciate Senator Kathy reminding me of that. He was in the room as well.
CHAIRMAN BEAULLIEU: Thank you. Ms. -- Representative Marcelle. Representative Johnson.
REPRESENTATIVE JOHNSON: Thank you, Mr. Chairman. Senator Womack, you represent Senate District -- what's the number?
SENATOR WOMACK: 32.
REPRESENTATIVE JOHNSON: 32. You're my senator, and we share a lot of people, a lot of population. You have spent a lot of time on this map; haven't you?
SENATOR WOMACK: Yes, sir.
REPRESENTATIVE JOHNSON: And you've tried to do it as best you can and to make it legal and to make it -- to adjust the population shift that has occurred in our state; is that right?
SENATOR WOMACK: That's right.
REPRESENTATIVE JOHNSON: And it -- you're not

doing it in a vacuum. It's affecting people that are in your district.

SENATOR WOMACK: Yes, sir. That's exactly right.

REPRESENTATIVE JOHNSON: And you are catching a lot of heat because of that; aren't you?

SENATOR WOMACK: That's right.

REPRESENTATIVE JOHNSON: You take your responsibility seriously; don't you?

SENATOR WOMACK: I do.

REPRESENTATIVE JOHNSON: Even when it hurts you politically?

SENATOR WOMACK: I do.

REPRESENTATIVE JOHNSON: It hurts me politically.

SENATOR WOMACK: It does. And I've apologized.

REPRESENTATIVE JOHNSON: I know you to be a good and honest man who tries to do the right thing. Does this map, as amended by -- by Representative Farnum, my good friend from Southwest Louisiana -- well, let me back up. You believe that you have presented a map that achieves all the necessary requirements and provides us with the best instrument that you could come up with?

SENATOR WOMACK: I do.

REPRESENTATIVE JOHNSON: Do you believe that Representative Farnum's amendment makes your bill better?

SENATOR WOMACK: Yes.

REPRESENTATIVE JOHNSON: And would you support your bill and your map and all of your time and all your political pain that you and I are feeling if he presents that amendment?

SENATOR WOMACK: I do. I would.

REPRESENTATIVE JOHNSON: Okay. Thank you, Senator.

CHAIRMAN BEAULLIEU: Thank you, Representative Johnson. Representative Newell.

REPRESENTATIVE NEWELL: Thank you very much, Mr. Chairman. And Representative Farnum, I appreciate your attempt at drawing this map. But what I don't appreciate -- and I do understand that this is a compressed session. And let me pause right quick and say thank you to our staff because our staff is truly overworked and underpaid. So I -- I -- I -- I understand how swiftly they work to try to get bills prepared, amendments prepared so that we can have them in order to get to committee.

But I -- with all of that, we also need to

consider this -- this -- how critical it is for everyone to have these -- this information and these documents in time that those of us who are sitting right here and about to vote on this -- and Senator, I'm sorry. I'm looking directly at you, but you -- you right there. But this is -- no -- no slight against you.

This was not enough time to digest everything that is in this amendment. We went at ease at about 10:15, 10:20, whatever time it was in the 10 o'clock hour. We just got these maps before we sat down. When y'all saw us sit down and pick up these papers, that's why we were shuffling because we just got these amendments. And I just needed to say this is too sensitive of a issue, too sensitive of a topic to rush through it and to be thrown a set of amendments.

There's probably more splits that we -- than -- than what we're noticing. Rep Marcelle saw Baton Rouge because that's where she lives. So that's what's kind of jumped out at her first. But I'm sure there's some other members that might feel slighted. There might be some other populations or communities of interest that feel that they are not being listened to or heard.

We -- we -- I would have appreciated more time to understand this since I was not given the benefit of

being in the room. Rep Farnum's name is on this map, and he wasn't in the room. You mentioned a lot of senators in the room talking about something that representatives are now sitting here trying to pour over, talk about, discuss, and understand in a shorter period of time.

Most of us can't really pay attention to the discussions because we're looking and trying to understand these 15 pages that we've just been given. And I just needed to put that out there, Mr. Pro Tem, that we should need to give each other more consideration in our futures, that we give each other more time to digest things that are this sensitive of a issue and of a topic. And I'm still not satisfied with this map. Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Newell. Representative Mark Wright.

REPRESENTATIVE WRIGHT: Thank you, Mr. Pro Tem. I didn't expect to get called on so soon I thought there'd be a line. I -- I don't know. I'm going to upset somebody with this statement, but I'm just going to say it. I don't understand the idea of wanting just one rep for a parish.

I think if you got two, you got two people to go to. I don't think congressmen sit there and say,

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1 "Oh, you know, St. Tammany, 50 percent is there. I'm
2 only going to give it 25 percent of my time." I think
3 if you got three, I think it's possible you get three
4 congressmen working for your parish.
5 So I don't know what that does, but I just --
6 I've been hearing this all week, heard it the last time
7 we did this, and to me, it's just not something I think
8 matters. So I'll leave it there.
9 CHAIRMAN BEAULLIEU: Thank you.
10 Representative Wright. Representative Boyd.
11 REPRESENTATIVE BOYD: Thank you, Mr. Speaker
12 Pro Tem. I think what the problem is is that, again,
13 following up on Candace -- on Rep Newell, we just were
14 presented with these amendments and your map as a matter
15 of fact.
16 I do understand, Rep Marcelle, that Senator
17 Fields was in the room with this. But that's Senator
18 Fields and Senator Carter in the room. We were not
19 privy to that conversation, so we had no idea what we
20 were expecting to see the -- today. And now we're
21 shuffling through pages and pages of a bill as well as
22 an amendment.
23 So I don't think anything was done
24 intentionally, but the frustration comes from us not
25 having this ourselves to actually digest it and meet

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1 with our people, our community of interest, and speak
2 about what's being presented. So I think --
3 MALE SPEAKER 1: (inaudible 0:57:16).
4 REPRESENTATIVE BOYD: Exactly. So I think
5 that that's the -- the main issue here. We know who was
6 in the -- well, we know now who were in the room when
7 this was being discussed, but we weren't, if that makes
8 any sense. Thank you.
9 CHAIRMAN BEAULLIEU: Thank you, Representative
10 Boyd. Representative Larvadain.
11 REPRESENTATIVE LARVADAIN: Thank you, Mr.
12 Chair. Rep Farnum, thank you for making an effort to
13 try to comply with the judge's wishes, but I'm still
14 confused with your map. In the great parish of Rapides,
15 we've divided three ways; is that correct?
16 REPRESENTATIVE FARNUM: Two or three.
17 REPRESENTATIVE LARVADAIN: I -- three -- I see
18 pink, green, and yellow in the great -- is that correct?
19 Am I seeing something right? Yes. Look at Rapides,
20 the real parish, where I'm from and Mike Johnson.
21 Rapides is -- on the east side, it's in the yellow,
22 which is Clay Higgins. In the middle, it'll be in
23 District 6, and then it has a portion of District 5. So
24 it's three in the -- is that correct?
25 REPRESENTATIVE FARNUM: That's correct.

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1 REPRESENTATIVE LARVADAIN: Okay. But your
2 parish is only single; is that correct?
3 REPRESENTATIVE FARNUM: That's correct.
4 REPRESENTATIVE LARVADAIN: I think Avoyelles
5 Parish is -- is divided into two areas; is that correct?
6 REPRESENTATIVE FARNUM: Excuse me?
7 REPRESENTATIVE LARVADAIN: Avoyelles Parish is
8 divided in District 5 and 4.
9 MALE SPEAKER 1: 5 and 10.
10 REPRESENTATIVE LARVADAIN: 5 and --
11 REPRESENTATIVE FARNUM: Yes, and they're --
12 they're --
13 REPRESENTATIVE LARVADAIN: 5 and 6?
14 REPRESENTATIVE FARNUM: -- split in the
15 current map.
16 REPRESENTATIVE LARVADAIN: Okay. Now, we had
17 a better map that we think we proposed. But once again,
18 with your map, you're dipping and diving, and you're
19 going through -- you've got a -- how many split
20 districts do you have in that area; do you know?
21 REPRESENTATIVE FARNUM: How many what?
22 REPRESENTATIVE LARVADAIN: Split parishes you
23 have in -- just in District 6.
24 REPRESENTATIVE FARNUM: So in -- in this map,
25 there are 15 split parishes. And -- and in the original

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1 map, if I counted it right, there's 32 split parishes.
2 REPRESENTATIVE LARVADAIN: If I told you it
3 was 16 original, would that be correct? Where would you
4 get 36?
5 REPRESENTATIVE FARNUM: That's not the count
6 that I came up -- but I -- I don't know. I might be
7 wrong, but I -- I think the asterisk --
8 CHAIRMAN BEAULLIEU: 16.
9 REPRESENTATIVE FARNUM: -- the asterisk beside
10 the parishes mean that they're split.
11 REPRESENTATIVE LARVADAIN: Okay. Let -- let
12 me correct then --
13 REPRESENTATIVE FARNUM: There's 32 of them.
14 REPRESENTATIVE LARVADAIN: Yeah. And -- and
15 Senator Womack's map, it was 16 split; is that correct?
16 REPRESENTATIVE FARNUM: I don't believe that's
17 correct. I think there's 32 in the original map. Help
18 -- help me with that Ms. Lowery.
19 REPRESENTATIVE LARVADAIN: I think it's 16.
20 MS. LOWERY: Members, I think what
21 Representative Farnum is counting the number of
22 asterisks, but the asterisk in front of a parish on the
23 report -- on the split parish report means it is split,
24 but there are 16 split parishes --
25 REPRESENTATIVE FARNUM: Okay.

MS. LOWERY: -- in the plan, so.
REPRESENTATIVE FARNUM: Okay. So we reduced that by one.
REPRESENTATIVE LARVADAIN: Those 15?
REPRESENTATIVE FARNUM: I think. If I -- if I'm adding right.
MS. LOWERY: 15 in his original --
REPRESENTATIVE FARNUM: 15 in the original?
MS. LOWERY: -- and 16 in your amendment, Representative.
REPRESENTATIVE FARNUM: Okay. So we increase it by one.
REPRESENTATIVE LARVADAIN: Yeah. You added one to it, okay. What about -- where does Congressman Graves live? Is he in District 6 or he's in District 5?
REPRESENTATIVE FARNUM: I have no idea where Congressman Graves lives.
FEMALE SPEAKER 3: I think Baton Rouge.
REPRESENTATIVE LARVADAIN: I think he's in -- I think he's in East Baton Rouge Parish.
REPRESENTATIVE FARNUM: I -- I have no --
REPRESENTATIVE LARVADAIN: If I told you --
REPRESENTATIVE FARNUM: -- no idea where he lives.
REPRESENTATIVE LARVADAIN: Would he -- would

he be a part of District 5, that district, or you don't know?
REPRESENTATIVE FARNUM: I don't know. I don't know where any of the congressmen live other than the regions that they come from.
REPRESENTATIVE LARVADAIN: Okay. Okay. Did you get a chance to talk to Congressman Mike Johnson about his district?
REPRESENTATIVE FARNUM: Huh? I have not. I talked to Congressman Higgins about his.
REPRESENTATIVE LARVADAIN: Okay. And what did Congressman Higgins say about his district?
REPRESENTATIVE FARNUM: He -- he -- he thought it was a good idea that we were okay to be split. I disagreed with him. Very -- very civil conversation. He was disappointed that we would rather push -- push to the -- a single member. But, you know, I'm -- I'm listening to my constituents, and that's -- that's who I have to answer to.
REPRESENTATIVE LARVADAIN: Does Congressman Higgins have -- have a problem with going all the way from Cameron to Baton Rouge Parish? Is that ideal for him?
REPRESENTATIVE FARNUM: That wasn't an issue that he -- that he expressed to me.

REPRESENTATIVE LARVADAIN: Okay.
REPRESENTATIVE FARNUM: He -- he -- he would like to retain part of Calcasieu if possible. And --
REPRESENTATIVE LARVADAIN: Blame him. That's a big city.
REPRESENTATIVE FARNUM: -- and we -- we disagreed with that.
REPRESENTATIVE LARVADAIN: Yeah, I don't -- I don't blame him. I know he wants to control -- represent Lake Charles.
REPRESENTATIVE FARNUM: And I'm -- I'm perfectly fine having Congressman Higgins or Congressman Johnson. I like both of them. We just want to have one.
REPRESENTATIVE LARVADAIN: And it's not Representative -- Congressman Higgins. It's -- you'd rather have --
REPRESENTATIVE FARNUM: No. It's -- it's --
REPRESENTATIVE LARVADAIN: Yeah.
REPRESENTATIVE FARNUM: That's -- that's the rotation that's possible.
REPRESENTATIVE LARVADAIN: Okay.
REPRESENTATIVE FARNUM: Is -- is a counterclockwise rotation is the only one that's possible.

REPRESENTATIVE LARVADAIN: And I know with Congressman Mike Johnson, the Caddo Parish, they wanted to make sure Bossier -- they wanted to make sure Barksdale and Fort Johnson were in the same district; is that correct?
REPRESENTATIVE FARNUM: I believe so.
REPRESENTATIVE LARVADAIN: And this map does that?
REPRESENTATIVE FARNUM: I believe so.
REPRESENTATIVE LARVADAIN: Now, what about Congressman Scalise? Did he have a problem with his district?
REPRESENTATIVE FARNUM: I don't think -- I haven't spoke with him. I haven't spoke with any of his staff. I couldn't answer that question.
REPRESENTATIVE LARVADAIN: What about Congressman Letlow? Does she have a problem with her district?
REPRESENTATIVE FARNUM: I think she very happy with the fact that she made Ouachita whole, which was one of her desires, and gained more northern population to -- for -- for her district. People that she's represented in the past, she wanted to retain those people.
REPRESENTATIVE LARVADAIN: And you had a good

1 idea of what Congressman Carter wanted in District --
2 District 2?
3 REPRESENTATIVE FARNUM: I have no idea.
4 REPRESENTATIVE LARVADAIN: Okay. And let me
5 make sure in -- in District 6, the new district, the VAP
6 -- the VAP map is 54.342; is that correct? I'm looking
7 at it.
8 REPRESENTATIVE FARNUM: I'll take your word
9 for it. It -- they went up.
10 REPRESENTATIVE LARVADAIN: Yeah. BVAP. Okay.
11 And we know that that district will perform at that
12 capacity?
13 REPRESENTATIVE FARNUM: We feel like it'll
14 perform better because the population -- the -- the BVAP
15 has increased.
16 REPRESENTATIVE LARVADAIN: And what about the
17 BVAP for District 2 at 51.7? Will that increase?
18 REPRESENTATIVE FARNUM: It -- it increased as
19 well.
20 REPRESENTATIVE LARVADAIN: So your -- your map
21 will produce two majority-minority districts; is that
22 correct?
23 REPRESENTATIVE FARNUM: That's correct.
24 REPRESENTATIVE LARVADAIN: But you've got
25 several districts in District 6 where you have my

1 district, Rapides, is split three ways, and also East
2 Baton Rouge Parish is split three ways.
3 REPRESENTATIVE FARNUM: I -- I think in order
4 to accomplish the shift in population, I think some of
5 the white population was extracted from -- from that
6 minority district in order to increase their -- their
7 BVAP.
8 REPRESENTATIVE LARVADAIN: Okay. That's it.
9 Thank you.
10 REPRESENTATIVE FARNUM: Thank you.
11 CHAIRMAN BEAULLIEU: Thank you, Representative
12 Larvadain. Representative Marcelle.
13 REPRESENTATIVE MARCELLE: Thank you. Let --
14 let -- let me start out by saying I'm not personally
15 attacking any senator, particularly Gary Carter, who I
16 like and have served with. I believe that you said that
17 Senator Carter was in the room. And I believe that you
18 said that he probably was protecting the interest or
19 speaking on behalf of Senator -- I mean, Congressman
20 Carter.
21 So I -- I asked a question was anybody in
22 there from Baton Rouge? What I'm being told by my
23 senator or one of my senators, which is Cleo Fields,
24 that he was handed the finished product - he did not
25 work on the product - after the product was finished.

1 That's what I was being told.
2 That's A. And B, we do have another senator in
3 Baton Rouge. Her name is Senator Regina Barrow. She is
4 the Pro Tem. So I'm wondering why she wasn't in the
5 room. We're a metropolitan area. So I want to clear
6 that up. I guess she wasn't invited to the party. I --
7 I don't know.
8 But I -- I do want to ask our chairman if the
9 Legal Defense Fund can come up and help to clear up some
10 of the questions that we may have about these map and
11 the performance because we have the public who's
12 listening, and they should know what's going on. I
13 believe that these are the people who could perhaps
14 answer some of the questions that we have.
15 And I certainly have some questions for them
16 myself, since I can't get a clear answer on performance
17 or compactness. All of these issues that we're talking
18 about: the deviation, how many splits it is. I have an
19 attorney right here by me, Mr. Larvadain. And he's --
20 because we were given this information a few minutes
21 ago, as legislators, many of us can't decipher through
22 it.
23 So I would ask that LDF, the Legal Defense
24 Fund, would be able to come up to the table to answer
25 some questions as it relates to these amendments, if you

1 don't mind. Mr. Beaullieu -- Chairman Beaullieu. Thank
2 you.
3 REPRESENTATIVE JOHNSON: Someone here present
4 from the Legal Defense Fund like to come to the table?
5 CHAIRMAN BEAULLIEU: Ms. Lowery on a
6 clarification.
7 MS. LOWERY: I just wanted to correct. Hey,
8 Members - I'm sorry - in the audience, I want to correct
9 something I said earlier. Senator Womack's Bill
10 presently has 16 split parishes as well as
11 Representative Farnum's amendment at 16 split parishes.
12 CHAIRMAN BEAULLIEU: Thank you. Ms. Lowery,
13 Rep Marcelle. And we have -- if y'all wouldn't mind,
14 please introduce yourselves. And y'all filled out
15 cards?
16 MS. WENGER: We did not, but we can.
17 CHAIRMAN BEAULLIEU: Please do. Thank you.
18 MS. WENGER: My name is Victoria Wenger. I'm
19 an attorney with the Legal Defense Fund.
20 MR. EVANS: Jared Evans, attorney with the
21 Legal Defense Fund.
22 REPRESENTATIVE MARCELLE: Thank you all for
23 coming to the table, and thank you for your work on this
24 matter. Can you please -- first of all, let me -- let
25 me ask you a question because perhaps you all got this

1 map a lot sooner than us. You all have been working for
2 how many years on getting this done?
3 MS. WENGER: We filed our litigation,
4 Robinson, now, v. Landry - at the time it was Robinson
5 v. Ardoin - the day that the legislature overrode the
6 governor's veto. I believe it was March 30th, 2022.
7 MR. EVANS: But the work started around the
8 first roadshow in October 2021 -- September 2021.
9 REPRESENTATIVE MARCELLE: Okay. So can you
10 all please tell me, in your opinion, what adding -- if
11 this amendment get on, what does it do to Womack's bill?
12 Does it make it better? Does it make it worse? Is it
13 more compactness? Is it more split parishes? Does it
14 make sense?
15 Help me and help walk us through it because
16 the public really needs to know what's going on. And I
17 know they can't know because we just got hit with it
18 today.
19 MS. WENGER: Representative Marcelle, we're in
20 a similar posture to you. The map that we advocated for
21 was presented here in the legislature as SB4 which died
22 in committee, and HB5, sponsored by you. That exact map
23 has been in public discourse since the roadshow, as my
24 colleague mentioned, at least a similar version. Our
25 attempt was to create a new Black-majority district in

1 District 5, uniting north Baton Rouge with the Delta
2 parishes.
3 We have also seen in the public domain other
4 versions of maps, like HB12 in 2022, that run along the
5 Red River and the I-49 corridor. But we, for a variety
6 of different reasons, had really coalesced around
7 another -- another option here, and that's because it
8 has been held up to court scrutiny for years now.
9 It has made its way before the District Court,
10 but also before the Fifth Circuit Court of Appeals.
11 We've had to show that it's possible to reduce parish
12 splits in line with Joint Rule 21, which was passed by
13 this legislature in 2021.
14 So I guess our journey started earlier than we
15 represented. We've been following redistricting since,
16 perhaps, the census and since you all made the rules.
17 So --
18 REPRESENTATIVE MARCELLE: So -- so I guess my
19 question is: does this amendment make more splits than
20 -- because I think it has 16 in it.
21 MS. WENGER: So you'll put us on the spot. So
22 let me pull out my notebook and -- and talk a little bit
23 about the other maps we've seen in this process.
24 REPRESENTATIVE MARCELLE: Okay. Well, I'm
25 just trying to get a little clarity for myself and other

1 members and -- and just trying to figure out exactly
2 what putting this amendment -- and I know you hadn't had
3 a long time to digest it. What is -- what is your
4 opinion about adding this amendment to Senator Womack's
5 bill?
6 MS. WENGER: Sure. So I think I heard
7 recently - and, again, we're processing this information
8 as quickly as you all are - that there was 16 parish
9 splits. Am I accurate in that?
10 REPRESENTATIVE MARCELLE: Yeah.
11 MS. WENGER: Okay.
12 REPRESENTATIVE MARCELLE: That's what I
13 counted.
14 MS. WENGER: So the enacted map that is
15 currently in place has 15 parish splits. The remedial
16 map that we proposed in litigation and that been vetted
17 by the courts --
18 REPRESENTATIVE MARCELLE: 11.
19 MS. WENGER: -- has 11 parish splits.
20 REPRESENTATIVE MARCELLE: Yeah. That's what I
21 thought.
22 MS. WENGER: Representative Marcelle, I think
23 you also have an amendment that -- I don't know if it
24 has this beat, but it's certainly closer to that. And,
25 again, I know that there's been different opinions

1 shared here about parish splits. But that's coming not
2 only directly from doctrine around redistricting, but
3 also Joint Rule 21. We have been abiding by the rules
4 that this legislature put in place for yourselves.
5 So that is the rubric that we are guided by,
6 that the courts are referring to, that our map drawer is
7 accountable to. So that's why parish splits are
8 emphasized.
9 There's also a logic to it. There's a lot of
10 governing that's done at the parish level here. There's
11 election administration, school boards, other elements
12 of civic life that have been recognized in your
13 politics, in your policy, in Joint Rule 21, and by the
14 federal courts. So that's why that principle is so
15 important. I think there's many other things.
16 And, again, I -- I don't even have a copy of
17 the amendment in front of me here, but we have had to
18 comply with principles like deviation, trying to get
19 that as close to zero as possible, certainly trying to
20 keep important places.
21 We've heard really compelling testimony about
22 the importance of keeping military bases whole or the
23 communities that serve those areas, whether it's, you
24 know, housing or other communities of interest. We have
25 tried to comply with that over the course of the -- the

1 process. Even SB4 and HB5, we have alternative options
2 that we could pursue to keep some of the military
3 districts that have been -- or military bases that have
4 been mentioned whole.
5 We'd be happy to work on that with you all.
6 We would be happy to end this litigation with a map that
7 complies with Section 2 and also can achieve other
8 political ends. We understand for any type of politics
9 that our bill was not successful here.
10 We do, however, know based off of the
11 amendment that Representative Marcelle has presented
12 here, based off of record from prior bills filed in this
13 process or presented by the civil rights community that
14 follow the Red River and I-49, that there could be ways
15 to clean up this amendment to otherwise perfect it that,
16 maybe, maybe, could get us further towards resolution in
17 this litigation but none that could do that as
18 efficiently and cost-effectively for years and years of
19 expensive litigation with folks far above my -- my
20 bracket to get it over with and to finally just be
21 resolved.
22 There is a path forward there. It is in
23 grasp. We would love -- and on behalf of our clients,
24 we would love to see that resolution.
25 REPRESENTATIVE MARCELLE: Well, thank you. I

1 -- I just was wondering, Rapides and East Baton Rouge
2 are heavily populated by minorities, right?
3 MS. WENGER: That's correct.
4 MR. EVANS: That's correct.
5 REPRESENTATIVE MARCELLE: Would you agree with
6 that?
7 MR. EVANS: That's correct.
8 REPRESENTATIVE MARCELLE: And I'm just
9 wondering how would the Court view that, that we split
10 it three ways, both of them?
11 MS. WENGER: I think the Court would have a
12 lot of questions about what are the politics guiding
13 this. And I think my question is: why, for three years
14 or more, are we not listening to Black people who came
15 here? We had young people who drove here overnight in
16 the snow and back roads from my colleague's alma mater
17 up north at Grambling University just to have their
18 voices heard in the process.
19 We had people who were here when the whole
20 state was closed down, were here on Martin Luther King
21 Day when the nation is closed down. And they came to
22 advocate for SB4. And they still, after years, have
23 never gotten a floor debate.
24 They've never been able to see this
25 conversation happen or to have their grievances met with

1 any genuine effort to resolve this Section 2 violation
2 or just honor a principle of fairness.
3 So there might be a path forward here. We
4 tried to give a much easier one to get this litigation
5 over with. I cannot speak to whether this is that path
6 forward. I can speak to ways to do this better by
7 redistricting criteria and, hopefully, give people some
8 fairness and give you all some reprieve from federal
9 court litigation.
10 REPRESENTATIVE MARCELLE: Okay. Thank you.
11 I'm -- I'm just wondering if there's a risk that the
12 judge would say that this is -- she would go ahead and
13 draw it herself because instead of reducing it, we
14 increased it, and so -- the splits. And I -- and I --
15 I'm just curious.
16 And -- and we keep talking about the political
17 motivations. And I heard and I respect Senator Womack
18 who talked about he wanted to -- to make Scalise -- he
19 checked with Scalise. He checked with Letlow. I heard
20 every person's name except Gary Graves, and that's one
21 of my congressmen. I was wondering if y'all had a
22 conversation with him as well. But --
23 MR. EVANS: Hope you're not asking us that.
24 REPRESENTATIVE MARCELLE: Pardon me?
25 MR. EVANS: I was talking -- yeah. You

1 weren't asking that to me, right?
2 REPRESENTATIVE MARCELLE: No, no, no, no, no
3 --
4 MR. EVANS: Yeah.
5 REPRESENTATIVE MARCELLE: -- no, no, no. I
6 was just making a statement because I'm -- I'm -- I'm
7 about to be quiet.
8 But I -- I just want to make sure that
9 everybody understand when you start talking about -- and
10 I said this the other day when I was at the table. If
11 we could remove all of the people who represent the
12 districts away from it and give it to somebody and allow
13 them to draw it fairly, then we would get the best
14 product because it's not impossible to draw two Black
15 congressional districts.
16 But if everybody -- nobody wants to give up
17 any portion of anything, you're going to have the same
18 problem over and over again. And -- and I do respect
19 that Senator Womack says he's -- you know, his district
20 is -- is getting hit as well. But everybody has to give
21 up something to do what is right. And nobody wants to
22 do that.
23 Some people want to make sure that they have,
24 you know, a certain number of a certain population to
25 win. And it's just not right. It is not right. It is

1 far too long that Louisiana has done things wrong. And
2 it's about time that we do something that's right and
3 get us out of the courts.
4 And I want to thank you guys for your work. I
5 don't know if anybody else has any questions for you,
6 but I -- I see this as strictly politics, last minute,
7 let's throw in something and confuse the whole issue.
8 But I will not vote for this bill with that amendment on
9 it. Thank you.
10 CHAIRMAN BEAULLIEU: Also -- have -- have --
11 have y'all filled out cards. If not, would you please
12 do it?
13 MR. EVANS: We going to fill them out.
14 MS. WENGER: We will. Thank you.
15 CHAIRMAN BEAULLIEU: Thank you.
16 Representative Wyble.
17 REPRESENTATIVE WYBLE: Yes. Thank you. If
18 you could remain just for a minute, please. Sorry. I'm
19 sorry. I didn't catch your name.
20 MS. WENGER: Sorry. I'm Victoria Wenger.
21 REPRESENTATIVE WYBLE: Oh, thank you both for
22 being here. I appreciate it. You mentioned in -- in
23 your remarks, you connected splitting parishes with
24 local politics and, like, school board elections. So
25 just connect for me, where's the voter confusion if a

1 parish is split with a school board election? Make that
2 connection for me, because you mentioned school board
3 particularly --
4 MS. WENGER: So --
5 REPRESENTATIVE WYBLE: -- specifically.
6 MS. WENGER: Yeah, this could vary based off
7 -- parish to parish, based off where -- what types of
8 elections are happening, whether they're a district, at
9 large, whether -- you know, how many folks are on a
10 school board, if there's someone elected at large and
11 another position. It can happen a lot of different
12 ways.
13 Again, what -- what I was speaking to, again,
14 is Joint Rule 21, which signified the fact that this
15 legislature and the prior legislature that enacted it,
16 wanted to keep in consideration how current lines,
17 political lines, like parishes -- that's probably the
18 most significant one you could think of here.
19 But another thing that our map drawer
20 considered and that Joint Rule 21 is considering is
21 municipalities or unincorporated areas. And so you're
22 thinking about how are ballots drawn around that. How
23 are people conceptualizing?
24 And, you know, we -- we don't just work on
25 redistricting or litigating. We do civic education all

1 the time, and we represent groups that are trying to get
2 folks engaged in this process, excited, and knowing that
3 their vote's going to matter. So it's perhaps a way to
4 reduce some confusion or to have, again, the lines line
5 up.
6 But, again, I think the legislature and the
7 folks behind Joint Rule 21, many of y'all, colleagues,
8 or folks that, you know, have moved along to the Senate
9 but were part of that process, can speak best to why
10 that matters specifically to them.
11 But it is something that's been dignified in
12 the courts, that's been recognized both at a very
13 Louisiana-specific level. Most other places, we're
14 calling them counties instead of parishes. So it means
15 something here. It really matters.
16 So I think that's why, perhaps, it was
17 involved in Joint Rule 21. Perhaps it's mattered to the
18 courts. But parish splits is -- is something you can
19 quantify. You can look at how many times the parishes
20 are split overall. There's this other quantitative
21 metric we talk about called fracking, which is, like,
22 where multiple districts or different non-contiguous
23 parts of a district are coming into a parish.
24 We're just really looking at what are those
25 metrics where it's fair to put one map side by side and

1 make some observations about how they compare, where you
2 can take politics or you can take other subjective
3 measures out of the equation for a moment just to do
4 that side by side. So I was mentioning that as one of
5 those quantitative measures that's codified for this
6 legislature in Joint Rule 21.
7 REPRESENTATIVE WYBLE: I -- I was just curious
8 where the correlation was because, I'm not sure if
9 you're aware, but we actually have parishes in Louisiana
10 that have multiple public school districts.
11 MS. WENGER: Absolutely.
12 REPRESENTATIVE WYBLE: So in some of those
13 parishes, they're already voting for different school
14 board members and -- and there are splits, if you want
15 to call it that. And I just -- you -- you -- you caught
16 my attention when you mentioned school boards. And I
17 was trying to figure out the correlation to that and
18 splitting a parish in a congressional district.
19 MS. WENGER: Yeah. And it really depends
20 parish by parish, and those are -- those are the types
21 of lines. Or, like, you could halve the districts,
22 those school districts. That's one of the things that
23 map drawers can actually have on the screen and can use
24 as a measure of how to look at that.
25 So you can also look at what's called landmark

or COI landmark. So thinking of school districts or hospitals, airports, everything else when you're looking at that metric, all I can speak to -- I can't speak to this amendment. I just saw it. But in terms of landmark place splits, the map that we had proposed had the exact same amount as the enacted map.

So that was another metric that, in our process, we were able to hold ourselves accountable to, to making sure our map was as good as or, in most of the instances, better than the enacted map.

CHAIRMAN BEAULLIEU: So, Representative Wyble, what we can do -- I know you're a big school board guy. Why don't we get you with them afterwards, and y'all can talk in some details on that?

MS. WENGER: We've got slide decks on this.

CHAIRMAN BEAULLIEU: Right. No. They have -- they have -- they have tons of information.

MS. WENGER: I'd be happy to provide it for us anytime.

REPRESENTATIVE WYBLE: Thank -- thank you so much.

MS. WENGER: Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Wyble. Members, that clears the board. Representative Farnum has a motion on the table to adopt Amendment Set

68. And objection -- what's that?

VICE CHAIRMAN LYONS: (inaudible 1:22:44).

CHAIRMAN BEAULLIEU: Oh, oh. One second, Members. Vice Chairman Lyons.

VICE CHAIRMAN LYONS: Thank you, Mr. Chairman. And I was going to address this -- this to Representative Farnum on -- on your amendment. And after the table was just -- was clear with that information, now, I -- I just want to say that the past two years, I've been through every roadshow throughout this state.

I was in Calcasieu, and I heard the testimony there. And I -- I sympathize in it with the individual residents there as they talked about being whole as other communities of interest throughout the state. That was the most impacting testimony that we received throughout this process. And it went on for not only from our community to your community, everywhere else.

And the question remains always - and we don't have an answer for - is: can we draw the perfect map? I don't think we ever can draw the perfect map. I don't think that there's ever going to be a situation where everybody's going to be happy or even whole.

But I'm looking at the mission that we have here. And the mission that we have here is that we have

to create two majority-Black districts. And performance of those maps that we saw earlier, some that didn't make it through, some that were here, including yours, Senator Womack, some of them perform. Some perform better than others.

But we have to look at the -- the -- the center of this piece, and that is to create those districts that perform. And some of that's going to be for debate and some that's going to be for the -- the clearing pieces to happen as we go forward.

But I just want to put on the record, you know, that I know the senators worked hard on this piece. And that goal is what was in mind, to create these two majority-Black districts and to do it with as much of the criteria as possible to be done to -- to make sure that it -- it -- it is conforming.

And -- and with that being said, I wanted to get that clear of what that message is and what we're doing here, which you remember before we -- we go with this piece. And I wanted to say that, Mr. Chairman, as we go forward in this opportunity. Thank you.

CHAIRMAN BEAULLIEU: Thank you, Vice Chairman Lyons. Members, back on the motion, we have a -- a motion by Representative Foreman to adopt -- Farnum to adopt Amendment Set 68. Is there any objections to the

adoption of that amendment set? Hearing no -- no objection, Amendment Set 68 is -- is hereby adopted.

On to the next amendment. We have Amendment Set 70, I believe, Representative Marcelle. Representative Marcelle, on -- on your amendment.

REPRESENTATIVE MARCELLE: That's amendment (inaudible 1:25:52).

CHAIRMAN BEAULLIEU: Or Ms. Lowery, would you mind reading that in?

REPRESENTATIVE MARCELLE: I just missed my objection -- amendment.

MS. LOWERY: Thank you, Mr. Chairman. Representative Marcelle brings Amendment Set HCASB-8362, number 70. This is available, Members, in front of you, and also for members of the public, it's available online.

CHAIRMAN BEAULLIEU: Representative Marcelle, on your amendment.

REPRESENTATIVE MARCELLE: Thank you. Amendment Number 3 adds River -- the Red River Parish to Congressional District 6, better preserving the Red River community of interest and the community of interest formed by Red River, Natchitoches, and DeSoto Parishes. It also makes Ouachita Parish whole in Congressional District 5.

It keeps all the Delta parishes whole and together. It reduces the parish splits to 11. It reduces the deviation to 22. It keeps more of Shreveport together in Congressional District 6 - I did that for Representative Phelps - substantially improves compactness of Congressional District 6, performs as well for Black voters as Senate Bill 8 with a lower Black voting-age population.

And that's what it does. And I ask for your favorable passes. This is actually a cleanup bill. It doesn't change Senator Womack's bill a whole lot. It's just a cleanup bill, and it gives us fewer splits. And I'd ask for your favorable passage.

CHAIRMAN BEAULLIEU: Thank you, Representative Marcelle. Members, just as a clarification, the way these amendments are drafted, they are drafted in a -- in a -- in a fashion that -- it's the whole plan. It's not -- we're not taking a precinct here or there and -- and adding them. And so it's a -- it's a whole plan.

So the amendment set that we just adopted, Representative Farnum, is currently the whole plan. What Representative Marcelle is proposing is that we abandon Representative Farnum's plan and we adopt Amendment Set 70, which would be another -- which would be a separate whole plan. And should this amendment

pass, it would replace the Representative Farnum amendment that -- that just passed.

I just want to make sure we have a clarification on there. Do we have any questions on the amendment? Okay. There are no questions at this time. If you give me a second, I believe we have some -- I got a bunch of cards up here, and we might have some cards on the amendment set. Bear with me for a second while I start through some of these.

(Pause.)

SENATOR WOMACK: Mr. Chairman, if I might --

CHAIRMAN BEAULLIEU: Yeah. Go ahead, Senator.

SENATOR WOMACK: -- have the mic. I just want to clarify that Senator Fields did come in with the plan -- on the plan, but he was not for splitting up Baton Rouge. I want to clarify that.

REPRESENTATIVE MARCELLE: I -- I certainly thank you for that, because I was going to vote against Senator Fields the next time he ran if you told me he was splitting up Baton Rouge three ways. And I -- and I like him, but he -- he was going to have to go if he did that.

SENATOR WOMACK: Well, I just wanted to -- wanted to put that on the record.

REPRESENTATIVE MARCELLE: Yes, sir. Thank

you.

SENATOR WOMACK: Thank you.

REPRESENTATIVE MARCELLE: Thank you.

CHAIRMAN BEAULLIEU: Representative Marcelle, we do have some -- some green cards. All of them present and do not wish to speak, but all in favor of this amendment set: Ms. Martha Davis (phonetic), Mr. Jared Evans, Ms. Ashley Shelton (phonetic), and Ms. Victoria Wenger. So all those green cards in favor.

There are no questions for you, Representative Marcelle. Members, Representative Marcelle has offered up Amendment Set 70 --

REPRESENTATIVE FARNUM: Objection.

CHAIRMAN BEAULLIEU: -- for your consideration. Representative Farnum has objected. Ms. Baker, would you please call -- so look -- an -- a -- vote yes replaces Representative Farnum's amendment with Representative Marcelle's amendment. A vote of no keeps Representative Farnum's amendment as your -- your primary maps. Ms. Baker.

MS. BAKER: Thank you. Mr. Chairman. Chairman Beaullieu?

CHAIRMAN BEAULLIEU: No.

MS. BAKER: No. Representative Billings?

REPRESENTATIVE BILLINGS: No.

MS. BAKER: No. Representative Boyd?

REPRESENTATIVE BOYD: Yes.

MS. BAKER: Yes. Representative Carlson?

REPRESENTATIVE CARLSON: No.

MS. BAKER: No. Representative Carter -- Representative Carver?

REPRESENTATIVE CARTER: No.

MS. BAKER: No. Representative Farnum?

REPRESENTATIVE FARNUM: No.

MS. BAKER: No. Representative Gadberry?

REPRESENTATIVE GADBERRY: No.

MS. BAKER: No. Representative Johnson?

REPRESENTATIVE JOHNSON: No.

MS. BAKER: No. Representative Larvadain?

REPRESENTATIVE LARVADAIN: Yes.

MS. BAKER: Yes. Representative -- Vice Chair Lyons?

VICE CHAIRMAN LYONS: Yes.

MS. BAKER: Yes. Representative Marcelle?

REPRESENTATIVE MARCELLE: Yes.

MS. BAKER: Yes. Representative Newell?

REPRESENTATIVE NEWELL: Yes.

MS. BAKER: Yes. Representative Schamerhorn?

REPRESENTATIVE SCHAMERHORN: No.

MS. BAKER: No. Representative Thomas?

REPRESENTATIVE THOMAS: No.
MS. BAKER: No. Representative Wright?
REPRESENTATIVE WRIGHT: No.
MS. BAKER: No. Representative Wyble?
REPRESENTATIVE WYBLE: No.
MS. BAKER: No. There are 5 yeas and 11 nays.
CHAIRMAN BEAULLIEU: Members, Amendment Set 70 has failed to pass. So we're back on the bill, which is the Amendment Set of 68, which we have just adopted. We're going to go ahead and -- and -- and read in some cards present in support and not wishing to speak.
We have Ms. Brianna Robillard (phonetic), present in support and not wishing to speak; Deborah Hebert (phonetic); Gary Hebert as well; Elise Blade (phonetic), present, in support, not wishing to speak.
All of these are present in support, not wishing to speak. Ashley Duly (phonetic), Heather Trice (phonetic), Catherine Mays (phonetic), Gail Baralt (phonetic), Julia Harris, Joyce LaCour, Lucille Harris (phonetic), Kristy Robinson (phonetic), Kathleen -- maybe, Matharms.
MS. FARMS: Farms.
CHAIRMAN BEAULLIEU: Form?
MS. FARMS: F-A-R-M-S.
CHAIRMAN BEAULLIEU: Oh, Farms. Okay, yeah.

Thank you. Farms, Tisha -- and Tisha Lathan.
We have a couple of red cards present and not wishing to speak, in opposition. Christine Robinson, Gail Paralt. And then we have some red cards present and would like to speak. We'll start with Chris Alexander. So if you'll give the floor, please, Senator.
MR. ALEXANDER: Thank you.
CHAIRMAN BEAULLIEU: Mr. Alexander, if you would please introduce yourself for the committee?
MR. ALEXANDER: Sure. My name is Chris.
CHAIRMAN BEAULLIEU: Give me -- give me one second, Mr. Alexander.
MR. ALEXANDER: Sure.
CHAIRMAN BEAULLIEU: Representative Newell, do you have a question?
REPRESENTATIVE NEWELL: Newell.
CHAIRMAN BEAULLIEU: Newell.
REPRESENTATIVE NEWELL: We're back --
CHAIRMAN BEAULLIEU: I get it right most of the time.
REPRESENTATIVE NEWELL: Sometimes you do (inaudible 1:33:36). These red cards are on the amendment that we just voted on or back on the bill?
CHAIRMAN BEAULLIEU: So they can -- so that's

-- so the bill now is the amendment. So as -- as the -- the red cards come up, if they have a clarification to where they -- this is -- they're not in opposition anymore, they can waive and -- or -- or -- or correct it. And we can -- we can waive these red cards if -- if they are in favor of this amendment. So they could -- we give the liberty of those who turned in the red card to be able to clarify that. I don't want to speak for them.
REPRESENTATIVE NEWELL: Okay. So we listening to these red cards before we do the final vote on passing --
CHAIRMAN BEAULLIEU: Yes, ma'am.
REPRESENTATIVE NEWELL: -- the bill as amended.
CHAIRMAN BEAULLIEU: Yes, ma'am.
REPRESENTATIVE NEWELL: Okay. Thank you for that clarification, Mr. Chair.
CHAIRMAN BEAULLIEU: No. I'm -- thank you for asking. Mr. Alexander.
MR. ALEXANDER: Thank you, Representative Beaullieu. Thank you, members of the committee. My name is Chris Alexander. I'm here simply on behalf of the Louisiana Citizen Advocacy Group.
As each of you know, conservatives in the US

House of Representatives now have a two-vote majority, razor-thin Republican majority. This is a super-majority Republican legislature. And it's that for a reason because 70 percent of the citizens of Louisiana are conservative. And, actually, in the US House of Representatives, at this second, there's -- there's a one-vote majority -- Republican majority because Representative Scalise is on medical leave now.
So we're one vote away in our country right now, in the US Congress, from having the Biden-Schumer agenda essentially unleashed on the country. Some people may say it's already been. But there is some protection in the US Congress right now because of that razor-thin majority.
By voting for this bill, creating an additional minority district in Louisiana, it's our view that you are giving that majority away. And you're putting the very delicate balance of power in the US Congress in very grave jeopardy on matters of profound consequence to citizens of Louisiana and citizens across the country. Everything is at risk here.
Now, the argument that we've heard from a lot of Republican members here is that if you don't pass a new plan creating an additional minority district in Louisiana, then the Federal Court judge will make that

1 decision.
2 Well, her actual order says that the
3 plaintiffs, when they went into Court for a preliminary
4 injunction, never tried on the merits, just a summary
5 proceeding, said that they had carried their burden of
6 showing that the current map violates Section 2 of the
7 Voting Rights Act and that the plaintiffs had a
8 substantial likelihood of making their claim successful,
9 which is that we'll have a second minority district in
10 Louisiana.
11 But there was no trial on the merits. But the
12 judge essentially said, if we have a trial on the
13 merits, I'm going to rule in favor of the plaintiffs,
14 and I'm going to create a second majority-minority
15 district in Louisiana. That's exactly what this bill is
16 doing right now.
17 And if our current map goes -- if you do
18 nothing and our current map goes back before Judge Dick,
19 she's going to probably end up doing the same thing.
20 But at least we have a chance to fight for the current
21 map in our state. And no matter how she rules, we have
22 the Fifth Circuit Court of Appeal, and we have the US
23 Supreme Court.
24 And, again, everything is at stake, and it
25 seems like we're simply giving it all away right now.

1 We believe that this is worth fighting for. We believe
2 that that balance of power is worth fighting for.
3 And I would remind the members of this panel
4 that I know, some of whom we helped get elected, along
5 with Governor Landry whom we worked very hard for and
6 who we respect and think he's going to be a great
7 governor, that the citizens of Louisiana worked very
8 tirelessly to get you elected to come here, not to cave
9 in to political pressure, which is it appears to
10 hundreds and hundreds of citizens across the state that
11 that's what you're doing. You're caving in to political
12 pressure, and you're giving in without a fight.
13 Speaker Mike Johnson has weighed in on this.
14 We heard some testimony earlier that Congressman Johnson
15 apparently was okay with this proposed legislation.
16 That's not our legislation. That's not our
17 understanding at all. In fact, Congressman Johnson
18 specifically said that our current map from 2022 needs a
19 full trial on the merits, with appellate review all the
20 way to the Supreme Court, if necessary, because the
21 issue is so profoundly important to the future of this
22 republic. I will -- I want to reiterate before I close,
23 as I said, people all over the state are watching this
24 right now, many of whom voted for you to come here, some
25 of you who were just elected very recently.

1 And if six months or a year from now, the
2 United States Congress is controlled by Democrats, it
3 started in this house, it started and ended in this
4 capital, and that's what will have made it possible.
5 And the citizens of Louisiana, I can tell you, will have
6 a very, very good memory if that occurs. I would
7 respectfully submit that your responsibility is to
8 represent the interests of the substantial majority of
9 Louisiana citizens and not to cave to political
10 pressure. And we're asking you to defeat this
11 legislation. Thank you.
12 CHAIRMAN BEAULLIEU: Thank you, Mr. Alexander.
13 And look just to -- to -- and -- and you got a couple
14 of questions. But just from -- from my standpoint, I
15 sat on the committee when we drew the other maps that we
16 all believe were fair, and we believe is representative
17 of the state of Louisiana. The Fifth Circuit sent it
18 back to the federal judge and basically held us hostage
19 that if -- if we don't do it, she's going to do it. And
20 so none of us like the position we're in.
21 But -- you know, and -- and a little bit to
22 your point, we were elected to serve, and we feel that
23 -- that we would prefer to have the lines drawn in this
24 committee than have some Obama-appointed judge drawing
25 the lines for us. And so we don't like it. It's

1 painful to do. And so I feel your sentiment, and -- and
2 I don't -- I'm not disagreeing with most of what you
3 said. I mean, it's -- it's -- it's -- it's what goes on
4 in a lot of our minds. So I -- I appreciate your
5 comments. Thank you. And you do have -- you do have a
6 question. Representative Newell.
7 REPRESENTATIVE NEWELL: Thank you very much,
8 Mr. Chairman. I'm troubled by your statements because
9 this is not a process by which one party is losing
10 power, caving into another party. This is a process by
11 which the other 30 percent of the people in this state
12 are trying to get the representation that their
13 population and numbers deserve in Congress. This isn't
14 a caving in or power grab or giving away of power or
15 losing of power of the Republican Party.
16 It's an opportunity for this body to represent
17 all of the people that they supposed to represent in
18 their district, listening to them and giving them the
19 opportunity to vote for someone of their choice, whether
20 that person of their choice is a Black Republican or
21 White Democrat. It's an opportunity for Black people,
22 as some of my colleagues would prefer to be said, but a
23 minority-majority district to have the opportunity to
24 vote for their candidate of choice. And I'm troubled by
25 the way you said your statement. You're very

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1 respectful, but I listen to the words.
2 This is not supposed to be a process that is
3 this contentious and this divisive, but it is a very
4 difficult process. And we have been fighting this for
5 three years now, and I've been on this committee since
6 the very start. Went to Utah with the rest of the
7 people from across this country that had the same job
8 that we all have here to learn what we're doing.
9 Traveled this state from north to south, east to west,
10 to listen to what all of the people in this state
11 wanted. The White citizens in this state, their issue
12 was keeping their -- their communities together.
13 You know what Black people wanted? Just an
14 opportunity to have a voice in a room. And that is what
15 we're trying to do. It is not to -- it's not a power
16 grab. It's not to say that Republicans rule or that if
17 that -- if there's another chance where Democrats are
18 ruling, that that's a problem. We should not see one
19 party as a problem. We should not see another person
20 that has a different letter behind the name as the
21 enemy. I like him. He's not the enemy because he's a
22 Republican. We just have a different way of looking at
23 things, and that's how we should see it. We both
24 observing the same problem.
25 We just have different ways as -- different

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1 ways as how we gets to the solution. And we cannot
2 continue to have this rhetoric on -- out in the -- in
3 the world like it's a problem to be of another party, or
4 it's a problem for another party to be in -- in
5 leadership. We're not giving away power. The
6 Republicans are not caving in because they're helping
7 African Americans have an opportunity to vote for a
8 candidate of their choice.
9 That is what we're doing here because -- and
10 we're going through this fight because, as I've said
11 many times before, this is the first time that this
12 country has gone through redistricting where -- after
13 the expiration of Section 5 of the Voting Rights Act.
14 Section 5 required all states that had a history of
15 racism that any bills -- any laws that were passed that
16 would affect people's access and rights to voting had to
17 be overseen and approved by the Department of Justice.
18 This is our first time doing this where we no longer
19 have that supervision.
20 And God knows, I wish we still had that
21 supervision because, clearly, we can't do this on our
22 own, because, clearly, somewhere along the lines, the
23 message is getting construed that this is a giving up of
24 power. Instead, this is an opportunity to let other
25 people enjoy the benefits that another group has had for

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1 forever. And we're just -- I just want to see African
2 Americans across the state have the same privileges
3 you've had all your life, and that is voting in someone
4 that they know or believe will have their best interest
5 at heart, whether it's in this building or whether it's
6 in our United States Capitol.
7 It's not a caving-in. Because if it was a
8 caving-in, this process would have been over a long time
9 ago. And I just needed to say, I don't have any
10 questions for you, but your statement kind of disturbed
11 me a little bit --
12 MR. ALEXANDER: Sure.
13 REPRESENTATIVE NEWELL: -- because I don't
14 want you to think that it's a caving-in of any party.
15 MR. ALEXANDER: Well, I respect you,
16 Representative Newell, and I respect your right to
17 speak.
18 REPRESENTATIVE NEWELL: Newell.
19 MR. ALEXANDER: And I would always -- Newell.
20 And I would always protect your right to speak, but we
21 do live in a democracy here. And when a majority with a
22 particular ideology is in power and control, policy
23 should reflect that ideology. Our position here is very
24 simple, that Congressman Mike Johnson, the Speaker of
25 the House, represents a conservative ideology. Many

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1 citizens across Louisiana are very proud and happy that
2 he's there, and this legislation threatens the authority
3 that conservatives have in the United States Congress.
4 He has said very clearly that our current map
5 is constitutional and that we should fight for it in
6 federal court in order to reflect the interests of a
7 majority of Louisiana citizens. And democracy and a
8 republic means something. But I would always fight, by
9 the way, for your right to speak, and I -- I value it
10 greatly, as much as I value mine.
11 REPRESENTATIVE NEWELL: Thank you for giving
12 me my right for letting me know I have a right to speak.
13 I also have a right to vote. And I also have had a
14 right all my life, coming from Orleans Parish as having
15 an opportunity to vote for a representative of my
16 choosing that I believe represented my interests. And
17 this democracy, we need to make sure that it enables
18 other people across this state to also have a voice and
19 a right to vote for a candidate of choice that could
20 also be their voices in rooms that they're not able to
21 be in. That is what this process is, sir.
22 So I appreciate you reminding me of my right
23 to speak because I'm going to do it anyway.
24 MR. ALEXANDER: Yes, ma'am.
25 REPRESENTATIVE NEWELL: But it also is my

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1 right to ensure that others have their right to speak
2 and their right to vote and keep their access to voting
3 intact. And while they have that right in that access,
4 that they also have the ability to vote for a person of
5 their choice. Thank you very much, Mr. Chairman.
6 CHAIRMAN BEAULLIEU: Thank you, Representative
7 Newell. We have a handful of representatives that want
8 to exercise their right to speak. Representative
9 Carlson.
10 REPRESENTATIVE CARLSON: Thank you, Mr. Chair.
11 Mr. Alexander, I appreciate your comments.
12 MR. ALEXANDER: Sure.
13 REPRESENTATIVE CARLSON: I really do. I'm --
14 MR. ALEXANDER: And congratulations on your
15 election.
16 REPRESENTATIVE CARLSON: Thank you very much.
17 I appreciate that. Look, I'm -- certainly wish that
18 we're in a different position in the House of
19 Representatives with more than just a one-vote majority
20 --
21 MR. ALEXANDER: Sure.
22 REPRESENTATIVE CARLSON: -- and that this
23 wasn't looked at as a "we're going to lose the majority
24 or not" kind of decision. But unfortunately, that's the
25 position that we find ourselves in. I can assure you

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1 this: that we are not -- that we're not here today
2 because we're caving to any kind of political pressure.
3 The fact of the matter is, like it or not, Judge Dick
4 has said, "Either you do your job and draw the map, or
5 I'll draw the map for you," period. We've argued this
6 case before the Fifth Circuit twice.
7 We've asked the Supreme Court to hear it.
8 They've said, "You need to go and do your job first,"
9 which our job is to draw these maps.
10 MR. ALEXANDER: Sure.
11 REPRESENTATIVE CARLSON: I don't like this
12 position. I wish we were not in this position. I like
13 the maps that the legislature a few years ago voted on
14 and approved, but here we are. And so we -- if I -- as
15 I look at it today, I can -- I'm a -- I'm a realist,
16 right? I don't -- I -- I could say I wish things were
17 different. But today, what is presented in front of me
18 is either Judge Dick draw the map or we draw the maps.
19 I feel like this legislative body is going to draw a
20 better map than Judge Dick will, period.
21 MR. ALEXANDER: Yeah.
22 REPRESENTATIVE CARLSON: And that's why we're
23 here. That's why we're going to vote on the map that we
24 think is the best.
25 MR. ALEXANDER: Yeah.

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1 REPRESENTATIVE CARLSON: And, you know, I
2 would rather put this decision in the hands of elected
3 representatives than in -- in the hands of an unelected
4 judge.
5 CHAIRMAN BEAULLIEU: Thank you for that
6 (inaudible 1:48:43).
7 MR. ALEXANDER: And I very much appreciate
8 that, Representative Carlson. And I would simply argue,
9 I'm consistent with Speaker Johnson's position that our
10 current map is constitutional, and it's worth fighting
11 for when you consider what is so profoundly at stake.
12 REPRESENTATIVE CARLSON: I understand, but
13 there is no position to fight at this time. It is
14 either Judge Dick draw a map or we create a map. There
15 is no continue --
16 MR. ALEXANDER: Right. That's true.
17 REPRESENTATIVE CARLSON: The -- the fight
18 cannot continue on beyond that until we draw a map or we
19 don't draw a map.
20 MR. ALEXANDER: But if you don't draw a map,
21 you're -- or do draw a map, either way, you end up with
22 a one --
23 REPRESENTATIVE CARLSON: If we don't draw --
24 MR. ALEXANDER: -- majority-minority increase.
25 REPRESENTATIVE CARLSON: If we don't draw a

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1 map, we end up with the map that Judge Dick draws, which
2 will be a map with two majority Black districts. But if
3 you say worse than that is --
4 MR. ALEXANDER: Exactly what we're going to
5 have as a result of this legislation.
6 REPRESENTATIVE CARLSON: But it will not be as
7 good as the senator's map.
8 MR. ALEXANDER: Well, in the net effect, I
9 would respectfully submit, would be the same.
10 REPRESENTATIVE CARLSON: It -- it certainly
11 is. And, look, I -- I -- I think there is a legal basis
12 for it. Look, I'm glad that we are having this
13 conversation. In -- in all fairness and all honesty, I
14 think all of these maps look crazy because --
15 MR. ALEXANDER: Yeah.
16 REPRESENTATIVE CARLSON: -- the truth is that
17 every -- the overarching argument that I've heard from
18 nearly everyone over the last four days has been race
19 first. I wish it weren't that. This is the first
20 argument today that said, "I'm basing a -- a map on
21 political reasons, not on race." And I -- I think it's
22 a shame that we are having a conversation where race
23 seems to be, at least based on the conversations, the
24 driving force, when we do not live in a -- a -- a -- a
25 segregated society or nearly as segregated as it once

was 40, 50 years ago.
And so the reason why this is so difficult is because we are moving in the right direction. We don't have concentrated populations of -- of certain minorities or populations of White folks in certain areas. It is spread out throughout the state. Compared to Alabama, Alabama has 17 counties that are minority-majority, and they're all contiguous. Louisiana has seven parishes that are minority-majority and only three are contiguous. That's why this process is so difficult, but here we are without any other options to move forward.
And so I -- I hear what you're saying. I respectfully disagree with the characterization that it's bending to political pressure.
MR. ALEXANDER: Yeah.
REPRESENTATIVE CARLSON: I -- I -- you know me, and you know that I wouldn't do that. But I don't see any other path forward. This is the best of two bad options, and I'm going to always do my job --
MR. ALEXANDER: Yeah.
REPRESENTATIVE CARLSON: -- that's before me.
MR. ALEXANDER: And I understand that.
CHAIRMAN BEAULLIEU: Thank you.
MR. ALEXANDER: Is there -- is -- is there --

do you think there's anything that would be -- an option would be to allow our attorney general to argue the constitutionality of our current map in Federal Court, Fifth Circuit Court of Appeal, and Supreme Court?
REPRESENTATIVE CARLSON: Already been done twice in the Fifth Circuit and asked of the Supreme Court, and they've refused to do that. And here we lie today.
MR. ALEXANDER: Yeah.
CHAIRMAN BEAULLIEU: There's never even been a trial on the merits, Representative Carlson, on this map --
REPRESENTATIVE CARLSON: That's not our decision.
CHAIRMAN BEAULLIEU: -- even in district court.
REPRESENTATIVE CARLSON: That -- that is the judge's decision, unfortunately.
CHAIRMAN BEAULLIEU: And if you don't do anything, they'll have one.
REPRESENTATIVE CARLSON: And if we don't do anything, we'll have a worse map. Thank you, Mr. Chair.
CHAIRMAN BEAULLIEU: Thank you.
MR. ALEXANDER: Thank you, sir. I appreciate the interchange.

CHAIRMAN BEAULLIEU: Representative Marcelle.
REPRESENTATIVE MARCELLE: Thank you. Mr. Alexander, I guess it's disheartening for me to sit here in 2024 and hear that we certainly need to keep the power. And if you all do what's right in Louisiana, we're going to lose our thin majority. If we would have done what was right long time ago, you probably wouldn't be in a majority. If Alabama passes what they need to pass and we pass what we need to pass, then, perhaps, we will have a fair and balanced Congress.
MR. ALEXANDER: And you'll be in the majority.
REPRESENTATIVE MARCELLE: Well -- and -- and what's the problem with that, sir?
MR. ALEXANDER: Well, there's millions of Americans who have a problem with that.
REPRESENTATIVE MARCELLE: And guess what, it's millions of people who have not had an opportunity to have a seat at the table. We have a problem with voter suppression. We have a problem with people thinking that we can't make decisions. And let me say this: on the other side of the aisle -- on the other side of the chamber in the Senate, I have colleagues that have some of the same beliefs that some of you have, right? And they believe in pro-life. They are African Americans. I believe in pro-choice. So to say that everybody's

ideology because they are Black is one way, is certainly crazy, number one.
And number two, I really agree with you with something, and that is, send it back to the courts and let Judge Shelly Dick draw the maps. We could then remove --
MR. ALEXANDER: But you -- you agree with me.
REPRESENTATIVE MARCELLE: I -- I do agree with that because then we could remove all of these different people and these moving parts that everybody -- these political interests because we do deserve two Black congressional seats because where I went to school - it was a Black school, though, Capitol High School - when you divide six into a third, a third into sixth, you get two. And so we deserve two seats, and that's what we deserve. We didn't -- we're not begging for something that we don't deserve. That's what we deserve.
And -- and God forbid, maybe somebody will get elected that feels like you, have the same ideologies as you, but perhaps they won't. People need an opportunity to have their voices heard.
MR. ALEXANDER: I respect that.
REPRESENTATIVE MARCELLE: And when I send somebody to Congress that feels like you that represents my district, then you do not represent what I believe.

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1 And that's called community --
2 MR. ALEXANDER: But what about representing
3 majority of the people in your district?
4 REPRESENTATIVE MARCELLE: What -- what?
5 CHAIRMAN BEAULLIEU: Look, let's let --
6 REPRESENTATIVE MARCELLE: I'm -- I'm just --
7 CHAIRMAN BEAULLIEU: The questions come from
8 this way to you.
9 MR. ALEXANDER: I'm sorry. I'm sorry.
10 CHAIRMAN BEAULLIEU: So we don't go the other
11 way.
12 MR. ALEXANDER: Thank -- thank you. I
13 appreciate that.
14 REPRESENTATIVE MARCELLE: All I'm saying to
15 you is -- is --
16 CHAIRMAN BEAULLIEU: And we keep this
17 timeline.
18 MR. ALEXANDER: Yeah. Absolutely.
19 REPRESENTATIVE MARCELLE: I think it's -- it's
20 -- it's disingenuous to sit here and say -- and look at
21 us in 2024 and say, "Black people in Louisiana, you
22 might be a third. You could be 40 percent, but we do
23 not want you at the table making decisions as it relates
24 to what you want or your constituents want." And that's
25 what I'm hearing. And it's really, really sad.

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1 MR. ALEXANDER: Representative Marcelle, I
2 hear you.
3 REPRESENTATIVE MARCELLE: It's really -- it's
4 about -- it's about control. It's about power. And it
5 is really fundamentally wrong. And I -- I said this
6 last year, and I -- I was hoping not to get upset, but
7 we -- we meet afterwards. We barbeque. We go across
8 the street. We hang out. We cool. I love you. You
9 love me. We go up to the bible study and we pray
10 together, but we do not feel like we are equal, and that
11 is wrong.
12 CHAIRMAN BEAULLIEU: Thank you, Representative
13 Marcelle. Representative Boyd.
14 MR. ALEXANDER: Thank you, Representative
15 Marcelle. I appreciate that.
16 REPRESENTATIVE BOYD: Thank you, Mr. Chair.
17 Sitting here today, thinking about the fact that we are
18 literally fighting for an opportunity. It's not given
19 because people still have to vote. An opportunity to
20 have two Black representation of African Americans in
21 DC. The opportunity, nothing is guaranteed. We're here
22 fighting for the last three years just for the
23 opportunity. And with voter apathy, we really don't
24 know where that's going to end up. The closed
25 primaries, we really don't know where that's going to

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1 end up. But if we continue along this path, I feel this
2 -- the state as a whole will suffer. The reality of it
3 is, is that Mike Johnson is the Speaker of the House.
4 They still have four Republicans representing
5 Louisiana. We're here trying to stop just one
6 additional African American seat. What does that say
7 for us? We have my chairman referring to the judge as
8 an Obama-judge. We cannot continue to divide the city
9 -- the state and expect to survive. It won't happen.
10 We have to learn to coexist, appreciate our differences,
11 appreciate the culture and differences. There are
12 things that you cannot possibly understand in African
13 American life because you're not one. We cannot
14 continue to throw out and spew divisive words and think
15 that we can survive as a state. It won't happen.
16 MR. ALEXANDER: Yeah.
17 REPRESENTATIVE BOYD: Thank you.
18 MR. ALEXANDER: Representative Boyd, in what
19 you're saying, it just -- it makes me think of what
20 Thomas Jefferson said as one of the founders of our
21 country. He said, "In matters of taste and culture,
22 swim like a fish. In matters of principle, stand like a
23 rock." And that's what I'm asking this committee to do,
24 is stand like a rock and allow our country to not argue
25 the constitutionality.

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1 REPRESENTATIVE BOYD: I repeat, that makes no
2 sense. So you're looking to further divide the state.
3 MR. ALEXANDER: I'm not here to divide anyone.
4 REPRESENTATIVE BOYD: That's exactly what
5 you're doing. Thank you.
6 MR. ALEXANDER: Thank you.
7 CHAIRMAN BEAULLIEU: Thank you. Mr.
8 Alexander, that clears the board.
9 MR. ALEXANDER: Thank you. Appreciate your
10 time.
11 CHAIRMAN BEAULLIEU: Thank you.
12 FEMALE SPEAKER 4: Mr. Chairman, it's possible
13 to have a --
14 CHAIRMAN BEAULLIEU: We -- we have three
15 witnesses left. Let's -- let's hold tight on that.
16 Let's try and get through these three -- three
17 witnesses. If y'all could just be respectful of --
18 everyone be respectful of time. Ms. -- Ms. Suzie
19 Labrie. What's that?
20 MS. LABRIE: Labrie.
21 CHAIRMAN BEAULLIEU: Ms. Suzie Labrie, would
22 you --
23 MS. LABRIE: Yes, (inaudible 1:58:09).
24 CHAIRMAN BEAULLIEU: -- would like to speak in
25 opposition.

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1 MS. LABRIE: Let me pull it up.
2 CHAIRMAN BEAULLIEU: Ms. Labrie, you're ready
3 to go.
4 MS. LABRIE: Okay. Mr. Speaker, Mr. Chair,
5 and all the state representatives and US
6 representatives, I'm Suzie Labrie, appropriate
7 situational individuals who takes one issue at a time
8 and represent -- represent myself against this bill
9 because I'm in support of J. Hill Harmon's for
10 proposals, really the Speaker of the House, Mike
11 Johnson, and Congressman Steve Scalise and the power,
12 where they sit in Congress. First, gerrymandering is
13 illegal. Number two, I'm for integration, not
14 segregation. Number three, individualism is better in a
15 collective class approach. One-size-fit-all fails by
16 hiding different individuals within a large class fall
17 between the cracks.
18 This causes -- number four, this causes
19 interdivision, which we're seeing now within the
20 political, ethnic, and cultural areas causing conflict
21 and confusion, chopping up and pulverizing once
22 contented and happy integrated districts when more
23 important deeper issues than just color. Small
24 businesses of both colors, working people of both races,
25 disabled of both races, economics and taxation streaks

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1 introductory to all races, schools, et cetera. I'm
2 going to skip number five. Well, it -- I want to leave
3 room for other maps to be proposed by J.C. Harmon,
4 which we had emailed to you last night. And I hope that
5 y'all have seen. It's called Harmon 2.
6 Number six, Louisiana is in a better and
7 higher position of power nationally due to Speaker Mike
8 Johnson and Majority Leader Steve Scalise and the
9 different chairs and seniority we enjoy. If we have
10 minority districts, we will -- if we have two majority
11 districts -- no. If we have two minority districts, we
12 will be short two votes in the US House of
13 Representative. Most of the state is conservative, as
14 you see here, and we don't want the House going back to
15 the left. With the present map or with J.C. Harmon's
16 map, we would beat the cost of time, effort, and money
17 in the courts and other activities.
18 Number seven, I'm either for the present map
19 or J.C. Harmon's maps, which we had emailed to you last
20 night. Eight, most everyone I have heard from in
21 Louisiana are against two or any minority districts.
22 Number nine, opening it would be other cans worms,
23 opening Pandora's box of suits, and other descriptions.
24 I love Senator Womack, who is doing well and his best to
25 serve his constituents in his district under restrictive

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1 circumstances. I want to thank you and to keep up the
2 good work and thank you for rejecting the rest of the
3 bills calling for minority districts. It's been a
4 pleasure coming to you -- before you.
5 Representatives, please keep up the good work
6 and God bless you, God bless Louisiana, God bless the
7 USA, and God bless our great Speaker Mike Johnson and
8 Congressman Steve Scalise. Thank you.
9 MR. ALEXANDER: Thank -- thank you, Ms.
10 Labrie.
11 CHAIRMAN BEAULLIEU: I have a Bert Callais
12 (phonetic), and that also says you're with Chris
13 Alexander. Is there something additional that you
14 wanted to add to -- to Chris's comments?
15 MR. CALLAIS: I don't know if it's so much in
16 addition right now. What -- what was going on is
17 Christopher had a conflict of meeting. He had to make
18 another meeting with Congressman Higgins. So he
19 couldn't be here at the time, but the recess -- or at
20 least the at ease went long enough to where he had a
21 chance to make it and speak for himself. So I'm here on
22 my own behalf.
23 CHAIRMAN BEAULLIEU: Thank you.
24 MR. CALLAIS: My name is Bert Callais. I'm
25 West Baton Rouge Parish, RPAC chairman, and I'm speaking

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1 for basically my constituency. And they had some
2 concerns, and I wanted to convey that to you all.
3 They're wondering where they're -- the courage is to
4 stand up to a federal judge. Basically, this federal
5 judge, they feel is ignoring the Constitution. The
6 Constitution supersedes any act of Congress, such as the
7 Voting Rights Act. And the Constitution places
8 determining congressional districts solely on the state
9 legislatures. And we feel that it's an overreach of the
10 federal government.
11 And this is what we're having enough of being
12 dictated to by the federal government on state and local
13 issues, especially our own personal sovereignty. The
14 past two, three years, you know, is -- is -- it really
15 -- it really brought all that to light how far the
16 federal government will go to trample on individual
17 rights. So somewhere we got to stop and draw the line.
18 So, again -- and I -- I -- I grew up -- I was young when
19 -- when -- and naive, whatever you might want to call
20 it, but I was a person who supported desegregation when
21 my grandparents and my parents didn't exactly do so,
22 given the time of the '60s, early '70s.
23 I don't understand why we seem to be wanting
24 to segregate ourselves again, because all I hear -- and
25 from what I understand, gerrymandering is illegal when

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it comes to prioritizing race. And they said, "Well, then it's not a priority." But that's all I hear and as far as the argument. And I understand having a seat at the table. Trust me, I do. I served in the military and swore to defend the Constitution. I sit on the board of election supervisors. We've had these same kind of arguments and disagreements.

But when I brought up the fact that if we refer to the law and follow the law, no one can really be upset with us, unless they're ready to change the law. And -- and that is to go ahead and draw the -- the -- the balls, right, with the numbers on it so that there's no picking and choosing in favoritism. It's -- it's a blank slate. So if we follow the Constitution, the basics of the Constitution, the -- the -- the core of it, we really don't have this issue, other than we're having to fight a judge that is trying to dictate what we must do.

So, again, if -- if -- as one of them stated, "If Martin Luther King or Nelson Mandela had been as -- not as strong-willed and -- and cowed to it," I'm not going to -- I don't like the word cowardly in this case. As our current leadership, then apartheid and Jim Crow would still be in place. A country is not lost in an invasion. It's lost to the cowardice on the part of its

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leadership. So that's why we're not in favor of this. Thank you very much.

CHAIRMAN BEAULLIEU: Thank you, Mr. Callais. Mr. -- Mr. Hurd, the floor is yours. Would you please introduce yourself? Pick one.

MR. HURD: My name's Paul -- Paul Hurd. I am an attorney. I was lead counsel when we set this foolishness aside 30 years ago. The district -- and -- and what I'm going to do is this: I have never represented anyone but voters. I believe in compact contiguous districts for White, Black, Asian voters that live together, work together, go to school together. We have successfully defended that right in Louisiana. We've -- we've done it -- I've done it in Texas. I've done it in Virginia. The point is this, you're being misled, and you politicians don't get misled. It's the cover. Here's where we are with the Section 2 claim. It is not --

CHAIRMAN BEAULLIEU: I think you might have pushed your own button there. You're trying to tell us something?

MR. HURD: Even my wife can't mute me, so.

CHAIRMAN BEAULLIEU: Like, leave your -- you -- you leave the button alone. We'll control it for you; how's that?

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MR. HURD: All right. We good?

CHAIRMAN BEAULLIEU: Yes, sir.

MR. HURD: All right. I apologize. Here's where we are with Section 2 voting -- voting rights claims. It is not unconstitutional to use race to draw districts. It is presumptively unconstitutional, okay? What does that mean? How can I use race to draw a district? I can use race provided that there is a compelling governmental interest, compliance with Section 2. There's a compelling governmental interest. Judge Dick has more or less signaled she's that far down the process, okay? The second step -- and this is where you're missing the opportunity of a proud vote of your life.

And that is this: the second requirement of Section 2 is whatever remedy there is going to be, it must be racially narrow-tailored. What that means is you take a traditional districting plan before you start fixing a Section 2 remedy. And what makes it constitutional is when you have an opportunity to draw a majority-minority district based upon communities of interest, whole parishes, whole cities. The points being made today are excellent, but what I'm going to tell you is you've made the full point that what you're considering is a racial gerrymander. This slash -- and

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it's even worse than that.

If you don't -- I -- I don't -- I -- I don't know who was here in the '90s, but Ms. -- Ms. -- Ms. Lowery and I were. And what -- two things happened. The Zorro district was set aside. It went all the way from Caddo -- does this ring a bell? Caddo, all the way down to Baton Rouge, all the way over to Lafayette, all the way a little bit east. And it was held to be a gross racial gerrymander, unconstitutional, under Section 2. Why? The reason it was held as unconstitutional is because the use of race that is apparent in that district and apparent in the -- this district was not narrowly tailored to meet the requirements of -- of Section 2.

Race was overused to the subordination of other districting principles, or as Justice O'Connor said, "When race predominates, it's unconstitutional." If you can -- why can we draw a compact minority district out of Orleans up the river? The reason why is it's otherwise lots of community interests. It doesn't violate commonalities of interest.

CHAIRMAN BEAULLIEU: Mr. Hurd, would you -- would you entertain a question? I think something may have just come back, sparked a question. Would you entertain a question?

1 MR. HURD: Yeah. If I can just get --
2 CHAIRMAN BEAULLIEU: Okay.
3 MR. HURD: Wait. Once I -- I've spent all day
4 and I'll spend all night. I'll be glad to help anyone.
5 But what you have done now, after we voided the -- the
6 Zorro district, the Z district, they enacted what was
7 called by the federal judge "the slash." This district
8 that you're considering is 90 percent of "the slash."
9 If you will look at Hays v. Louisiana, 839 F. Supp.
10 1188, and then that's the Zorro district, Judge Jacques
11 Wiener, who is still on the Fifth Circuit, went through
12 racial gerrymandering community by community and said
13 why it was excessive.
14 He asked the question to start the opinion,
15 "Can we use race in districting?" And he said the
16 answer is yes, "We -- we can use it to comply with a
17 compelling governmental interest." He said that this
18 body -- two things, and I'll be glad to go anywhere that
19 a member would like to ask. He said two things. One,
20 this was excessive. He said the same thing about "the
21 slash" that did exactly what you all are about to do
22 that went up to East Baton Rouge goes to Avoyelles, then
23 goes up the river taking minority districts.
24 He said they're both racial gerrymanders
25 because they subordinate all interest. This district

1 will hand -- I got good news for the plaintiffs. This
2 district, if enacted, will hand them and Judge Dick
3 unrestrained power to redraw your district because you
4 just did it again. And it -- it started -- it ends in
5 --
6 CHAIRMAN BEAULLIEU: All right. Mr. Hurd,
7 let's -- let's get to the question. Just --
8 MR. HURD: The last point -- the last point is
9 what Judge Wiener said, and this is what's equally
10 important for you. He said, "The federal government --"
11 this point was Section 5. "The -- the federal
12 government, one, has no authority to impose on a state
13 the violation of the Fourteenth Amendment." So the idea
14 that we're afraid of Judge Dick may be more demanding of
15 the district, just like the DOJ was under pre-Clarence.
16 It is of no concern. That's why our system gives us the
17 Fifth Circuit in the supremes.
18 This court -- I mean, this body should
19 consider either giving Judge Dick an opportunity to
20 judge it, then submit a remedy plan if you lose, or
21 enact a remedy. Now, I've handed in material --
22 CHAIRMAN BEAULLIEU: We've -- we've gotten all
23 that.
24 MR. HURD: I --
25 CHAIRMAN BEAULLIEU: So I'm going to

1 Representative Carlson for a question. Representative
2 Carlson.
3 REPRESENTATIVE CARLSON: Thank you, Mr. Chair.
4 Mr. Hurd, after the Zorro district was eliminated and
5 the -- "the slash" district, as you represented, was --
6 was enacted, who created that district?
7 MR. HURD: The legislature.
8 REPRESENTATIVE CARLSON: And who did away with
9 that district, or who said that that was
10 unconstitutional or -- or -- or not -- could not stand?
11 MR. HURD: Judge Jacques Wiener wrote the
12 opinion.
13 REPRESENTATIVE CARLSON: Okay. And then we
14 went back to the districts that we had up until
15 recently, right, that we were --
16 MR. HURD: That's correct.
17 REPRESENTATIVE CARLSON: So as I hear that --
18 I see one major difference between then and now. I know
19 you stated that the district that we're looking at
20 creating through the senator's -- the senator's bill
21 looks very similar. You said about 90 percent the same
22 as -- as that "slash" district.
23 MR. HURD: I will reserve because y'all have
24 done (inaudible 2:15:30) since you've made unavailable
25 to the public, okay?

1 CHAIRMAN BEAULLIEU: Like, the -- the -- the
2 --
3 MR. HURD: But the district isn't --
4 CHAIRMAN BEAULLIEU: The minutes are public,
5 and they -- they are online and public, (inaudible
6 2:15:38).
7 MR. HURD: You put them online ten minutes
8 before we started the meeting six hours late. That's
9 not available for the public.
10 REPRESENTATIVE CARLSON: Mr. Hurd, I
11 appreciate that, and I understand. I wish we had more
12 time to -- to review those. That's when those were made
13 available, but they are there for the public. I think
14 there's one difference. We are being mandated by the
15 judge to create a second Black district, period. In
16 your example, it's complete opposite.
17 MR. HURD: No, it's not.
18 REPRESENTATIVE CARLSON: The legislature tried
19 to create a district that followed this similar route,
20 and it was ruled unconstitutional. We're being told by
21 the judge, by Shelly Dick, that we must do this, period.
22 It's complete opposite. We must do it or she will.
23 It's a complete opposite scenario than it was 20 years
24 ago.
25 MR. HURD: Can I -- can I respond?

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1 REPRESENTATIVE CARLSON: Absolutely. And
2 thank you, Mr. Chair. I'm done.
3 MR. HURD: It's absolutely the same. What
4 they held was in the '90s, the federal agency that was
5 telling you, "You had to do it," was the DOJ under
6 Section 5, which itself was later held unconstitutional.
7 The answer is they were wrong. They were
8 unconstitutionally demanding racial districting beyond
9 what the federal courts now recognize as the permissible
10 range of remedy. We may be -- we don't -- I -- I --
11 look, I'll give Judge Dick an opportunity. It's not
12 that she's hailed Section 2 applies.
13 The question is whether or not Section 2 has a
14 constitutional remedy, i.e., I believe that my
15 districting plan that I've handed in and I did it for an
16 -- an example is as close as you can get to a
17 non-racially gerrymandered district and get to two
18 majority-minority districts, and it does. The
19 plaintiff's remedy, Senate Bill 4 and 5, they're both
20 racial gerrymanders and will not stand up to the Fifth
21 Circuit. There are abilities to draw a compact
22 contiguous majority-minority district, second one, in
23 Louisiana. What you're going to do, you're going to
24 enact this.
25 If I was Judge Dick, I'd look at it and go,

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1 "I'm sorry. I've got -- already got the judge that
2 wrote the opinion on the Fifth Circuit that says what
3 y'all are about to do is a constitutional gerrymander.
4 Therefore, I can disregard it." Disregard it. It is
5 null and void. And she's going to draw the plan if you
6 want to remedy an actual remedy. That's why it's
7 exactly the same. You read the opinion, and you'll see
8 they said, "The federal power does not override or force
9 you to violate the Constitution." Stand up for the
10 Constitution.
11 Stand up if you want a compact district. Draw
12 the one that makes sense with our traditional
13 districting principles because you can do it. The --
14 the -- the -- the -- the answer is, this is an
15 unconstitutional alternative.
16 CHAIRMAN BEAULLIEU: Okay. Thank you, Mr.
17 Hurd. You -- you -- I think you've been very, very
18 clear on it. The board is clear. We have no more
19 witnesses. Senator Womack, we're going to go ahead and
20 -- and call you back up to -- to close.
21 MR. HURD: Your Honor, if -- I mean, Your
22 Honor. I apologize. I'd like to -- I've got a copy of
23 that opinion that outlines all the reasons that what
24 you've got is a racial gerrymander. I had an outline of
25 what it -- of -- of the -- each criteria that the judge

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1 applies on why this is a -- a -- a ineffective remedy,
2 and I hope -- I hope your good judgment finds another
3 solution.
4 CHAIRMAN BEAULLIEU: Thank you.
5 Representative Phelps, you failed to call, but you
6 didn't say you wanted to speak. Are you trying to speak
7 now?
8 REPRESENTATIVE PHELPS: Yes, (inaudible
9 2:19:39).
10 CHAIRMAN BEAULLIEU: I know you're not on the
11 committee, but you want -- all right. Come on. Let's
12 -- all right. All right. So let's fill this out that
13 says she does want to speak. She's providing
14 information only, not a green card or a red card. So
15 Representative Phelps?
16 REPRESENTATIVE PHELPS: Thank you for the
17 opportunity to speak. I -- I just wanted to mention to
18 maybe some of our new colleagues here when we talk about
19 why we're here. This started from an increase of the
20 population from our census. So I -- and I think that's
21 not -- we haven't heard a lot of that with the audience
22 on the outside. It just was not a mandate to draw a
23 map. So this does go with the 2020, the Census results
24 that resulted in a population increase of African
25 Americans across the state.

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1 Secondly, I hope that there is some passion
2 here about if there were a different population, a White
3 population, and there was so much pushback about
4 creating a district so that everyone would be
5 represented, how that may feel. Just a thought.
6 Thirdly, when I heard Judge Dick's name reference to
7 Obama's judge, I don't know if I've ever heard someone
8 say Trump's judge or Carter's judge or Reagan's judge or
9 whomever. I don't know if we're going to start
10 referencing judges that way, but I hope that we do not
11 do that in this body.
12 I think we should give all of our elected
13 officials a little bit more respect in that, regardless
14 of what president they were appointed to or from. Thank
15 you for your time.
16 CHAIRMAN BEAULLIEU: Thank you, Representative
17 Phelps. The board is clear. Senator Womack, would you
18 come up and close on your bill?
19 SENATOR WOMACK: Thank you, Mr. Chairman.
20 Members of the committee, we all know why we're here.
21 We were ordered to -- to draw a new Black district, and
22 that's what I've done. At the same time, I tried to
23 protect Speaker Johnson, Minority Leader Scalise, and my
24 representative, Congresswoman Letlow. I'm agreeable to
25 the amendment, and we complied with everything the judge

has asked. And I just ask for favorable passage.
CHAIRMAN BEAULLIEU: Thank you, Senator -- Senator Womack. Representative Farnum has made a motion that we adopt Senate Bill 8 as amended. Is there any objection? Representative Marcell objects. Ms. Baker -- listen, do we have anybody in an anteroom needs to come in real quick? We have everyone here? Looks like everyone's here. Okay. Ms. Baker, would you please call the role? So let me clarify the vote. A vote of yes moves Senator Womack's bill as amended by Representative Farnum forward. A vote of no leaves it here in the committee. Ms. Baker?
MS. BAKER: Thank you. Mr. Chairman. Chairman Beaullieu?
CHAIRMAN BEAULLIEU: Yes.
MS. BAKER: Yes. Representative Billings?
REPRESENTATIVE BILLINGS: Yes.
MS. BAKER: Yes. Representative Boyd?
REPRESENTATIVE BOYD: Yes.
MS. BAKER: Yes. Representative Carlson?
REPRESENTATIVE CARLSON: Yes.
MS. BAKER: Yes. Representative Carter? Representative Carver?
REPRESENTATIVE CARVER: Yes.
MS. BAKER: Yes. Representative Farnum?

REPRESENTATIVE FARNUM: Yes.
MS. BAKER: Yes. Representative Gadberry? Yes. Representative Johnson? Representative Larvadain? Yes. Representative Lyons?
VICE CHAIRMAN LYONS: Yes.
MS. BAKER: Yes. Representative Marcelle? Representative Newell?
REPRESENTATIVE MARCELLE: Not as amended. No, as amended.
MS. BAKER: No for Representative Marcelle.
REPRESENTATIVE MARCELLE: No.
MS. BAKER: Representative Newell?
REPRESENTATIVE NEWELL: Yes.
MS. BAKER: Yes. Representative Schamerhorn?
REPRESENTATIVE SCHAMERHORN: Yes.
MS. BAKER: Yes. Representative Thomas?
REPRESENTATIVE THOMAS: Yes.
MS. BAKER: Yes. Representative Wright?
REPRESENTATIVE WRIGHT: Yes.
MS. BAKER: Yes. Representative Wybel?
REPRESENTATIVE WYBEL: Yes.
MS. BAKER: Yes. There are 14 yeas and 1 nay.
CHAIRMAN BEAULLIEU: Members -- members have a vote of 14 yeas, 1 nay. Senate Bill 8 is hereby adopted as amended. Reported as amended. There are no other

matters before this committee. Representative Thomas had made a motion that we adjourn. Look, and -- as we adjourn, thank you everyone for your patience. Thank you everyone for your time. It's been a -- a great debate and -- and we appreciate you. Meeting adjourned. Thank you all.
(Meeting adjourned.)

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Nancy Landry

EXHIBIT
JE33

PLAINTIFFS' EXHIBIT
P28
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THE CLERK: Mr. Speaker and members, Representative Beaullieu moves to advance to Regular Order No. 6, Senate Bills on Third Reading and Final Passage.

MR. SPEAKER: Without objection.

THE CLERK: Mr. Speaker and members, first instrument in this order -- only instrument in this order is Senate Bill 8 by Senator Womack: to enact Title 18 relative to congressional districts; provide relative to redistricting Louisiana's congressional district; provide with respect to offices, positions, other than congressional, which are based on congressional districts.

MR. SPEAKER: Representative Beaullieu on the bill.

REPRESENTATIVE BEAULLIEU: Thank you, Mr. Speaker. Thank you, Madam Clerk. Members, also, thank you. Thank you for your patience this week. I know we have been charged with a tall task, and your patience, your fortitude, your strong desires to represent your district, it's impressive. It's -- it's nice to see, especially -- especially with some of the new members. You've been awesome this week, and you've -- you've stood strong. And to say it's impressive is -- is -- is a -- is just the bit of it.

Members, I'm bringing you this congressional redistricting map that Senator Womack presented. You've -- you've heard it debated a couple of times. You heard it in -- in committee as well. Yesterday, we added an amendment in committee to Senator Womack's bill. And so my first order of business, even before I make my opening remarks, is going to get this bill in a proper posture. I'd like to offer up an amendment to delete the amendments that we added in committee yesterday. So if you'll check your monitors, it's going to -- or Madam Clerk, would you mind reading in the amendment?

THE CLERK: Mr. Speaker and members, Representative Beaullieu, as he's just discussed, is offering up a one-page set of amendments. That set is online. It's set number 83.

REPRESENTATIVE BEAULLIEU: So, members, after hearing from a lot of you, it's my thought that this instrument was in its best posture when it came over here from the Senate. And so I am offering an amendment to put it back in that posture, and I'd ask for your support.

MR. SPEAKER: I see no questions on the amendment. Representative Marcelle for the floor on the amendment.

REPRESENTATIVE MARCELLE: Thank you, Mr.

Speaker and Chairman. And thank you, members. On yesterday, we had a pretty, I would say, heated debate in H&G about these amendments, and so I rise in support of removing those amendments. And I had a lot of questions after I got home about why didn't I object to the amendments, but I'd stepped out of the room and so that's the reason for me not objecting to the amendments. I did object to the bill because the amendments had been added.

I know this is the process. I think that the bill was in its best posture when it came over with Representative -- I mean, with Senator Womack, Senate Bill 8. However, I tried to put that bill in a better posture. That matter failed. I know the process. I appreciate the process. And I appreciate the chairman taking that amendment off that I think does us no good to get to a better place where we can get the second congressional district. And I'd ask that you all would support the chairman in removing the amendment that was placed on there on yesterday. Thank you.

MR. SPEAKER: Is there any objections to the adoption of the amendment? Representative Farnum, objection. Would you like to speak on your objection? Representative Beaullieu, would you like to close on your amendment?

REPRESENTATIVE BEAULLIEU: Members, I just ask you to support the removal of the amendment that we added in -- in House and Governmental. Thank you.

MR. SPEAKER: Representative Beaullieu has offered up an amendment which Representative Farnum objects. All those in favor, vote yea. All those opposed, vote nay. The clerk will open the machine.

THE CLERK: (inaudible 0:04:34).

MR. SPEAKER: Wright, yea.

THE CLERK: Emerson, yea.

MR. SPEAKER: Emerson, yea. Are you through voting, members? The clerk will close the machine. We have 84 yeas and 16 nays, and amendment passes. Representative Beaullieu on the bill.

REPRESENTATIVE BEAULLIEU: Okay, Mr. Speaker. Thank you, members, for supporting me on that amendment. You'll bear with me for a second. So, members, I -- I appreciate you giving me the opportunity to be with you here today. Two years ago, I sat on the committee that -- that passed the original congressional map after redistricting, and we spent a lot of time going around the state listening to folks from all over our state. And this House, by two -- over two-thirds vote, supported a map that we thought was fair, that we thought was representative of the state of Louisiana.

As Senator Stine said earlier in this week, "It's with a heavy heart that I present to you this other map," but we have to. It's that clear. A federal judge has ordered us to draw an additional minority seat in the state of Louisiana. We have the -- the federal Voting Rights Act litigation is still going on in the US District Court in the Middle District of Louisiana. The map in this bill that I'm presenting is one of a product of long, detailed process with several goals.

First, and as a lot of you are aware, Congresswoman Julia Letlow represents north Louisiana in our nation's capital and serves on both the appropriations and agricultural committees. The boundaries in the bill that I'm presenting ensure that Congresswoman Letlow remains both unimpaired with any other incumbents, and in a congressional district that should continue to elect a Republican Congress for the remainder of this decade.

I have great pride in the work Congresswoman Letlow has accomplished, and this map will ensure that Louisianians will continue to benefit from her presence in the halls of Congress for as long as she decides to continue serving our great state of Louisiana.

Second, of Louisiana's six congressional districts, the map and the proposed bill ensures that

1 four are safe from -- or safe Republican seats.
2 Louisiana's Republican presence in the United States
3 Congress has contributed tremendously to the national
4 discourse, and I'm very proud, and it's remarkable, that
5 both the speaker of the United States House of
6 Representatives, Mike Johnson, and the US House majority
7 leader, Steve Scalise, are both from our great state.
8 This map ensures that the two men -- the two
9 of them will have solidly Republican districts at home
10 so they can focus on the national leadership that we
11 need in Washington, DC. The map proposed in this bill
12 ensures that the conservative principles retained by the
13 majority of those in Louisiana will continue to extend
14 past our boundaries to our nation's capital.
15 Finally, the maps in the proposed bill respond
16 appropriately to the ongoing federal litigation, the
17 ongoing federal Voting Rights Act case in the Middle
18 District of Louisiana. For those who are unaware of the
19 background, the congressional maps that we enacted, that
20 I mentioned a second ago, in March of -- in March of
21 2022, have been the subject of litigation roughly since
22 the day the 2022 congressional redistricting bill went
23 into effect, and even before we enacted it. So the suit
24 was filed before we actually enacted the bill.
25 After a substantial amount of prolonged

1 litigation, two trips to the Fifth Circuit asking it to
2 reverse it, and a trip to the US Supreme Court, the
3 federal District Court has adhered to its view that the
4 federal law requires that the state have two
5 congressional districts with a majority of Black voters.
6 It's that simple. Our secretary of state, our attorney
7 general, and our prior legislative leadership appealed
8 but have yet to succeed. We are now here because the
9 federal courts order that we have a first opportunity to
10 act.
11 If we don't act, it is very clear that the
12 federal court will impose the plaintiff's proposed map
13 on our state, and we don't want that. The District
14 Court's order that we must have two majority-Black
15 voting-age population districts, combined with the
16 political imperatives I just described, have largely
17 driven the boundaries for District 2 and District 6,
18 both of which are over 50 percent Black voting-age
19 population, or BVAP as you've heard discussed a lot in
20 committees and may hear with folks discussing today.
21 Given the state's current demographics,
22 there's not a high enough Black -- Black population in
23 the southeast portion of Louisiana to create two
24 majority-Black districts and to also comply with the US
25 Constitution's one vote, one person requirement. That a

1 -- the reason why District 2 is growing around Orleans
2 Parish, while District 6 includes the Black population
3 of east Baton Rouge Parish and travels up the I-49
4 corridor and the Red River to include Black population
5 in Shreveport.
6 While this is a different map than the
7 plaintiffs in the litigation have proposed, this is the
8 only map I reviewed that accomplishes the political
9 goals I believe are important for my district, for
10 Louisiana, and for our country.
11 While I did not draw these boundaries myself,
12 and I'm bringing the bill to the floor for the --
13 Senator Womack carried through the Senate and through
14 committee yesterday in this House, I firmly submit that
15 the congressional voting boundaries represented in this
16 bill best achieve the goals of protecting Congresswoman
17 Letlow's seat, maintaining strong districts for Speaker
18 Johnson and Majority Leader Scalise, ensuring four
19 Republican districts, and adhering to the command of the
20 federal court in the Middle District of Louisiana.
21 I submit to you this map, and I'll be happy to
22 take any questions.
23 MR. SPEAKER: Representative Taylor on a
24 question.
25 THE CLERK: She waives.

1 MR. SPEAKER: She waives. Representative
2 Amedee on a question.
3 REPRESENTATIVE AMEDEE: Thank you, Mr.
4 Speaker. Rep. Beaullieu, thanks for carrying the bill
5 over here. Is this bill intended to create another
6 Black district?
7 REPRESENTATIVE BEAULLIEU: Yes, ma'am, and to
8 comply with the judge's order.
9 REPRESENTATIVE AMEDEE: Thank you.
10 MR. SPEAKER: Seeing no further questions,
11 Representative Bayham for the floor.
12 (Pause.)
13 REPRESENTATIVE BAYHAM: When I ran for the
14 legislature, I had one goal, and that is to give my
15 community a voice. I've studied some of the plans that
16 were submitted by my colleagues here. Representative
17 Wilford Carter had a plan, I believe, that kept St.
18 Bernard Parish intact, and I appreciate that,
19 Representative Carter. I am here to stand up for my
20 community. St. Bernard has never been split into two
21 congressional districts. We've already been split into
22 two Senate districts. And to be brutally honest,
23 looking at the way these precincts are -- and I know
24 every precinct. I've campaigned in every precinct in
25 St. Bernard.

We have two precincts, for example, that are in the 2nd Congressional District. One, Precinct 24, gave President Trump 75 percent of the vote. Precinct 25 gave President Trump 69 percent of the vote. Those are in the 2nd District. In the 1st District is Precinct 44, which gave President Biden 83 percent of the vote. Precinct 45 gave President Biden 85 percent of the vote. It seems like these precincts were just thrown together like a mechanical claw machine, just grabbing people and dropping them off.

Now, I participated in the hearings on the congressional reapportionment where they toured the state, and I appreciated the leadership of the House and the Senate, the committees in doing this. I took advantage of it. I testified. We are being told that we have to redraw all of this in a period of less than eight days. That is not how you make sausage. That's how you make a mess. I cannot in good conscience vote for this bill that divides my community, and I will stand by that for my community. Thank you.

MR. SPEAKER: There's no questions.

REPRESENTATIVE BAYHAM: Thank you.

MR. SPEAKER: Representative Beaullieu to close on the bill.

REPRESENTATIVE BEAULLIEU: As a colleague

mentioned earlier - sorry, Representative Cox, if I have to poach you - "Everybody likes to eat sausage, but nobody likes to see how it's made." And it's -- it has been painful, and it has been painful for all of us. But it's simple. We're under a federal judge's mandate, and this bill is our best attempt to comply with her decision. So, members, I ask you to support me in voting for this map. Thank you.

MR. SPEAKER: Representative Beaullieu moves for final passage of the bill. Those in favor, vote yea. Those opposed, vote nay. The clerk will open the machine. Vote your machine, members. Members, are you through voting? The clerk will close the machine. We have 86 yeas, 16 nays, and the bill is finally passed. Representative Beaullieu moves to adopt the title, and moves to reconsider the vote for which the bill finally passed and lay that motion on the table without objection.

MR. SPEAKER: Open the machine for co-authors.

(Pause.)

MR. SPEAKER: The clerk will close the machine. We have ten co-authors.

MALE SPEAKER: Representative Bagley for a motion to move to correct his vote.

REPRESENTATIVE BAGLEY: I want to correct on

-- on Senate Bill Number 8. I want to correct from absent to nay.

MALE SPEAKER: Without objection.

REPRESENTATIVE BAGLEY: Thank you, Mr. --

MALE SPEAKER: Representative Taylor moves for a motion to correct her vote.

REPRESENTATIVE TAYLOR: Good afternoon. I would also like to vote from absent to yea on the amendment.

MALE SPEAKER: Without objection. Representative Jackson moves to correct his vote.

REPRESENTATIVE JACKSON: Yes. I want to change my vote from nay to yea.

MALE SPEAKER: Without objection.

REPRESENTATIVE JACKSON: Thank you.

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Dated this 11th of March, 2024.

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January 19, 2024

In Re: Louisiana House Floor/Committee Video

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P29
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EXHIBIT
JE34

MALE SPEAKER: Secretary will open the machines. Vote at the machines, members. Vote at the machines. Are we finished voting? 36 members in a quorum. Next order of business.

THE CLERK: Messages. Messages from the House. The -- I'm directed to inform you that the House of Representatives has finally passed the following Senate bills and joint resolutions. Senate Bill 8 reported with amendments respectfully submitted. Michelle Fontana, clerk of the house. Senate bills returned from the House with amendments. Senate Bill 8 by Senator Womack is an act to amend Title 18, relative to congressional districts, to provide for the redistricting of Louisiana's congressional districts to provide with respect to positions and offices other than congressional, which are based upon congressional districts. The bill comes from the House with a set of House Committee amendments and House Floor amendments.

Senator Womack now moves for suspension of the rules to take up the bill at this time.

MALE SPEAKER: Without objection. Without objection. Senator Womack, on your bill.

SENATOR WOMACK: Thank you, Mr. President. Members, Senate Bill 8, which provides for redistricting of congressional districts, appears to be before you now

in the exact posture that it left the Senate. The House is removed. HGA Committee amendment I move to concur with on Senate Bill Number 8.

(Pause.)

MALE SPEAKER: Gotcha. Members, the summaries are being passed out right now, so we're just going to slow down a little bit. I want to give everybody the chance to see what we're voting on.

(Pause.)

MALE SPEAKER: Senator Womack, would you mind going over the -- I know we've all seen the amendment once. We -- we know what the bill looks like, but if you could just go over some high points on it while they're passing this out. Members, if you have a -- members, if you want to speak, hit your Floor button if anybody would like to come to the Floor to discuss the bill. I know some members -- make sure that you do that.

(Pause.)

SENATOR WOMACK: Okay. They're passing out the amendments. The -- the way they did lay up the House -- I mean, lay up the Senate, it was one district change on that amendment. That took in part of Avoyelles Parish. That was the only change, to my knowledge, that was in the -- that was in the new map.

MALE SPEAKER: Okay. Senate Morris for -- for -- Senator Morris for a question on the bill, and you also have your Floor button, so which -- you want to question. Let's do question first, please, and then we can do the Floor. Thank you.

SENATOR MORRIS: Senator Womack, you said the only change was -- was taking some of Avoyelles Parish and putting it in Miss Letlow's district, correct?

SENATOR WOMACK: Correct.

SENATOR MORRIS: However, it actually took my personal home out of Miss Letlow's district, as well as Senator Cathey's home precinct, as well as State Rep Echols' home precinct, and put that in Representative Johnson's district; did it not?

SENATOR WOMACK: It did.

SENATOR MORRIS: So the only thing being done was not just Avoyelles Parish, correct?

SENATOR WOMACK: I stand to be corrected. You're correct.

SENATOR MORRIS: Why did we do that for Avoyelles Parish?

SENATOR WOMACK: That was -- that was brought before the -- the -- I'll have to look back. I -- I was -- I was thinking that was a -- a -- a Senate Committee amendment on that, and that's the way it came out of

Committee.

SENATOR MORRIS: Yes, sir. I think you altered the amendment.

SENATOR WOMACK: Senator Morris, I'll have to -- I'll have to look back and -- and put that together for you. Any other questions?

SENATOR MORRIS: So you don't know why we put Avoyelles in Miss Letlow's district?

SENATOR WOMACK: As I stated earlier, we were -- we were trying to put what we could to -- to give senator -- Representative Letlow as much North Louisiana as we could. So that was what we -- that was what we done on -- on that amendment.

SENATOR MORRIS: By -- by trading Avoyelles for Monroe, we gave her more North Louisiana.

SENATOR WOMACK: As I understand it, in that bill, I didn't think that -- that your home or Senator Cathey or Echols was in the original bill to start with. My recollection.

SENATOR MORRIS: It wasn't in Miss Letlow's district.

SENATOR WOMACK: Right.

SENATOR MORRIS: Would you be shocked if that was not the case, and that we were all in Miss Letlow's district?

SENATOR WOMACK: Probably so. But that -- at the -- at the time I put that amendment on, I don't remember the original map having that -- y'all's address in her district.

SENATOR MORRIS: But you did know that the amendment took some more of Ouachita Parish out of Letlow's, and put it into Johnson's district; you did know that, right?

SENATOR WOMACK: I knew it had to come from somewhere.

SENATOR MORRIS: Yes, sir. Thank you.

MALE SPEAKER: Senator Morris, you have the Floor now for the -- for Senate (inaudible 0:08:19).

SENATOR MORRIS: Thank you, Mr. President. We came here to redistrict because there's a chance. It's not absolute, but there's a chance that the judge will rule that our districts that we -- that we completed in the last couple of years will not be declared unconstitutional. That case never went to a final judgment. It hasn't even gone to a full trial on the merits, but yet here we are. So what do we do? We're supposed to redistrict with a lot of principles in mind. Among those include compactness and contiguity.

This bill does neither. It's neither contiguous nor compact. We're all supposed to do it and

1 consider political subdivisions and communities of
2 interest. So now, by everyone's account, I live in
3 Northeast Louisiana, and now I'm in the same district as
4 Lake Charles. Louisiana Tech, Grambling, and University
5 of Louisiana, Monroe are now in different congressional
6 districts. They're all only 30 miles apart.
7 Senator Womack said in Committee that what he
8 wanted to do was protect Julia Letlow. She's the only
9 woman in our congressional delegation in this state,
10 she's the only member of appropriations, and she's on
11 the Agriculture Committee. So protecting her district
12 because she has seniority, and because she's a bright,
13 articulate, and effective Congresswoman, that's a very
14 noble and worthwhile goal. And I applaud him for having
15 stated that that is one of the objectives of this bill,
16 but this bill doesn't do that.
17 This bill puts more votes south of the
18 Mississippi line in the Florida parishes than it does in
19 the northeast corner of the state. Now, I'm not
20 horribly disappointed to be in Congressman Johnson's
21 district because I admire him immensely. It's nothing
22 against him. He -- I served with him in the House, and
23 we are friends, and I'm a supporter, and he knows that.
24 It has nothing to do with him. But we didn't do the
25 things that I believe that we should have done. Well,

1 what did we do?
2 It looks like to me we primarily considered
3 race, and we considered the personal interest of a
4 handful of members. There was no reason. The bill, as
5 originally filed, we did not like. It cut my home
6 parish in half. I understand it's got to go through
7 somebody's district, right? A lot of you have your
8 districts, your home parishes cut through, but you
9 didn't have to zigzag it around just so somebody can get
10 a personal stake, who might want to run for Congress, or
11 just wants their parish there because of their personal
12 interest.
13 I'm not going to be around to run for Congress
14 or anything of the sort in two years, eight years, or
15 ten years. This is about districts and regions that
16 will represent the people of our area, and the lack of
17 compactness is going to effectively disenfranchise, I
18 believe, to a certain degree, the people that I
19 represent. And for these reasons, I urge you to vote
20 against this bill. Thank you, Mr. President.
21 MALE SPEAKER: Thank you, Senator Morris.
22 Senator Cathey to the Floor on the bill.
23 (Pause.)
24 SENATOR CATHEY: Thank you, Mr. President.
25 Members, I -- I don't know that I can say any better

1 than what Senator Morris just said, and I wholeheartedly
2 agree with everything that he said. You know, I love
3 the Senate, and I love being a member of this body, and
4 I'm excited about the things that we're going to do in
5 this term. I think we're going to do some great things.
6 Unfortunately, today is not one of those days.
7 What we're doing to Northeast Louisiana with
8 this map is a travesty and a disservice to the only
9 woman that we have serving in our congressional
10 delegation. The only member that we have that sits on
11 the House Appropriations Committee, which controls
12 federal dollars to this state. When we say that this
13 map protects Northeast Louisiana and Congresswoman
14 Letlow, I'll have you know, 50 percent of the votes in
15 Congresswoman Letlow's district now reside within 30
16 miles of this building. Let that sink in. 30 miles of
17 this building. Look, I can see the writing on the wall,
18 and I know where this is going to go.
19 And so, look, I'm -- I'm -- I've been around
20 long enough to -- to count, and -- and I know that --
21 that we can't get to 20, but -- but I just couldn't let
22 this go without standing up for my people and my
23 district and my congresswoman. And so I guess there is
24 one other thing that -- that I do want to say just to
25 put it into perspective. Again, kind of like Senator

1 Morris said, my home, my personal home, which is 35
2 miles from the Arkansas line, and 65 miles from the
3 Mississippi line will now be in the same congressional
4 district as Fort Polk and McNeese State University and
5 Lake Charles. That's a disservice and a travesty. So
6 with that, I close.
7 MALE SPEAKER: Thank you, Senator Cathey.
8 Senator Luneau for the Floor.
9 (Pause.)
10 SENATOR LUNEAU: Thank you, Mr. President.
11 Members, we -- we did redistricting last year, I'm sure
12 most of you remember that, and it was an utter failure.
13 And there were a lot of us that talked about some of the
14 things that we could have done different to make it
15 different, but it didn't work out that way, so here we
16 are again. And I remember when we redistricted our own
17 district, our Senate districts, Rapides Parish, my home
18 parish, now has six different senators. Six. And I
19 fought that, but I lost on that -- on that -- on that
20 quest. I -- I just couldn't -- couldn't get everybody
21 together.
22 And they said, "You know, it's going to be
23 great if you have six centers. Then you've got six
24 people coming together." That -- that didn't happen.
25 That's not true. We didn't come together, and it hurt

1 Rapides Parish. And now this map, yet again, has
2 Rapides Parish divided in half. I guess that's better
3 than six, but I guess we would have to have every
4 congressperson from the -- from the state to have six.
5 It's important that we do these maps, and we do them
6 correctly, where we establish another minority majority
7 district. And for that reason, I'm going to support and
8 I'm going to vote for this map, but like my colleagues
9 before me, I have to admit we should do better.
10 MALE SPEAKER: Thank you, Senator Luneau.
11 Senator Carter for the floor.
12 SENATOR CARTER: Thank you, Mr. President.
13 Members, we have an historic opportunity before us
14 today, and it's an exciting day for the great State of
15 Louisiana. If we concur and accept Senate Bill 8, we
16 get to create two performing African American districts
17 right here in the State of Louisiana. That is historic.
18 That is to be celebrated. I really want to say thank
19 you to everyone in this room. I can't thank you all
20 enough. I appreciate the sincere effort. I appreciate
21 the -- the -- the working late into the evenings that --
22 I want to thank the staff of the SGA committee and the
23 tireless hours that they have. This is -- this is
24 historic.
25 I know that it's hard to do anything that's

1 perfect, and I know redistricting is the hardest thing
2 that we do of all. This is my second redistricting
3 session, and they're very tough, but we came together in
4 a effort to comply with a federal judge's order that
5 Louisiana provide equal representation to the African
6 Americans in the State of Louisiana, and we have an
7 opportunity to do that. Let's celebrate. Let's be
8 happy. Let's be glad this state has an opportunity to
9 provide equal representation in our congressional
10 leadership right here in the State of Louisiana. Thank
11 you all so much.
12 And I also want to thank -- I'll be remiss if
13 I didn't thank the -- the president, all the members of
14 SGA committee, the -- the governor who called this
15 session. We began with the governor addressing us on
16 Dr. King's Day, and here we are celebrating at the end
17 of that week. And it just didn't start at the beginning
18 of this week with Dr. King's Day. It started way back
19 when Dr. King was alive, in a push for a voters' rights
20 act. There's so many hurdles along the way and so many
21 battles. There's so many -- so many -- so much effort.
22 So much energy.
23 And when we were in Committee, we heard from
24 many people. From the LDF people to the plaintiffs to
25 all the -- the community people that came to testify

1 because they did it last year. And some of them said,
2 "We are tired. We're tired of keep doing this." But
3 let me tell my friends and my colleagues, to everyone,
4 we shall not tire. We shall continue to fight for
5 what's right. It is -- this is how we make progress.
6 It is not easy, it is challenging, but this is how we
7 make progress, and we make progress. We celebrate it.
8 We acknowledge it. So thank you to my colleagues.
9 Thank you to all of us who engaged in this process.
10 Thank you, Mr. President.
11 MALE SPEAKER: Thank you, Senator Carter.
12 Senator Womack to close.
13 SENATOR WOMACK: Members, we all -- we all
14 know what we went through and worked through and
15 tirelessly. Late nights. Many hours. Many hours spent
16 in the drafting room, of trying to help Senator Morris
17 and Senator Cathey in trying to alleviate some of the
18 problems they had. We worked on that. However,
19 congressional, it wasn't working for everybody. So
20 we're here where we're at, and here your bill's before
21 you. I ask that you concur with Senate Bill 8. Thank
22 you.
23 MALE SPEAKER: Thank you, Senator Womack.
24 Senator Womack moves to concur in Senate amendments
25 proposed to House -- to Senate Bill 8. When the

1 machines are open, all those in favor to concur in the
2 Senate amendments will vote aye. All opposed will vote
3 nay. Madam Secretary may open the machines.
4 SENATOR HENRY: Go to machine, members. Go to
5 machines. Go to machines, members. Close machine,
6 please.
7 27 yeas, 11 nays, and the motion carries.
8 Senator Talbot for a motion.
9 SENATOR TALBOT: Thank you, Mr. President. I
10 make a motion that we adjourn sine die.
11 SENATOR HENRY: Without objection. Members,
12 if you could have your seat just for a second. Sit down
13 just.
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0115_24_241es
Paul, Weiss, Rifkind, Wharton & Garrison LLP
February 9, 2024
Transcript by TransPerfect

[BACKGROUND NOISE]

SPEAKER DEVILLIER: The house will come to order. The clerk will open the machines for rollcall. Members vote your machines. Are you through voting, Jordan? Fisher? Jordan? Fisher? Members are you through voting? Emerson?

[BACKGROUND NOISE]

The clerk will close the machine. We have 104 members present in quorum.

[00:05:01]

The house will be opened in prayer by Representative Amedee. Please rise.

REPRESENTATIVE AMEDEE: Thank you, Mr. Speaker. Heavenly Father, we come before you today. We thank you, first of all, for your precious Son. We thank you, Lord, that you could have placed us anywhere in time, and anywhere on this globe. And you saw fit to place each one of us here and now. And you also saw fit to place each legislator in their seat for such a time as this. Lord, I ask that you would help us to never take that lightly. I ask that you would guide us with the serious matters that come before us. And in this opening of this class of the legislature for the next four years, also ask that each day when we come here, we would never lose the awe of this building and all that it stands for. And we would never forget the people who sent us here to represent them. May we always legislate with Louisiana in mind. May we always make decisions that align with your vision for our state. May we take steps to bring Louisiana to the place where she leads as you planned, in Jesus name.

SPEAKER DEVILLIER: Thank you, Representative Amedee. Representative Knox will lead us in Pledge of Allegiance.

REPRESENTATIVE KNOX: I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

SPEAKER DEVILLIER: Morning hour number five.

FEMALE 1: Mr. Speaker, and members, the house is in receipt of a proclamation by virtue of the authority vested in me by the Louisiana Constitution, I, Jeff Landry, Governor in the State of Louisiana do hereby call and convene the legislature of Louisiana into extraordinary session to convene State Capital, City of Baton Rouge during eight calendar days, beginning 4:00 PM on the 15th day of January and ending no later than 6:00 PM on the 23rd day of January. The call includes 14 items and is signed by Jeff Landry, governor of the State of Louisiana.

[BACKGROUND NOISE]

Members, the speaker appoints the following committee to notify the governor that the house is convened and is ready to conduct business. Those members are Representatives Bayham, Emerson, LaFleur, Moore and Owen. Again, Representative Bayham, Emerson LaFleur, Moore, Owen, please meet Stephen Lewis near the rear of the chamber. Please raise your hand. And Emerson, I think I may have forgotten you. Committee to notify the senate, Representative Billings, Representative Echols, Representative Larvadain, Representative Ventrella, Representative Willard, please meet Mr. Francoise near the middle rear of the chamber to notify the senate, Representatives Billings, Echols, Larvadain, Ventrella and Willard.

[BACKGROUND NOISE]

[00:10:00]

SPEAKER DEVILLIER: Representative Newell for a personal privilege.

REPRESENTATIVE NEWELL: Thank you, Mr. Speaker. Thank you, Mr. Speaker and members. First, I want to just say thank you to my colleagues who called, who sent cards, who attended. Most of you all know that my mom passed on the last day of the last special session that we had. And these past few months have been filled with a lot of firsts for me. My first birthday without the woman that gave birth to me. My first Thanksgiving without the woman that taught me how to cook. My first Christmas without the woman who made sure that Santa had all the gifts on my list. Today would have been my mama's 71st birthday. And this past Monday when we got sworn in, my biggest cheerleader was not here with me. I had intended -- fix your face. I could see you, Schlegel. Don't make me cry. I thought I would be spending today with my dad and with my mom's sisters, but that is not the case. Members, we are here in these rails for one term representing the people of our districts, and I am curious and hopeful about what we will uncover on Louisiana over the next four years. Today, please not let it be lost on us that we start this term and most of you are starting your very first term as legislators. Some are second, some are third with the most important redistricting session on a most fitting and significant day. Starting this redistricting session on Martin Luther King Day has been a controversial and a sensitive issue to some and it seems to be disrespectful to the legacy of Dr. King and his fight for civil rights and voting rights. Some of our constituents, neighbors and supportive, had touted that the beginning of a redistricting session on King Holiday is a fitting tribute to Dr. King's legacy as it is an opportunity to ensure that the electoral districts reflect the diversity and needs of the communities that we all serve. Starting this session on King Holiday is not intended to be disrespectful or divisive, but rather an effort to fulfill a constitutional and legal duty and to meet a tight deadline imposed on us by the courts and the federal government. We have drastically different opinions on how this redistricting session is being started on Martin Luther King's holiday and those opinions have been heavily contested and it's a controversial task of redistricting. But we must remember that this is a matter that will have a significant impact on the representation and power of different groups of voters, which, if not done with consideration of context and circumstances of each district, can undermine the principle of one person, one vote and the democratic rights of the people that we serve. Dr. King's cause went beyond white and black. He also dealt with concerns of poverty, privilege and access, particularly at the voting polls. Ultimately, holding a redistricting session today on King's

holiday is a matter of debate and perspective. Therefore, any redistricting session should be guided by the values of justice, dignity and democracy that Dr. King embodied and advocated for. Thus, in the spirit of democracy, I want to remind all of our citizens and constituents that all of our sessions is open and accessible to the public. Anyone can attend and we, your legislative body, should be committed to following the principles of fairness and equality in the redistricting process. I do not believe any of us in this chamber is committed to forgetting an unerasable history and repeating or perpetuating the suppressive practices and ideologies of those such as Thurman and Wallace. We have come a long way considering the history of the south and with this governor's commitment to keeping Louisianans in Louisiana.

[00:15:02]

This is our opportunity to show all citizens that we are not only working to create opportunities of education and employment for Louisiana citizens, but also giving them fair elections and the opportunity to elect a candidate of choice. I am hopeful about the outcome of this session. And again, considering the dedication of Governor Landry and our Speaker DeVillier of ensuring this body will create that second minority majority district. On Martin Luther King's holiday, let us remember his contribution and sacrifice to voting rights and remember his words, "The time is always right to do what is right." Thank you, Mr. Speaker and members.

SPEAKER DEVILLIER: Thank you, Representative Newell.

FEMALE 1: Mr. Speaker and members, Representative Brown requests five days leave for his seatmate, Representative LaCombe.

SPEAKER DEVILLIER: Without objection.

[BACKGROUND NOISE]

FEMALE 1: Mr. Speaker and members, the Senate committee has appeared and is prepared to provide a report.

SPEAKER DEVILLIER: Senator Seabaugh.

SENATOR SEABAUGH: Members, we are here to advise that the Senate has convened and we are ready to do business. And I look forward to working with you all from over there.

SPEAKER DEVILLIER: Thank you, Senator.

[BACKGROUND NOISE]

FEMALE 1: Mr. Speaker and members, the committee sent to notify the governor has returned and is prepared to give a report.

SPEAKER DEVILLIER: Representative Emerson.

REPRESENTATIVE EMERSON: Thank you, Mr. Speaker. Members, we have notified the governor that the House is ready to do business.

SPEAKER DEVILLIER: Thank you, Representative Emerson.

[BACKGROUND NOISE]

FEMALE 1: Mr. Speaker, the committee sent to notify the Senate has return with a report.

REPRESENTATIVE BILLINGS: Mr. Speaker, we have reported to the Senate.

SPEAKER DEVILLIER: I'm sorry, Representative Billings.

[BACKGROUND CONVERSATION]

REPRESENTATIVE BILLINGS: I'll say it again. Mr. Speaker, we have reported to the Senate that we are open and ready for business.

SPEAKER DEVILLIER: Thank you, Representative. Representative Larvadain for a personal privilege.

REPRESENTATIVE LARVADAIN: Thank you, Mr. Speaker. Members, can I get your attention, please? Members.

[00:20:00]

Today is my grandson, Brandon Jackson's birthday. I want to wish him a happy three-year-old. I love him and I appreciate him. I want to wish Brandon a happy birthday and also Jordan. I love him and may God continue to bless him. Thank you, Mr. Speaker.

SPEAKER DEVILLIER: Thank you. Representative Larvadain. Morning hour number six.

FEMALE 1: Introduction of resolutions, the house concurrent resolution by Representative Willard to create a task force to study reforms to Louisiana's process of redistricting and methods of elections, promote efficiency, and ensure eligible Louisiana voters can effectively participate in the process. That resolution becomes HR-1.

SPEAKER DEVILLIER: Representative Mike Johnson moves to suspend the rules for the purpose of referring this committee. Is there any objection? To House and governmental affairs? Without objection. So order.

[BACKGROUND NOISE]

[00:25:00]

SPEAKER DEVILLIER: Representative Cruz for a personal privilege.

REPRESENTATIVE CRUZ: Thank you, Mr. Speaker. Members, if you've been looking at your chamber laptop, there was a reminder sent out. If you want your per diem payments non taxed, you need to sign that form today and get it to house accounting so per diem payment can be tax free if you sign that form and submit it today. Thank you, Mr. Speaker.

SPEAKER DEVILLIER: Thank you, Representative Cruz. Morning hour number seven.

FEMALE 1: House Bill by Representative Wilford Carter constitutional amendment proposing to amend Article 5 of the Constitution of Louisiana and provides relative to conversation to Supreme Court.

SPEAKER DEVILLIER: Representative Mike Johnson moves for a suspension of the rules for the purpose of referring all pre filed House Bills to the committee at this time without objection so order, House and Governmental.

FEMALE 1: House Bill by Representative Wilford Carter to enact Title 18 governmental districts redistricting positions offices based on congressional districts.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Wilford Carter Title 13 Supreme Court redistricting Supreme Court districts billing of vacancies additional judgeships becomes House Bill 3.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Marcelle Title 18 campaign finance provide for assessment of penalties becomes House Bill 4.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Marcelle Title 18 congressional districts redistricting of congressional districts positions offices based on congressional districts becomes House Bill 5.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Mandie Landry Title 18 elections nature of judicial elections exempt certain candidates from additional fees becomes House Bill 6.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Melerine Title 13 Supreme Court redistricting Supreme Court justice districts into nine districts filling of vacancies to eliminate certain additional judgeships becomes House Bill 7.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Mike Johnson Title 13 Supreme Court redistricting Supreme Court districts provide for the filling of vacancies additional judgeship becomes House Bill 8.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Mandie Landry Title 18 voting by mail distribution of vote by mail ballots application for vote by mail ballot becomes House Bill 9.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Jackson Title 18 financial disclosure statements filing of financial disclosure statements after qualifying for office becomes House Bill 10.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative by Jackson Title 18 campaign contribution limits provide relative to application of campaign contribution limits for calendar year becomes House Bill 11.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Wright Title 18 party primary elections nature of primary elections mandate legislature provide for party primary elections for certain offices becomes House Bill 12.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Melerine joint resolution to amend the Constitution relative to Supreme Court number of justices of the Supreme Court number of justices required to concur in order to render a judgment becomes House Bill 13.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Echols Title 18 congressional districts redistricting Louisiana's congressional districts positions offices based on those congressional districts becomes House Bill 14.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative Wilford Carter Supreme Court redistricting Supreme Court justice district filling of vacancies to eliminate statutory provisions regarding additional judgeship becomes House Bill 15.

SPEAKER DEVILLIER: House and Governmental.

FEMALE 1: House Bill by Representative McFarland to appropriate funds, make certain reductions from certain sources be allocated to designated agencies purposes for the purpose of making supplemental appropriations for fiscal year 2023 through '24 becomes House Bill 16.

SPEAKER DEVILLIER: Appropriations.

[BACKGROUND NOISE]

SPEAKER DEVILLIER: Members we're going to stand at ease and we're pinning a joint session.

[BACKGROUND NOISE]

[00:30:00]

[BACKGROUND NOISE]

[00:35:00]

[BACKGROUND NOISE]

SPEAKER DEVILLIER: Members, if you can head towards your seats so we can begin. Members, if you could take your seat, we'd appreciate it.

[BACKGROUND NOISE]

SPEAKER DEVILLIER: Members, we have one message that needs to be read. Members, please take your seats. Morning hour number five.

FEMALE 1: Petitions Memorials Communications, the House and receipt of a message from the Senate to the Honorable speaker, members of the House of Representatives. I am directed to inform your honorable body that the Senate has adopted and asks concurrence in the following SCRs. SCR1 respectfully submitted, Yolanda Dixon, Secretary of the Senate. SCR1 by Sarah Barrow to invite the Honorable Jeff Landry, Governor of Louisiana to address a joint session of the Legislature. Representative Marcelle moves to spin the rules for the purpose of concurring in this resolution at this time.

SPEAKER DEVILLIER: Without objection.

[BACKGROUND NOISE]

SPEAKER DEVILLIER: The Joint Session will come to order. President Barrow moves to dispense of the calling of role of the Senate without objection so ordered. President pro tempore Mike Johnson moves to dispense with the calling of the role of the House without objection so ordered.

[00:40:00]

SPEAKER DEVILLIER: The President appoints, on part of the Senate, the following members to escort the Governor: Senators Harris, Pressly, Jenkins, Talbot and Owens. Harris, Pressly, Jenkins, Talbot and Owens. The speaker appoints on the part of the House the following members to escort the Governor: Bayham, Moore, Emerson, Owen and LaFleur. Go to the back door. That committee will assemble and discharge their duties. Those members need to go get the Governor. The ones I just read out, like get up and walk back there and then he walks in. Go ahead. Harris, Pressly, Jenkins. I know you all are here. They're all back there. Well, come on down, gentlemen. Come on. The members come out first. The members come out first, then the Governor. There we go.

[APPLAUSE]

SPEAKER DEVILLIER: Members, Governor Jeff Landry.

[APPLAUSE]

SPEAKER DEVILLIER: Right there. I think if you could sit in. There we go. Thank you, buddy. All right. Members, we'd like to recognize Lieutenant Governor Billy Nungesser.

[APPLAUSE]

SPEAKER DEVILLIER: Secretary of State Nancy Landry.

[APPLAUSE]

SPEAKER DEVILLIER: Attorney General Liz Murrill.

[APPLAUSE]

SPEAKER DEVILLIER: Treasurer John Fleming.

[APPLAUSE]

SPEAKER DEVILLIER: Agriculture Commissioner Mike Strain.

[APPLAUSE]

SPEAKER DEVILLIER: And Commissioner of Insurance Tim Temple.

[APPLAUSE]

SPEAKER DEVILLIER: We also have members of the Supreme Court here. Justice Weimer.

[APPLAUSE]

SPEAKER DEVILLIER: Justice Crain, Justice Genovese, Justice McCallum, Justice Hughes and Justice Griffin. Thank you all for being here.

[APPLAUSE]

SPEAKER DEVILLIER: Representative Jason Hughes will lead us in the prayer and please remain standing afterwards for the pledge.

REPRESENTATIVE JASON HUGHES: All things work together for good, to those who are called before the Lord and are called according to His purpose. Members, let's go before the Lord in prayer. Father God, we thank You for this day that You have made. And with all going on in the world, Father, we are going to rejoice and be glad in it. Father, the Bible tells us to humble ourselves before You, and good will come from it. So, Father, we come before You as humbly as we know how first and foremost to say thank You, Father. Thank You for this extraordinary opportunity, Father. Father, I thank You on behalf of every person in this body, for our Governor Jeff Landry and his wife Sharon. Father, please guide his stewardship of this great State of Louisiana as he oversees 4.6 million people, Father God. Father, we thank You for all of the statewide elected officials assembled before us, may You guide them as well. Father, we thank You for our Senate President, our Speaker of the House, our respective pro tems, clerk, secretary, sergeant-at-arms, and all of the staff that keeps these noble bodies running each and every day, Father.

[00:45:11]

Father, we can't do this work without them and we are so thankful. Father, we thank You for the members of our Judiciary, our Supreme Court that are gathered here today. Father, may You continue to stand in their bodies, think with their minds and speak with their voices as they do the work of the Judiciary, Father. Father, out of 4.6 million people, You have selected, ordained, appointed, anointed only 144 people to lead the legislative branch of government. What an awesome responsibility and task that is. Father, may You remind us every day that we are all created by You. May we not see political party. May we not see race. May we not see gender. May we just see people and do the work that You have called us to do. Now, Father, let Your sweet, sweet spirit fill this place. Father, bless everyone under the sound of my voice, from this podium to the door, from the balcony to the floor, from the crowns of our heads to the soles of our feet, oh, Lord, our strength and our redeemer. And Lord, in everything, let us be so very

careful to give You all the praise, all the glory and all the honor. Now, let us go forth conquer and do the work that You have called us to do. In Jesus' name, we pray. Let all of the people of God join me in saying. Amen!

SPEAKER DEVILLIER: Amen!

[APPLAUSE]

SPEAKER DEVILLIER: Please remain standing for the pledge. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all. Ladies and gentlemen, the Governor of Louisiana, the Honorable Jeff Landry.

[APPLAUSE]

GOVERNOR JEFF LANDRY: Mr. President, I would tell you and the representatives and senators that escorted me that we'll do this at least one more time before the regular session and so, we'll have it perfected for the rest of the term. Please sit. Mr. Speaker, Mr. President, Members of the House and Senate, thank you for your cordial welcome. May I begin by recognizing on this day Dr. Martin Luther King, whose moral fortitude and spiritual inspiration allowed millions to live the American dream. And I would like to begin with one of my favorite quotes of his many, that the ultimate measure of a man is not where he stands in the moments of comfort and convenience, but where he stands at times of challenge and controversy. Our stage DNA is directly connected to the diverse and varied relationships that we all share with one another. Diverse relationships between our friends, our acquaintance, our neighbors, our old classmates, our co-workers, our caregivers, our colleagues, our family and each other right here in this room. For our culture is built upon relationships. And we are here today because we have inherited the issues that others have laid at our feet. So let us accept that task. Let us do the work that is incumbent upon us so that we can move towards solving much larger problems for the people of this great State.

[APPLAUSE]

GOVERNOR JEFF LANDRY: Now I am well aware that Huey Long was shot over redistricting matters. And I am hopeful and I am confident that we can dispose of this matter without you all disposing of me. Is that fair? Because for various reasons, both known and unknown, spoken and unspoken, closure of this redistricting problem has evaded us. It is time to stop averting the issue and confront it head-on. We are here today because the federal courts have ordered us to perform our job. Our job which is not finished, our job that our own laws direct us to complete, and our job that our individual oaths promise we would perform.

[00:50:01]

GOVERNOR JEFF LANDRY: To that end, I ask you to join me in adopting the redistricting maps that are proposed. These maps will satisfy the court and ensure that the congressional

districts of our State are made right here in this Legislature and not by some heavy handed federal judge.

[APPLAUSE]

GOVERNOR JEFF LANDRY: We do not need a federal judge to do for us what the people of Louisiana have elected you to do for them. You are the voice of the people, and it is time that you use that voice. The people have sent us here to solve problems, not to exacerbate them, to heal divisions, not to widen them. To be fair and to be reasonable, the people of this State expect us to operate government efficiently and to act within the compliance of the laws of our nation and of our courts, even when we disagree with both of them and let me say this. I know that many of you in this Legislature have worked hard and endured and tried your very best to get this right. As Attorney General, I did everything I could to dispose off this litigation. I defended the redistricting plan adopted by this body as the will of the people. We sought a stay in the Fifth Circuit. We successfully stayed the case at the United States Supreme Court for more than a year, allowing the 2022 elections to proceed. Last October, we filed for writ mandamus, which was granted in the Fifth Circuit, which would again allow us one more chance to take care of our business. However, when the Fifth Circuit panel ruled against us later in the fall, we filed for an en banc hearing, which they denied. We have exhausted all legal remedies and we have labored with this issue for far too long. I recognize the difficulty of getting 144 people to agree on anything. My wife and I don't agree on everything. She's kept me for 21 years. But I sincerely commend you for the work you have done so far. But now, once and for all, I think it's time that we put this to bed. Let us make the necessary adjustments to heed the instructions of the court. Take the pen out of the hand of a non-elected judge and place it in your hands. In the hands of the people. It's really that simple.

[APPLAUSE]

GOVERNOR JEFF LANDRY: I would beg you, help me make this a reality in this special session, for this special purpose, on this special day. The redistricting challenge goes further than just our congressional maps. While one federal judge has the pen in her hand, another is eager to pick it up from his desk and redraw our Supreme Court. In 2021, in a regular session, the Senate passed a resolution, Resolution 248, asking the State Supreme Court to provide this Legislature with the recommendations for redistricting their court. A wide majority of the court, over two-thirds, has responded. Justice McCallum, Justice Genovese, Justice Crane, Justice Hughes, and Justice Griffin, have conscientiously and unselfishly and courageously stepped forward and presented us with a map that redraws the Supreme Court districts in a manner that will comply with the Voting Rights Act and alleviate the costly litigation to the State. You can fulfill your responsibility and honorably meet your obligation to redistrict our high court so that the people of Louisiana will have a fair, democratic, and equally represented judiciary. The litigation involving our Supreme Court districts has been pending for quite some time. In fact, there are cases in all three federal districts in the State.

[00:55:04]

GOVERNOR JEFF LANDRY: Again, as Attorney General, we worked to defend the State and to have those cases dismissed. I know, firsthand, how indefensible these cases are. Our Supreme Court districts have been redistrict by this Legislature only one time in 103 years. The result is that districts are grossly unbalanced with two districts twice as large as another one. Last year, I negotiated a scheduling order with the plaintiffs in one of those cases, allowing the Legislature, allowing you all a chance to willingly handle our own affairs rather than unwillingly have it done by another nonelected federal judge. I want to publicly commend the justices for their willingness to set aside any regard for their own careers or the power that they hold. They epitomize statesmanship, honor, integrity, and the very embodiment of fairness. They are a reflection of our people's goodness, decency and justness. Every single person in this great State can look up to them with pride and reverence and a reborn confidence that the judicial system in this State is great and filled with men and women who will absolutely do the right thing.

[APPLAUSE]

GOVERNOR JEFF LANDRY: Just as we would respect and honor and comply with any decision reached by such a majority of this court. I ask you to respect that and adopt the court's redistricting map and allow the first seat to be filled this fall. Now, every voting age citizen in Louisiana may or may not join a political party of his or her choosing. It is a choice. It is their freedom. But if you choose to join a political party, it certainly is only fair and right that you have the ability to select your party's candidate for office without the interference of another party or without the distraction and the interference of a convoluted, complicated and extended ballot to wade through and to decipher.

[APPLAUSE]

GOVERNOR JEFF LANDRY: As I travel the State, I have listened carefully to those who seek a more focused, electoral process where they may participate in the nomination of their party's chosen candidate. And I believe it is an issue that our Legislature should consider and we have included a proposal for a closed party primary system for your consideration for that very reason. Because it's about fairness, it's about simplicity, it's about clarity and we have tested this system before in this State, and it works. The United States House Majority Leader Steve Scalise is in his seat as a result of being elected to Congress under a party primary system. Our State Treasurer was elected to Congress under a tried and tested system. I was elected to Congress under a party primary system. President Joe Biden was elected in Louisiana's presidential primary, as was President Trump, and other presidential nominees that were put forward by this State were chosen in a party primary system which allows the major parties to pick their candidates. It is fair and it is common sense. And as for our independent or no party voters, who by their own choice, decide not to join a party, their voice is heard and their votes are counted. Counted on a simpler, shorter, clearer November election ballot containing generally one Democrat, one Republican, and ballot qualifying independent candidates. Some things make Louisiana unique. Our food, our music, and our culture. These are sources of our pride. However, our jungle primary system is the only one of its kind in this country. It is a relic of the past, which I believe has left us dead last.

[APPLAUSE]

[01:00:07]

GOVERNOR JEFF LANDRY: All of our fellow southern states are succeeding, they have a closed primary system, a process which results in stronger, more unified elected leaders. It is time to rewrite our story and to move to a similar system. We have already tried, we have already tested and still use in presidential primaries and will use in February of this year. As we work on other electoral reforms with these redistricting maps. Now is the time to also deal, I believe, with this commonsense change. Today, we honor Dr. Martin Luther King. And I do not believe that it is mere irony that finds us here today on this great day, on this consecrated day, where we seek to amplify the voice of few, where we seek to broaden the opportunity for participation in the government and governance of our people. The courage and the wisdom and the relentless pursuit of fairness in our electoral process was exactly what Dr. King spoke for. And so, it should be profoundly moving that we do this on this day. In fact, his words in 1968, I believe, are wholly appropriate 56 years later at this very hour where he said, "The arc of the moral universe is long, but it bends towards justice." You see, for Dr. King's, his was an uphill journey into the headwinds of hate. His was a march into a battle, while ours is a mere walk in the park. His was a persecution for speaking his truth, while ours is just a comfortable dialogue. His was a mighty shove, while yours is simply a mere push of the button. Ladies and gentlemen, let us take these affairs and the things that have divided us in this state off the table so we can begin the work that the people have sent us here. God bless you. God bless each and every one of you. God bless the people of Louisiana, and God bless the people we represent. Thank you so very much.

SPEAKER DEVILLIER: Thank you, governor. Senator McMath moves that the senate retire to its chambers without objection.

[01:05:00]

[BACKGROUND NOISE]

Members, we're waiting on additional bills to be filed, so please don't leave. Members, we're waiting on additional bills to be filed, so please do not leave.

[01:10:00]

[BACKGROUND NOISE]

[01:15:00]

[BACKGROUND NOISE]

SPEAKER DEVILLIER: Morning hour number seven.

FEMALE 1: Mr. Speaker and members, the House Bill by Representative Emerson to amend and reenact Title 18 relative to elections party primary system of elections for certain office as provides relative to nominations, recognized political parties voting and that bill becomes House Bill 17.

[BACKGROUND CONVERSATION]

SPEAKER DEVILLIER: Representative Mike Johnson moves to suspend the rules for the purpose of referring the pre-filed House Bills to committee at this time. House and Governmental.

FEMALE 1: A House Bill by Representative Wright joint resolution to amend the constitution, to amend Title V provides relative to Supreme Court election, statewide election of Supreme Court justices, elimination of Supreme Court District submission of proposed amendment to the electors. That bill becomes House Bill 18.

SPEAKER DEVILLIER: House and Governmental.

[BACKGROUND NOISE]

SPEAKER DEVILLIER: Okay, members, we're going to stand at ease until we get committee notices.

[BACKGROUND NOISE]

[01:20:00]

[BACKGROUND NOISE]

[01:25:00]

[BACKGROUND NOISE]

[01:30:00]

[BACKGROUND NOISE]

SPEAKER DEVILLIER: Announcements.

FEMALE 1: Announcements Mr. Speaker and members, Committee on Appropriations meets tomorrow morning, Tuesday, January 16 at 8:30 a.m., Committee Room 6 and Chair McFarland may suspend the rules for the purpose of hearing House Bill 16 at that meeting.

SPEAKER DEVILLIER: Without objection.

FEMALE 1: Committee on House and Governmental Affairs will meet 10:00 a.m. tomorrow, Tuesday, January 16, Committee Room 5 and Representative Vallee moves to suspend the rules for the purpose of adding House Bill 6, 8, 9 and 17 to that agenda.

[01:35:05]

SPEAKER DEVILLIER: Without objection. Representative Thompson for a Motion.

REPRESENTATIVE THOMPSON: Mr. Speaker, members, I move that we adjourned to 3:00 o'clock tomorrow afternoon.

SPEAKER DEVILLIER: The House is adjourned.

[BACKGROUND NOISE]

[01:40:00]

[BACKGROUND NOISE]

[01:45:00]

[BACKGROUND NOISE]

[01:45:34]

FEMALE 1: And Senator Womack.

SENATOR WOMACK: Present.

FEMALE 1: We have nine members.

CHAIRMAN FIELDS: Nine members present on a quorum. First, let me thank the members of the public who are here. We had to delay it because of the weather. We wanted to give people more of an opportunity to get here. And I know today is probably one of the coldest days in Baton Rouge, and if you don't like today, tomorrow is going to be even colder, I understand. But thank you all so much for coming. We're here pursuing to Proposition No. 1. Special session called by the governor as a result of a map that was passed by this legislature and challenged in court. And both the district and the appeals court have said we need to do something before the next congressional elections. And there are other things in the call, but we're going to first take congressional redistricting. Let me advise the public. We're only going to take before we break two congressional maps. In fact, Senator Carter. And then we're going to do Senator Price bill. The Womack bill will be delayed until after we recess. So Senator Carter would like to be recognized on a matter of personal privilege first, Senator Carter. But before I do, I want to welcome all of the members to this committee, and I think it'd be appropriate, Senator Carter, if you would just yield just for a second to let each member kind of introduce themselves to the public. And we'll start with Senator Miller.

SENATOR GREG MILLER: Thank you, Mr. Chairman. Greg Miller, Senate District 19. That's all of St. Charles Parish parts of the east bank of St. John the Baptist Parish, parts of Jefferson, Kenner, and then North Lafourche. And I'm coming over here after serving three terms in the House, where I also served, I think, eight years on House and Governmental Affairs and one year as chairman. Thank you.

CHAIRMAN FIELDS: Thank you, Senator Miller. You're going to be a great addition to this committee. Let's now go to Senator Womack.

SENATOR WOMACK: Good morning, Senator Womack from District 32. Senate District 32 go from Avoyelles, West Feliciana, Concordia, LaSalle, Catahoula, Rapides, Caldwell, Franklin, Richland, and Ouachita, ten parishes. This is my second term. I served on Senate and Governmental Affairs last term and glad to be back on the team. Thank you.

CHAIRMAN FIELDS: Thank you, Senator Womack, and welcome back. Let's now go to Senator Kleinpeter.

SENATOR KLEINPETER: Thank you, Mr. Chairman. Senator Kleinpeter, District 17. I as well represent ten parishes, St. Helena, East Feliciana, West Fel., part of East Baton Rouge, and I jump across Pointe Coupee, West Baton Rouge, Iberville, and jump across the other river and go into upper St. Martin, part of Lafayette and St. Landry. I was on SGA last year, ran in a special election, and look forward to working with everybody on this panel.

EXHIBIT
JE36

CHAIRMAN FIELDS: Welcome back, Senator Kleinpeter. And now we're going to go to another freshman member who by way of the House of Representative, Senator Miguez.

SENATOR BLAKE MIGUEZ: How are you doing? Happy to be here this morning. My name is Blake Miguez. I'll be representing Senate District 22, which is Iberia, St. Martin and a portion of Lafayette Parish. I had the honor to serve nine years in the House of Representatives. I look forward to serving here on the Senate Governmental Affairs Committee. I appreciate the president giving me this opportunity and I look forward to serving with you, Mr. Chairman. And I hope to provide a great balance and help you work towards solving the problems for our state.

CHAIRMAN FIELDS: Thank you, Senator Miguez. And Senator Miguez is also the vice chair of the committee. Now we go to Senator Fesi.

SENATOR FESI: Thank you, Mr. Chairman. I represent Senate District 20, which is Terrebonne, main portions of Terrebonne and Lafourche.

CHAIRMAN FIELDS: Thank you, Senator Fesi, and welcome back to the committee. And now we go into another house member who moved from the house and now in the senate, Senator Sam Jenkins.

SENATOR SAM JENKINS: Thank you, Mr. Chairman. Good morning, everyone. It's good to see everybody out today. Glad to have you here. I'm glad to be here. Eight years in the House of Representatives on House and Governmental affairs. Now I'm here on Senate and Governmental Affairs. So the learning curve has been somewhat steep coming from the House to the Senate.

[00:05:00]

But a few days in, I see a whole lot of familiar faces here that used to be in House and Governmental Affairs, often to testify. I represent Senate District 39, and that's parts of Shreveport and Blanchard.

CHAIRMAN FIELDS: I welcome Senator Jenkins. And now we're going to go to a returning member of the committee, Senator Reese.

SENATOR MICHAEL REESE: Thank you, Mr. Chairman. Michael Reese, Senate District 30, which is Western Calcasieu Parish, all of Beauregard Parish, all of Vernon Parish, and most of Western Rapides Parish. Had the privilege of serving on the committee during our last term in redistricting and through that process. So I want to say I'm thankful to be back, I guess. Thank you, Mr. Chairman.

CHAIRMAN FIELDS: Thank you, Senator Reese. And last but certainly not least, we go to a returning member of the Senate, Senator Carter, who's going to be recognized to introduce himself and also on a matter of personal privilege. Senator Carter.

SENATOR GARY CARTER: Thank you, Mr. Chairman and members, I'm State Senator Gary Carter. I represent District 7, which is the west bank of Arlene's and Jefferson Parishes, and also the east bank of Plaquemines Parish. It's really good to be on this committee given the important work that we have in front of us, and I'm ready to get started. I do have a matter of personal privilege that I want to take. Congressman Carter was hoping to be here today, but with the weather and traveling to DC for votes, he was unable to make it. But he asked that I enter into a record a letter that all of us have from his office that I'd like to take time just to read very briefly, and it's addressed to us directly to the chairman. And this is from Congressman Troy Carter, representing the Second Congressional District in Louisiana. Dear Senator Fields, I regret that I cannot be here today due to the weather conditions on the roads. I pray that all throughout the state are remaining safe and warm as they wait for this winter storm to pass. As a member of Congress, I stand ready to help anyone affected in any way that I can. Watching a storm roll in brings back the memories of other storms that have rolled through the state, Katrina, Rita, Gustav, Ike, great flood of 2016, Ida, and so many more have altered life for everyone. During the immediate aftermath of natural disasters, this state shows the compassion and resilience that others envy. However, as we learn from natural disasters, recovery is different in every community. The disparate needs of communities give concrete examples of why representation matters. As a former member of this beloved body, I know your hearts because I have the opportunity to see them up close and personal. While we have not always agreed on policy, we have always agreed on the love of our country, community, and the great people of Louisiana. Dr. Martin Luther King said, "The time is always ripe to do what is right." Today, Louisiana stands ready to enact constitutional congressional maps that reflect that map is map. One third of six is two. I am willing to work with anyone to produce a constitutional map creating two majority minority districts that give black candidates a meaningful opportunity to win. Louisiana stands ready to show that all of its citizens deserve equal opportunity to elect their candidates of choice. Louisiana stands ready to do the right thing. I trust that my former colleagues and distinguished members of this committee will not wait. I pray you will do the right thing. And it's signed by Congressman Troy Carter. And I asked that a copy of it be entered into the record. Thank you, Mr. Chairman.

CHAIRMAN FIELDS: Without objections, so ordered a copy of the congressman letter will be entered into the record. Members would take up our first bill for today. We'll take Senate Bill 4 by Senator Price, which provides for the redistricting of Louisiana Congressional Districts. Senator Price, if you can come forward and you can bring whomever you so desire to the table. Welcome Senator Price. Why don't we have everyone at the table to introduce themselves, and then we get started. All right. This is a new little gizmo for me. I got you. I think I can do this. Let's see. I'm going to put all three on at the same time.

SENATOR ED PRICE: Thank you. Thank you, Mr. Chairman ad member of the committee, Senate and Governmental Affairs.

[00:10:00]

I'm State Senator Ed Price, and I represent the River Parishes, St. James, St. John, Ascension, Iberville, West Baton Rouge, Assumption and Lafourche.

SENATOR ROYCE DUPLESSIS: Good morning Chairman and senate colleagues, my name is Royce Duplessis, and I represent senate District 5, Orleans Parish, and a portion of both east and west Bank of Jefferson Parish.

JARED EVANS: Good morning, Mr. Chairman and members, I'm Jared Evans. I am a Senior Policy Counsel with the NAACP Legal Defense Fund, and I'm also counsel for the plaintiffs in Robinson v. Landry.

CHAIRMAN FIELDS: Let me say you before you get started Senator Price. Mr. Evans, you've been before this committee quite some time. I want to thank you for all your hard work, and you're the reason why we're here today. Senator Price, you're recognized.

SENATOR ED PRICE: Thank you, Mr. Chairman. Members, I come before you today to present Senate Bill 4. We all know that we've been ordered by the court that we draw congressional district with two minority districts. This map will comply with the order of both the Fifth Circuit Court of Appeal and the district court. They have said that the legislature must pass a map that has two majority black districts. In this map, those districts are District 2 and District 5. I will walk through the cohesion of the black population in both of the districts. Okay. And so, what we're going to talk about today is getting there, but I do want to say, before I turn it over to our attorney with the LDL on the roadshow, and I was on Senate and Government Affairs at the time, and I attended every roadshow that we had. And one of the things that was talked about at all this roadshow was that we should have fair maps. Fair maps in a second congressional district. We all know that one third of six is two, and that was pushed very hard during these roadshows by a lot of speakers that came forward. So, when designing this map, we made sure that it was very compact, we didn't split a lot of Parishes, and we think that this is a fair map that can meet the muster of the courts. At this time, I want Senator Duplessis to give his statement, and then we'll turn it over to Jared.

SENATOR ROYCE DUPLESSIS: Thank you, Senator Price. I want to begin -- there we are. I'd like to just begin by thanking Senator Price for his leadership and filing this map. While he was on Senate and Governmental Affairs, I served on House and Governmental Affairs as Vice Chair, so had the opportunity to be intimately involved in this process. And as we sit here today, it brings me back to more than two years ago, as Senator Price just mentioned, where we began this process going to every corner of this state on the roadshow, northeast, northwest, southeast, southwest, Central Louisiana, all throughout this state that we began. I want to say in the fall of 2021, and here we are now in 2024 trying to resolve this matter at the direction of the court. So, I would just like to read just a few comments for purposes of Senate Bill 4, which we believe is the best path forward given the order of the court, and provides some motivating factors in the creation of this map. In drawing this map that complies with Section 2 of the Voting Rights Act, we considered equal population, contiguity, compactness, parish splits, and communities of interest. Consideration of the legislature's Joint Rule 21 was paramount in this process, but the overall strategy was to balance all of the relevant districting principles without allowing any single factor to predominate. Unlike many of the maps for the legislature and other bodies, the ideal population deviation of each district is zero, as close to zero deviation as possible. So, our

goal is to have 776,292 people in each district. We balance this with keeping as many parishes whole as possible. The few parishes that are split in this map are done so to keep each district with as close to the same number of people as possible.

[00:15:02]

I want to briefly walk through this map, district by district, to talk about the communities of interest that we consider. We certainly know, starting out that Louisiana has a great agriculture heritage that can be respected in this map by maintaining primarily the rural compositions in Districts 4 and 5. Starting with District 4, the northwest corner of the state is kept intact, with Shreveport being the major anchor of the district and the surrounding parishes that have common rural and agricultural interests. Moving to District 5, which is a newly minority district in this map is similar and that it contains large agricultural communities that are united with four of the state's larger population centers being Monroe, Alexandria, Opelousas and Baton Rouge. Moving to District 3, this map preserves the connectivity of Louisiana's Acadiana region, an important theme from the roadshow. Major cities and the surrounding communities are preserved and connected to the maximum extent possible in this map by keeping Lake Charles and nearly all of Lafayette in District 3. We keep District 1 as a coastal district. District 1 also includes the southern half of St. Tammany, the northern half of Orleans, and the majority of Jefferson. These communities are greatly important to the New Orleans region. Thousands of parents work and send their children to school in New Orleans, and it was important for us to keep these communities connected to the greater New Orleans region. District 1 also includes the largest maritime community in the country. These parishes are the first line of defense when hurricanes hit the southeast corner of the state, such as Katrina did in 2005, and with respect to the representative of that district, it allows them to work closely with our federal agencies on issues like flood insurance, flood protection, coastal restoration, et cetera. Terrebonne and Lafourche and are also fully united in the map, which we also heard a lot about during the roadshow. Moving to District 6, this map unites the northwest Florida Parishes with South Baton Rouge, north Ascension, all of Livingston, and the vast majority of Tangipahoa Parish, which is the fastest growing region in the state, and this map unites those communities in the 6th District. We know thousands of residence work in and send their children to school in and worship in Baton Rouge, and it's important that we keep these communities of interest connected. Finally, instead of packing black voters in New Orleans and Baton Rouge into one district, District 2 goes west and includes communities in the River Parishes and the Bayou region. It was very important for us that New Orleans remained the heart and population center of the second congressional district. So, this map unites New Orleans with St. Martin, St. James, St. John, St. Charles, South Ascension, and Assumption. These parishes again, have many industries in common, such as fishing and energy, and also share some of the same concerns and challenges as flood protection and insurance. And I may have failed to mention the connection of sugar cane along these parishes. These communities in District 2 are also united by a large petrochemical industry. Members, as you can see, we really wanted to keep as many of these communities of interest intact as possible while maintaining close to equal population among the districts as possible. And for those reasons that I've given, and you will hear additional reasons, we believe this is the best map for us to adopt. Thank you.

CHAIRMAN FIELDS: Thank you, senator.

JARED EVANS: Thank you, senator. Good morning, Mr. Chairman and members. As I said, I'm Jared Evans, and I'm an attorney with the NAACP Legal Defense Fund. I'm joined by my colleague, Victoria Wenger. For almost two years now, Victoria and I have had the privilege of serving as counsel for the NAACP Louisiana State Conference and the Power Coalition for Equity and Justice, and nine individual voters and their challenge to the current congressional map. Several of them are sitting behind me in the room today, and it has truly been an honor to represent them throughout this process. This special session was convened as a direct result of that litigation, Robinson v. Landry. The map we present here mirrors the map submitted by plaintiffs in multiple phases of our case. It has been vetted by the federal courts and now provides you with the clearest path to remedy the state's violation of Section 2 of the Voting Rights Act. This map builds off of previous versions that were presented in this committee two years ago during the roadshow. The first redistricting session. The second special redistricting session and amendments that were filed again throughout this process.

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The common links between those maps and disks are multifold, including the fact that it unpacks the populations packed into a single majority black district running from New Orleans to Baton Rouge, and instead provides for a new configuration of District 5 connecting Baton Rouge with the Delta parishes. Creating new opportunities for fair representation and a second majority black congressional district. Also, like previous versions, this map is notable in that it outperforms the others that have been offered throughout this process. As the federal courts have acknowledged the map offered by the Robinson plaintiffs, the map before you today, performs equal to or better than the states enacted maps from both 2022 and 2011 in adhering to traditional and state redistricting criteria, including those embodied in the Legislature's Joint Rule 21. This map has been updated from the plaintiff's map to utilize the most up-to-date precinct lines. Unlike its prior versions, this map once again surpasses its competitors. It has fewer pair splits than the enacted map, with only 11 compared to 15. As courts have held, there is no more fundamental unit of societal organization in the history of Louisiana than the parish. This map does not split any precincts. This map splits fewer municipalities than the enacted map. It achieves better scores on three quantitative measures of compactness, most accepted by the courts, Reock, Convex Hull, Polsby-Popper. And it has less instances of fracking where two or more noncontiguous pieces of a parish are within the same district than the enacted map and alternatives here. In other words, members, this map is a better map when graded on the rubric that this legislature wrote for itself in Joint Rule 21 and the redistricting criteria accepted for decades by the federal courts. As Governor Landry acknowledged yesterday, we are not here to debate the merits of our case or whether black voters should have a map of two majority black districts. The court has already decided that and ruled in our favor. We are here to talk about what that map will actually look like. I want to thank Senators Price and Duplessis for their leadership in carrying this map and their commitment to a fair process and true representation for black residents in this state. They have stood with us and with our clients from the beginning of this process. I will now turn over to Senator Price to explain the map further.

SENATOR ED PRICE: Thank you. As you can see, at this time, we're going to want to bring the map up. Okay.

CHAIRMAN FIELDS: Duplessis, Senator, why don't you just grab that chair and let sergeant [INDISCERNIBLE 00:23:15]? We have a sergeant so sue can sit right next to you. Thank you. You may proceed, senator.

SENATOR ED PRICE: Thank you, Mr. Chairman. As you can see on this map, Senate District 2, which is the present minority district runs from Orleans Parish through St. Charles, St. John, St. James, Ascension Assumption, Iberville, and portions which is new of St. Martin. The other district, District 5, actually runs from the bottom of the boot here from St. Helena, take a little bit of Tangipahoa, East Feliciana, East Baton Rouge, West Baton Rouge, Pointe Coupee, St. Landry, West Feliciana, Avoyelles, Concordia, Catahoula, Tensas, Franklin, Madison, Richland, East Carroll, West Carroll, Morehouse and that's basically how the present district runs down from North Louisiana all the way into the Florida Parishes presently. But a big difference there, is it picks up portion of East Baton Rouge and West Baton Rouge. District 4, of course, remains basically the same. It represents Northwest Louisiana and District 3, the southern portion from Rapides to the Cameron of Amelia and Iberia area.

[00:25:00]

One is the Orleans, the coast area and goes into St. Bernard and Orleans also. The maps at this time, population we've talked about making sure that we stay within the deviation. District 1 has 507,988 whites with 144,750 blacks. District 2; 776,287 with 275,643 white and 415,880, which is 53.73% black. District 3; 776,249 with 555,655 white, 154,675 at 71% white, 19.9% black. District 4 is 776,310 with 455,308 white, 58% 262,042 with 33.75% black. District 5; 776,309 with 310,229 white or 39.9%, 424,358, 54.664% black, and District 6; 776,286 with 552,819 71% white, 141,414 and that's 18.2% black. So those are basically the numbers for the district.

[BACKGROUND CONVERSATION]

SENATOR ED PRICE: Okay, the next is voter registration. In District 1, we have a percentage, 75% white and 15% black. District 2 is 39% white and 52.9% black. District 3, 75% total registered voters with 79% black and 16.3% black. District 4 is 65% white and 30% black. District 5 is 43% white and 53.479 black. And District 6 is 80% white, 14% black. And the others to make up the 100%, is other voters. At this time, I think we can start to take some question, because we can go over all these numbers if you want, but we'll start to take the question.

CHAIRMAN FIELDS: Why don't you have your guest to your right to introduce herself and we'll start taking questions. Unless she would like to make some opening comments.

SENATOR ED PRICE: No, hit it back. You turn it off.

VICTORIA WENGER: All right, I think its officially afternoon, so, good afternoon, Chairman Fields and members of the committee. My name is Victoria Wenger and I'm an attorney with the Legal Defense Fund and a very proud representative of the Robinson plaintiffs, many of whom are here today.

CHAIRMAN FIELDS: Thank you very much. I have just a few questions, Senator Price, I'm familiar with this map because it's similar to the one that we had in the last redistricting session. In terms of splits, this map splits 11 parishes, is that correct?

VICTORIA WENGER: That's correct.

CHAIRMAN FIELDS: And the present congressional plan that we have that members are running under today splits 15 parishes.

VICTORIA WENGER: That's correct.

CHAIRMAN FIELDS: So, this map splits less parishes than the present map?

VICTORIA WENGER: Correct.

CHAIRMAN FIELDS: The deviation, which is another important factor. Your deviations are in line, I think your highest deviation. Your highest deviation in this plan is minus 43, is that correct?

[00:30:05]

ATTY. VICTORIA WENGER: I believe the statistic I have for the deviation is 67. So essentially 67 people between the lowest populated district and the highest populated district. Just for a point of context, the bill that originated, or the version of the map that was put in comparison in our record in the case compared to the enacted map at the time had 61 for the deviation. The difference here, the slight adjustments that have been made between the map that's been in the record before the courts and that had several versions that have been before this legislature before the prior your predecessors, that map has just been updated to reflect precinct changes in the past year or two or three, wherever we're at now. So this has a deviation of 67. The enacted plan has one of 65. In its original form, we had a deviation of 61, but all essentially trying to get as close to that one person, one vote principal.

CHAIRMAN CLEO FIELDS: All right, so your overall range is 67. And how does that compare to the map that's enacted today?

ATTY. VICTORIA WENGER: That is just within two people?

CHAIRMAN CLEO FIELDS: Lastly, in terms of Senate Bill 4, it creates two majority minority districts. One in district two, which is the present minority district, and that voter registration is 52.9. Voter registration.

ATTY. VICTORIA WENGER: The map provides us with multiple different statistics. There are voter registration numbers. There's also the black voting age population, essentially the population of Louisianans from one race or another who are above the age of 18, so qualified to vote whether they're registered or not.

SENATOR FIELDS: So I think it's 52.9 in voter registration.

SENATOR ED PRICE: Yeah. Registered black.

CHAIRMAN CLEO FIELDS: Registered black. And then population is 53.5.

ATTY. VICTORIA WENGER: The total population, is that what you're referring to?

CHAIRMAN CLEO FIELDS: Yes, ma'am.

SENATOR ED PRICE: 53.5. That's correct.

CHAIRMAN CLEO FIELDS: All right. And now let me go to District 5. You have a voter registration of 53.4?

SENATOR ED PRICE: Yeah, 53.479.

CHAIRMAN CLEO FIELDS: And then you have a population of 54.6. Is that correct?

SENATOR ED PRICE: Yes. That is correct.

CHAIRMAN CLEO FIELDS: So my only question is, do you think that this complies with any court order that this legislature is under today?

SENATOR ED PRICE: I certainly do think that it complies with the court order, Senator Fields. We've looked at this map and we studied it, and we based on what the court ordered, and that's why we filed it the way it is. We think it meets the court order.

SENATOR FIELDS: All right. Thank you, senator. I have no other questions. I'm now Senator Carter for a question.

SENATOR CARTER: Thank you, Mr. Chairman. Thank you, Senator Duplessis. Thank you, Senator Price. And thank you to the legal defense fund for not just your work on this legislation and especially to the legal defense fund for helping get us to this point of having the court order and having us into session to do this important work. I believe Senator Fields, the chairman, asked most of my questions, but I just want to ask a couple of questions to make sure. The map that you're proposed, it creates two African-American majority districts in the state of Louisiana?

SENATOR ED PRICE: It creates two minority majority districts. Yes, sir.

SENATOR CARTER: And they both perform as two. And you're nodding, but yes.

SENATOR ED PRICE: Yes, that's correct.

SENATOR CARTER: And when I say perform, what does that mean for those who actually run, I'm looking at you, the legal defense fund? When we hear that, does it perform as an African-American district? What does that mean? Is that calculated any sort of way? Is it analyzed any sort of way? You can help us explain how that's done.

ATTY. VICTORIA WENGER: Absolutely. So we have a very thorough record on this. In the court, we had a PhD, Dr. Lisa Hanley, who has essentially gone, and she's recompiled the results of prior elections and superimposed those on the districts that we have here. So she was able to analyze 15 elections at that primary stage and then nine elections where you're looking at the outcomes when you're putting the candidates of choice here in the elections that she analyzed, black candidates. But truly, we're looking at who is the candidate of choice of the voters, black voters here, who we represent in contest with the candidate of choice of white voters here, white candidates as well.

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So in 15 primary elections and 9 runoffs, she was able to analyze what the results would be on our district lines. In District 2, the current black majority district represented by Congressman Carter. In these elections, in all of the 24 that she analyzed, the candidate of choice of black voters was elected 100% of the time. So 24 out of 24 elections. If you were using these district lines and looking at the outcome of those elections that have happened. So, many of these are statewide elections looking at secretary of state or governor or other offices where we have votes for each and every precinct within the configuration of the districts as they've been drawn here 100% of the time.

SENATOR CARTER: And let me pause you. That's 100% of the time for District 2, which is current congressional.

ATTY. VICTORIA WENGER: Correct. As we reconfigured here, which, yes, it will bring down the black population. It'll look different than the district that it's drawn as right now. But maintaining that majority, black population, not only as a total population or a registered voter population, which were the metrics presented before, but the black voting age population, which the court is often looking to. That's the primary metric we're using here. Here, we have a black voting age population above 50%, lower than its current percentage, but still 100% of the time on those elections, black voters were able to see the candidate that they want win.

SENATOR CARTER: And let me ask you, so 100% of the time performance for District 2. The other district that's created will be District 5, the third African-American majority seat. Did you run the performance numbers on that one as well?

ATTY. VICTORIA WENGER: We certainly did. We did for all six districts. But let me talk about District 5, the real one in question here. In the 15 primary elections here, 86.7% of the time, black voters saw their candidate of choice succeed. Looking to the later elections, between, in two candidate contests, 77.8% of the time, black voters were seeing their candidate of choice succeed. I'll note that once you get to that runoff scenario, those nine elections in the remaining of the districts, you're very rarely, if ever, seeing black voters have their candidates of choice elected. But in District 5, an opportunity is created here that just has not been recorded in recent history and certainly is not provided under the currently enacted map.

SENATOR CARTER: Thank you. Thank you for your questions. Thank you, Mr. Chairman.

SENATOR FIELDS: Thank you, senator. Senator Jenkins.

SENATOR JENKINS: All right. Thank you, Mr. Chairman. And let me start off also by just expressing my appreciation for all the hard work that has gone into this effort. I said in my opening comments, well, my introduction, that I served in-house and governmental affairs. So I was very much a part of the redistricting process over there, served with Senator Duplessis, who was vice chair of our House and governmental affairs committee, and certainly want to salute you, sir, on your leadership once again. We touched upon it somewhat, but I just want, just for the record, if we could, can you expand a little bit on the motivating factors behind this particular map?

ATTY. VICTORIA WENGER: Certainly. So I can speak from the perspective of the litigation, and again, where the map was a teeny, tiny bit different because this one has been adjusted for precinct lines and updates since our phases of litigation, when this map was introduced jointly by parties involved. But we had our incredible map drawer Tony Fairfax, who's been credited by courts for decades now testified before the district court about his process of drawing a map. And he spoke to balancing principles, to really looking at joint Rule 21, the rules of the game that the legislature here enacted, but also what courts have sustained for decades now. We really look at the rubric provided by Thornburg v. Gingles, which was upheld in Allen v. Milligan just last year. The Alabama case, very analogous to this one before the Supreme Court and argued by my colleagues at LDF. So he was able to provide in his analysis, and this is all in the public record. I can provide it, or you can find it there. A comparison on eight of the quantitative measures for redistricting that really put in joint Rule 21 into numeric measures so that you can see a side by side of this map compared to the enacted map or any of the other maps that were presented or argued either as bills or amendments during prior redistricting sessions or in the session that we were reconvened for today. So we can first talk about population deviation. At the time that Mr. Fairfax was working on this map, we spoke to this earlier, he was able achieve a deviation of only 61 people HB1 have a deviation of 65.

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Both maps were able to comply with the principle of geographic contiguity. That's the idea that you don't have one pocket of a district over here and the other pocket over here. Everything is connected by land or waterway. You can get from one point in a district to the other without

needing to go through another district. Both were successful on that, but he was ensuring that he was complying with that principle. Parish splits is a huge one here and my colleague, Jared, spoke to it earlier. Mr. Fairfax was able to get parish splits down to 11. We've seen very few bills here, or in other phases of the process that we're able to keep so many parishes whole. And in Louisiana, that's a huge deal. If you do anything on elections, voter registration, and I know each one of you all do, because you have to run for office. That's the level at which elections are administered. Ballots are often built at that level. But you also see school boards, administration, all these other elements of civic and public life really codified around that parish level. So keeping parishes whole was a huge guiding principle here, but again, balanced with all of these other dynamics. In comparison, again, HB-1 split 15 parishes. VTD splits, that's a fancy census way of saying precinct splits. This legislature is very committed to making sure that number is zero, both maps achieved that. Census place split. So that's another fancy term for municipal splits, but also accounting for unincorporated areas. It's really what's your hometown and is it encompassed in one district or cut up into multiple. Mr. Fairfax was able to get it down to 27 splits in comparison to HB-1, the enacted maps 32. Landmark splits. So this is where we're talking about airports, cemeteries, parks, schools, churches. How many times are they sliced and diced into multiple different districts? Mr. Fairfax had it at 58. Same number for HB-1. Now let's get into compactness. The layman's way of analyzing compactness is something very scientific called the Eyeball Test. How does it look? Do the district lines look silly? Do they look like they have a bunch of tendrils going in one direction or another? Just illogical if you're taking any kind of rivers or other things that may also wind and bent out of the equation. What's that eyeball test? You can run the eyeball test for yourself. If I was offering my opinion here, I would say that our map looks much more compact than the enacted map that voters are participating on to this day and represented under right now. But we also have some math to back that up. And specifically, Mr. Fairfax was looking at three tests, which again, my colleague mentioned earlier, the Reock Test which calculates the ratio of district area to the smallest circle containing the district. So draw the district and try to have a circle encompass it, you can run some numbers to see what that ratio is. You have the Convex-Hull Test, which determines the ratio of the area of the district to the convex-hull area of the district. And then finally, the Polsby-Popper Test, which calculates the ratio of the same area of the district to the area of a circle with the same perimeter. So here your goal is to get as close to one as possible. And I'll give you the numbers for Mr. Fairfax's map and then the enacted one. He was able to get to a compactness score of point 0.4, 0.2 and 0.7 compared to HB-1's 0.37, 0.14 and 0.62. In easiest terms, this map that we're presenting here today beats the enacted map and many of the others that it was up against throughout the multi fold processes we've been before the legislature during it outperforms on every measure. So compactness is another check in favor of this bill. And then finally, Fracking, which I know can mean different things in different contexts. But here fracking is whether or not discontiguous parts of a district are or of a parish are populating the district. So essentially, how are things being sliced and diced. Here, Mr. Fairfax was able to get the number down to 12. Again, lower the better versus the inactive plan at 17. So that is 8 quantitative measures where at worst this map is exactly the same as the enacted map and at best it is well outperforming it. But on one measure which is listed towards the top, if not at the top of Joint Rule 21, and a guiding principle for how redistricting comes into play is compliance with Federal and State Law. And one of those Federal Laws is the Voting Rights Act of 1965, including Section 2, including the promise that black voters where there's an opportunity to create a second black majority district

or any additional majority districts that give black voters an opportunity to elect their candidate of choice where it is possible, we're number one, and this is the Jingles Test.

[00:45:03]

It's possible to draw a map because that population lives geographically compactly enough to be able to draw the district. So again, this is not about just some ratio, it's not because black voters are 1/3 of the state that they inherently get another black majority district, it's because of where they live, it's because we've seen multiple maps presented here in these chambers and in front of the courts that showed it's possible, it's easy, and in fact, you can do a better and comply with all of these other measures, better wills doing that, then passing the map that you all have enacted here and that voters are operating under today. So number one, is it possible. Number two, is it necessary. The Voting Rights Act looks to voting behaviors. It's asking in the second part of that Jingles test, if the black voters are voting cohesively, if they really have a voting block and shared interests and community and needs based off of legacies of discrimination, but also contemporary realities. And then two, are white voters, the majority population voting in the opposite direction. So unless you create a geographic majority, black voters or whatever the minority population is are just not going to see their candidates of choice elected. Those conditions exist here. This record is replete with examples, including ones filed finally from across the aisle here that show it's possible to create another black majority district. And we know from Dr. Lisa Hanley's analysis and other record evidence before the courts that it is necessary because of patterns of racially polarized voting in this state. If those elements weren't here, we wouldn't be in this place. There's a future where maybe those elements subside where the state is more integrated, where the politics are less divided by race. We are not there yet. So we're in this situation. And so what we have here is a map that complies with the Voting Rights Act of 1965, that has withstood that test of jingles, which has now been in play wills, we had to see that test sustained through Allen V. Milligan and the Supreme Court of the United States. All of these factors bring us to today and bring us to this map which is well vetted by the courts and which a lot of folks in this room have been really excited about for many years now. So I'll leave it at that. But the point is, this map complies with the Voting Rights Act, and we hope that you can get on board with it.

SENATOR JENKINS: Great answer. And much needed. Thank you so much for that information.

ATTY. VICTORIA WENGER: Thank you.

SENATOR JENKINS: Senator Price, you mentioned about the roadshows that took place. You went to a larger roadshow.

SENATOR PRICE: Yes, went to all of them.

SENATOR JENKINS: All right. and I went to a majority of them myself. And would you agree with me that there was a broad cross section of the community at most of those roadshows talking about redistricting?

SENATOR PRICE: Yes.

SENATOR JENKINS: All right. Do you feel like this particular map represents the voices of the people that we heard, regardless of race, color, creed at those roadshows?

SENATOR PRICE: It absolutely does.

SENATOR JENKINS: And Senator Duplessis, you know when we are drawing these maps, we're not just drawing them, just drawing two minority districts, am I right?

SENATOR DUPLESSIS: Correct.

SENATOR JENKINS: What we have to do is present a map that contains all of the geography of Louisiana.

SENATOR DUPLESSIS: That's correct.

SENATOR JENKINS: And do you feel like this map adequately represents all the geography of Louisiana, and the community of interest, the very community interests that take place in different parts of the state?

SENATOR DUPLESSIS: I do. Yes, sir.

SENATOR JENKINS: All right. Thank you for your answers and for the information. I think it was something we needed to discuss and make sure that it's in a record. Thank you, Mr. Chairman.

CHAIRMAN CLEO FIELDS: Thank you, Senator Jenkins. Now we'll go to Senator Reese. Before we do, let me say that there is an overflow room, Room E, that the sergeant at arms have opened up, so those individuals who are in Room E now, when we get to the testimony, we'll call you and if you hear your name, you can come. Senator Reese.

SENATOR REESE: Thank you, Mr. Chairman. Senator Price, thank you for the work that you put into this. Certainly respect your time and effort in it. I would like to take a moment though to point out my reservation about this map and it's not one that I've pointed out in similar drawn maps before. For me, it's difficult to abandon one set of standards for the Voting Rights Act to accept others. And district three, we split in Vernon Parish, the state's largest single federally owned asset in the state of Louisiana, which is a military installation. So that that is now fully consumed in District Four. So not only do we abandon our continuity representation, and a well-defined community of interest from a federal standard.

[00:50:00]

We personally believe in congress' primary responsibility as the national defense of our country. That is a strong, very strong community of interest. They're occupying about half of the land mass of Vernon Parish and currently encapsulated within one congressional district in one area of responsibility. In addition to that, when the map is drawn in the fashion in which it is, the housing for the military installations captured in District 3 while training lands are captured in District 4. And so, you have a population there of nearly 8,000 to 10,000 people that would be counted in the population but who do not typically register to vote in the State of Louisiana. And so, it's for those two reasons and I've articulated this before. I had really good discussion with the chairman as a matter of fact during our last round of redistricting about this topic. I'll continue to listen to the debate and again appreciate the work put into but I just want to voice serious reservation about the split of that strong federal community of interest in the way that we manage Vernon Parish in this version of the redistricting map. Thank you.

CHAIRMAN CLEO FIELDS: Thank you. And thank you for your concern. I think when we look at it, we had to have some split for population reason and that's why that area right there does constitutes a split. But we have less split than we have right now in enacted map and I know probably an enacted map stayed whole. But because of the population and the deviation and trying to make sure we have the minimum amount of deviation, that's the way we had to do it.

SENATOR REESE: There's no perfect way to define the areas that you have to make those divides. I just have to express what I believe is serious consideration for that community of interest, continue the representation in that large federal asset in that area. Thank you, Mr. Chair.

CHAIRMAN CLEO FIELDS: Thank you, Senator Reese. The Board is clear. I want to thank each of you for your testimony. We're going to announce or taken some testimony from the public. I do have a state representative here. We'd take her. Do you wish to be heard? Yes, we're going to hear the state rep. You want to be heard now? First, let's hear from Senator Jackson and then Senator Marcelle, if you would come to the table as well. And then, we'll start taking public testimony. First, Senator Jackson wish to be heard. So, Senator Jackson, you recognize and then we'll hear from Representative Denise Marcelle. Senator Jackson.

SENATOR JACKSON: Thank you, Senator Fields and members of the committee. Mr. Chairman, I want to first thank you for your work not just today but throughout this entire process even from last term and what you've done to try to create a fair and equitable districts and this committee. We're under a duty, I understand, of the court but I must come express my concern that while North Louisiana is ice stun, our legislative assistance cannot even get to our offices to our constituent databases. Some of our constituents do not know that we're here today and in the process of redistricting, I want to express my strong opposition that this body continues to meet while North Louisiana, specifically for me, Northeast Louisiana constituents cannot come and give their testimony nor can we communicate with them as we normally would through our office process to give them the maps that we received on yesterday. I know that this legislature has attempted not to act in a clandestine way and we're up against a clock of a court order, as well as this ice storm that Northeast Louisiana and I think Northwest is experiencing. However, in redistricting, the constituents input is paramount to understand the communities of interest for me and how our constituents feel. My constituents, Northeast Louisiana constituents,

cannot be here now. And worse than that is that our mechanisms and our databases for communicating with them are in offices that our staff cannot reach. And for that reason, Mr. Chairman, in a very respectful way for all of the work that you and other committee members have done. It is my hope that at some point the resolve would be for this legislature to at least ask for an extension of time based on this ice storm that we cannot effectuate the goals of the order because I agree with the court order. Let me say that. I firmly agree with it. That fairness must prevail. However, in fairness, how fair is it for my constituents not to be able to look at maps that I have to vote on.

[00:55:01]

Because if I can't hear from them, how do I take a vote that's in their best interest. And so, I know this is not idea, right? And I know that no one could have planned what is happening in the North Louisiana, in Northwest Louisiana, Northeast Louisiana but our constituents have not seen these maps. And usually, I have a database of 4,000 or 5,000 constituents and you noticed about me, Mr. Chairman, you worked with me long enough that I would've sent out and said, "These are the maps that's introduced." You at home, "The data is great. Please look at them. Communicate with us. Let's get on Zoom and talk about them." But as I come today, a couple of my more learned constituents about the process have called and expressed concern that if they wanted to there was no way for them to get in their car and drive here and express concerns they have with some of the maps that's been introduced. And for that reason, I believe and I may stand alone in this belief that those attorneys who represent us and the state and others who support the legal defense on point should have at least asked for an extension so our constituents could take part in this process. I do not believe maps should be passed in a way where our constituents can't get here. What I don't want to happen is, and I think every senator and representative from my area should feel the same way or any area this iced in, is that maps are passed and we go home and our constituents gain knowledge of it are their path and the time to speak to the senators who are elected to represent them is over because the maps are sitting in the house and that's the place I found myself in today and I have to speak up for those constituents who can't be here and don't know what's going on. And that's with all due respect to all of your hard work because I greatly appreciate it Mr. Chairman and I agree with the court's ruling. I just think that we're up against a clock that may be ticking to a point where our constituents cannot participate in the process. Thank you.

CHAIRMAN CLEO FIELDS: Thank you, Senator. Comment will be noted for the record. I mean, as all of us know when the governor made this call, no one knew, at least I didn't know and I don't think any member of this committee knew, that we would be in the conditions that we're in now but we are against a mandate from the courts and you can take that up with the president.

SENATOR JACKSON: I've expressed my concern to the president. That's why great deference to the committee chairman and its members, that at some point both parties in this lawsuit should consider that and I wanted that to go on the record. That no one could have known this ice storm was coming but our goal is to effectuate the goals of the people and the wishes of the people and represent them. And if our people can't be here, then I think it's only

incumbent upon those in leadership to ask for that extension until such time as half of the state can come because right now half of the state is iced in and can't be here. Thank you.

CHAIRMAN CLEO FIELDS: Thank you, madam. I mean, Senator Jackson. Now, we hear from Representative Denise Marcelle who wants to be a senator. I'm just teasing.

REPRESENTATIVE DENISE MARCELLE: Is that right?

CHAIRMAN CLEO FIELDS: I'm just teasing. Please, proceed Representative.

REPRESENTATIVE DENISE MARCELLE: Thank you for the promotion. I appreciate it, Chairman, and thank you Senator Price and Senator Royce Duplessis for putting on this SB4. I certainly appreciate it. I thought it was important that I come over because I have the same identical map on the house side. I don't believe in duplicating things, so I'm going to park my map on my bill until I see if this bill moves forward. I do want to go on the record with my testimony though that I believe that this map represents communities of interest. I believe that District 5, the new district that's being created unites the Baton Rouge with the Delta, Monroe, Alexandra, and St. Landry and I think that's important. You know, when we attempted to address redistricting a few sessions ago, we found that Baton Rouge had growth. To me, it made perfect sense that Baton Rouge would have its own congressional district. We added population. Others lost population. So, I thought it was a great thing to create the district where Baton Rouge would have representation and that's important because there are some goals that we had to achieve with a fair map given African-Americans an additional seat. There is a need to unpack Black voters. And in my opinion, the current configuration is a map where we have compact voters. Black voters particularly.

[01:00:03]

And so that leaves us with the one district. One of the things that I thought about as I came up here that there is a history of voter suppression in Louisiana. I started thinking back about why did we actually have to do this and I started thinking about before, we used to have a pre-clearance method that we had to take up, but that was removed by the decision of Shelby. That was the protection because it appears that this is not the first time that we could not do what was right in Louisiana. I listened very intently in H&G today as we talked about the courts and I know we're on the congressional map, but it's the same thing. We have not fixed the map of the Supreme Court in over 100 years. Think about that just for a moment. 100 years we have not done it. Hence is the reason we used to have the protection when we were doing redistricting, but that has been again removed. As we go through this process for the third time, for the third time, I just want you all to remember that a third of six is two. If the shoe were on the other foot, would you want a second congressional district? Know, the district are not going to be idea of what everybody wants. Somebody is going to lose something. This is not about a person. It is about the entire Louisiana. And until we can see it that way, everybody has to have a seat at the table and have proper representation, and until we do what's right in Louisiana, we always going to be in the back. I don't want to see us do that. My ideas may be different from your ideologies, but I should have a seat at the table or I should be able to go to Congress and fight for the people

in my district. I shouldn't be outnumbered unfairly. I should be able to do what Section II provides. And so that's why I came to give my testimony in support of this map. We have failed to do what's right. That's why the courts have ordered us to do it. And some of us are still saying we don't want to do it. We want to defy what the court's opinion is. We don't want to look at facts. We want to look at what we believe should happen so we can have the control. It's not about one party having the control over the other. It's about what the constitution says and it provides, and the Voting Rights Act was clear. Of course, we had to fight for that as well so that we could have a seat at the table and represent our people. I think we need to do what's right. I think we need to pass this map. It is the best representation that I've seen of fair maps for the congressional district. Let's do what's right. Let's not let Judge Dick have to do what our job is, which is to create a second minority-majority district. I beg of you to do the right thing. Thank you.

CHAIRMAN CLEO FIELDS: Thank you very much. Members of the public, please keep your opinions to yourself. But thank you very much, Ms. Marcelle, for your testimony. Now we're going to now go to public testimony. I know I saw Press Robinson, are there any other plaintiffs? I take you off first and then we'll take -- will all the plaintiffs just come? I know Press Robinson, you first up on my list, and just identify yourself for the record and you all may proceed. I'm sorry, Devante. Commissioner Davante Lewis I forgot. Identify yourselves for the record and you may proceed however you so desire.

ASHLEY SHELTON: Good afternoon. My name is Ashley Shelton and I'm the Founder, President and CEO of the Power Coalition for Equity and Justice.

CHAIRMAN CLEO FIELDS: Identify yourself and you may proceed.

ASHLEY SHELTON: I'm sorry, thought we were going to all go. I'll introduce myself. You know, I kind of changed my talking points up today because as I sit before you, I'm a little tired.

[01:05:00]

We have been moving this process, working with community, educating community for over two years. And actually, for us, we've been doing this since the census. We've been working with communities across the State of Louisiana and I think it is unfortunate that fairness is a concept that evades us here in the legislature. And so as we sit here today with one more chance to do what's right, I hope that we find a pathway there. Because what is true is that for many of the plaintiffs, what I'm clear is that if we can't get our map through this session, then Judge Dick is going to give us a second minority-majority district. And what I do know too, is I've traveled the state. We have worked on this process starting with the roadshows. Hundreds of folks participated in the roadshow stops across the state. We trained, talked to, worked with communities. We also had unprecedented citizen participation within the redistricting process. We know that at least on one day there were over 300 green cards, which you know are affidavits. So these are Louisiana citizens and other folks from our legal team, from outside the state as well who said that they support this map. And they think that today we have some community with us. Certainly the weather put us in a position to not have as many people be able

to join us, but what we know is that the theme that has been clear is that across those roadshows and throughout all of the redistricting sessions, the veto session and the sessions that would follow and court that at the end of the day, people want a fair map. And the people have said it time and time again and here's what I think is important around what is important to understand around African-American voters. When we were in that first session around redistricting, African-American voters from all over this state, folks that would not even benefit and would not even live in the two or three potential districts that could be created, understood that they wanted to have one more voice in Congress that reflected their experiences, their values, and fighting for the things that matter to them. For example, the infrastructure bill that was basically our entire delegation with the exception of Congressman Charles Carter was voted down, was not voted for by our delegation. And so in the second poorest state in the country, I am always confused around why we are voting around political lines that are voting for the needs and the interests of our people. I also want to talk about the cohesion of this map. I support this map because it does something that I think is very true for all of the parishes that are included in the new district. All of the areas that are included in the new district, it is composed of all of the communities that are overlooked in the current districts where they exist, whether it's North Baton Rouge, the Flora parishes, or the delta. We find that all of those communities are not centered in the districts that they are in. And so this would be an opportunity for these communities to actually have a voice. And we also know that these communities have rich culture and history, but also have some of our lowest life indicators, whether it's life expectancy, maternal mortality and other issues. And so these are things that we can fix not only at this legislative level, but certainly at the federal level and they need that attention. So for me, this is really just an opportunity to, again, affirm what I have said now for the last two years, which is you know, fairness isn't complicated, and I think Representative Marcelle said it best. We're not going to all get what we want, but two districts should -- I think we've shown both through the original session that there were eight different maps that showed that it could be done eight different ways. And here we are again, looking at a number of maps, including ours, and proving yet again that it can be done. And so with that, I will conclude my testimony and certainly allow my other plaintiffs to speak.

CHAIRMAN CLEO FIELDS: Thank you very much, Ms. Shelton and for brazen this cold weather and coming here. Mr. Robinson, please identify yourself for the record, please.

PRESS ROBINSON: My name is Press Robinson. I'm one of the plaintiffs in the Robinson v. Landry litigation related to the redistricting of its congressional boundaries. Pursuant to of course the 2020 census, by law, the Louisiana Legislature is responsible for redistricting a number of districts for the state, but none more important than those for the US House of Representatives.

[01:10:04]

I hope that the legislature will not repeat the mistake of the past by denying Black citizens of the state their rightful opportunities to elect representatives of their choice. Now, according to the 2020 census, Blacks represent approximately a third of the state's population, and they live close enough together to easily create two majority Black districts. Easily to create two majority Black districts. You know, it's really unfortunate that here we are today, amidst the celebration of Martin Luther King's birthday, fighting for rights that we thought had been earned in 1965 with

a passing of the Voting Rights Act by the US Congress. That's almost as old as I am, and yet here we are still fighting today for those same rights. But because you are the elected officials with the responsibility of joining the congressional districts, I strongly, very strongly urge you to live up to your charge by adopting a lawful map and thus avoid a court imposed remedial one. The map represented by SB 4 is plaintiff's offering, and it balances traditional redistricting principles, including those articulated by the legislature here in the State of Louisiana as the top priorities for this redistricting session, as well as uniting communities with common interests. But perhaps just as important, the passes of SB 4 is the clearest route, the clearest route to ending the Robinson litigation. Thank you.

CHAIRMAN CLEO FIELDS: Thank you, Mr. Robinson. Commissioner, thank you. Please identify yourself for the record.

DAVANTE LEWIS: Yes, sir. Good afternoon Committee, and thank you, Mr. Chairman. My name is Davante Lewis. I proudly serve on the Louisiana Public Service Commission, representing the third district which includes 10 parishes here in the State of Louisiana, primarily East Baton Rouge Parish and Orleans Parish. And as you can imagine, I was up late last night ensuring that most of my constituents did not lose power. Their power was restored. But when my grandmother called me this morning to check on me and we had a talk, she reminded me of an old hymn that she would sing in church about how I feel this morning. And she told me to wake up this morning with my mind state on freedom. And so that is why I'm here. That is why I am a plaintiff in this case, because we have been asking to be free for too long. Senate Bill 4 presents a plan that complies with the Voting Rights Act, keeps community of interest in the State of Louisiana together, and allows us, as Louisiana finally an opportunity to join as one and do something right for our people. I'm often reminded by what St. Augustine said, which is, we love the truth when it enlightens us, but we hate it when it convicts us. And the truth is, the map that we passed into law showcased that we did not put the best interest of Louisiana first. This map in Senate Bill 4 gives us the opportunity to do what is right, to do what is just, and to give every Louisiana the opportunity to be heard and their voices be recognized in these elections. I appreciate what Senator Jackson said, as we would have had more people here had the bad weather not been, but I would be remiss not to remind the Committee that the judge gave us until January 30th to pass a new map, not until January 23rd. There are still seven more days that we can do it. But we all know, I'll admit we wanted to go to Washington Mardi Gras, but I think if we can't get this done in the next few days, instead of leaving our responsibility, we should not travel to DC, we should not go to balls, we should not go to the events, we should stay here and do the work of the Louisiana people.

CHAIRMAN CLEO FIELDS: Members of the public, please do not show any expressions.

[01:15:03]

If we do it again, I may have to have the sergeant at arms, so please work with me. You may proceed.

DAVANTE LEWIS: Thank you, Mr. Chairman. I will say in conclusion, my fellow plaintiffs and I have worked tirelessly and we appreciate the work that we know you have done. Looking at models and districts, looking at how we can do this, and we strongly believe this is the best path, the clearest path, the legal path to getting it done, and I'll end with the reason why I put my name on this lawsuit was not for anything of personal self-gratification, but because I'm reminded of what my grandmother always taught me which is, when you get to judgment day, you will not be judged by what you personally accomplished in your life, but you will be judged by where you stood in relationship with those in despair. And there are people in our state who felt they are in despair because their voices haven't been heard and I would not do my job on this Earth if I did not stand with them. Thank you, Mr. Chairman.

CHAIRMAN CLEO FIELDS: Thank you, Commissioner. Appreciate your testimony. And the last plaintiff, please identify yourself, ma'am.

DR. DOROTHY NAIRNE: Hey. My name is Dr. Dorothy Nairne, and I'm a plaintiff in the case and I am here on the shoulders of my ancestors who are from this region, from Assumption Parish, so I saw Senator Price. That's my elected official. And for me, on a cold day, when we couldn't go outside and somebody was misbehaving, it was like we had to wait until everybody was behaving well and then we could go outside. So I look at that here in Louisiana, where if we, as African-Americans are a third of the population, then when we rise, everyone rises. So when I see this map as a plaintiff, I sign up, because this map represents everyone, and together we rise. So elected officials watch us all rise as we celebrate the saints, as we stand on the sidelines for Mardi Gras and catch beads. Let's all rise together, just like it's Mardi Gras every day, so that our least thought of members of our community in places like Napoleonville have some opportunities. The despair that I see around me every day in Assumption Parish, it's weathering and I just moved back here. So just to give a little background, I lived in South Africa for 20 years and moved back here to Louisiana in 2016, and it's been really difficult where I don't see the opportunities for my people. I don't see how we can elect ourselves. I don't see the answers for my people where I live. But one step in having answers and solutions which we have ourselves would be in the passing of this map. So instead of putting more energy into maps, we can put our energy, once we pass the map, that makes good sense to the majority of people. We can put our energy into our economic development. So that's what we're here for and we represent a whole lot of people who together are talking about glimmers of hope, whether they're being snuffed out or whether they're being lifted up. So lift us up, because together we can go outside. Together we can win something. And this map is a step towards our together, Louisiana together. Together, we thrive together.

CHAIRMAN CLEO FIELDS: Thank you very much, ma'am, for your testimony. Let me thank all the plaintiffs. We appreciate you all coming here in this tough weather. We only have now nine other individuals who wish to be heard on the bill and we have one person who wished to be heard in opposition, and I'm going to put everybody cards in the record. Let me first take -- is this Jacqueline [PH 01:19:12] Germany? If you're here and you still wish to testify, you may come forward. And Carlos Pollard, Jr. with Power Coalition. If you're still here and you wish to testify, please come forward. And Morgan Walker, if you are still here, you may come forward and you may testify. Please identify yourself for the record and you may proceed.

JACQUELINE GERMANY: Okay, first, good afternoon, Chairman Fields and other members of the Senate Committee. My name is Jacqueline Germany, and I'm a member of East Veterans Parish and Senate District 14. Your district Senator Fields.

[01:20:00]

CHAIRMAN CLEO FIELDS: Welcome to the committee. And this is the most important witness I want every member to pay attention to. Please proceed.

JACQUELINE GERMANY: I have lived and worked in Baton Rouge, East Baton Rouge Parish for 74 years and I'm very proud of that and I'm a very active member. Today, I come before you do with members of the community and other groups and coalitions at Lord. I also come to speak for those who are afraid to speak. I come to speak for the voiceless, the ones who feel like their voices cannot be heard. Today, I urge you to keep my community together, to give us fair representation. Since the beginning of the redistrict process beginning with the roadshows which I attended, and I testified, and I've come before senate committees and testified and given you my opinion as to how I feel. We need fair representation. I need to feel like my voice is heard, that I have a part of the process, that I have a right to have. For far too long, justice had been denied and I have something that I use to say and sometime I back up from saying it but I'm sick and tired of feeling like I'm not a part and we are not a part of the process. My community deserves fair representation. We deserve to be heard, to be a part of everything. Not to sit back and look over and feel like I'm not a part of that. I work in the community trying to encourage people to vote and it's hard because they feel like they don't have a voice, that their voices are not being heard, that they're not a part of the process. You all have an opportunity to give us a chance, to give us what we deserve and that's fair representation. The time is right to do what is best by giving me, my community and others the right to have a choice. A choice in who we want to serve us and feel like that person understands how I feel, what I need, what my community need and wants. We have values and we have expectations, and we need those things heard and we need those things expressed. Thank you very much for listening to me and please give us fair and equitable maps. Thank you.

CHAIRMAN CLEO FIELDS: Thank you very much. Ms. Germany. Please identify yourself.

CARLOS POLLARD, JR.: Yes, sir. Good afternoon. I am Carlos Pollard, Jr. with Power Coalition for Equity and Justice and a 2L at Southern University Law Center. I am happy to be here, but also tired as Ms. Jacqueline Germany expressed and the plaintiffs because I started off this redistricting process as a redistricting fellow almost three years ago and today, we're still here fighting the same fight and I just came here to express that back in 2022, we mobilized over 300 people to come to the capitol to express their need and their want for fair representation across this state. And yet, in 2024, we still have not received that. And we, again today had planned to mobilize over 200 people. And just in response to Senator Jackson's sentiments earlier, we had planned two busloads of people from North Louisiana to come here today to testify what they want in their state that they live, pay taxes in. So again today, we're in support of Senate Bill 4, and we deserve two majority minority districts in this state.

[01:25:07]

CHAIRMAN CLEO FIELDS: Thank you very much, Mr. Pollard.

MORGAN WALKER: Good afternoon. I'm Morgan Walker, the founder and executive director of Bike N Vote, here with Power Coalition as well. And I just want to reiterate and express some of the things that the community said. Bike N Vote is a Louisiana non-profit organization dedicated to mobilizing millennials in Louisiana to register to vote and get out to vote in an innovative way. I traveled here to express my sentiments to the people Louisiana elected to represent us and vote for us on our behalf. Two years ago, close to this exact date, the first special session was held for the redistricting cycle where over 250 people traveled to our state capitol to urge you all to pass fair maps. To date in 2024, we are urging you to do the same thing we urged in 2022. The numbers have shown as Black people make up one-third of Louisiana population and this session presents an opportunity to create two out of the six congressional districts where Black voters can have their voices heard. Today, I urge you, as a Louisiana constituent, to vote in the favor of the Senate Bill 4. This map illuminates fair representation. Fair representation can lead to real change for Black Louisianans and help improve disparities in education, health care access, environmental safety, infrastructure, and more. Please, on the behalf of your constituents, pass a fair map. Thank you.

CHAIRMAN CLEO FIELDS: Thank you all so very much for coming to the Committee to testify in this inclement weather. Thank you all. Next, we have John Milton, Devon Trey Newman, and Wilfred Johnson. If you're still here, you can come forward. Please identify yourself for the record and you may proceed.

JOHN W. MILTON: Thank you, sir. I'm John W. Milton. I am a resident of Carencro, Lafayette area, and I am here today in support of the Senate Bill 4. I've been out of law school for over 35 years. I've never come to this body, the legislative body, to ever testify. I remember some years ago when I was in law school, 1987, I think it was, and there were some issues of how do we get African-American on the judiciary, and so, I did some research as part of the Louisiana, Martin society and realized the dynamics that required and the state did take some action to set up an opportunity where there would be subdistricts and African-Americans could enter the judiciary and be a part of the process of governing our people in the State of Louisiana. I remember that time, Senator Fields, if you remember, we had a very gerrymandered second district while we had seven congressional seats available in the State of Louisiana before Katrina. And I remember how awkward that was and how crazy it was. Thank God these maps don't look like that. But I say to you that I think one thing that was most important if I had a couple of minutes to say to you is that where I lived, my neighbor on my right was a very staunch Democrat, I'm sorry, my neighbor on my left. My neighbor on my right was a very staunch Republican, and we were all three friends. But when you ran for governor, there was a Mary Landrieu sign, a Cleo Fields sign and a Mike Foster sign. And I'll be darned, when you entered the election, I'm not sure if all the members are aware what I'm talking about, but most of you, I think would that when Senator Fields entered into the runoff against Governor Mike Foster, my

neighbor on the left took down his Mary Landrieu sign when we all walked out to get our newspaper, The Daily Advertiser.

[01:30:00]

And I saw a Mike Foster sign. I'm thinking all of the issues that were on the table, [INDISCERNIBLE 01:30:09], were like this. And Foster was over here, and he looked at me and said, "John, I know how it looks. It looks bad". And he gave me some reason why he would not, as a Democrat, not vote for Cleo Fields for governor, and why he put up a sign, and all of a sudden, that was a republican sign. I'm saying to you that race is a factor. It is undeniable. And while the day after the King holiday, we talk about the move toward integration and one America, one Louisiana, and how miserably a failure that has been, the reality of it. So, if we're not going to go there as a people, then allow the African-American community to have some type of representation so that we can be a part and continue to participate in self-governance and make sure that we are protected in all of the rights that all American should continue to have. So, I simply rise for that purpose to say that the creation of districts that are majority-minority, while is not desired by me or most people in this room, we shouldn't have to do that. It is only a band aid on a bigger problem of white supremacy and racism in America in this state and until we can get to the root of it, let's go ahead on and take care of this and at least show some empathy to all of the people of this state. Thank you.

CHAIRMAN CLEO FIELDS: Thank you, sir, for your testimony. Please identify yourself and you may proceed.

DEVON TREY NEWMAN: My name is Devon Trey Newman. I am an activist and community person from Lafayette, Louisiana. I travel here on behalf of the Village 337 as the president and director of the organization in partnership with the Power Coalition and many other organizations that are here today. We traveled here with a bus of about 30 people from places from Lafayette to New Iberia, Carencro, Opelousas. And we were scheduled to leave at 6:00 a.m. but we waited it out and waited until we had clearance to leave. And so, we are here today. I'm here to support House Senate Bill 4, and thank you all for your time and allowing us to be here. And I want to say that it is disheartening that we are still here today. I believe it was in the year 2020 when there was an attack on the 1965 -- '64, '65 Voting Rights Act. And unfortunately, this is, I believe, part of the problem. We see that this is only -- as the bishop said, putting a band aid on the problem. But as we continue to address these issues, we wanted it to be known that people from across the state of Louisiana are aware of what's happening. Part of the problem that we see too often is that things go on in this great building without us ever knowing about it, without people -- and when I say us, I mean people who live in the community for real. I'm not talking about those that wear suits like we all have on most of the time. I'm talking about the ones who struggle to make ends meet. I'm talking about the ones who are going to be affected mostly by how the resolve of this is. We hope today that this can be resolved and that it doesn't have to go back to the courts, because we know that that means that somebody's going to be making a choice for black people once again in Louisiana. And we are sick and tired of other people making choices for us and being pushed in corners like we're being pushed in today, that we have to choose when most of the state or most of the people who want to be here cannot be

here. We actually were supposed to bring two busloads, but unfortunately, due to those conditions, we cannot. And so, again, even in this situation, our people are underrepresented, under supported, and rushed again to make the decisions that will affect not only their lives, but the lives of their families in their future. I pray that this resolve does give us more representation and that we can continue to work towards a more equal Louisiana. But we cannot go without acknowledging the fact that this is deeply rooted in racism and white supremacy. And if we look at the representation here today, I think that especially when you talk about involving and engaging younger voters, and everybody's complaining as to why young, particularly young black voters, don't vote. Well, when you look at what our options are, it's kind of hard for me to make that argument. Especially I'm not talking about individuals, but I'm talking about on what we actually can vote for. Having the idea that we have to engage young people in 2024 about coming to the state capitol to make sure that we can have fair and equitable maps and lines drawn out to represent them is what makes them not want to participate in the process.

[01:35:15]

So, I hope and pray that going forward, we can continue to engage and we just wanted it to be known that people from across the State of Louisiana are aware, and we do. Thank you, Mr. Chairman, for your support in all what you're doing to make this happen. Thank you.

CHAIRMAN CLEO FIELDS: Thank you, Mr. Trey Newman. And you may identify yourself and proceed.

REV. WILFRED JOHNSON: Good afternoon, Mr. Chairman and to this committee. I am Reverend Wilfred Johnson. I'm from a little small town called Jeanerette, Louisiana. My senator just walked out. I wish he wouldn't have, but I wanted to look him in the eye when I say what I have to say. I'm also founder of A New Chapter Push, which is a community organization that was founded in 2007 that focus upon assisting those that were formally incarcerated. I myself, as a formerly incarcerated individual, after serving 20 years in Angola, the majority of my life now is focused upon the community affairs. I'm here also representing Power Coalition. We've been here too long. Three years is too long. As I look, as some of the testimonies been going on, some people are not even paying attention. They're looking away. They're doing other things. They're not even hearing what we're saying. It's like it doesn't even matter. I mean, when is this going to stop? When are we going to live out the life that we say we are? I promise you, if I ask every one of you to raise your hand, if you're God fearing, you will. But how can you be God fearing when you can't do the right thing, when you can't see that the numbers, that is, before you make all the sense there is, we shouldn't be going through this. There shouldn't have been a federal judge that has to make a decision when those that we've elected can't make the decision for us. It saddened my heart. I mean, I just got my voting rights back five years ago, and I'm always excited to vote, but the point I'm making is, guys, come on. Look at it for what it is. We got to do the right thing because it's the right thing to do. Anybody know who said that? The Honorable Dr. Martin Luther King. So, we got to understand what it is that we're here for, man, we drove -- we didn't know what we was going to run into icy roads. We came down here, like Devon and Pastor Milton said. I mean, we had to busload of people to come, but unfortunately, that didn't happen. But we're here, and we speak for those that didn't come, that wanted to come. We speak for

those that are not in Louisiana. That is ice out that couldn't get here. We speak for those in New Orleans and all over the State of Louisiana to let you all know, man, we're sick and tired of going through the same thing over and over again. When you have been elected to do a job that you are not doing. Cut it out. Give us what we deserve. We deserve fair mapping. That's all I have to say.

CHAIRMAN CLEO FIELDS: Thank you very much, reverend. Both reverends, thank you all for your testimony. Appreciate you being here today. We now have three left, and then we get to the opposition. No, we have two because we've [PH 01:38:36] Bristetta Carter. Did I mispronounce that? And Marja Broussard are the last two witnesses who I have cards for and we put the others in the record. Please identify yourself and you may proceed.

RADISHA CARTER: Good afternoon, Chairman. My name is [PH 01:39:00] Radisha Carter and I am a first-year law student at Southern University Law Center. I am a resident of Shreveport, Louisiana, in Caddo Parish. I have been a resident of this community for 34 years, my entire life. I am here with my community members and larger coalitions. I urge you to vote in favor of Senate Bill 4. My goal for this redistricting process is for our elected officials to pass Senate Bill 4, a fair and equitable map that does not deflate my power in the election process. Our voices cannot go unheard on this matter. Shreveport and Caddo Parish are unique from the rest of the state and so are our traditions and issues that we are facing. According to The Daily Advertiser, in 2022, Caddo Parish had an average weekly average of $1,109, ranking next to last among the large Louisiana parishes.

[01:40:06]

This redistricting cycle has been going on for close to three years now and the numbers have been the same. Fair representation can lead to real change for Black Louisianans. Please, as a person you represent, pass Senate Bill 4 for a fair and equitable map. Thank you.

CHAIRMAN CLEO FIELDS: Thank you very much for your testimony.

MARJA BROUSSARD: Good afternoon. My name is Marja. M-A-R-J-A.

CHAIRMAN CLEO FIELDS: I'm sorry, Ms. Marja.

MARJA BROUSSARD: Marja Broussard. I am the NAACP Louisiana State Conference District D, Vice President, also a member of The Village 337. Vote Imani Temple and many other community organizations. I'm from Lafayette. Have been a longtime community activist in hopes to move our people, people who look like me, forward. It's important for Louisiana to secure a second majority congressional seat for many reasons. Representation, equal opportunity, protecting minority voting rights. As far as representation is concerned, a second majority black congressional seat would ensure better representation for the significant black population in Louisiana. As of now, Louisiana has one majority black seat despite having a substantial African-American population. Having another district with a majority black representation will give a greater voice to the concerns and the interests of this community. As far as equal

opportunity, a second majority black congressional seat would provide an opportunity for fair representation and better political participation. It allows for diverse range of perspectives and experiences to be brought to decision making processes, leading to more equitable policies that addresses the unique needs and challenges faced by the black community, which is different than what faces the white community, or the Hispanic community, or the Asian community, or any other community protecting majority-minority voting rights. The creation of a second congressional black seat can help safeguard minority voting rights. Louisiana, like many other states, has an ugly history, and that history is of gerrymandering and racially discriminatory redistricting practices. By establishing another district with a majority black population, it becomes more difficult to dilute the voting power of the African-American community through redistricting plans that minimize their influences. Overall, securing a second majority black congressional seat in Louisiana is crucial to advancing representation, equal opportunity, protecting voters' rights, and addressing specific community concerns and promoting diverse perspective in policy making. Now, what's most concerning to me is that each person who is sitting on this seat here, each of you know that it is right -- you know that a second congressional seat is needed to represent the African-American community. And every elected official, every elected lawmaker know that this is the right thing. It is disheartening for me to sit before you this afternoon and watch this process, to watch my people beg the lawmakers to do what is right. You are elected to do what is right. We shouldn't need a judge to tell us what to do. We shouldn't need a judge to tell you what to do. You guys represent us, knowing what is the right thing to do. You know it, yet you still fight not to do it. That's scary and as Reverend Johnson said, "Martin Luther King said, the time is always right to do what is right." And we're asking you because I don't want to be -- I'm a proud woman. I don't want to be perceived as a beggar, okay?

[01:45:00]

So, I refuse to beg you to do the right thing. I'm a proud black woman, unapologetically black and beautiful, and have five beautiful black daughters and beautiful black grandkids. And I refuse to beg you guys to do what is right. But I will make a request that you do what is right. Thank you.

CHAIRMAN CLEO FIELDS: Thank you very much for your testimony. Members, I've had -- I know people have driven here doing inclement weather, but I picked up three more cards when I closed. But Christopher Toombs, if you must be heard, please come. Jordan, is that Braithwaite? If you must be heard, please come and then lastly, Maya -- I didn't bring my glasses. And those would be the last cards and then we close off. Those would be all of the people who wish to be heard. Please proceed, sir.

CHRISTOPHER TOOMBS: Good morning, committee members, Senator Fields and all people in attendance. I just feel like this is a Bill that we have to make sure that we pay close adherence to. When you look at the makeup of the ivory hue and the ebony hue people in this state, then you kind of see where we're trending towards a point where there has to be equitable representation. I think that when you think about things from a progressive climate standpoint with the rest of the country, we've got to keep up with the norms that are existing and the algorithm that's creating a society that we want to be a part of. And I think that in other major

metropolis and other areas, they're able to get through the minutiae a lot easier because their policies and procedures are much more progressive. This is an opportunity to show that Louisiana, with all of our, I guess, deficiencies that we have to deal with on a day to day basis, that we take these larger, looming issues like this and we give it the proper attention it deserves. Now, here's the deal. If you look at Louisiana from unhistorical perspective, the ebony hue population has been largely underserved. This is an opportunity to show that we're making progress because we want to be progressive. Like right now, a lot of big companies look at our state and they see where we are. And it's almost like if we don't show the progress on a national level, which this can do, then we're saying that we're regressing and not progressing, right? And I just think that this is a great opportunity with a Bill like this that you can make an impact on our national image. Because here's the deal. We're in an international marketplace now. We have to show as a collective that we have the capability that we have the intentionality to get some equity in these spaces. And I'm saying this as a doctoral candidate at LSU in cultural preservation. This is all I deal with all day. I read about the history of this state. I understand the history of this state and this is an opportunity as a collective for ebony hue and ivory hue together, to come together and show that we're the progressive state that we can be, and this is your opportunity to do it. Thank you.

CHAIRMAN CLEO FIELDS: Thank you, Mr. Toombs.

JORDAN BRAITHWAITE: Good afternoon, Mr. Chairman. All the members of the committee. Thank you for taking the opportunity to hear my testimony. My name is Jordan Braithwaite, and I'm currently a proud graduating senior attending Grambling State University. And I come here on behalf of not only Power Coalition, but Louisiana NAACP, as I currently serve as the state president for the Youth and College Conference. And the main reason that I'm here, and I'm advocating and strongly urging for the adoption of the Senate Bill 4, is because it's an opportunity to allow the youth to be heard and know that our voices truly matter. When I have the pleasure in serving in this role and being able to travel across Louisiana and go to underrepresented communities and register youth to vote, black youth to vote specifically and talk and have conversations about voting with them and educating them on that knowledge, it always peaks with the conversation of the picture that's displayed that my vote doesn't matter. It goes unheard. I already know that with gerrymandering and things of that nature, that I don't have a say in our democracy. And so that's why I strongly urge the passing of this Bill, because it allows the opportunity for the youth to see that we do matter, we do have a say so, and that our future isn't in vain.

[01:50:03]

And so, that's why I came on here today, and that's mainly why I travel all the way from North Louisiana despite the weather conditions because I just wanted to ensure that the youth's voice is being heard today and that they could see this as an opportunity and understanding that we do matter and that this is happening so that we can know that our future and our democracy. This is the clearest path to that. And so, thank you again, and I appreciate your time today.

CHAIRMAN CLEO FIELDS: Thank you for coming. Thank you for your testimony.

MAYA SANE: Good afternoon, Chairman, and members of the committee. My name is Maya Sane and I'm also a student at Grambling State University. I won't say much and I won't be long, but I do want my presence today to serve as a form of support not only for the underrepresented but African-American youth voters as well. Through my advocacy and hands-on efforts through voter registration through Northern and Southern Louisiana, the SB 4 Bill has shown its effective measures for the inclusion of not only black voters, but voters across the State of Louisiana. So, today, all I am asking is that you hear the concerns of the citizens and the youth and take heed to the major concerns regarding the current one at hand. Thank you.

CHAIRMAN CLEO FIELDS: Thanks to each of you, and let me thank all of the individuals who actually showed up today in this very bad weather to testify. There are also 47 cards which I won't read, but they -- I'm going to -- we are going to put them, make them a part of the record. Thank you all so much for coming to testify. And at this time, we start taking – we take the -- those in opposition of the Bill and then we move on it right after that. Senator, thank you all. In opposition -- let me first -- I just have a card in who wish to speak. Former State Representative Woody Jenkins, it doesn't say opposition, it simply say that you wish to speak. So, I guess this would be an appropriate time to call up on you, Representative Woody Jenkins.

REPRESENTATIVE WOODY JENKINS: Thank you, Senator Cleo Fields, my friend. I appreciate you and this chance to speak. My name is Woody Jenkins and I did serve in the House of Representatives for 28 years. I want to especially congratulate Senator Jenkins. It is long overdue that we have a Senator Jenkins in Louisiana. I can tell you that. I want to read a statement from Speaker of the House, Mike Johnson, who wants to weigh into this, a very important message, I think. But before I say that, I want to just say that we've now set for 2 hours and 15 minutes and heard some wonderful testimony from people who are very passionate. They are coming from a Democratic perspective, that the main thing about a person is that person's race, and that when we draw maps, we ought to be looking what the race of people is and drawing maps about that. Over two-thirds of this legislature were elected on a very different philosophy, and that is the people or individuals, and they need to be treated as individuals, and we are not to be looking at their race when we do things like draw maps. In fact, the Supreme Court has said we're not supposed to draw maps based on race, and we're not supposed to gerrymander around as most of these plans do, trying to pick up precincts here and there to make an artificial racial balance. In fact, what the testimony has said not just based on race but to guarantee, if you listen to the testimony, they wanted a guarantee of the outcome and elections based on how the maps are drawn. That's all based on this philosophy that the most important characteristic about a person is their race or their sex or whatever it is. And that's not the philosophy of the people who elected you, and it's not the philosophy of most of the people sitting here. Now, this debate needs to be in the context of what's happening in this country today. We have a Speaker of the House elected from the State of Louisiana who has a two-vote majority. What's he doing up there? He's trying to stop the flow of millions and millions of illegal aliens into this country. He's trying to lead an investigation of the wrongdoing of this administration in power right now. He's trying to protect the security of this country, and he has a two-vote majority, which these Bills would deprive him of if enacted because it's going to take one vote away and take it the other way. It's a two-vote swing. So, this matter is extremely

serious. It's not about our local politics. It's not about deals that have been made. It's not about who might run based on this district or that. It affects the security of this country. Now, here's the message from -- that I would like to read from the Speaker of the House who has made this especially for the members of this committee so that you would know how he feels about it. He said we've just seen, and this was at 10:30 this morning, he said, "We've just seen and are very concerned with the proposed congressional map presented to Louisiana legislature.

[01:55:00]

It remains my position that the existing map is constitutional and that the legal challenge to it should be tried on the merits so that the state has adequate opportunity to defend its merits, to defend its merits, which we haven't had in court. Should the state not prevail at trial, there are multiple other map options that are legally compliant and do not require the unnecessary surrender of a Republican seat in Congress." Now, that's the position of the Speaker of the House, which leads me to the next thing. We have had over and over again, we've been told in this committee something that's completely false, and what we've been told is that the Fifth Circuit Court of Appeals has ordered this legislature to redo the maps and create a second majority black district. The Fifth Circuit Court of Appeals has done nothing of the sort. It hasn't ordered this legislature to do anything, and it certainly hasn't ordered this legislature to create an additional majority black district. Here's what the Fifth Circuit Court of Appeals and, unfortunately, most people have not read it. It's not that long an opinion. You should read it. But here's the final statement in the Fifth Circuit's comments on this case. It says this, "If the legislature adopts a new redistricting plan and it becomes effective, then that map will be subject to potential new challenges." Now think about that. You top something new. That's not the end of the story. It's going to be challenged. In fact, in the 1990s, our colleague, Senator Fields, is not in Congress today because maps were thrown out by the courts where there was gerrymandering to create a second black district. Those maps were thrown out. Those maps are very similar to the maps you are looking at today. They were thrown out because they require you to look at people's race to draw congressional district maps. Now, go back to what the Fifth Circuit said. They said, "If the legislature adopts new districting plan and it becomes effective, then that map will be subject to any potential new challenge." And then it says, "If no plan is adopted," in other words, you don't pass any of these Bills, "then the District Court is to conduct a trial." The order is that if you take no action, the District Court, Judge Dick, has to have a trial. The Fifth Circuit has ordered her to have a trial.

CHAIRMAN CLEO FIELDS: Excuse me.

REPRESENTATIVE WOODY JENKINS: Yes.

CHAIRMAN CLEO FIELDS: Representative Jenkins, the gentleman has a point of order. State your point. Oh, let me turn you on first, I'm sorry.

MALE 1: Thank you, Mr. Chairman, and thank you for your testimony. It's my understanding you put in a white card as opposed to a red card, and I just question the point of order of that. It seems as if he's taking a certain position on the legislation as opposed to a neutral position.

CHAIRMAN CLEO FIELDS: Yeah. Is it safe to say you in opposition, too?

REPRESENTATIVE WOODY JENKINS: No. I'm here giving you information about what the court said, which you have not heard here for.

CHAIRMAN CLEO FIELDS: Gentleman may proceed, but I understand your point.

REPRESENTATIVE WOODY JENKINS: It says, "If you take no action on a new plan, then the District Court is to conduct a trial and any other necessary proceedings to decide the validity of the HB1 map." And it says, "At the completion of the trial, there shall be time for appellate review." Now, that's what the court actually said. They didn't say you have to draw any new map, and they didn't say you have to have two majority black districts. It says if you take no action, the district judge has to have a trial on the merits which has never been. Attorney general said she's ready to defend our law. Now, when you look at the Roadshow, the 24 stops that the Roadshow made, and people are talking about the Great Roadshow, they did, but they didn't result in this plan. They resulted in the passage of HB1, which is the current reapportionment plan. That's what the Roadshow did. Now, we got notice anybody in this state yesterday afternoon about 5:45 of these different plans. There has not been adequate notice for the people of this state to come here and weigh in on this plan, which totally changes our existing plan. You've had bad information. No transparency. You have a good plan to defend. One of the things I want to point out as a Baton Rouge and who represented this Parish for 28 years, these bills eliminate a congressional seat for Baton Rouge, for the capital area, which normally we've had a capital-based congressional seat, which that does away with it. So, I want to just conclude by pointing out that congressman, our Speaker of the House, Mike Johnson, is opposed to all of these plans, thinks we need to go ahead and go to trial, hear the evidence and what we have an Obama judge, a Judge Dick, and we have a conservative Fifth Circuit and a Supreme Court that's conservative.

[02:00:07]

They don't think alike. So let's have a trial and see what happens and see what the judges do.

CHAIRMAN CLEO FIELDS: All right. Thank you very much, Representative Jenkins, for coming to explain to us what the Fifth Circuit has said. The last person in opposition, well, the only card I have in opposition is [PH 02:00:32] Mary Labrie. Ms. Labrie, if you come forward.

SUSIE LABRIE: I pull it up here.

CHAIRMAN CLEO FIELDS: Thank you for coming here and thank you for coming through this tough weather. Please proceed. Identify yourself, please.

SUSIE LABRIE: Well, I'm very glad to be here. All right, thank you. When I'm here, the reason I'm here is I want to represent JC Harmon and also myself. JC could not be here because of the weather. He's stuck at home in Jefferson Parish. But he did send everybody a packet in the

map that he proposed. And I hope every one of you got to see the map and the presentation, which I thought was superior. And this is my take, a combination of JC in my testimony. I like to support JC's proposal, and the reason I want to suggest JC Harmon's proposal is because, first of all, it's illegal to gerrymander. And he feels like statistically and scientifically, it is not really possible. I am Susie Labrie. I'm representing myself. I see myself as an appropriate situationalist individualist, not as a part of a collective class of color, skin, age, height, genealogy, gender, physical description, et cetera. JC was going to appear, like I told you, he was crowned. So I'm sort of representing him, too, as an individual. As redistricting, I tried to find a way to create and convert into an additional minority district. After studying up myself and with JC, I still cannot come up with any additional minority district without gerrymandering, which is illegal to add. But did try. I see it, as well as JC. That is mathematically and statistically impossible. And he has a solution that he has sent to all of us. In law, I understand that gerrymandering is illegal, like I said, number two, I see its reverse discriminations, those I see, in my opinion, such as Vietnamese, Spanish, disabilities, gender, age, so forth. And also, especially as in my district, I see it as against rural and farmers interests, small business, sole proprietors, main streets, those I had seen the electing liberals represented by unfair overtaxation and other issues on the working people, on the farms and small menaces. Number three, it would pose more central power, lessening individual power. Individual constituents would fall between the cracks and less attention would be heard or heeded to less. When you represent a collective, huge class as a one size fits all, too many fall between the cracks, especially myself. Special needs, self-identity, talents, nativities, et cetera. I've been through that. I want to integrate, not segregate, a district with a one-size fits all, collective class approach. I don't want to do that. I would not feel represented in a homogeneous, segregated community or district which hides individual needs and representation. Number four, it would cause us one vote to two votes shorts for us in the US House of Representative, which would remove Louisiana from its high position, for example, the speaker of the house and the majority leader, Mike Johnson and Steve Scalise, et cetera. Louisiana is enjoying a good position in the house if we stay put. The only way I can see for myself to add a minority district is to draw it as a Z, S, a zero or coil snake, a tornado, which all have been rejected over the decades. If we had to do this, I'm still suggesting a pop-up. A minority district is a set of archipelago islands looking like different size polka dots. Small one is as small as a voter, a minority voter's house up to the largest size you could get around a district.

[02:05:03]

And scatter these polka dots all within, all across the state, within a water of majority district or districts, or make the district as a coil, like a slinky toy or tornado, like that. And after studying that myself with JC Harmon, I find it mathematically and scientifically impossible. Number six, it would divide the state and cause disunity. So we need to integrate, not segregate. So please heed and adapt to this proposal and maps that were submitted to you. JC is a genius in research, numbers, geostatistics, engineering and science. And me being an actor myself, I'm also a great devil's advocate and trying to hit a fair approach. I have tried justifying both sides, could not find a solution until JC came around. And I suggest that you receive this. Once again, integrate, don't desegregate -- I mean, integrate don't segregate. Thank you, gentlemen.

CHAIRMAN CLEO FIELDS: Thank you very much for your testimony. And again, we appreciate you going, coming through all this bad weather to be here to testify.

SUSIE LABRIE: It was mighty. It was a great pleasure and I thank you for having us.

CHAIRMAN CLEO FIELDS: Thank you. Members, you've heard all the testimony. There are seven other cards that do not wish to speak, but in an opposition, that would be a part of the record as well. Senator Price, to close on your bill.

SENATOR ED PRICE: Thank you, Mr. Chairman and members of the committee, I know we've had a lot of testimony today and we've been here a long time, but this bill is very and extremely important. I know we heard some comments a little while ago about race. Well, the Voting Rights Act never said that it could not be about race. It said it could not be a predominant factor. So sometimes you get information and it's just not what it should be. We've come a long way and we need to move a map forward. This map does what the court has ordered us to do. Regardless of what you heard, we are on a court order and we need to move forward. We would not be here if we were not under a court order to get this done. So I say to you that, look at the map. We have seen it. It works. It performs. It does what it needs to do to make things right. This is a fair map, a map that has been vetted, a map that has shown that it will work. And I implore upon you that we need to move a map forward. And I feel that this map will do what we intend it to do. Don't listen to some things that are just said to be said. We know what we have to do. We know that we have 33% in this state and one-third of six is two. And that's where we need to go. We have a fair map. I went all over the state of Louisiana doing the redistricting hearing. I heard what the people said. I heard from North Louisiana in Monroe, Shreveport. I heard in Alexandria. I heard in Thibodaux, Louisiana, Baton Rouge, Lake Charles. I was at every hearing and everybody wants a fair map with two minority districts. They were there. So we know what they want from around the state. I heard it all. And I ask that we move this bill favorable, we'll move it to the floor so that we can start to do what we need to do to have a fair map. My colleagues, you want to --

CHAIRMAN CLEO FIELDS: Senator Duplessis, you want to close?

SENATOR ROYCE DUPLESSIS: Just really briefly, without reiterating or repeating what Senator Price said, all the points have been made. We've been at this well over two years now. And if you compare it to a sporting event, we are past the fourth quarter. We are what I compare to double OT with no time left on the clock. This is it.

[02:10:00]

And the question I think we have to ask ourselves is how much more time, how many more resources will we expend on a process where we're at the end of the road? We have so much other business that we need to be handling on behalf of this state, and our constituents deserve us to do the right thing and move on. Governor Landry was very clear yesterday in his speech to both chambers that this is our time to get this right, to adopt the maps that have been put before us. And he was very clear in his message, and I think this is our opportunity to do that. So I'm

asking this committee to basically do what's been consistent throughout all of this presentation today and adopt the map before us. Thank you.

CHAIRMAN CLEO FIELDS: All right. Thank you, Senator Price. You've been at this for a long time, and thank you for your former service on this committee. And thank you, Mr. Duplessis, as well. We've heard the testimony of Senate Bill 4. Members, what's your pleasure? All right, Senator Jenkins moved that we report Senate Bill 4 favorable. Are there any objections, Senator Miguez? Object. Secretary will call the role if you want to. Senator Miguez.

SENATOR BLAKE MIGUEZ: Thank you, Mr. Chairman. I want to first start off by amending my introduction that I'm also, as you know, I represent Senate District 22, which is Iberia St. Martin in Lafayette Parish. But I'm also the only member on this committee that serves in the capacity and represents the Acadiana region, the Lafayette regional area. And I think it's incumbent upon me to state the reasons for my objection here today. Also want to preface my comments to everyone that supported this particular instrument, that this is not the only instrument in the process. The instrument that's going to be heard today that's active, that creates a second majority minority district. We have SB4, which is currently up, and we also have SB8. But I'm going to talk about this bill in particular, and what's most important is to point out who is going to pay the real price for this legislation if it were to pass. And that's the Acadiana region. Senator Duplessis mentioned connectivity into the Acadiana region, which in the Acadiana region, we're looking at the Lafayette surrounding area and those parishes like Acadia, St. Morton, Vermilion, Iberian, St. Mary, that are known to have a lot of cohesiveness there. And I would disagree that they have connectivity. They're in fact split into many different areas. Senator Duplessis has also mentioned that be his area would be connected with my district, which is St. Martin Parish. And I can tell you that the folks in my district would give me a tough time at the coffee shop next week, and then they would have trouble finding a lot in common with St. Martin in Orleans Parish besides the fact that we're both Louisiana citizens. Senator Price, you mentioned that you had attended every single roadshow, so you likely attended the UL roadshow?

SENATOR ED PRICE: Yes.

SENATOR BLAKE MIGUEZ: And you got an opportunity to see a different dynamic at the UL roadshow. Not only did you hear a lot of testimony about a second majority minority district, but you got to see people come out from Iberia and St. Martin Parish and talk about the history over 60 years of how, and it was particularly about the Senate district that I currently represent, but how much we had in common. And the folks that testified were local elected officials from my business community. They were folks from my minority community, and they talked about some great testimony. I encourage you to go back and look at it. I also spoke there as well. But the testimony there also applies to this congressional proposal here today, because in this proposal, you are splitting Iberian St. Martin area. And I know you guys are some really great guys. I want to mention that. But I do have one issue with you both. You all both overachievers. I didn't get enough time to spend serving with you in the House because you all moved over to the senate so quickly. And I think it's partly my fault. And I don't think you guys are trying to adversely affect my map. And I want to have an invitation to both Senator Price, Senator

Duplessis. I'm Cajun. We're known for our foods. You guys can come on down to my home district and I'm going to bring you some of the best local food possible. We're going to get in the car, we're going to drive around 30 or 45 minutes, and we're going to pick up some of the best shrimp in [INDISCERNIBLE 02:14:31] in congressional district three. Then we're going to go get some of the best crawfish in Breaux Bridge, just about 30 minutes away in congressional district number two. Then we're going to get some of the best Buddha in north Lafayette in congressional district number five. And then we're going to go to congressional district number one right there in Morgan City and get all the petroleum products to cook. And we're going to have a great cookout. And I want you guys, my point is that our chairman mentioned splits. This map only splits 11 ways, whereas the other map, which I believe is Senator Womack's map, splits 15 ways.

[02:15:00]

It's a difference of four, but which I'll fail to point out, is that Acadiana area gets split into four different ways. That's something that's very unique to your map. You got four congressional districts that meet between St. Landry, Lafayette, St. Morton and St. Mary Parish. I have a real issue with that, and I encourage any maps that are going through this process to weigh that in and go back. And you made some great testimony about all the people that spoke. You mentioned, I believe, 200 people. I think we had about 150 to 200 people that showed up from St. Morton, Iberia Parish to talk about keeping cohesion is there. Guys, we're just on the west side of the basin there. We got a lot in common, and we talked about our differences with folks way down the bayou in Houma. But just imagine the kind of differences that we have in Orleans Parish. So if this bill were to make it favorably here today, which I hope it doesn't, I've reserved the opportunity to maybe make it a floor amendment, and I'm going to rename it the Divide Acadian in Congress Act, because I want the public to know that's exactly what this bill does. And I want you to know that's the reason for my objection here today. But I appreciate you guys bringing the bill. And, Mr. Chairman, with that, I formally object to the bill.

CHAIRMAN CLEO FIELDS: All right, thank you. And you're going to have to operate this because I've lost all control with this computer here. Senator Jenkins moved that we report Senate Bill 4 favorable. Senator Miguez, object. Therefore, when the secretary called a roll, please vote yes if you in favor and no if you're not. All the roll.

FEMALE 1: Senator Miguez?

SENATOR BLAKE MIGUEZ: No.

FEMALE 1: Votes no. Senator Carter?

SENATOR GARY CARTER: Yes.

FEMALE 1: Yay. Senator Fesi.

SENATOR FESI: No.

FEMALE 1: Nay. Senator Jenkins?

SENATOR SAM JENKINS: Yes.

FEMALE 1: Yay. Senator Kleinpeter?

SENATOR KLEINPETER: No.

FEMALE 1: Nay. Senator Miller?

SENATOR MILLER: No.

FEMALE 1: Nay. Senator Reese?

SENATOR MICHAEL REESE: No.

FEMALE 1: Nay. Senator Womack?

SENATOR WOMACK: No.

FEMALE 1: Votes nay.

CHAIRMAN CLEO FIELDS: And the Chair of votes yes.

FEMALE 1: Yes, sir. Excuse me. Senator Fields?

CHAIRMAN CLEO FIELDS: Yes.

FEMALE 1: Yay. I have three yays and six nays.

CHAIRMAN CLEO FIELDS: Three yays and six nays. The bill is deferred. All right. Thank you, senators. Members, we've been at it for a minute, and some of us without a restroom break, but why don't we break until 3:00 and --

[OVERLAY]

CHAIRMAN CLEO FIELDS: That's probably not going to happen. Let's break into 3:00 and if we're a little late later, members of the public, these members have not eaten, so we're going to just say 3:00 and hopefully we'll be back by three. Senator Carter moves that we recess until break until 3:00 p.m. Thanks.

[BACKGROUND NOISE]

[02:20:00]

[BACKGROUND NOISE]

[02:21:47]

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January 15, 2024

Phillip Callais, et al.

vs.

Nancy Landry

PLAINTIFFS' EXHIBIT
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REPRESENTATIVE BEAULLIEU: Members, if you could please find your seats. Good morning, everyone. Today is January 15th, 2024. Welcome to the committee on House and Governmental Affairs. Welcome, members. Welcome, public. This is the -- from what I can understand, the first gavel of the new legislative leaders here at -- at the capital. So welcome, everyone.

A couple of things. If you have a cell phone, please silence it. If -- if you forgot to turn off your gumbo or you need to remind somebody to stir your gumbo back home, we ask you to step out and take all calls outside. We have some cards up here for witnesses although we won't be hearing bills today. And just reminding everybody, this is -- this is a preparatory committee meeting. The special session doesn't start until this -- this afternoon.

So what we're going to be doing here is educating members, educating the public, refreshing everyone on redistricting and redistricting principles, and then also hearing from our attorney general. So we won't be debating bills. If -- if everyone could, you know, keep questions and comments strictly to the -- the subject matter that -- we're going to be here from an education standpoint. And if you have questions as it

relates to certain bills, we ask you to hold those until we -- until we have -- have those bills. But, Ms. Baker, if you wouldn't mind, please call role.

MS. BAKER: Thank you, Mr. Chair. Chairman Beaullieu?

REPRESENTATIVE BEAULLIEU: Here.

MS. BAKER: Present. Vice-chair Lyons?

VICE-CHAIRMAN LYONS: Present.

MS. BAKER: Present. Representative Billings?

REPRESENTATIVE BILLINGS: Present.

MS. BAKER: Present. Representative Boyd? Representative Carlson?

REPRESENTATIVE CARLSON: Present.

MS. BAKER: Present. Representative Carter?

REPRESENTATIVE CARTER: Present.

MS. BAKER: Present. Representative Carver?

REPRESENTATIVE CARVER: Here. Present.

MS. BAKER: Present. Representative Farnum?

REPRESENTATIVE FARNUM: Here.

MS. BAKER: Present. Representative Gadberry?

REPRESENTATIVE GADBERRY: Here.

MS. BAKER: Present. Representative Johnson?

REPRESENTATIVE JOHNSON: Here.

MS. BAKER: Present. Representative Larvadain?

REPRESENTATIVE LARVADAIN: Here.

MS. BAKER: Present. Representative Marcelle? Representative Newell? Representative Schamerhorn?

REPRESENTATIVE SCHAMERHORN: Here.

MS. BAKER: Present. Representative Thomas?

REPRESENTATIVE THOMAS: Here.

MS. BAKER: Present. Representative Wright? Representative Wyble?

REPRESENTATIVE WYBLE: Here.

MS. BAKER: Present. We have 13, and a quorum.

REPRESENTATIVE BEAULLIEU: Thank you. Members, a couple of things. One, in your folders you're going to have a copy of the -- the rules for the House and Governmental Affairs Committee. These are the rules that have been adopted by this committee. If you would review them at -- at your leisure, we're not going to be discussing them today. But if you have questions regarding these rules or you would like to amend these rules or -- or make some changes, we're going to address that in the -- in the regular session. But I just wanted to point that out that we have those in -- in the folder for all of you.

Also, members, and -- and the viewing public, we don't want to forget all of the work that this

committee has done over the last several years as it relates to redistricting. On our website, if you go to the legislator's main page and you click on House page, and then there's a -- a button that says, "Additional Sites." Under that "Additional Sites" button is a Louisiana redistricting site where we have all the work that this committee has done over the last couple of years. We don't want to have to -- to -- we want -- we don't want to forget that hard work. And if anybody needs a resource, there's a lot of resources there.

But with that said -- so we're going to start off this morning with Ms. -- Ms. Lowery from here in the House and Governmental staff. She's going to update us on some principles with redistricting and -- and kind of get everybody up to speed. So, Ms. Lowrey.

MS. LOWREY-DUFOUR: Thank you so much, Mr. Chairman. Hi, members. My name is Patricia Lowrey-Dufour. I am the senior legislative analyst for House and Governmental Affairs. I have staffed this committee in some capacity since 1988. And the chairman has asked me to give y'all a brief redistricting 101 this morning, and it's going to be abbreviated.

And again, as the chairman said, there are a plethora of resources available on the redistricting website of the legislature, including links to the

videos of the hearings, the roadshow hearings, all public comments and documents that were received there. So again, you are encouraged to go look there.

REPRESENTATIVE BEAULLIEU: Anyone watching online, we're working on the technology.

MS. LOWREY-DUFOUR: Thank you, Anthony. Thank you. Okay. Briefly, we'll be giving an overview of redistricting terms concepts and law, redistricting criteria, the 2020 census population and population trends, malapportionment statistics and illustrative maps on Congress and the Supreme Court since those are items included in the call for this special session, and the act for Congress that was adopted in the 2022 First Extraordinary Session as well as the timeline related to the adoption of that act.

Okay. Briefly, Louisiana's resident population is 4,657,757. This is the number that we use to determine the ideal district. Now, why is this important to you? One of the main criteria for redistricting is to achieve population equality, so -- among the district. So the ideal district population is very important.

Just so you know, for congressional apportionment there is a different number that is used. It's called the apportionment population. And Louisiana

had an additional 3,711 overseas and uniform citizens allocated to Louisiana for the apportionment population which is how Congress uses the method of equal proportions to allocate the number of congressmen to the state.

Okay. Briefly, in Louisiana our 2020 census data showed that we grew by 2.74 percent while the growth rate of the nation was 7.35 and the southern region growth rate was 10.22. This is key because even though we are showing a population growth, we are lagging behind both the nation and the state. And just keep in mind that the nation grew at its lowest rate since 1940.

This is a map that shows the historical population trends in the state of Louisiana. And while you can see that there were some decade differences -- so, you know, clearly we had significant population growth from 1990 to 2000, you know, there were trends such as what you see in the 2000s to 2010 which were the effects of hurricanes Katrina and Rita on our coastal and Orleans metro areas.

But what I also want to tell you is this is important because, again, even though the state grew in each of these decades, when I first started working for this committee in the late eighties, we had eight

congressmen allocated to the state. So in the 1980 to '90, we had eight. Following the 1990 census, we were dropped to seven. And then we maintained seven from 2000 to 2010 and again from -- then we dropped another congressman.

So what you see is a pattern is emerging that every other decade, even though the state is growing, because we're lagging behind the nation we are losing our -- our number allocated to us for Congress.

So specifically with the 2020 census, you will see there is growth in this state along, really, the I-10/12 corridor. There is loss in north Louisiana generally, although there are a few spots of growth and, you know, there are areas of our coast that are clearly suffering population losses. So why is this important? Obviously, when the districts were drawn in 2010, the population, you know, was substantially equal -- or equal to the extent practicable in all of the districts. Over the decade, you can see, because of the shifts in population it necessitated a change in the district boundaries.

Now, our census population demographic change. In 2010, you can see there we had 62.56 percent of people who identified as single race White, 32.8 percent of people who identified as Black, and we had 1.8

percent of people who identified as Asian, 1.3 percent that identified as American Indian, and 1.83 as Other. And one thing I want to point out about this chart is Hispanic is an ethnicity. So when you look at these numbers across the board, they will not total to 100 because you can be any of these races and also Hispanic. Okay?

So Hispanic is separately reported as a number, and we have 4 -- we had 4.25 percent Hispanic in 2010. That number has increased to 6.92 in 2020. The White population is 57.06; the Black population, 33.13; Asian, 2.30; American Indian, 1.87. And again, the Other -- you'll see the most significant growth in the Other category. The sum of the race is interesting because it's not -- these are people who chose to respond to the census as being not White, not Black, not Asian, not American Indian. Okay. So it's just an interesting jump to see this increase.

REPRESENTATIVE BEAULLIEU: Yeah. Ms. Lowrey, also just to kind of point out, if -- if members look at the -- the decrease in the White population and look at the increase in the Other population, they're pretty close to the same from a number standpoint. Just if -- I don't know if it's more people. I -- we had talked about this in committee over the last couple of years,

if it's more people identifying as Other with mixed races. But just to kind of point that out for you all.

MS. LOWREY-DUFOUR: Right. And -- and I do want to point out that we -- so this will tell you how the census reports the -- the population to the state. So every person in the state can respond in a single race or any combination of six races. And so there are -- you know, you can respond that you are White, Black, and African -- you could be all six, okay? And you can respond to the census that way.

But in order for y'all to be able to analyze reports -- and I have included -- we've included some reports from Act 6 which was the congressional act that y'all adopted. And if you flip to this page called, "Total Population", it's numbered page 9 in your packet. And I just want to talk about it just a little bit so that y'all will become familiar because tomorrow, as we are hearing bills, you'll need to be familiar with these reports.

So each report will have a total population figure, will have White -- so in order -- so we -- the -- your six -- your predecessors on this committee and the Joint Senate Committee adopted a population allocation document that is available on the redistricting website. And so the White population

number that you see on this report indicates White alone. So this is not going to be any person that reported that they were White and any other race.

The Black category reflects all people who reported Black alone, plus any other race and Black, okay? Asian is Asian alone and any other race other than Black, okay? And total American Indian, the same, American Indian alone and any other race other than Asian or Black. And the Other is that category that we talked about, the people who reported that they were any other, and it also includes the Pacific Islanders that the population in Louisiana was not significant. So that is included in the Other category.

And the category that's labeled VAP total, that means voting-age population. And that's going to be key, as you will hear, I'm sure, from our attorney general. Okay. Moving on. Any questions about that? All right. Yes, sir.

REPRESENTATIVE CARTER: So (inaudible 0:13:18) --

REPRESENTATIVE BEAULLIEU: Hold on, let me -- let -- is it Carter?

REPRESENTATIVE CARTER: If -- if you reported --

REPRESENTATIVE BEAULLIEU: Representative

Carter, you're on.

REPRESENTATIVE CARTER: Thank you. Thank you, Mr. Chairman. If you reported White and -- and you -- you -- is any other -- only White -- is counted all the (inaudible 0:13:36) --

MS. LOWREY-DUFOUR: The White population category on your report is people who responded to the census as being White alone.

REPRESENTATIVE CARTER: White alone?

MS. LOWREY-DUFOUR: Not combination with any other race.

REPRESENTATIVE CARTER: Okay.

MS. LOWREY-DUFOUR: Okay?

REPRESENTATIVE CARTER: So, basically, the same way with the -- the Black population as --

MS. LOWREY-DUFOUR: No, sir.

REPRESENTATIVE CARTER: Okay. So go back through that because --

MS. LOWREY-DUFOUR: On the report -- and again, this population allocation document is on the website and it was adopted by the committee when we started the process. So the Black population category is people who reported to the census that they were Black and any other race.

REPRESENTATIVE CARTER: Okay.

MS. LOWREY-DUFOUR: Okay. So they could be a combination of up to the six.

REPRESENTATIVE BEAULLIEU: Oh, gotcha.

MS. LOWREY-DUFOUR: Okay?

REPRESENTATIVE BEAULLIEU: Thank you, Representative Carter. And members, also just to -- to let you all know, I know some of this -- this room -- this technology is new to some of y'all. The buttons on your -- your desk, the one to the left is -- is -- is dead. There's nothing on it. So if you want to be recognized, please hit the button towards your right, and you'll see your microphone light up when -- when it's your turn. Representative Gadberry for a question.

REPRESENTATIVE GADBERRY: A pleasure, Mr. Chair.

REPRESENTATIVE BEAULLIEU: Give me a second. It's giving me a little trouble here. All right. You're on.

REPRESENTATIVE GADBERRY: Pleasure, Mr. Chair. So when we proportion a district, we go by voting-age population and not total population?

MS. LOWREY-DUFOUR: No, sir. So the population of the district that is keyed into the ideal district population is the total population of the district.

REPRESENTATIVE GADBERRY: Okay. So what's the significance of voting-age population then if we --

MS. LOWREY-DUFOUR: That is the population that is 18 or over, and it is significant when you're analyzing voting rights issues because, obviously, the people who are 18 and over are of voting age.

REPRESENTATIVE GADBERRY: Right. So the -- I guess the question is -- is -- that I've always come up with is -- and I'm just taking the -- say, District 1 here, it shows 69 percent is White on total population and 100 -- I'm sorry, 71 percent on voting-age population. So -- so when we proportion or when we come up with a district, do we go by the percentage based on total population or voting-age population?

MS. LOWREY-DUFOUR: To achieve the population equality required on the districts, you go by population. To achieve other goals, you look at the totality of the circumstances including voting-age population, okay?

REPRESENTATIVE GADBERRY: Thank you.

MS. LOWREY-DUFOUR: You're welcome. Okay.

REPRESENTATIVE BEAULLIEU: You did that well, Ms. Lowrey.

MS. LOWREY-DUFOUR: Thank you, Mr. Chairman. What is redistricting? I will tell you the terms

1 apportionment and districting are sometimes used
2 interchangeably, and in fact, in our state constitution,
3 the term reapportionment is used. However, they are
4 different concepts. Apportionment is the process of
5 allocating seats in a legislature while districting is
6 the process of drawing lines to create geographical
7 territories from which officials are elected.
8 So, again, we talked about the apportionment
9 of numbers of members of Congress to each state. That
10 is allocating seats to the state in Congress, whereas
11 what -- the charge before you under the call for this
12 special session is to draw lines for the geographic
13 territories from which those officials will be elected.
14 Why do you redistrict? Well, there are many,
15 many, many legal requirements involving redistricting,
16 as we briefly touched on with Representative Gadberry
17 just a moment ago. One includes Article III, Section 6
18 of our constitution that includes deadlines and duties
19 regarding legislative redistricting. There are also
20 various statutes for your local governing bodies and
21 school boards to conduct redistrictings and as well as
22 deadlines. And then there are some general legal
23 requirements, including the Equal Protection Clause and
24 the Voting Rights Act of 1965.
25 So given that, who do you -- who are you

1 responsible for redistricting? Congress, the courts,
2 the House and the Senate, the Public Service Commission
3 and the State Board Of Elementary and Secondary
4 Education. All those have been enacted by the state
5 legislature as laws, so it takes a bill.
6 The issue's dealing with federal law, right,
7 so equal population. You know, you hear often the term,
8 "One man, one vote," you know. So how do you measure
9 it? Again, you measure it by looking at the ideal
10 population. And again, how do we come up with that
11 ideal population? We take the total resident population
12 of the state or the geographic area where the districts
13 are to be confected, and you divide that total
14 population by the number of districts, and you come up
15 with an ideal district population.
16 So I'm going to refer you now to the planned
17 statistic document that's in your folder. It's numbered
18 8. And again, this is all relevant to Act 5 of the 2022
19 First Extraordinary Session.
20 So this report -- and again, I encourage you
21 to become familiar with the structure of it and what it
22 is telling you. So this will tell you there are six
23 districts in a congressional plan, they are single
24 member districts, the actual population within the
25 district, the ideal population that you are basing the

1 calculation to determine your deviation off of. And so
2 you can see there that the absolute deviation ranges
3 from negative 24 to positive 41 for an overall deviation
4 of 65 people between all six districts and a relative
5 mean deviation of 0.00 and overall range of 0.01.
6 REPRESENTATIVE BEAULLIEU: Ms. Lowrey, if you
7 don't mind, just -- if -- for a question, if we -- if we
8 drew -- since we're -- one of the maps we're going to be
9 talking about is -- is Congress. And we were out of --
10 the deviation was 1 and a half percent which on -- on
11 the legislative maps, that's well within -- within
12 deviation range. What would 1 and a half percent or 2
13 percent do for Congress? Is that allowable? Is there
14 -- what's -- what's -- what's the wiggle room there?
15 MS. LOWREY-DUFOUR: So the courts have clearly
16 established that strict population equality among
17 congressional districts has to be the overriding
18 objective. Now that said, however, there have also been
19 some deviations that have been okay in certain states
20 provided the state has an overriding reason for it that
21 is rational and nondiscriminatory.
22 REPRESENTATIVE BEAULLIEU: So we want to be as
23 close to zero as we can?
24 MS. LOWREY-DUFOUR: Yes. Sir.
25 REPRESENTATIVE BEAULLIEU: Thank you.

1 MS. LOWREY-DUFOUR: Okay. Everybody clear on
2 population equality and deviations? Okay. And as the
3 chairman alluded to, the standards are different between
4 Congress and other representative districts that we
5 draw. They are based on different legal provisions.
6 Congress, the nearly as equal in population as
7 practicable is based on jurisprudence. Wesberry v.
8 Sanders is the seminal case there, based on Article 1,
9 Section 2 in the 14th Amendment, "Representatives shall
10 be apportioned," among the states, "according to their
11 respective numbers." And you must make a good faith
12 effort to avoid deviation and to be able to provide a
13 legally acceptable, nondiscriminatory justification for
14 any deviation.
15 Whereas for other representative districts
16 that you will draw, you are allowed to have a slightly
17 larger deviation field. It is substantial equality of
18 population among various districts. That derives from
19 the case of Reynolds v. Sims. Again, the 1960s created
20 a lot of cases dealing with population equality as well
21 as requirements for single member districts.
22 Again, based on the Equal Protection Clause of
23 the 14th Amendment, there's a generally accepted 10
24 percent standard that a legislative plan with an overall
25 range of less than 10 percent would not be enough to

1 make a prima facie case of invidious discrimination
2 under the 14th Amendment. However, so asterisk, it is
3 not necessarily a state harbor -- a safe harbor. I'm
4 sorry.
5 In Larios v. Cox, you -- any substantial
6 deviation must have a legitimate state interest behind
7 it. Okay. In Louisiana, in order to accomplish this
8 overall 10 percent range, we have adopted a criteria of
9 plus or minus five from the ideal to stay as close to
10 that ideal population among the districts as you can
11 get.
12 Okay. Again, and I know this seems like it's
13 very repetitive. It's important. Equality of
14 population must be the overriding objective of
15 districting, and deviations from the -- the principle
16 are permissible only if incident to the effectuation of
17 a rational state policy which would include allowing
18 representation to political subdivisions, compactness,
19 preserving cores of prior districts, and avoiding
20 contest between incumbents. And again, that is based on
21 Reynolds v. Sims.
22 Okay. Judicial districts, which, again, will
23 be the subject of this special session. In a Louisiana
24 case, Wells v. Edwards which was decided in the Middle
25 District of Louisiana, the court decided that the one

1 person, one vote standard does not apply to judicial
2 districts as judges serve the people. They do not
3 represent the people.
4 Now, we're going to talk about other issues of
5 federal law: discrimination against minorities, the
6 Voting Rights Act of 1965. And again, principles of
7 this are contained within the 14th and 15th Amendment,
8 but basically, Section 2 of the Voting Rights Act
9 prohibits the state or any political subdivision from
10 imposing a voting qualification, standard, practice, or
11 procedure that results in the denial or abridgment of
12 any citizen's right to vote on account of race, color,
13 status as a member of a language minority group.
14 So there have been a lot of litigation on this
15 issue. Section 2 of the Voting Rights Act was amended
16 in 1982 to clarify that a violation of Section 2 is
17 established if, based on the totality of circumstances,
18 it is shown that election processes are not equally open
19 to participation by members of a protected class in that
20 its members have less opportunity than other members of
21 the electorate to participate in the political process
22 and elect representative of their choice.
23 So there was a case, Thornburg v. Gingles,
24 1986, that established certain preconditions that courts
25 will look to to make determinations on violations of the

1 Voting Rights Act. They are size and geographical
2 compactness of the group. It requires that the
3 population be sufficiently large and geographically
4 compact; a constitutional majority in a single member
5 district; that the minority population is politically
6 cohesive; and that in the absence of special
7 circumstances, block voting by the majority defeats the
8 minority's preferred candidates.
9 Once courts have established those
10 preconditions, there are other objective factors that it
11 looks to to determine the totality of the circumstances.
12 And I'm not going to go into those at this moment, but
13 if you would like to talk later, we'll be happy to do
14 that.
15 Now, the other side of that is racial
16 gerrymandering. So again, the Equal Protection Clause
17 of the 14th Amendment found that -- you know, there have
18 been a series of cases, Reno v. Shaw in Louisiana, Hays
19 -- the Hays lines of cases where the courts have found
20 that if race was found to be the predominant overriding
21 factor, that strict scrutiny on the state's plan would
22 apply. And in order to survive that strict scrutiny,
23 the plan must have been narrowly tailored to serve a
24 compelling state interest.
25 So what would be a compelling state interest?

1 Remedying past discrimination, avoiding retrogression,
2 avoiding violations of Section 2 of the Voting Rights
3 Act. And key here is those interests must be strongly
4 supported in the evidence when the policymakers are
5 making their decisions on the plan. And this would
6 apply not only to plans that distinguish citizens
7 because of race, but also to plans that may be race
8 neutral but on their face are inexplicable except on
9 grounds other than race.
10 REPRESENTATIVE BEAULLIEU: Ms. Lowrey, we have
11 a question. Representative Marcelle.
12 REPRESENTATIVE MARCELLE: Thank you. Can you
13 go back over what you just said about the -- the strict
14 scrutiny and how -- how that's overridden? Why would
15 that be overridden? So I -- I know you -- you -- you
16 talked about the --
17 MS. LOWREY-DUFOUR: No, I --
18 REPRESENTATIVE MARCELLE: -- idea of
19 population, and I'm just --
20 MS. LOWREY-DUFOUR: -- think it's satisfied.
21 REPRESENTATIVE MARCELLE: So it has to be
22 satisfied?
23 MS. LOWREY-DUFOUR: That if you can prove that
24 it -- that the plan was narrowly tailored to further
25 your compelling governmental interest.

REPRESENTATIVE MARCELLE: And what would be an example of that?

MS. LOWREY-DUFOUR: Remedying past discrimination, avoiding retrogression, avoiding violations of Section 2 of the Voting Rights Act. And again, all those things must be firmly established on the record as you are making your decisions on a plan.

REPRESENTATIVE MARCELLE: So in essence -- I'm new on the committee, so, you know, you got to bring me up to speed. So -- so in essence, if -- if a bill is proposed and these criterias aren't met, what you're saying is during the argument of the bill they have to be laid out -- or they should be laid out. Is that what the law says?

MS. LOWREY-DUFOUR: Okay. This is based on jurisprudence, not, you know, necessarily the letter of the law. But to -- I think, you know, because y'all were elected to represent your districts and the state of Louisiana. And y'all are the policymakers of the state of Louisiana. And so as you're making the policy, I think it's important that as you're presenting -- because, you know, individually, you -- you alone have the right to present your bill, right?

REPRESENTATIVE MARCELLE: Right.

MS. LOWREY-DUFOUR: And I think it's important

for your -- for your colleagues to understand the reasons why because you're asking them to vote -- or to -- to vote for your bill. And I think that would be on any bill that you present. You know, what is the policy behind your legislation? Why is it important? So --

REPRESENTATIVE MARCELLE: Well -- well, I understand, you know, that each of us have to, when we present a bill, talk about how it's important to us at our districts, but we also have to take into account of the laws that are set and the criteria that we need to meet. So when we don't do that, then we find ourselves in court like -- like we are now.

MS. LOWREY-DUFOUR: Yes, ma'am.

REPRESENTATIVE MARCELLE: Thank you.

MS. LOWREY-DUFOUR: Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Representative Marcelle.

MS. LOWREY-DUFOUR: And -- and one other thing I want to say is the courts are very aware that redistricting plans are not drawn in a vacuum. They understand that this is a, you know, environment, a political environment, that y'all have awareness of many factors. So I just want to put that on.

All right. Redistricting criteria, the legislature adopted, in the '21 Regular Session, Joint

Rule -- Joint Rule 21. So this is the criteria, and copies of this rule, members, are in your packets. And this is important because this is the standards that the legislature has adopted for consideration of redistricting plans.

So what are we talking about? Compliance with the Equal Protection Clause of the 14th Amendment, the 15th Amendment, Section 2 of the Voting Rights Act, all other applicable federal and state law; that all redistricting plans must be composed of contiguous geography - does anybody have a question about that? - okay; contain whole VTDs - so that is the term -- the census term for election precincts - to the extent practicable, and a limitation on the number of divisions that can be used in a precinct if they have to be split.

All redistricting plans have to respect establish boundaries of parish municipalities - but that is subordinate and not used to undermine maintenance of communities of interest within the same district - to the extent practicable. We must use the most recent census data, that is the redistricting data file, the PL 94-171 data released by the census, as it is validated through our data verification program.

If a member of the public wishes to submit a plan, they must submit it electronically in a comma

delimited block equivalency file. The purpose for this, members, is so we can import it into our system and be able to produce the reports that you're going to be used to seeing. Each redistricting plan for the House and the Senate, PSC, BESE, Congress, and the Supreme Court must be a whole plan which assigns all the geography of the state. Now, why is this?

Well, I can tell you what. After many decades of drawing districts, I can tell you: I can draw a single perfect district every day all day, but drawing 105 or 39 or even 6 is much more difficult, so. And you have to, again, consider the totality of the circumstances there. So we require -- you can't just submit the perfect district, you must submit a whole plan.

Each redistricting plan for the House, Senate, PSC, and BESE must contain single member districts; contain districts substantially equal in population, and that, again, is that plus or minus 5 percent from the ideal; must give due consideration to traditional district alignments to the extent practicable. For Congress, again, single member districts, and contain districts with as nearly equal to the ideal district population as practicable.

Okay. Let's talk about what we've got. So

when the 2020 census came in and was reported to the state -- and again, this was a unique year for the census. They were seriously behind in reporting the data to the states, and they also employed a new privacy metric, the differential privacy, which has been a challenge. But anyway, the census data is considered the gold standard for data to use for redistricting.

So in 2010, the ideal population for congressional districts was 755,562. That increased by over 20,000 to 776,292 following the 2020 census. Why is this important? Well, here is the map of the prior congressional districts before the redistricting cycle following the 2020 census. This is the malapportionment. So what does that mean? That is the number by which the districts, both each individual district and the overall plan, deviate from the ideal. And as you can see, there is substantial deviation.

There is a difference of 88,120 between Congressional District number 4 and Congressional District number 6. And as a reminder, congressional districts have to be as close to equal in population as possible. Therefore, the legislature had to act to redraw the districts. I call this the heat map. This shows the -- and so the dark orange reddish color are deviations with -- that are furthest below the ideal.

The lighter orange is still below the ideal. The light yellow colors are population that is above. But obviously, District 6 was the most above the ideal district.

So to remedy the population inequality among the districts, the legislature passed a bill. That bill was introduced on February 1st. It was reported favorably by your predecessor committee on February 4th, 2022. It passed the House, 70 votes to 33 nays, on the 10th. It was received in the Senate on the 14th. The Senate and Governmental Affairs Committee reported it on the 15th. Senate passed it 27 to 10 on the 18th. The House concurred in amendments, 62 yeas to 27 nays, on the 18th.

Then it was sent to the governor on March the 10th. The governor vetoed the bill on May the 30th. The House overrode the veto, 72 yeas to 31 nays. On March 30th, the Senate also overrode the veto, 27 yeas to 11 nays. And on March 31st, the bill became Act number 5 of the 2022 First Extraordinary Session. This bill, Act 5, is -- this map represents the districts that were drawn pursuant to Act 5. And this is the map that, again, is in litigation currently.

This is the population, again, statistics, the deviations. You've looked at the report. I don't need

to repeat that to you, but you can see that they are as nearly equal in population, and certainly much more equal in population than where we started.

Malapportionment of the Supreme Court, and we're talking about this again because it is in the special session call. These are the current districts for the seven Supreme Court districts. These districts, while not subject to equal population requirements due to that case that we mentioned earlier -- when these districts were last drawn in 1997 using the 1990 census -- okay. So they were drawn in 1997 using 1990 census figures.

The legislature did draw them with substantially equal populations, and in fact, the mean deviation was less than 2 percent among the districts. The ideal district population at that time was 602,853.

This, members, shows you this current state of the deviations among each of the Supreme Court districts. District 1, well, the -- I'm just going to say the -- the population of the districts vary considerably from a low of 476,554 in District number 7 which is a Orleans and Jefferson-based district, to a high of 838,610 in District 5 which is the Baton Rouge metropolitan-based district, a difference among the districts of more than 362,000 people.

REPRESENTATIVE BEAULLIEU: Ms. Lowrey, just -- the original districts, they were -- they were built in the '20s; is that -- is that correct? And only changed once if -- if my memory --

MS. LOWREY-DUFOUR: Changed once. I believe, '21, they were -- Supreme Court districts were established.

REPRESENTATIVE BEAULLIEU: Let me -- since we're in the twenties again, like, we're talking the 1920s?

MS. LOWREY-DUFOUR: Yes. I'm sorry. Yes. Yes. Back before, I believe, anyone in this room had yet made an appearance.

REPRESENTATIVE BEAULLIEU: Yeah. Representative Thompson may have been in the legislature, but that's -- that's it.

(Laughter.)

MS. LOWREY-DUFOUR: He certainly has more seniority than anyone in the legislature. Whether or not he was actually here in the '20s, we'd have to ask. But, yes. So again, and here's that heat map showing the population deviations. Dark red, dark orange, furthest below the ideal, and then dark green representing population the furthest above the ideal.

REPRESENTATIVE BEAULLIEU: Ms. Lowrey, we have

a question. Representative Wyble.
REPRESENTATIVE WYBLE: Thank you, Mr. Chair. Ms. Lowrey, thank you for all of this information. It's very helpful. I'm still trying to wrap my head around how the census is counting population, what we talked about earlier. So if a respondent checked White and Asian, that respondent would be counted as --
MS. LOWREY-DUFOUR: Okay. The census reported all of those population figures to the state, okay?
REPRESENTATIVE WYBLE: Right.
MS. LOWREY-DUFOUR: So if you really want to know who reported -- not who, but numbers who reported themselves as White and Asian, we can certainly provide that to you. However, and I -- I just want to say there's a limited number -- there's a limited space on -- on reports. And in order for you to be able to analyze voting-rights issues -- and we have a document on our website, and it was a kind of guidance from the justice department -- the United States Justice Department about analyzing Section 2 guidance for that where you really look at one -- the population of "alone," so who reported single race.
And then you would allocate to the protected class minority groups the White plus the minority group as well as any other reporting. So you would look at it

like that. So for simplicity and -- and to basically allow y'all to look at, you know, categories of population, this is how the reports are confected. But the census reports hundreds of categories of racial populations, you know, and they'll tell you. I mean, it's, like, White alone, White plus Black, White plus Asian, White plus Black plus Asian plus other. I mean, all those things will be reported by the census.
But for simplicity, I mean, there's no way for y'all to look at --
REPRESENTATIVE WYBLE: Sure.
MS. LOWREY-DUFOUR: -- the report --
REPRESENTATIVE WYBLE: Sure.
MS. LOWREY-DUFOUR: -- because it would be hundreds of columns of data.
REPRESENTATIVE WYBLE: But -- but that criteria is regarded equally regardless of what they check off, I guess is what I'm trying to find out. If -- if they were White -- White only, they're counted as White. But if they're White and another, then they're counted as Other. But if they check off Black and others, then we count them a part of our Black population; is that correct?
MS. LOWREY-DUFOUR: Right. And that's based on that guidance.

REPRESENTATIVE WYBLE: From the federal government?
MS. LOWREY-DUFOUR: Yes, sir.
REPRESENTATIVE WYBLE: Has that guidance been -- I -- I don't know if this is a fair question or not. Was that similar guidance in 2020 --
MS. LOWREY-DUFOUR: Yeah.
REPRESENTATIVE WYBLE: -- compared to 2010?
MS. LOWREY-DUFOUR: Yes.
REPRESENTATIVE WYBLE: Has it always been that way?
MS. LOWREY-DUFOUR: It's similar guidance.
REPRESENTATIVE WYBLE: All right. Thank you.
MS. LOWREY-DUFOUR: No. You're very welcome. Okay. Well, that --
REPRESENTATIVE BEAULLIEU: I think Representative --
MS. LOWREY-DUFOUR: -- concludes my presentation, unless there's any other questions.
REPRESENTATIVE BEAULLIEU: Thank you, Ms. Lowrey. Representative Gadberry does have a question. Representative Gadberry.
REPRESENTATIVE GADBERRY: Thank you, Mr. Chair. Just to make this clear, what was the ruling from the judge against the maps that were submitted? I

-- I assume we submitted a --
MS. LOWREY-DUFOUR: Representative Gadberry, we do have the attorney general here today --
REPRESENTATIVE GADBERRY: Okay.
MS. LOWREY-DUFOUR: -- to address those issues regarding the litigation, and I think it would be much more appropriate coming from the chief legal officer of the state.
REPRESENTATIVE GADBERRY: I figured that would be your answer. We submitted Act 5 though, right? This one?
MS. LOWREY-DUFOUR: Act 5 --
REPRESENTATIVE GADBERRY: Is what we submitted --
MS. LOWREY-DUFOUR: -- was adopted by the legislature.
REPRESENTATIVE GADBERRY: That's what we submitted to the judge?
MS. LOWREY-DUFOUR: Well, the judge was looking at it --
REPRESENTATIVE GADBERRY: Yeah.
MS. LOWREY-DUFOUR: -- as part of the litigation.
REPRESENTATIVE GADBERRY: Right.
MS. LOWREY-DUFOUR: Okay?

REPRESENTATIVE GADBERRY: That's the one that she looked at though, that she rejected?

MS. LOWREY-DUFOUR: Well, I mean -- and -- and also there have been other plans --

REPRESENTATIVE GADBERRY: Okay.

MS. LOWREY-DUFOUR: -- that have been submitted by plaintiffs to the court.

REPRESENTATIVE GADBERRY: And -- and would you say that Act 5 did not meet the redistricting criteria?

MS. LOWREY-DUFOUR: Representative Gadberry --

REPRESENTATIVE GADBERRY: I know. You're not (inaudible 0:43:45) --

MS. LOWREY-DUFOUR: That is a -- that is a legal matter that is currently the subject of litigation in the Middle District, and again, much more appropriately addressed by our chief legal officer.

REPRESENTATIVE BEAULLIEU: Yeah. We can let our attorney general handle that one.

REPRESENTATIVE GADBERRY: Okay. Thank you.

MS. LOWREY-DUFOUR: Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Ms. Lowrey. Members, as -- as you all were just -- got a -- got a teaser from Representative Gadberry, we have our attorney general here with us, Ms. -- Ms. Liz Murrill. She's going to join us and give us an update on the

litigation. And I see Ms. Murrill has a familiar face with her, so I'd like to welcome back to the House of Representatives former colleague Representative Larry Frieman. Welcome, welcome, Mr. Frieman.

MR. FRIEMAN: Thank you, Chair. Thank you, members. It's -- I'm glad to be back. And sitting on this side of the table is a familiar place --

REPRESENTATIVE BEAULLIEU: Yeah.

MR. FRIEMAN: -- for myself as well. So thank you for having me.

REPRESENTATIVE BEAULLIEU: If you wouldn't mind, everyone, and introduce yourself for the committee, and then it's all yours.

MS. MURRILL: Thank you, Mr. Chairman, and members of the committee. It's great to be with you today as your new attorney general. I'm Liz Murrill. I also have with me Tom Jones who is the new director of the civil division and has been involved in the litigation. And now, chief deputy -- almost chief deputy, assuming you confirm him, is Larry Frieman. So that'll be before you soon, too.

I -- I -- I want to tell you that redistricting is hard. I'm not going to tell you this is easy. I -- I think that you did a -- you did the best job you could before. We've been in litigation.

The last time redistricting, in the 1990s, it -- it was -- when the second majority/minority map was drawn, we ended up in litigation for a decade. So there is no guarantee that when you do this again, we won't still be in litigation. But we are in litigation now.

The District Court judge has conducted a fact-finding mission - that's what will -- what always happens - and made fact findings regarding the map. She issued an injunction. That injunction is not currently in effect for reasons that I can explain to you, but I think the bottom line is it is not currently in effect because the deadlines for the election that it enjoined are -- are over.

The courts, nevertheless, have told us to draw a new map, and they have indicated that we have a deadline to do that or Judge Dick will draw the map for us. So you have an opportunity now to go back and draw the map again. And -- and I think that it is not an easy task because the United States Supreme Court has not made it an easy task. They've given you some directives that seem to be -- to not give you a lot of clear lines for doing your job. I -- I apologize on their behalf for -- but, you know, we tried.

I mean, I am defending that map, and so you won't hear me say that I believe that that map violated

the redistricting criteria. I'm defending that map, but I will defend your new map if you draw a new map. So, you know, it's an act of the legislature. My job is to defend the work of the legislature, and I will do that to the very best of my ability.

I think that the difficulty is that in the Merrill v. Milligan case, which was the Alabama litigation that preceded ours, the Supreme Court issued an opinion. And it says that in a Section 2 disparate impact claim, which is different really from the work that you did -- you did your work. You did it in good faith. But they can -- they -- the plaintiffs will go to court, and they will make a disparate impact claim, and that's what gets litigated.

That has nothing to do with whether your intent was nefarious or not. Everyone can have had the right intent and followed the rules as they believed they were given to them, and go to court. And the court can still say, "Under Section 2, there's a disparate impact. And because there's a disparate impact, you have to go back and do it again, or I will do it for you."

And that is -- that is the short version of what Judge Dick has held and what has not been overturned by any court that we have brought it before,

since then. There's no definitive ruling on that case. It is still in litigation. If you pass a new act of the legislature, that will become the new law. So I'm happy to take some more questions. I think that what -- what Merrill v. Milligan did, which is, I think, one question, is that it said, "You can't do this job once there's been some litigation over disparate impact. You can't really do the job without taking race into account."

And so that's not illegal or improper to -- to think about race when you're doing this. You can't really do it otherwise. I mean, that's the whole -- the litigation is because someone has made a claim about the disparate impact. And so there's no way to not give some thought to what you're doing in that context, especially when it's preceded by some litigation and some fact finding. But what the United States Supreme Court has said is that race can't predominate in the way that you draw your lines.

So there have to be other reasons that would justify the map. And those are some -- I thought Ms. Lowery did an excellent job of -- of giving you what the broad parameters are. They aren't -- you know, they're not going to be real -- it's not going to be easy because the Supreme Court hasn't made it real clear in

terms of how you can meet strict scrutiny, Representative Marcelle. I mean, it's -- it is -- it is a difficult task.

And I think that some of the other directives that the court has given, like trying to keep geographical compactness, doing the best you can in terms of meeting all the other requirements, I mean, those are things -- those are justifications that still apply. Maintaining communities of interest still apply. Balancing geographical -- I mean, population still applies. So all of those things are, you know -- and then the totality of the circumstances is ultimately what the test is going to be that the courts apply.

And so, you know, I -- I think that if that makes things even more confusing to you, I blame the courts. I mean, we -- we have tried to get them to explain and give you more clear directions. It is ultimately your job. The constitution makes this the job of the legislature to draw the maps, and then when we end up in litigation, it perverts that process.

Because the -- the -- the way that the -- the precedent is built, there's fact finding that occurs from a judge that can override the very fact finding that you've made and your legislative record. And -- and that's just a product of precedent and how these

cases have been litigated. It's not something I can change.

REPRESENTATIVE BEAULLIEU: So let me just -- to kind of -- you know, I sat on this committee last -- the last four years, and we spent a long time working on the map that we ultimately ended up drawing. And with over two-thirds vote of the legislature, we upheld it over a veto override and whatnot. Went through -- thought it was the most -- two-thirds of us thought it was the most representative of the state of Louisiana.

And even all the work we did, everything we've put into it, all the testimony we've heard, the -- the deviation being what it is, close to zero, none of that matters with the federal judge and control. She has the ability to draw it without our input and can do what she -- if we don't draw a map this week. Is that correct?

MR. FRIEMAN: Well, she -- yeah. She made fact findings of her own based on the evidence that was presented to her in court, and those fact findings are very difficult to overturn in the federal judicial system. There's -- you know, I can talk to you about precedent, I can talk to you about terms of our -- in terms of appellate review. But at the end of the day, her fact finding becomes very difficult to overturn.

REPRESENTATIVE BEAULLIEU: Okay. We have --

we have a couple of questions. Representative Thomas.

REPRESENTATIVE THOMAS: Thank you, Mr. Chair. Good morning. I think I heard you say that race is the predominant --

MS. MURRILL: No. No. Race cannot be the predominant factor in what you would draw. That would violate the Equal Protection Clause. So what you have to do is think about how to best draw the maps, given the criteria that the Supreme Court has established, without allowing race to be the predominant factor that drives the drawing of your lines. That's where the actual Equal Protection Clause violation will come in. So, you know, you need to stay south of that.

And then I -- I think that, you know, you're going to have a lot of other things that you have to think about when you draw these maps. Communities of interest is one of the -- the -- the most important ones. I think that's always been a driving feature of the maps -- or of the map drawing exercise.

Core retention is what was discussed very heavily in Merrill v. Milligan, and I think core retention has now become -- and -- and I'm just going to tell you my personal opinion in trying to decipher Merrill v. Milligan. It was not easy. There are a lot of -- it's a very fractured opinion. But I -- I think

that core retention is the part that the court has given the least amount of attention to in this process now, that once you are trying to redraw the map, I think that core retention takes -- is -- becomes a less important factor under Merrill v. Milligan.

REPRESENTATIVE THOMAS: Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Representative Thomas. Representative Marcelle.

REPRESENTATIVE MARCELLE: Thank you. Let me start by congratulating you. I don't know if I should say congratulations or condolences. I'm not really sure. Congratulations.

MS. MURRILL: Well, I asked for the job, so thank you.

REPRESENTATIVE MARCELLE: Okay. Let -- let me just go over a couple of things that you said, and -- and so I can be clear in what you're -- what you're telling us today. Number one, you said you're going to defend the map, Act 5, that they presented because that is your job to do so, correct?

MS. MURRILL: Yes.

REPRESENTATIVE MARCELLE: And so --

MS. MURRILL: I am defending it now.

REPRESENTATIVE MARCELLE: Correct. Because that's -- that's what we hired you to do, to defend us,

right? And if we pass another map, you'll defend that map as well?

MS. MURRILL: That's correct.

REPRESENTATIVE MARCELLE: The other thing that I -- I -- I -- I -- I -- I heard you say was this is a -- the judge has fact-finding matters. Can you kind of elaborate on what that means? Is that -- that's based upon the testimony that was presented by the plaintiffs; is that accurate? And -- and the -- and the defense, obviously, she took both -- both matters into consideration when she was doing her fact finding.

MS. MURRILL: She did. That doesn't mean I agree with them.

REPRESENTATIVE MARCELLE: Okay. So --

MS. MURRILL: And I -- and I think that it's also a product of -- this is part of what's frustrating, I think, for the legislature when it goes into litigation because people can -- like, experts, for example, that are hired by the plaintiffs, no matter who they are -- this could happen on the new map. Right? Those experts can come and testify in court, and the judge can control that testimony. In our case, it happened in a very, very short, short turnaround in a preliminary injunction hearing which is different from a trial on the merits. We've never had a trial on the

merits.

So, you know, the -- the -- the court -- the judge, whoever that judge may be, has an enormous amount of control over how much testimony is allowed and by whom, and -- and how much time we will have to do that. That was all very, very compressed when we litigated this right after the map was passed. We have not had any other fact finding because we haven't had a trial on the merits. I have raised an objection to that because I think that you are entitled to have a trial on the merits, but the courts have not accepted those arguments at this point.

They have told us to go back and draw the map, and they have given us a deadline. So, you know, I am making the same arguments that I would make on the new map. But at the -- at the same time, you know, the -- the courts haven't given us a lot of safe harbor to go litigate --

REPRESENTATIVE MARCELLE: Okay.

MS. MURRILL: -- the rest of this case. They've said, "Go do this."

REPRESENTATIVE MARCELLE: So it's -- it -- it is a fact that we do have six congressional districts in Louisiana? That is --

MS. MURRILL: It is.

REPRESENTATIVE MARCELLE: -- a fact, right? Is -- is it also a fact that a third of that -- the population is African American?

MS. MURRILL: Approximately, based on the data. I would also point out that 50 percent are women. I mean, there are other -- there are other population, you know, and gender and differences -- like, that's why Section 2 has never been -- I mean, it is expressly stated in Section 2 of the Voting Rights Act that this is not an act of proportionate dividing. That is not permitted under Section 2. And so we can't just take that number and say that's -- that's how we do this, because it's not that simple and that's actually not permitted under the law.

REPRESENTATIVE MARCELLE: So -- so it's not permitted to say that we have six congressional districts, and of those six congressional districts, we -- we talk about community interests, I think was one of them. So do you believe that all five of the other districts has all the community interests impacted in those, and African American districts only should have one?

MS. MURRILL: Representative Marcelle, the -- the -- the -- the job of drawing the districts is yours.

REPRESENTATIVE MARCELLE: I get it.

MS. MURRILL: It's not mine.
REPRESENTATIVE MARCELLE: Right.
MS. MURRILL: And I -- I am defending what I believe to have been a -- a defensible map. And if you draw a new map, I will defend that map. Judge Dick has put us in a -- in a position -- and the Fifth Circuit, the panel that reviewed that decision, and the whole court, when I asked them to go en banc, by declining to go en banc, have put us in a position of where we are today, where we -- we need to draw a map. So I'm here to tell -- I'm not here to tell you don't draw a map. I mean, I think we do have to draw a map --
REPRESENTATIVE MARCELLE: And -- and --
MS. MURRILL: -- and I will defend that map.
REPRESENTATIVE WYBLE: And -- and my final question. I heard Representative Beaullieu talk about two-thirds of the legislature approving this map and -- and -- and voting for it. Beaullieu. I'm sorry.
(Simultaneous speaking.)
REPRESENTATIVE MARCELLE: Beaullieu?
(Simultaneous speaking.)
REPRESENTATIVE MARCELLE: I just call you Beau, so I'm -- I'm trying to get your real name because --
REPRESENTATIVE BEAULLIEU: We'll -- we'll --

REPRESENTATIVE MARCELLE: -- I been calling you Beau.
REPRESENTATIVE BEAULLIEU: -- we'll work on you --
REPRESENTATIVE MARCELLE: Yes.
REPRESENTATIVE BEAULLIEU: -- Representative Marcelle.
(Laughter.)
REPRESENTATIVE MARCELLE: So Beaullieu -- I always call him Beau. But Beaullieu, I -- I -- I -- I heard him say that two-thirds of the legislature voted for this map. And he's absolutely accurate because the majority of the legislature would support this map because it benefits them. We talked about, you know, our districts and our interests. What I did not hear him say is -- because I sat at that table on the other side and presented a map, and none of the maps that we presented got out of this committee.
So it's, you know, it's unfair to say, "Okay, we passed it with the majority of the people," because a majority of the people would support us not having an -- an additional African American representation in another district. I get that. But it's not fair to say that those arguments weren't made to -- to support that. I was one of those that made the argument to support an

additional congressional map. And I think what we're hearing from Judge Kelly Dick is --
MS. MURRILL: Shelly Dick.
REPRESENTATIVE MARCELLE: -- Shelly Dick is that the map is not fair for the state of Louisiana. And -- and what I -- what I agree with her on is that if we cannot -- and we had an opportunity to draw this map ourselves and we did not do it as it supports Section 2, in my opinion. I know you gave yours, but this is my opinion. So then we will allow her to draw that map if we can't do that. We can't draw a map right now, right? Is that accurate?
MS. MURRILL: So what will happen if you do not draw a map is that she has set a trial date. It's very, very quick, and we will still be operating under the old map. So we will move forward then with a trial on the -- under the old map. There'll be a trial on the merits, the same record I think that was presented, and Tom can affirm or -- or correct me if I'm wrong, but the -- the record from the preliminary injunction hearing will all go into the -- into the -- into the court record, and we will look at whether we want to have additional testimony. And that trial will move forward.
I -- I don't expect Judge Dick to change her position. I think she will draw a map, and -- and so

you are getting the first opportunity to do that. I mean, we could have -- in theory, we could have had a trial on the merits, and she could have said, "I don't --" you know, again, "I don't like the old map," and -- or, "I don't like the map that you drew and I'm going to redraw your map." But as a matter of law, you get the first shot at doing that, so.
REPRESENTATIVE MARCELLE: No. We get the second shot at doing it. Thank you very much, though.
REPRESENTATIVE BEAULLIEU: Thank you. Representative Marcelle. Representative Farnum.
REPRESENTATIVE FARNUM: Thank you, Mr. Chairman. So a couple of things. So the -- the parallel that the argument has been based on is the -- the case in Alabama; was that the one?
MS. MURRILL: Yeah. The Alabama case was litigated just, you know, a few months ahead of ours, and so it went up to the Supreme Court before ours did. And so we've basically been held -- our case was held in abeyance pending the outcome of that case.
REPRESENTATIVE FARNUM: So -- and that was a seven-member district, right?
MS. MURRILL: I believe so.
REPRESENTATIVE FARNUM: So -- so they were trying to reach a second district in a seven-member

state. So would you say, just in your opinion, is it harder to -- to draw two of six than it is two of seven, just based on the compactness of the population of that state? Because wouldn't you say that every state has a different compactness, there's no two states that are identical, and maybe it's easier in one state, that maybe the compactness is -- is much more centrally located to reach that conclusion. Wouldn't -- would you agree with that?

MS. MURRILL: I -- I would agree with you that every state is different and that -- that our population -- how our population is spread out is -- is different from every other state.

REPRESENTATIVE FARNUM: Would -- would you --

MS. MURRILL: So our population is -- our population, I think, is relatively close to theirs. I -- they'd probably have a little more population because they still have seven districts. You know, we -- this isn't going to be easy. I -- I didn't -- that's why I started out by saying, "I'm not here to tell you this is an easy job." You have a hard job. Our state is different. Every state is different from each other, and -- and you have to do this based on the facts in our state.

We have argued in our case that our state is

different from Alabama with regard to -- so that they -- the fact findings aren't -- can't be the same. We're not the same. Our history isn't the same. Our history of redistricting and redistricting litigation is not the same. And we -- we brought those issues up, and here we are still, so.

REPRESENTATIVE FARNUM: I -- I -- I know. I spent the better part of three years going over this. I was on the committee last time and sat through numerous, numerous meetings on -- on this across a period of the three years. Help -- help me understand how the -- the voting-age population factors in when the voting -- the Black voting-age population is lower than the total population in the state. How does that factor in?

MS. MURRILL: You want to take that one?

MR. JONES: Yeah. The -- the judge --

MS. MURRILL: Introduce yourself just quickly again.

REPRESENTATIVE BEAULLIEU: You're on. You're on.

MR. JONES: The judge here in the Middle District has based her rulings on the Black --

REPRESENTATIVE BEAULLIEU: If you don't mind, could you kind of speak into the mic a little bit? Or you can pull the mic to you, I believe, as well.

MR. JONES: I'm sorry. My name is Tom Jones. I'm the director of the civil division in the attorney general's office.

The judge has principally based her ruling on Black voting-age population. That's what she's used as the primary criteria. Then the experts take that Black voting-age population, and they're very clever people, and they do very clever things with those numbers. They can persuade you on one side that the Black voting-age population should be analyzed this way, and the other experts can convince you of just the opposite the next day. But Black voting-age population has been the primary criteria for this judge's rulings.

REPRESENTATIVE FARNUM: Because you did say something earlier, that -- that race cannot be a determining factor of -- of why you draw maps.

MS. MURRILL: It can't be the predominant factor.

REPRESENTATIVE FARNUM: Isn't that the only reason we're here right now?

MS. MURRILL: You know, we're here because of --

REPRESENTATIVE FARNUM: But isn't that the predominant reason?

MS. MURRILL: -- the court's telling us we

have to be here. I mean, I -- I think that's part of it. You know, the -- I mean, I'm defending the map. I'm going to defend the new map. I -- I want you to know, I mean, if you draw a new map, I'm defending that map, so.

REPRESENTATIVE FARNUM: I -- I agree.

MS. MURRILL: I'm not going to say that, you know, I mean, I think -- I don't -- I have complaints about how this case was managed, I mean, not by our litigators, not -- you know, I just think that we need -- we should have a trial on the merits. I've always -- I have argued that in court. I have signed off on those pleadings. I still believe that that's true. The courts have told us to do this by a certain date or it's going to be done for us.

REPRESENTATIVE FARNUM: I -- I think the circular fashion of -- of the 14th, the 15th Amendment, and this Section 2 of the Voting Rights Act is a circle. So it -- it -- it sends you in this race to chase your tail to try and accomplish what you're trying to accomplish. And -- and each one contradicts the other one in the circle. So you end up in this never ending loop of -- of how do you accomplish what we're tasked to do here.

We did look at a lot of maps and -- and, you

1 know, I -- I personally think that the one we passed was
2 -- was a very legal, legitimate map. And -- and -- and
3 we'll do the best we can with what we have. So,
4 appreciate your time today. Thank you, Mr. Chairman.
5 REPRESENTATIVE BEAULLIEU: Thank you,
6 Representative Farnum. Representative Carter.
7 REPRESENTATIVE CARTER: Thank you, Mr.
8 Chairman. I -- because this committee meeting is being
9 viewed by people throughout the state, I think it's
10 important that we be honest and -- and -- and -- and put
11 the whole picture, why we here, how we got here. It
12 seemed to be an impression that the old Judge Dick's
13 begging us, trying to make us do something even though
14 we've done the right thing.
15 Is it not true that the judge's job, her task,
16 is to look at the law, first the law, the -- the
17 jurisprudence of reapportionment, and look at the -- the
18 -- the -- the statute that's been passed,
19 reapportionment and other criteria that Congress and --
20 has given us, to see if we went about this the right
21 way. She just didn't come up the side to say, "I'm
22 going to make them have another Black district." That
23 is not her job. And -- and -- and she did anything
24 contrary to that, she certainly would have been reversed
25 quite quickly.

1 But -- but -- but what she did, she looked at
2 the law, and there was -- there was -- there was a
3 request made by motion to -- to -- as to whether or not
4 the plaintiff would succeed on this problem with
5 disparity and what have you if they went to trial. And
6 she pretty much said, after studying the law and
7 studying the facts and what actually took place in this
8 legislature, she decided it would probably succeed. So
9 she asked the legislature to go back and try to do this
10 over again the right way. And the legislature has that
11 opportunity. We could get nothing done, okay?
12 So now the judge -- it will stay -- the
13 attorney general office -- she -- she expressed that she
14 wanted another map and she -- a better map, she thought,
15 that's more legal. And so she -- she asked the
16 legislature to -- there was a state made by the attorney
17 general's office, and that was granted by the Fifth
18 Circuit.
19 And because of the Alabama case -- and Alabama
20 is different from -- first of all, Alabama has 26
21 percent population of African Americans. Louisiana, 33
22 percent. Alabama has a larger overall population than
23 Louisiana as well. That's why they have seven
24 congressman. But -- but you can't compare Alabama to
25 Louisiana.

1 But the law is pretty much the -- it's the
2 same. So based on that law, that judge says, "Well,
3 y'all either going to do a map, or I'm going to do a
4 map." So -- so he gave us another -- a third time to do
5 the map. Now, if you look at the analysis of the -- of
6 what we done the last time, there was about eight maps
7 that were presented to this House and Government Affairs
8 Committee, but there's only one map, the speaker map,
9 House Bill 1, that was even considered, seriously
10 considered.
11 I mean, there was some people came to the --
12 to the table and -- and talked about these other maps,
13 but -- but -- but it was asked by the speaker then --
14 the then speaker who was carrying the House Bill 1, "Did
15 you look at Section 2 of the Voters Right Act? And did
16 you try to comply this map with Section 2?" And the
17 speaker said no.
18 "Well, did you look at the disparity that this
19 map represents? It's just common sense. If you got a
20 third of the population that is African American and --
21 and -- and 33 -- over 33 percent, did you look at those
22 -- those figures? You don't have to be the primary
23 criteria, but you got to first look at whether or not
24 it's a -- it's appears to be a fair map and complying
25 with the 14th Amendment, Section 2 and other -- other of

1 Supreme Court jurisprudence?" He said no.
2 He said that he -- he -- he -- he -- this is
3 his map that he's presenting, and he didn't -- let the
4 lawyers worry about all this other stuff. This is his
5 map. So the -- the -- the record -- the record of the
6 -- and I tried to tell him this because I was asking
7 questions to this -- to -- on House Bill 1, like
8 everybody else, "Why this map have a problem?" And so
9 -- so -- so the legislature knew the map had a problem,
10 but they wouldn't listen to anybody else.
11 So while I agree that the -- your
12 representation that race is not the -- the sole factor,
13 the -- the fact is you got to have six divided equally,
14 okay? And -- and if it -- but -- but -- but Section 2
15 says if you've got a group that is compact, that is
16 compact and that vote certain voting patterns, that you
17 should try to create a map that allow that group to
18 represent a person of their choice. That's all it says.
19 So I asked the speaker, "Did you look at Section 2 and
20 try to come up with a map that does that?" He said,
21 "No, I didn't."
22 So it's the speaker's and -- and -- and the
23 legislators' testimony in the record that caused them
24 the problem they had when it went to the judge. Had
25 they said, "We looked at Section 2, we tried to comply

with Section 2 but we couldn't because the Black population is so dispersed in the state. We could not get another district that was compact," they didn't say that, didn't even try. So that's why the state is in the position it's in, not because somebody is out there -- some federal judge is out there trying to make Louisiana have another -- another minority district now.

However, I do agree that we need to have this opportunity, and it's wonderful to have this opportunity to try to create a map that will comply. Now -- now -- and I think that I applaud the governor because I think the governor wants to do the right thing. The new governor wants to do the right thing. He wants to have a map to -- so we can do our own map and not a federal judge. And I support that. And so -- but I don't want to give the impression that federal judge is just a bad, bad monster, is trying to make us do something we shouldn't do. She has to comply with the law.

Now, the Supreme Court has reviewed what the -- the -- the -- the attorney general's office presented there on confection of the state, and it's really -- they -- they denied that. It's the United States Supreme Court saying you got to go back and do this map, not just Judge Dick, okay? So -- so we need to accept the fact that the map we had, based on the record, based

on the testimony presented here in the legislature, based on the debate in the legislature, based on the law, that it was not in compliance.

Now, you can differ. People can differ because they -- they don't like what the law says, maybe, or they want to twist the law. But the fact of the matter is it's not a sustainable map. This map is not sustainable that we have now. And so we have a chance to do that and not offend too many political notions at the same time.

And so I just -- I just want to make that -- put that in the record that -- that this is a effort on the part of people of different political interests to try to resolve the issue that had been defined by -- by Supreme Court decision and by federal statute, and -- and try to come up with a district that is acceptable.

That's what we're trying to do, you know. And it doesn't mean that you're a bad person or you -- or you got a problem because you supported that last map. It's just that the record did not support -- we didn't get enough input from other people that had concerns about it. We didn't allow people to have -- have -- put their input in. Had we putting three or four maps on the floor and explain why we putting on the floor, that might have been different. Have we tried to do what the

-- what the Supreme Courts over the years have told us to do?

I happened to be on the legislature in '84 to '92 when we wrote a lot of the reapportion maps. Okay. So this problem been around a long time. So we -- and -- and so we had -- oftentimes, federal judges had to put us on the right track, say, "Okay. Y'all doing good. Y'all working in the right direction, but y'all got to go back and do this over again." And that's what she did.

REPRESENTATIVE BEAULLIEU: Thank you, Judge Carter. Vice-chairman Lyons.

VICE-CHAIRMAN LYONS: Thank you, Mr. Chairman. Is it Ms. Murrill?

MS. MURRILL: Murrill.

VICE-CHAIRMAN LYONS: Murrill. I'm sorry, sorry. I -- I -- I have a question for you, but before I get into my question, I just wanted to note that as we talk about the Voting Rights Act and -- and the premise of a lot of things that we've done, today is actually the holiday of Martin Luther King Day, today, which his actual birthday is tomorrow. This is -- the observance of it is today. So a lot of us question, you know, as the federal holiday (inaudible 1:14:43) was -- was empty, what have you, is why we're here today.

So I just want to just remind everyone that one of the things that Martin Luther King did say was there's never a wrong time to do the right thing. So we're here today and we would not have any other, I guess, issue -- he wouldn't. Now we're doing something that we'll be doing to correct where we at and -- and so forth. But my question to you, ma'am, is you alluded to earlier that you want to have a -- preference to have a trial on the merits, that you were requesting -- asking for.

So as a body here, as we're going to be going through this process, can you outline to us in any form necessary that -- to get it across, what were some of those merits? Because I'm assuming when you say the trial on the merits, you mean that the merits of -- of the decision that you may have had difference with, you had other merits that you wanted to talk about or maybe defend in the -- in the fact-finding portion that was not revealed.

MS. MURRILL: So, Representative Lyons, when we went into this litigation right after the legislature completed the map drawing process, we went into a very, very compressed hearing on a motion for a preliminary injunction. That is a different standard. It was very compressed. We did not have the -- the length of time

that we would ordinarily have for a full trial.
I believe that -- I mean, this is -- you can blame it on the litigator in me, which is fine, but I believe that it -- that -- that the state and -- and I believe this under the new map that you pass, that we should be entitled to have a trial on the merits -- merits before we are forced to go in and change an act of the legislature. That is just a fundamental premise that I have about acts of the legislature and us being required by the courts to redo them. That -- that -- as a practical matter, we did not have a lot of time, but I have lost -- we lost on that issue.
I mean, we -- we did. Not just me, but the entire litigation team, including the lawyers who represented the legislature or the -- the -- the speaker and the -- the president of the Senate at the time and the secretary of state. We asked to have a trial on the merits set before you were required to go into session, and we offered to do it quickly. So just to be clear, we were not trying to delay. We offered to do it in November. There was another trial set. I mean, we tried to do this quickly so that we could have a complete record upon which whatever the decision was.
And we did not believe that Judge Dick would change her decision, but we still believe that the case

should be before the courts on a complete record. It is not, because we weren't -- we never had a trial on the merits. The courts have told you to go back and draw a map. And they said, "We can have a trial on the merits, but we can do that after you draw a map."
So as a -- I mean, just fundamentally as a lawyer who represents the -- you and defends the laws that you pass, your laws -- if you have a law that you pass, that you feel very strongly about, and the entire legislature has voted for it even though some people may disagree with it, then I will defend your law. And I -- I think that -- that you are entitled and the legislature is entitled to that defense. So that's the point that I was making. I -- I don't think any of these cases should be tried and decided at the preliminary injunction stage. I think we are entitled to a trial on the merits.
And -- but at this point, the courts have told you -- the federal courts have told me and they have told you that we don't get that right now. You -- you get to have this session right now, or Judge Dick is going to draw the map for you. So, you know, I'm not here to say, "Don't draw the map." I'm here to tell you, "Draw the map."
VICE-CHAIRMAN LYONS: Okay. Thank -- thank

you very much. Thank you, Mr. Chairman.
REPRESENTATIVE BEAULLIEU: Thank you, Representative Lyons. Representative Gadberry.
REPRESENTATIVE GADBERRY: Thank you, Mr. Chair. Ms. Murrill, if we draw a new map and Judge Dick decides she don't like that one, do we start all over again, or will she immediately draw a map? I don't think she's capable of drawing a map, number one. I just don't think she could do it. But --
MS. MURRILL: She -- I mean, no federal judge does this without a demographer helping. I mean, they're -- she'll appoint -- she will ask for experts. She will ask for the maps to be submitted to her with expert testimony, and then she will -- typically, she's probably going to decide which map to take, but she can tweak those lines. She can decide how to draw the map, how she wants to draw this map based on the input of the experts from both sides. She could appoint her own expert and have that expert assist her in the map-drawing exercise.
And remember, you've been through this before. A large part of this exercise is done through computer generated maps. So, you know, you put the numbers in, you start changing -- you change the inputs, it spits out a new map. She's going to have to go through that

same process that you did, and then -- and then we continue. So I -- I mean, I can't tell you that the plaintiffs will accept the map that you draw. She has established a timeline for the plaintiffs to amend their petition and challenge that map, and then we will -- we will go through the process again to determine whether or not that map is acceptable.
REPRESENTATIVE GADBERRY: And for four years on this committee previously, I spent hours upon hours looking at this map, all the maps. And I looked at the plaintiff's map, so to speak, that they presented before this group, and I didn't feel like any of those met the criteria. The -- the -- the overriding factor, I guess, was they had gerrymander lines, which is against the Voting Rights Act. So I'm hearing that you said that the map -- that the current map that's been rejected, I guess, by the judge, has it been to the US Supreme Court? Because that's the next step.
MS. MURRILL: It has not. It -- the -- the -- the US Supreme Court can decide whether to take a case or not take a case.
REPRESENTATIVE GADBERRY: Right.
MS. MURRILL: They have not taken our case. They took our -- they -- they stayed our case last summer while the Alabama case went forward and was

1 litigated. They said, "You just wait." They thought we
2 had made a good case for a stay and so they paused our
3 case while they decided that one. But they did
4 something and these -- this is kind of a term of art,
5 but I mean, they granted cert in advance of judgment.
6 That means they actually took our case, and then after
7 they decided the Merrill case, the Alabama case, they
8 just vacated their own grant and sent it back to us.
9 So in a way, they took our case, and then they
10 vacated their own decision to take our case and they
11 sent it back down to the Fifth Circuit and to judge
12 Dick. And so it's -- it's back in the hands of the
13 District Court judge who is supervised by the Fifth
14 Circuit Court of Appeals. And so there has been some
15 litigation between August and, really, through the
16 summer since the Merrill case came out all the way
17 through the time that the opinion was issued in
18 November, I think, from the Fifth Circuit where a panel
19 of the Fifth Circuit said, "You need to go draw a map by
20 February 15th."
21 So they actually suggested we should have done
22 this before -- before we legally, really -- or -- or --
23 or I think it was practically possible to even get it
24 done. But, you know, here you are. I think the
25 governor heeded that call that -- that -- that demand.

1 I mean, we've had it reviewed by a number of judges.
2 They have had nothing to say about our arguments. It's
3 been radio silence. And so the only decision that
4 remains in front of us right now is Judge Dick's.
5 And -- and so Judge Dick has set a timeline
6 for us to have a trial. They did say we get to have a
7 trial, but we don't get to have that trial until after
8 you go through this exercise. And, you know, she will
9 do it for you.
10 REPRESENTATIVE GADBERRY: And once we have
11 that trial, we have the opportunity, if she still
12 rejects the map, to appeal that?
13 MS. MURRILL: If she -- if she rejects the new
14 map?
15 REPRESENTATIVE GADBERRY: Or the existing one
16 again.
17 MS. MURRILL: Well, I mean, if she -- if you
18 don't draw a map, then we will be back in front of her
19 for the trial on the merits in very short order and that
20 -- that case will continue. If you do draw a map, then
21 the plaintiffs will have to decide whether they wish to
22 challenge that map, whether they accept that map. And
23 if they accept that map, then -- then the whole case
24 should be over.
25 REPRESENTATIVE BEAULLIEU: Yeah.

1 MS. MURRILL: If they do not accept that map
2 for whatever reason, then if they don't like it, I mean,
3 they may -- it may be a perfectly acceptable map for
4 some people. It may be a second majority/minority map
5 that -- that some people like or that some people don't.
6 So there's no guarantee that someone won't, that they
7 -- that the plaintiffs will like the map. But if they
8 -- they can -- so they could continue to challenge it,
9 and now they will have to go and amend their pleadings
10 and we, basically, will start over because it is a new
11 act of the legislature.
12 REPRESENTATIVE BEAULLIEU: It's going to
13 replace the existing map --
14 MS. MURRILL: It will replace the existing
15 map.
16 REPRESENTATIVE BEAULLIEU: -- Representative
17 Gadberry.
18 REPRESENTATIVE GADBERRY: Well, I mean, along
19 what Representative Farnum -- Farnum was saying earlier,
20 you chase your tail on this thing.
21 MS. MURRILL: Well, that's why I said it's not
22 easy.
23 REPRESENTATIVE GADBERRY: You comply with one
24 part, and you check another part and it doesn't meet the
25 criteria. So you go back and rework your population or

1 your districts, and that doesn't meet. So you're --
2 you're constantly going in a circle.
3 MS. MURRILL: Look, I believe that the United
4 States Supreme Court should give you better
5 instructions. I -- I do. I think that -- that -- that
6 is the argument that we made last summer. And, you
7 know, if -- if you pass a map and somebody else
8 challenges that map, it -- I will make that argument
9 again. I mean, I think that they -- the courts have
10 made this a difficult task for you and -- and so you are
11 doing the best that you can now within the constraints
12 of the rulings of the federal court.
13 So, you know, it's -- it's not an easy task
14 that you have and I believe that the jurisprudence has
15 made it confusing and that the Supreme Court would be
16 well -- I mean, you know, in my opinion, that the
17 Supreme Court ought to make its own jurisprudence
18 clearer to those of you who have the job of drawing the
19 maps. I think that's fair.
20 The constitution makes it clear that it is
21 your job to draw the maps. I believe that it is not
22 correct in terms of the balance of power between the
23 state and federal government, between the constitution,
24 you know, purview of how this should be happening, for
25 the courts to create precedent that makes it impossible

for you to follow. So I think they should give you better guidance. And you are -- you know, you are here to do the best job that you can to try and draw the map. And I will defend the map, and then we will see what happens.

REPRESENTATIVE BEAULLIEU: Yeah. Members, look. We're not going to be able to litigate the litigation here in committee.

REPRESENTATIVE GADBERRY: Well, you know, my -- my problem is we had a year to draw this map, at least a year. Now we've got eight days.

MS. MURRILL: That's right.

REPRESENTATIVE BEAULLIEU: That's nothing.

MS. MURRILL: That's because the judge gave you deadlines.

REPRESENTATIVE GADBERRY: That's probably not going to work then. Thank you, Mr. Chair.

REPRESENTATIVE BEAULLIEU: Thank you, Representative Gadberry. Representative Newell.

REPRESENTATIVE NEWELL: Thank you very much, Mr. Chairman. I don't have very many questions because I just don't have very many questions. To add what Judge Carter said, as far as ensuring that people are educated about this process, most of us who are attorneys or have some information or some kind of

experience with a court system in process, we know that sometimes you do need a preliminary injunction when things need to happen quickly, particularly when there is going to be irreparable harm, irreparable harm to the applicants.

And in this case, the applicants were the minorities of this state who would have not been given the opportunity to vote for a candidate of choice in the elections that were quickly coming upon us at the end of the session, the first redistricting session. So those citizens, once again, did not have the opportunity to have a candidate of choice because this legislature could not come to an agreement. The process is not difficult. The rules, the guidelines, are not difficult if you want to understand the rules and guidelines that have been put before you.

What comes to -- what -- what makes it difficult is when we are choosing not to do what is right, not to do what is fair for all of the citizens that we represent. I have a lot of folks in my district that did not vote for me, but you know what I do? I still represent them in this body. Some of us do not take -- take upon that task.

This is the first redistricting session that we have had -- well, '21 was the first redistricting

session that the United States had after the expiration of Section 5 of the Voting Rights Act which required all of our maps and every law that we made -- and I'm saying we, states that have had a history of discrimination. Laws that we put in place before had to be reviewed by the United States attorney general's office or by United States District Courts if they were challenged in court.

This is why this has been such a foreign task, I guess, this second part. Because we are taking on all of the onus, creating the maps and then going back and reviewing and redrawing and rewriting the maps, because this is the first time we've had to. Before, we would just throw something together and the United States would take -- take over it. We don't have that luxury anymore. We don't have that opportunity of having someone else to say, "All right. You messed this up. We've got to do it." Thank God for Judge Dick.

Just as it was stated that she doesn't have the knowledge or the know-how to write a map -- Judge, I didn't say it. It -- clearly, we don't have it either. And we've given -- been given every opportunity to learn, every opportunity to educate ourselves, but some of us take that information and -- sir, what's your name again? I -- I apologize.

MR. JONES: Tom Jones.

REPRESENTATIVE NEWELL: (inaudible 1:30:56). Just as Mr. Jones said in his opening statement, you have -- or you determine -- okay. Thank you. Just as Mr. Jones said in his opening statement, you got one side that it's their job to confuse you and make you think this. The other job is -- the other side, it's their job to confuse you and make you think that. We are not here to confuse anybody. We should not try to confuse ourselves with trying not to do right.

If we as a body task ourselves with representing the interests of all the citizens that we represent, whether they voted for us or not, whether we want them in our district or not, if we set ourselves to representing all, this is not going to be a difficult task. And the more we argue amongst ourselves and the more we try to go and appease a national agenda that does not care for the state of Louisiana, the longer we're going to continue to have these fights and the more divided the state will be. I've never seen this state as divided as it is now.

We used to have the divisions on just basic moral value things, but we always, as Louisiana, looked at family, looked at community, and tried to do what was right by our neighbors. I don't see that anymore, and that is what's making this process difficult. Judge

also said that we had maps, and he pointed out the fact that the -- we as -- and I want -- I think it was Rep. Marcelle that said it. We did not have an opportunity to vote on all maps because all maps were not allowed to come out of this committee.

There were options upon options to draw a second minority/majority congressional district, and they went all across the state to give minorities an opportunity to vote for their candidate of choice. They were not allowed to come out of this committee. We sat for a month, six hours, at least, a day, listening to the arguments of -- and the -- the makeup of each map and discussing voting -- voting-age population vs. population. So I understand why we still having those questions because we talked about it ad nauseam.

But when you choose not to do right, that is when the process becomes difficult and it -- it seems as though we can't make a headway. But I want to put it on the record that I didn't vote for none of them maps that came out. I didn't vote for any of the maps that Judge Dick had in front of her because they were not maps that were fair and they were not maps that were taking consideration of all of the citizens of this great state that I call home no matter how unfair or how unjust it is to me.

We still need to look and make sure that Louisiana is a state that it used to be, considering all of her citizens. And thank you for your time, Mr. Chair. I don't have a question for anybody.

REPRESENTATIVE BEAULLIEU: Yeah. Let's try and -- and look -- let's try and keep this to questions for the attorney general. We -- we going to have a time to -- to talk about maps and -- and all that, but if -- like to try and stick to any kind of questions out of respect for the attorney general's time. Representative Schamerhorn.

REPRESENTATIVE SCHAMERHORN: Thank you, Mr. Chairman. Good morning.

MS. MURRILL: Good morning.

REPRESENTATIVE SCHAMERHORN: Welcome aboard.

MS. MURRILL: Thank you.

REPRESENTATIVE SCHAMERHORN: My question is if we do not present a different map, Judge Dick has threatened to draw her map. Is it not our --

MS. MURRILL: Promised, not threatened.

REPRESENTATIVE SCHAMERHORN: Well, okay. Is it not our responsibility as legislators by the -- and protected by the constitution, that our map should be the one that is approved? Now if she draws her own map, when she does, do we still have to approve -- would we

have to approve her map --

MS. MURRILL: No.

REPRESENTATIVE SCHAMERHORN: -- or would it automatically go in force above what the constitution says is our duties as representatives?

MS. MURRILL: So let me kind of -- let me untangle that a little bit. If you draw a map now, that map will become an act of the legislature and it will supersede the prior act of the legislature. The old map goes away.

REPRESENTATIVE SCHAMERHORN: Okay.

MS. MURRILL: If -- if you do not draw a map, then the -- the map that you drew before will remain -- will be the map, and the plaintiffs will continue to litigate that. We will have a trial on the merits. The -- the record from the preliminary injunction will be, probably, supplemented with some additional testimony. She will issue a new ruling and she will issue a permanent injunction against the map. And then that will be litigated, which is my duty. And so I will continue to carry forth my duty to defend against the injunction. That's the process.

If she draws the map herself, then someone could intervene and challenge that map. You know, there are a number of different potential outcomes if she

draws the map. If she draws the map, you know, we could accept that map. You don't get it back. You don't get a second -- you don't get another opportunity to approve her work. The only question is can her work survive the scrutiny of the Fifth Circuit who grades her papers, and potentially, the United States Supreme Court who grades their papers.

And, you know, I think what makes your job a little more complicated is that the prior -- not the -- the exact prior map, but the map before that had been pre-cleared, there had been litigation in the past over a majority/minority map that was declared unconstitutional. So, you know, that's why I have never taken the position that our history is -- or at least our recent history is the same in redistricting as Alabama.

And I believe that the courts need to make it more clear what your job is so that you can do it properly the first time and we can all avoid the litigation side of this and -- and continue to move forward with -- with an act that -- that, as I believe all your acts are, presumed to be constitutional. That is, you know, that's how I'll approach the next -- the next act that you issue. So I'm not picking and choosing. I mean, I think unless it's very clearly

unconstitutional based on existing precedent, then my job is to defend the map. I mean, not just that map, any act of the legislature.

REPRESENTATIVE SCHAMERHORN: Thank you, ma'am.

REPRESENTATIVE BEAULLIEU: Thank you Representative Schamerhorn. Attorney General, that clears the board. Thank you for your time this morning. Mr. Frieman, Mr. Jones, thank y'all for being here with us today, look forward to working with y'all in the future. And again, congratulations on -- on your election.

MS. MURRILL: Thank you very much. Thank you for having me, and good luck.

REPRESENTATIVE BEAULLIEU: Thank you.

MR. FRIEMAN: Thank you, Mr. Chairman. Thank you, members.

REPRESENTATIVE BEAULLIEU: Members, we have a -- a couple of witness card that -- that would like to speak. Again, I want to remind the witnesses as well. We don't -- we're not debating any bills today. We want to hear your voices. So we have an information -- call for information only card, but would like to speak. Mr. Scott -- Edward Scott Galmon, if you want to please come on up. Do you mind introducing yourself?

MR. GALMON: Yes. I'm Edward Scott Galmon

from St. Helena Parish, Greensburg, Louisiana. And just (inaudible 1:39:31), I'm -- I'm a plaintiff on the map. My name is Galmon. If you look at the -- at the original lawsuit, it bears my name. And you guys have a -- a tremendous job ahead of you. And I just want to thank y'all in advance, number one, because I -- I think that this time that you -- you guys are going to produce a map that both the plaintiff and the courts can agree with.

I think the last map that we produced, it went away from some of the -- of the -- the challenges that set before. Because, number one, this would be a lot easier if we pulled all the -- the congressmen off the map and just looked at geography and the people. It'd be very easy to do a map. The challenge comes in is that the geography and the people that are already elected, if you leave them on the map, you have another caveat that you have to overcome.

So once again, you guys have a challenge. I just thought I'd come this morning just to look at y'all face and thank y'all. I thank y'all in advance because I think we -- this time we going to achieve where we trying to go. And for me, 33 percent is one-third. Six divided by three is two. Pretty simple for me, not so simple for you guys. But once again, I want to thank

y'all in advance, and I know that at the end of this process, we going to have something that we all can live with. Thank y'all.

REPRESENTATIVE BEAULLIEU: Thank you, sir. We have two witness cards. They're red cards. I'm -- I'm not sure what we are -- this is just an educational meeting this morning. But if you -- you're welcome to come to the table, Ms. -- Ms. Labry, or if you wanted to save it for the bills that are presented -- or I mean, you're welcome to come to the table. Come on up. You're welcome.

MS. LOWREY-DUFOUR: This is just -- can -- can we come up together?

REPRESENTATIVE BEAULLIEU: Sure. Is -- is this Mr. Harmon?

MR. HARMON: Yes, sir.

MS. LABRY: I wanted him to speak.

REPRESENTATIVE BEAULLIEU: Okay. Go ahead and y'all have a seat and introduce yourselves.

MS. LABRY: Okay. You want to do you? And then I'll do me.

MR. HARMON: You want me to go first?

MS. LABRY: Yes. You need to.

MR. HARMON: All right. JC Harmon from -- I'm speaking for myself, but I'm on the benefit of working

with a bunch of groups that are interested in the process. What I did is I actually submitted to the -- to the committee a -- a --

REPRESENTATIVE BEAULLIEU: Yeah. We --

MR. HARMON: -- a -- a PowerPoint --

REPRESENTATIVE BEAULLIEU: Yeah. We --

MR. HARMON: -- if you got to look at that.

REPRESENTATIVE BEAULLIEU: -- we -- we received -- the -- the committee -- we're going to hear it when -- we're not in the special session yet, so the committee is going to receive it and it's going to be part of tomorrow's testimony.

MR. HARMON: Okay. So you want me to hold it till then, or?

REPRESENTATIVE BEAULLIEU: Yeah, that might be -- that might be best. If it's having to do with maps, I -- I would suggest that.

MR. HARMON: I can do a brief overview right now if -- if --

REPRESENTATIVE BEAULLIEU: We -- we're not debating maps at all today.

MR. HARMON: Okay.

REPRESENTATIVE BEAULLIEU: So if -- if there was, like, an educational thing that you had for the committee real quick, we'll be happy to take it. But if

it's on a map, we would like to hold that.
MR. HARMON: Well, it's kind of a -- just a -- just let me give a brief overview. I won't go over the report. Basically, what I did is I took a map of the -- of Louisiana, and I color-coded it based on the breakdown of Black, White, Republican, Democrat, and looked at the state from an overview standpoint. And I had some people asking me to do that. And what I did is when I did that, you could see that the northern part of the state only had what -- I based it on senatorial districts. So if you look at the northern part of the state, you have three senatorial districts that would fit the criteria that you were looking for.
The issue there is if you take the 39 senatorial district divided by 6, which is the number of representatives you get, you have -- you get 6 and a half. So you need 6 and a half district -- senatorial districts to make a US representative. So if you -- if -- so from a breakdown standpoint, it gives you a good breakdown to start -- or a preference to start what you're looking to do. So that -- but when you do that, you immediately see that you take the northern part of the state off because it doesn't work. So then you can -- so now you're down at the southern part of the state.
So what I was trying to do is make it -- I

know you have a big job and it's not easy to do what you're trying to do, but if you can break down the state into geographical sections and take certain sections off, that makes you focus on the other part of the state to where you need to do what you're looking to do. So -- and I'll hold the rest of it till later. But hopefully, if you take a look at what I did, I think you'll see.
And -- and I did it to try and help the process because I agree that what you want to do is you want to look at what you can do to unite the state. Because I would agree with -- I think it was Representative Newell that said, you know, we're divided now. And I think, if anything, because we're not working to unite the state, that we -- I -- I did a breakdown and if you look at the parishes and you break it down, I actually came up where the parishes actually split out into perfect six representatives.
And I didn't know what the number was as far as the plus/minus number. I was just looking at population. So it gives you a good starting point. So Representative Beaullieu, I'll -- I'll leave it there.
REPRESENTATIVE BEAULLIEU: Thank you, Mr. Harmon. Ms. Labry, you have something you'd like to add?

MS. LABRY: Yes. I'm Susie Labry, and I'm representing myself. I'm -- I'm an appropriate individualist, not as a part of a collective class of color, of skin, height, genealogy, gender, physical descriptions. As for districting, I tried to find a way to create an additional minority district. After studying up myself and with JC Harmon here, I still cannot come up with an additional majority district without gerrymandering, which I consider as illegal if I wanted to or not. But I did try. Gerrymandering, you know, is illegal. I also see it, myself, as reverse discrimination.
Those I see, in my opinion, as other ethnicities such as the Vietnamese, Spanish, et cetera, farmers, rural communities and interests, small business -- so proprietors, main street USA where I have seen that liberals poorly represent by unfair overtaxation in the working people and agriculture, farmers, and businesses.
Three, it would pose more central power, lessening individual power. Individual constituents would fall between the cracks and get less attention by congressmen or be hurt or heeded-to less in a one-size-fit-all class approach which is -- I've seen happen to me. When you represent a collective class as

a one-size-fit-all, too many of us individuals fall between the cracks as -- especially special needs, self identity, talents, ethnicities, nativities, et cetera.
Four, it would cause us one vote short for conservatives in the United States House of Representatives and remove and keep Louisiana in a less-empowered position in the United States. Five, the only way I could see myself to add a minority district is to draw it as a Z, S, coil, or snake which all have been rejected over the decades -- which all have been rejected over -- if we have to do so, I'm suggesting we pop up a minority district as a set of archipelago island -- looking like different-size polka dots as the archipelago islands were scattered between a water.
A majority districts are districts -- majority district's a district. Or we can make a district as a coil, like a slinky toy and -- and draw that around the minorities. And after studying up with myself and JC, I find it mathematically impossible. So I would say, please -- and he'd adapt to -- his maps, we presenting later. He is -- JC here is a genius in research, numbers, statistics, and science. Being an actor myself and also a great devil's advocate, and also trying as a fair approach, I have tried justifying both sides. And I'm just going to ask you, please do not add another

minority district. Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Ms. Labry. The -- the board is clear. Members, this is going to conclude our educational meeting this morning. I appreciate you all being here this morning and -- and your attentiveness and your questions. We're going to have a busy week. I ask you all to stay close to your computers. As bills are uploaded, read them, become familiar with them. If you have amendments, please get them to staff as soon as possible.

Remember, you also -- if anybody in any -- from the outside is submitting information or submitting maps, to include shapefiles as well so we can have the -- the equivalency -- block equivalency files so that we can -- we can have that data and -- and get it to staff as -- as soon as possible. But, members, look forward to it. It'll be a fun week. Thank you.

MS. BAKER: Move to adjourn?

REPRESENTATIVE BEAULLIEU: Yeah. Representative Thomas has moved to adjourn.

(Meeting adjourned.)

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January 16, 2024

In Re: Louisiana Senate Committee Video

PLAINTIFFS' EXHIBIT
PE24
exhibitsticker.com

CHAIRMAN FIELDS: Bill by Senator Womack, Senate Bill 8. Senate Bill 8 by Senator Womack provides for redistricting of the Louisiana congressional districts.

(Pause.)

SENATOR WOMACK: Thank you, Mr. Chairman. Members of the committee, I have an amendment, if I could pass out, please. If I could, I'll -- I'll begin with my opening.

CHAIRMAN FIELDS: All right. Senator Womack, you are recognized, and you may proceed, sir.

SENATOR WOMACK: Thank you. As you know, Louisiana congressional districts must be drawn given the Federal Voting Rights Act litigation that is still ongoing in the US District Court for the Middle District of Louisiana. The map is the bill that I'm introducing, which, as the product of a long, detailed process, achieves several goals. First, as you know -- all are aware, Congresswoman Letlow, Julia Letlow, is my representative in Washington, DC.

The boundaries in this bill I'm proposing ensure that Congresswoman Letlow remains both unimpaired with any other incumbents and in a congressional district that should continue to elect a Republican to Congress for the remainder of this decade. I have great

pride in the work Congresswoman Letlow has accomplished, and this map will ensure that Louisianans will continue to benefit from her presence in the halls of Congress for a long -- for as long as she decides to continue to serve our great state.

Second, of Louisiana's six congressional districts, the map and the proposed bill ensures that four of our safe Republican seats, Louisiana Republican presence in the United States Congress has contributed tremendously to the national discourse. And I'm very proud of both Speaker of the US House of Representatives Mike Johnson and US House Majority Leader Steve Scalise are both from our great state. This map ensures that the two of them will have solidly Republican districts at home so that they can focus on the national leadership that we need in Washington, DC.

The map proposed in this bill ensures that the conservative principles retained by the majority of those in Louisiana will continue to extend past our boundaries to our nation's capital. Finally, the maps in the proposed bill respond appropriately to the ongoing Federal Voting Rights Act case in the Middle District of Louisiana. For those of you who are unaware, the congressional maps that we enacted in March 2022 have been the subject of litigation since the day

the 2022 congressional redistricting bill went into effect and even before we enacted it.

After a substantial amount of prolonged litigation, the federal district court has (inaudible 0:03:35) to its view that the federal law requires that the state have two congressional districts with a majority of Black voters. Our secretary of state, attorney general, and our prior legislative leadership appealed but have yet to succeed. And we are here now because of the federal court's order that we must -- that we have a first opportunity to act.

The district court's order that we must have two majority Black voting age population districts, combined with the political imperatives I just described, having largely driven the boundaries of District 2 and District 6, both of which are over 50 percent Black voting age population -- given the state's current demographics, there is not a high enough Black population in the southeast portion of Louisiana to create two majority Black districts and to also comply with the US Constitution one person, one vote requirement.

That is the reason why District 2 is drawn around New Orleans Parish, while District 6 includes the Black population of East Baton Rouge Parish and travels

up I-49 to include back -- Black population in Shreveport. While this is a different map than the plaintiffs in the litigation have proposed, this is the only map I reviewed that accomplished the political goals I believe are important for my district, for Louisiana, and for my country. While I did not draw these boundaries myself, I carefully considered a number of different map options.

I firmly submit the congressional voting boundaries represented in this bill best achieve the goals of protecting Congresswoman Letlow's seat, maintaining strong districts for Speaker Johnson and Majority Leader Scalise, ensuring four Republican districts, and adhering to the command of the federal court in the Middle District of Louisiana. I'd be happy to take any questions.

CHAIRMAN FIELDS: All right. Thank you, Senator. Just a couple questions. Do -- do -- do you know how many parishes -- I did -- I tried to do a count. How many -- this district here -- can you put it back up? It appears to split about 15 parishes. Senate Bill 8.

SENATOR WOMACK: Right. It does split --

CHAIRMAN FIELDS: All right. And you were here and you heard the testimony of Senator Price with

Senate Bill 4. Senate Bill 4 split only 11 parishes, as I appreciate it, and it created two majority-minority districts. What was the predominant reason for you to create the 6th District the way it looks now vs. just going with Senator Price's bill, which created a more compact district?

SENATOR WOMACK: It -- it was strictly -- politics drove this map because of the -- the -- Speaker Johnson, Majority Leader Scalise, and my congresswoman, Julia Letlow, predominantly drove this map that I was a part of.

CHAIRMAN FIELDS: All right. So is it safe to say that your convection of District 6, race is not the predominant factor?

SENATOR WOMACK: No. It's not the predominant factor. It -- it -- it has a secondary consideration in that because that was the district that we were trying to -- trying to encompass, but it wasn't the primary.

CHAIRMAN FIELDS: So I guess it's kind of difficult when you got a speaker of the house. We're very fortunate in Louisiana. But when you got two members of your Congress that are the two top-ranking members of the US House of Representatives, being a speaker and a majority leader, you know, how much did that weigh in on your decision in drawing this map?

1 SENATOR WOMACK: Well, it -- it -- it had a
2 lot to weigh in on. Not only that, but you have
3 Congresswoman Letlow that sits on Ag and Appropriation,
4 which is a big part of my district. So when you put
5 them all together, that's -- that's a lot of -- a lot of
6 I call it muscle that we -- we were able to look at and
7 put in for the State of Louisiana, for all of Louisiana.
8 CHAIRMAN FIELDS: Okay. So your -- your
9 minority population in District 2 is -- is -- voter
10 registration is 52.6, and your population is 53.1. And
11 in the 6th District it's 54.3 in registration and 56.1
12 in population. And this was the -- the -- you know,
13 looking at all of the issues you were dealing with, this
14 was the best you could come up with?
15 SENATOR WOMACK: Yes, sir. They perform well.
16 When you look at the performance base, when you look at
17 the District 6, the performance of it appears to be
18 positive for the minority district.
19 CHAIRMAN FIELDS: All right. Are there any
20 things that bring these communities together in District
21 6? I guess that would be considered the Red River
22 District.
23 SENATOR WOMACK: Well, you -- you got the Red
24 River, but you also got I-49 that -- that -- that goes
25 through this district from Shreveport down to Lafayette,

1 follows the (inaudible 0:09:30) of the Red River through
2 there.
3 CHAIRMAN FIELDS: Okay. All right. Questions
4 from members of the committee? No questions. You have
5 some amendments you had, Senator?
6 SENATOR WOMACK: I do. Did -- did you --
7 y'all have the amendments?
8 CHAIRMAN FIELDS: I'm sorry. Senator Carter
9 for --
10 SENATOR CARTER: I don't have a --
11 CHAIRMAN FIELDS: -- a question.
12 SENATOR CARTER: -- copy to (inaudible
13 0:09:50). Thank you, Mr. Chairman. I'm sorry, Senator.
14 I did have a -- a -- a question before we move to the
15 amendment. You said that both districts -- you said
16 that the district performed. You were asked a question
17 from the Chairman a minute ago about District 6 and
18 whether or not it performs as an African American
19 district. Do you remember that question a second ago?
20 SENATOR WOMACK: I do.
21 SENATOR CARTER: Same question for District 2.
22 From looking at the District 2 in your map, we have a
23 total African American population of 53.121 percent, and
24 we have the registered African American -- registered
25 African American vote for District 2 at 52.659 percent;

1 did I read that correctly?
2 MALE SPEAKER 1: (inaudible 0:10:56)?
3 SENATOR WOMACK: Yes.
4 SENATOR CARTER: Did -- was any performance
5 test conducted -- I'm sorry. I'm (inaudible 0:11:02).
6 Did -- were any performance tests or analyses conducted
7 to see how District 2 performs as an African American
8 majority district or not?
9 SENATOR WOMACK: The Democratic incumbent wins
10 over 60 percent of the time in that race.
11 SENATOR CARTER: (inaudible 0:11:43) 60
12 percent of the time?
13 SENATOR WOMACK: Okay. I'm sorry. 60 percent
14 of the vote.
15 SENATOR CARTER: Yeah, I think my microphone
16 -- can you repeat it? I'm sorry.
17 SENATOR WOMACK: The Democratic --
18 SENATOR CARTER: So my question -- well, let
19 me ask this. So my question was: how does District 2
20 perform? And you just gave me a figure. What was it?
21 SENATOR WOMACK: 60 percent of the vote on the
22 Democratic nominee.
23 SENATOR CARTER: We heard earlier when we were
24 considering Senator Price's bill that the -- the legal
25 defense fund had conducted an analysis of the

1 performance of that district. They conducted multiple
2 different elections based upon that district, and it had
3 a 100 percent performance race that's coming in as an
4 African American seat. And I guess I'm curious to know
5 what would be the comparable number in terms of the
6 performance of the District 2 of this particular map,
7 the District 2 on your map that's being proposed here.
8 You -- am I asking the question in a way you get what
9 I'm asking?
10 CHAIRMAN FIELDS: I think -- yeah. I think
11 what the Senator is -- is requesting -- have you done
12 any kind of performance tests for either District 6 or
13 District 2? Any performance analysis?
14 SENATOR WOMACK: I have not.
15 SENATOR CARTER: Okay.
16 SENATOR WOMACK: I -- I -- I have a report
17 here printed off on a congressional map, and in District
18 2, a Democratic candidate could win 100 percent of the
19 time.
20 SENATOR CARTER: A democratic candidate, but
21 not necessarily an African American Democratic -- an
22 African American candidate regardless of party. So you
23 said "a Democratic candidate." So I'm asking about an
24 African American candidate. You said that a Democrat
25 candidate performs in that district, but my question is

1 whether or not it performs as a -- for an -- as an
2 African American district?
3 SENATOR WOMACK: Okay. Our analysis is on --
4 is -- is on party, not race. So -- so I can't answer
5 that.
6 SENATOR CARTER: There was -- there was no
7 analysis done to determine whether or not District 2 for
8 this map -- of your map performs as an African American
9 district?
10 SENATOR WOMACK: No.
11 SENATOR CARTER: Okay. Thank you, Mr.
12 Chairman.
13 CHAIRMAN FIELDS: Thank you, Senator Carter.
14 The board is clear. Do you have an amendment, Senator?
15 SENATOR WOMACK: I do. It's Amendment 34.
16 CHAIRMAN FIELDS: All right. Senate Womack
17 brings up Amendment Number 34. Senator Womack on his
18 amendment.
19 SENATOR WOMACK: You want -- you want -- you
20 want to pull that up and --
21 MALE SPEAKER 2: Yes, Senator.
22 SENATOR WOMACK: It's okay for him to pull
23 that up?
24 CHAIRMAN FIELDS: Yes, sir.
25 SENATOR WOMACK: Sorry.

1 (Pause.)
2 CHAIRMAN FIELDS: Okay. You may proceed,
3 Senator. This is the amended -- the amended --
4 SENATOR WOMACK: This is the amendment. What
5 we did on that in Avoyelles Parish, we -- we took out --
6 split Avoyelles Parish, put those into Rapides, around
7 Alexandria, Rapides Parish. And then we moved into --
8 that's Rapides there where we moved it to. And then we
9 moved into Ouachita Parish and took Ouachita, West
10 Monroe, Monroe, and Calhoun into that.
11 CHAIRMAN FIELDS: Okay.
12 SENATOR WOMACK: Any other -- that's it.
13 CHAIRMAN FIELDS: All right. So how many
14 parishes, with the -- with that amendment would the bill
15 overall split?
16 SENATOR WOMACK: Could you -- it'd -- it goes
17 from 15 to 16.
18 CHAIRMAN FIELDS: Okay. So it splits one
19 additional one there.
20 SENATOR WOMACK: One -- one extra parish.
21 CHAIRMAN FIELDS: And that would be Avoyelles
22 Parish?
23 SENATOR WOMACK: That would be Avoyelles
24 Parish. Okay.
25 CHAIRMAN FIELDS: All right. Questions from

1 members of the -- and the percentages pretty much stay
2 the same in the 2nd District?
3 SENATOR WOMACK: Yes.
4 CHAIRMAN FIELDS: And the 6th District?
5 SENATOR WOMACK: And 6th, yeah. The -- the
6 numbers are the same.
7 CHAIRMAN FIELDS: Are there questions from
8 members of the committee? All right. I do have a card
9 - you don't need to fill out no card - from Senator
10 Heather Cloud. If you wish to be recognized, you --
11 please come and take --
12 SENATOR CLOUD: Thank you, Mr. Chair. I just
13 want to make a simple statement. As a Republican woman,
14 I want to stand here -- or sit here, rather, and offer
15 my support for the amendment to the map, which I believe
16 further protects Congresswoman Julia Letlow. She is the
17 only woman in the Louisiana's congressional district.
18 She is a member of the Appropriations Committee in the
19 US House, as Senator Womack stated, and also a member of
20 the Agricultural Committee in the US House. It's --
21 it's important to me and all of the other residents of
22 our area that -- to have these two representatives from
23 our crucial region in our state.
24 I think that politically, this map does a
25 great job protecting Speaker Johnson and Congresswoman

1 Julia Letlow as well as Majority Leader Scalise. It
2 keeps CD5 in the northern Louisiana area and allows
3 Congresswoman Letlow to keep doing the great job that
4 she's been doing. So I just sit here and offer my
5 support of the amendment. Thank you, members.
6 CHAIRMAN FIELDS: Thank you. And -- and so we
7 can be clear, Senator, just to be, like they say, on -
8 what is it? - A Few Good Men, crystal clear, so this
9 map, with this amendment, there are other ways we could
10 perfect a second minority-majority district --
11 majority-minority district that's more compact, 11
12 parishes split. This one splits 16 parishes, and the
13 reason you're offering this amendment is for protecting
14 -- I hate to say for -- but to protect incumbents,
15 members of Congress. But race is not your predominant
16 reason for drawing and perfecting this map?
17 SENATOR CLOUD: Mr. Chair, I have both
18 Congresswoman Julia Letlow and Congressman Mike Johnson
19 in my Senate -- in my district. I work well with both
20 of them, and I want them to continue to be able to do
21 the great job that they do on behalf of all of the
22 constituency in my district.
23 CHAIRMAN FIELDS: Okay. So basically, you are
24 trying to -- attempting to comply with the federal
25 court, but yet protect members of the US Congress, be it

a female and be it two of the most powerful members of the US Congress?

SENATOR CLOUD: Yes, sir.

CHAIRMAN FIELDS: All right. Senator Reese for a question.

SENATOR REESE: Thank you, Mr. Chairman. For Senator Womack. First of all, you know, as we -- as we continue to contemplate these alternative maps, I've got to say that I -- I continue to move forward cautiously as I have been concerned that -- that we may indeed be taking some action that the courts may not have necessarily directed us to take yet. You know, we do know that there was an alternative to -- to ultimately end up with a hearing on the merits.

But I'm also conflicted in that because I know that the person charged with the responsibility of representing the decisions we make in this legislature is our attorney general, and our attorney general has -- has certainly declared that she thought it was the best action for us to -- to take at this time to -- to contemplate a different map structure. The reason we've not done that in the past is because of the difficulty, I believe, in managing what the Voting Rights Act would ask us to do and avoiding other pitfalls in the Voting Rights Act like gerrymandering to ultimately come up

with the districts. And so I -- I appreciate what you're charged with trying to present here.

Would you say that -- that predominantly, in the remaining districts that are not majority-minority districts, that you've tried to really adhere to the continuity of representation in those districts? And it appears perhaps that you're really trying to -- to not bust up the -- kind of the communities of interest, crack or split or divide those communities of interest.

SENATOR WOMACK: Yes.

SENATOR REESE: So in -- in -- in the 4th District, for instance, I noticed that you've kept together, like, our major military installations in that 4th District that has -- that kind of speaks to communities of interest that it looks like you're -- you're attempting to preserve with this map while you still attempt to -- to comply with -- with the objective of the courts in terms of creating another majority-minority opportunity district there.

SENATOR WOMACK: That's exactly right.

SENATOR REESE: The numbers -- and -- and we're talking -- we're on your amendment now, right, Mr. Chairman?

CHAIRMAN FIELDS: Yes.

SENATOR REESE: We've not adopted the

amendment yet?

CHAIRMAN FIELDS: No, we have not.

(Pause.)

CHAIRMAN FIELDS: What -- just -- yes. And because if you need to be -- want to --

MALE SPEAKER 3: It's okay. Yeah. Just in opposition.

CHAIRMAN FIELDS: Okay. Yeah. Your -- your opposition will be noted for the record. There are no other cards that I see. Senator Reese has moved that the amendments be adopted. Are there any objections to the adoption of the amendments? Hearing no objections, those amendments are adopted.

SENATOR WOMACK: Thank you, committee members and Mr. Chairman. Close on my bill.

CHAIRMAN FIELDS: Yes. Before you do, I have -- I wanted to just show you an amendment that I'm not -- I wanted -- Bill, can you pull up -- initially, when I -- when I saw the -- you know, I tried to -- you know, I'm a stickler to keeping parishes together, try to make districts as compact as possible. And I had tried to put something together, and I just want to get some comments from you about it. As soon as Bill pulls it up, I want to know if this amendment would impact any of the considerations you have -- you have made in

perfecting the one we just passed. Is it working?

All right. I tried to keep as many parishes whole as possible in both the -- you know, in the whole state, but I particularly want to concentrate on the 2nd District and the 6th District. Would -- would -- would -- would that satisfy your -- if I -- if -- if -- if we were to adopt that amendment, would that interfere with your concerns about helping some of the members of Congress?

(Pause.)

CHAIRMAN FIELDS: Do we have the amendment prepared? Okay. Let me offer up the amendment. I want to offer up an amendment. I'm -- I'm going to offer it up.

(Pause.)

CHAIRMAN FIELDS: Give you a quick second to look at this amendment. This amendments -- amendment splits only 15 parishes. Would you have a problem with adopting this amendment?

SENATOR WOMACK: Well, I -- Mr. Chairman, all due respect, if we could get a few minutes to look at it. If you could get a --

CHAIRMAN FIELDS: Yes, sir.

SENATOR WOMACK: Go -- maybe a 10- or 15-minute recess to look at it and -- and kind of see.

I -- I -- I can see where I could have some issues with it on the north end, but.

CHAIRMAN FIELDS: For example, it keeps -- keeps Avoyelles whole. And under your -- the amendment we just adopted, it splits Avoyelles. Sorry. Senator Miguez.

SENATOR MIGUEZ: Thank you, Mr. Chairman. And to save a little bit of time, if you don't mind if you have this information readily available, if you can give us the split comparisons to the -- the author's current version until now, and then give us some -- maybe the African American voting population numbers as it relates to Congressional District 2 and 6 in both and any other, you know, notable differences in his map that's really available that doesn't have me digging through the entire bill trying to cross up multiple papers, if you have any of that.

CHAIRMAN FIELDS: Yeah. The amendment actually shows the split with -- with the senator's amendment, and it also shows the -- the splits with the amendment we're discussing. I'm -- I'm trying to show that we could do -- we can create this district more compact, even trying to protect members of Congress. And I just want to know, could you be for that amendment? And if the answer is no, that's fine.

SENATOR WOMACK: At -- at this point, I would have to say no.

CHAIRMAN FIELDS: Okay. All right. I'm going to withdraw the amendment. And are there -- are there any further discussions on the bill? Oh, Senator Carter.

SENATOR CARTER: No, no, no, no. Are we doing any other amendments right now or just the bill?

CHAIRMAN FIELDS: If there is an amendment, now is the time because we're going to vote one way or the other in a few.

SENATOR CARTER: Give me one second.

CHAIRMAN FIELDS: Are there any further amendments on the bill?

SENATOR CARTER: Yeah, I (inaudible 0:29:27).

(Pause.)

CHAIRMAN FIELDS: Senator Carter.

(Pause.)

CHAIRMAN FIELDS: All right. Senator Carter, you're recognized.

SENATOR CARTER: Give me a second. I'm coming. I'm looking at the numbers.

(Pause.)

SENATOR CARTER: Thank you, Mr. Chair. Members, this amendment swaps one, two, three, four

precincts between what is listed as District 2, the Congressional District 2, and District 6. It moves approximately - I believe it's 3,000 - approximately 3,000 or so voters. But what it does, though, is it increases the -- very slightly, the registered Democratic African American vote in District 2 by increasing that number to 52.823 percent, which is a very slight increase. It's an increase of right around an additional thousand or so votes for District 2.

And it barely has any implications with the new District 6. It doesn't involve and I -- and I -- it's my understanding from staff that it doesn't affect any other districts other than District 2 and District 6. It doesn't affect any of the other congressional districts proposed in the map.

CHAIRMAN FIELDS: Okay. Senator, how many additional parishes would this amendment split?

SENATOR CARTER: Well, it does. It would split West Baton Rouge Parish, but I believe West Baton Rouge Parish is currently in District 2, and also very slightly in Iberville Parish. There would be one, two, three parishes in those for a very minor adjustment, but it increases the African American population in District 2 by an additional couple of thousand votes or so.

CHAIRMAN FIELDS: So it split -- it splits two

additional parishes?

SENATOR CARTER: Very slightly, yes.

CHAIRMAN FIELDS: Senator Jenkins.

SENATOR JENKINS: I'm just trying to see. So where -- where -- if you picked up some votes in 2, which I don't inherently -- I don't inherently have a problem with it, but where do -- where do they -- where do those votes come from?

SENATOR CARTER: They came from District 6. So if you look at the -- the map that's proposed (inaudible 0:33:36). If you look at the map that's proposed by Senator Womack, it moves precincts 1C, 1B, 8, and 6 from West Baton Rouge, and in Iberville Parish, it will move those precincts from District 2 into District 6, precincts 20, 22, and 26. So it's very, very small and minor in terms of an adjustment. Small, but very important. Very significant. It increases the -- the African American vote in District 2 with a swap between 2 and 6.

SENATOR JENKINS: So how much of a decrease in 6?

SENATOR CARTER: So the -- in -- with 6, 6 will maintain a registered African American percentage of 54.189. And then for District 2, it will be 52.823.

(Pause.)

CHAIRMAN FIELDS: Okay. 6 is not contiguous with this amendment. I don't -- I don't know if the author knew it or not.

SENATOR CARTER: I just -- I just heard from staff -- I just heard from staff that there was a problem with one of the areas being not contiguous that they just pointed out to me that we didn't discuss during the recess. Perhaps that's something we could quickly adjust in the next few minutes or so.

CHAIRMAN FIELDS: Or -- or we could do it on the floor.

SENATOR CARTER: I would prefer to handle it in committee, of course, Mr. Chair.

CHAIRMAN FIELDS: All right. So you're splitting two additional parishes, Senator.

SENATOR CARTER: And it's also my understanding that the -- in addition to that, it also is supposed to take into consideration the previous amendment that was inserted on from -- the previous amendment from Senator Womack.

CHAIRMAN FIELDS: All right.

SENATOR CARTER: So those are some technical revisions that -- to consider the -- the amendment that was just passed by Senator Womack and also deal with the one issue that they just mentioned regarding the

contiguous nature of it. You were supposed to take the -- supposed to take both of those things into consideration, the amendment.

CHAIRMAN FIELDS: Okay. Senator Miguez.

SENATOR MIGUEZ: Thank you. Thank you, Mr. Chairman. Just -- just for clarification, and you may have just addressed this, the Womack -- I'll call it the -- the amendment that Senator Cloud just testified upon and then just got onto the bill, your new amendment doesn't contemplate those changes in Avoyelles Parish. You're going to have to rework that, because I'm looking -- I may have the wrong amendment. I'm looking at Avoyelles Parish being completely within the new -- within Congressional District 6. Oh, yeah; is that right?

SENATOR CARTER: It's my understanding that that is being (inaudible 0:36:41).

SENATOR MIGUEZ: So --

SENATOR CARTER: (inaudible 0:36:43).

SENATOR MIGUEZ: So you had the --

SENATOR CARTER: My amendment would assume -- it should assume that that amendment was (inaudible 0:36:49). So it should not affect the previous amendment that was just passed.

SENATOR MIGUEZ: You have to rework your

amendments --

CHAIRMAN FIELDS: Let's -- let's --

SENATOR MIGUEZ: -- that contemplate the change, basically.

SENATOR CARTER: Yes. That's correct, and that's what they're working on.

SENATOR MIGUEZ: Okay. Then we're not ready to really review it at this point until we can see that because that -- the version I have is based on the original version of the bill.

CHAIRMAN FIELDS: Senator, you -- have you concluded, Senator?

SENATOR MIGUEZ: Yes.

CHAIRMAN FIELDS: Senator Kleinpeter.

SENATOR KLEINPETER: Thank you, Mr. Chairman. Senator Carter, with all due respect, this -- I'm not in favor of this. This is from my -- two of my hometown parishes, growing up in Iberville and West Baton Rouge and -- and part of this is my old council district that -- we're already chopped up as it is between Senator Price and I as far as on the state level, and we're definitely going to be cutting West Baton Rouge and Iberville up. I just wanted to go on the record and voice my opinion based on this new map that has been presented to us.

CHAIRMAN FIELDS: Senator Miller.

SENATOR MILLER: Thank you. Just two -- two quick questions again. What was the voting age population splits for 2 and 6 with these amendments, your math?

SENATOR CARTER: The voting age --

SENATOR MILLER: Voting age population, Black.

SENATOR CARTER: African American voting age population in District 2 -- oh, here it is. The -- the VAP, the African American voting age population for District 2 would be 51.132 percent, and the African American voting age population for District 6 would be 53.612 percent.

SENATOR MILLER: Okay. And last question: did any -- did you have any information of how these would -- would perform?

SENATOR CARTER: It's my understanding it would help it better perform because it is an additional increase of African American voters, even though it's a small amount of individuals. It's a small but significant change.

SENATOR MILLER: But y'all -- y'all didn't run any -- any performance tests on it?

SENATOR CARTER: No.

SENATOR MILLER: Okay. Thank you.

CHAIRMAN FIELDS: Thank you, Senator. Senator Jenkins.

SENATOR JENKINS: Well, I'm just trying to be sure here. I mean, I fundamentally don't have an issue. I'm just trying to see what's happened here in -- in north Louisiana.

SENATOR CARTER: It shouldn't affect northern Louisiana at all. It's just a swap between 6 -- sorry, I'm -- I'm not on. It -- it should not affect northern Louisiana. This is just a swap between District 2 and District 6. At the very bottom, if you're looking at Iberville and West Baton Rouge parishes right there towards the bottom, it has no bearing or no effect on northern Louisiana.

SENATOR JENKINS: Well, I'm looking at the configuration. I mean --

SENATOR CARTER: Well, I think the difference is we're looking at the configuration from the previous amendment from Senator Womack. That should be incorporated into the amendment that I'm offering.

SENATOR JENKINS: Okay. So --

SENATOR CARTER: So that's a technical thing that they're fixing. It -- it doesn't have anything to do with the swap that I am. So there was the previous amendment that was offered by Senator Womack with

Senator Cloud testifying at the table that got adopted.

SENATOR JENKINS: Okay.

SENATOR CARTER: This amendment doesn't --

SENATOR JENKINS: It doesn't -- doesn't (inaudible 0:40:09).

SENATOR CARTER: -- doesn't undo that, doesn't touch it whatsoever. This is just a very slight swap between District 2 and District 6.

SENATOR JENKINS: I see that. Okay. Got it. Thank you, Mr. Chairman.

CHAIRMAN FIELDS: Okay. Senator Jenkins. All right. Are there any other members who wish to be heard on the amendment?

SENATOR CARTER: At this time I would like to move -- provide -- we don't have the amendment. Can we do it in concept or no?

CHAIRMAN FIELDS: Senator Carter, why don't we -- why don't we move the bill out the way it is now. The -- your amendment is not ready. And you're talking about 3,000 people. You know, I -- I -- I -- (inaudible 0:41:02) --

SENATOR CARTER: I know we had the conversation earlier about doing the hard work in the committee and making certain we have amendments that we need here. I -- I did not realize that it didn't

contemplate the previous amendment that got on. It was my --

CHAIRMAN FIELDS: Yeah. Yeah.

SENATOR CARTER: -- understanding it was supposed to, and I just heard about the issue --

CHAIRMAN FIELDS: Right.

SENATOR CARTER: -- about the contiguousness of it.

CHAIRMAN FIELDS: I -- I hate to oppose one of my distinguished colleagues in committee.

SENATOR CARTER: Well, I hope you don't.

CHAIRMAN FIELDS: But I do think we have an obligation to -- to make sure that anything we do and pass is not for -- race is not the predominant reason. Can you give us the reason for splitting two parishes other than race?

SENATOR CARTER: Well, I think -- one, I think hearing the testimony of my previous colleague, Senator Womack and Senator Cloud, this makes -- this increases the odds of District 2 performing as an African American district. And given the importance that our congressperson has performed in District 2, I think it's very important that that district remains strengthened where it can perform as an African American district. That is a factor. It is not the predominant factor.

It's also consistent with the principles outlined with the federal judge, and it's also consistent with communities of interest and all the other factors that we previously considered.

CHAIRMAN FIELDS: So lastly, what's the predominant factor you're using to split the two parishes, that -- the 3,000 people?

SENATOR CARTER: It's very important, and we talked about very -- earlier when this hearing started, we talked about many of the storms and hurricanes that we've had. It's very important. You look at what happened in New Orleans after Hurricane Katrina, making certain we had congressional representation to deliver for the City of New Orleans, for not just the City of New Orleans, but for that whole area, the whole 2nd Congressional District. Similarly, during hurricane -- not hurricane, with the pandemic with COVID, making certain we have congressional representation that can continue to deliver for our district.

CHAIRMAN FIELDS: Okay. Members, you've heard the discussion by Senator Carter. The amendment can't be adopted because it's not ready. We do have other bills we have to hear. I would plead to the gentleman to let us pass the bill, and if we can perfect your amendment on the floor, we can do just that.

SENATOR CARTER: Well, my only concern with doing it on the floor is it opens it up to -- you know, it's -- it's -- it's important that we do the hard work in committee, I thought.

CHAIRMAN FIELDS: All right.

SENATOR CARTER: So if we can perhaps give staff --

CHAIRMAN FIELDS: How much more time --

SENATOR CARTER: -- an opportunity to -- to finalize the amendment so we can get that hopefully considered by the committee.

CHAIRMAN FIELDS: Well, we're going to pass over -- Senator, if you -- if we could pass over your bill for now and get to the rest of these bills because --

SENATOR CARTER: It shouldn't take long. It's -- it's a very small -- it's -- I believe it's less than 3,000 voters, so it should be easy and quick to fix.

CHAIRMAN FIELDS: All right. Let's pass over Senator -- Senator Womack, do you -- do you wish for us to pass over your bill for now?

SENATOR WOMACK: That's good.

CHAIRMAN FIELDS: Bill, you have it?

SENATOR CARTER: I think we have it, but.

MALE SPEAKER 4: (inaudible 0:44:47) not quite

the same. You can't have that one.

SENATOR CARTER: I believe we have the revised amendment, so don't -- don't go too far, Senator.

MALE SPEAKER 4: (inaudible 0:45:02).

SENATOR CARTER: Yes.

(Pause.)

SENATOR CARTER: Does this contemplate the previous amendment from that -- that got on from Senator Womack and Senator Cloud?

MALE SPEAKER 4: (inaudible 0:45:30)?

SENATOR CARTER: The one that's already passed, yes, yes.

MALE SPEAKER 4: (inaudible 0:45:34).

SENATOR CARTER: Without -- it doesn't undo any of the previous amendments. It maintains the revisions that was --

MALE SPEAKER 4: It maintains all of that (inaudible 0:45:41).

SENATOR CARTER: Okay. Good. Yes. I believe, Mr. Chairman, that the amendment is now -- it's being finalized, that solves both of those issues where it doesn't undo the previous -- where it doesn't undo the previous amendment that was offered by Senator Womack and Senator Cloud. It wasn't intended to do that. And it fixed the one part of the amendment that

wasn't contiguous.

CHAIRMAN FIELDS: Okay. The -- the staff is -- is the staff ready? Staff?

MALE SPEAKER 5: (inaudible 0:46:13).

CHAIRMAN FIELDS: I'm going to lean on the gentleman one last time. Will -- will the gentleman defer to the chair and allow us to pass it now? And we will have discussions between now and the floor. You can have discussions with the author between now and the floor.

SENATOR CARTER: Sounds good, Mr. Chairman.

CHAIRMAN FIELDS: Thank the gentleman. All right. Thank you, Senator Carter. Are there any further discussions on the bill? Senator Reese has moved that Senate Bill 8 be reported favorable -- be reported as amended. Are there any objections to reporting Senate Bill 8 as amended? Hearing no objections, that bill is reported favorable.

SENATOR WOMACK: Thank you, Mr. Chairman, members.

CHAIRMAN FIELDS: Thank you. All right. Let's get into some.

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January 17, 2024

In Re: Louisiana House Floor/Committee Video

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MALE SPEAKER: Senate will come to order. Sector, open machines. Members, vote your machines. OCHA, machines. Senator McMath is here. Senator Pressly. Senator Morris. Senator Talbot. Senator Talbot is here. Senator Connick is here. 36 members are present for a quorum. Senate will rise. Senator Mizell will -- will open the senate in prayer and also lead us in the -- for the Pledge of Allegiance.

MS. MIZELL: Thank you, Mr. President. Members, before we pray, I just want to say, we are all here for a time such as this. I -- I haven't heard one member say this is easy, and I -- I just -- I think it would be appropriate if we join together in the Lord's Prayer of unifying our body and reaching out to God. If you'd join me. Our Father, who art in Heaven, hallowed be Thy name. Thy kingdom come. Thy will be done on earth, as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive those who trespass against us.

And lead us not to temptation, deliver us from evil. For thine is the kingdom and the power and the glory forever. Amen. Thank you. Join me in the pledge, please.

(Pledge of Allegiance.)

MALE SPEAKER: Reading of the journal.

MS. MIZELL: Official Journal of the Senate of the state of Louisiana, Second day's proceedings, Tuesday, January 16th, 2024.

MALE SPEAKER: Senator Hodges moves to dispense the reading of the journal without objection.

MS. MIZELL: Petitions, memorials, and communications, I am in receipt of a letter from the president appointing the parliamentarians, Senator Gregory Miller. Messages from the house, the house is finally passed and asked for concurrence in the following house bills and joint resolutions. House Bill 16. House Bill 8, respectfully submit headed. Michelle Fontenot, Clerk of the House. Introduction of House bills. Senator Talbot now moves for suspension of the rules for the purpose of reading the house bills the first and second time and referring them to Committee.

House Bill 8 by Representative Mike Johnson is an act to Entitled 13 relative to the Supreme Court to provide relative to redistricting Supreme Court Justice districts. It is referred to senate and governmental affairs. House Bill 16 by Representative McFarland is an act to appropriate funds and to make certain reductions from certain sources to be allocated to the designated agencies and purposes in specific amounts for making of supplemental appropriations. Refer to

finance.

MALE SPEAKER: Oh, Senator O'Connor for an introduction.

MALE SPEAKER 2: (inaudible 0:04:15).

MALE SPEAKER: Oh, okay.

MALE SPEAKER 2: It's okay.

MALE SPEAKER: Never mind. It's -- that zip sound? Senate bills on third reading and final passage.

MS. MIZELL: First bill? Senator Womack now moves for a suspension of the rules for the purpose of calling out of order, Senate Bill 8 by Senator Womack. It's an act to amend Title 18 relative to congressional districts to provide for the redistricting of Louisiana's congressional

FEMALE SPEAKER: To provide with respect to positions and offices other than congressional, which are based on congressional districts.

MALE SPEAKER: Senator Womack, on your bill.

SENATOR WOMACK: Thank you, Mr. President. Colleagues, I bring Senate Bill Number 8 before you this evening. As you know, Louisiana congressional districts must be drawn, given the Federal Voting Rights Act litigation that is still ongoing in the US District Court for the Middle District of Louisiana. This map in the bill that I'm introducing, which is the product of a

long, detailed process, achieves several goals.

First, as you know and you're aware of, Congresswoman Julia Letlow is my representative in Washington, DC. The boundaries in the bill I'm proposing ensure that Congresswoman Letlow remains both unpaired with any other incumbents, and in a congressional district that should continue to elect a Republican to Congress for the remainder of this decade. I have great pride in the work of Congresswoman Letlow and -- that she's accomplished, and this map will ensure that Louisianans will continue to benefit from her presence in the halls of the Congress for as long as she decides to continue to serve this great state.

Second. Louisiana has six congressional districts. The map that's proposed bill ensures that four are safe Republican seats. Louisiana Republican presence in the United States' countours has contributed tremendously to the national discourse, and I'm very proud that both Speaker of the US House of Representatives, Mike Johnson, and US House Majority Leader Steve Scalise are both from our great state. This map ensures that two of them will have solidly Republican districts at home, so they can focus on the national leadership that we need in Washington, DC. The map that's proposed in this bill ensures conservative

principle is retained by the majority of those in Louisiana and will continue to extend past our boundaries to the nation's capital.

Third. The corridor that you see on the map that -- that you have on your -- your table, if you'll notice the map runs up Red River, which is barge traffic, commerce. It also has I-49, which is a -- which is -- goes from Lafayette to Shreveport, which is also a corridor for our state that is very important to our commerce. We have a college. We have education along that corridor. We have a presence with ag with our row crop, as well as our cattle industry all up along Red River in those parishes.

A lot of people from that area, the Natchitoches Parish, as well as Alexandria, use Alexandria for -- for -- for their healthcare, their hospitals, and so forth in that area. So finally, the amounts in the proposed bill responds appropriate to the ongoing Federal Voting Rights Act in the Middle District of Louisiana. For those who are unaware, the congressional amounts that we enacted in 2022 of March have been the subject of litigation, roughly since the day -- the 2022 Congressional Redistricting Bill went into effect. Even before we enacted it.

After a substantial amount of prolonged

1 litigation, the Federal District Court has adhered to
2 its view that the federal law requires that the state
3 have two congressional districts with a majority of
4 Black voters. Our secretary of state, attorney general,
5 and our prior legislative leadership appealed that, but
6 have yet to succeed. And we are now here because of the
7 federal court order, that we have to have first
8 opportunity to act. The district court order that we
9 must have two majority voting-age population districts,
10 combined with the political impurities I just described,
11 have largely -- largely driven the boundaries of
12 District Two and District Six on your map, both of which
13 are over 50 percent voting -- Black voting age
14 population.
15 Given the state's current demographics, there
16 is not enough high Black population in the southeast
17 portion of Louisiana to create two majority Black
18 districts, and to also comply with the US Constitution
19 one person, one vote requirement. That is the reason
20 why District Two is drawn around Orleans Parish, while
21 District Six includes the Black population of East Baton
22 Rouge Parish and travels up the I-49 quarter to include
23 Black population in Shreveport. While this is a
24 different map than the Plaintiffs' litigation have
25 proposed, this is the only map I reviewed that

1 accomplishes the political goals I believe that are
2 important for my district, for Louisiana, and for the
3 country.
4 While I did not draw these boundaries myself,
5 I carefully considered the number of different map
6 options. I firmly submit that the congressional voting
7 boundaries represented in this bill best achieve the
8 goals of protecting Congresswoman Letlow's seat,
9 maintaining a strong district for Speaker Johnson, as
10 well as Majority Leader Steve Scalise, ensuring four
11 Republican districts, and adhering to the command of the
12 Federal Court in the Middle District of Louisiana. And
13 I ask for favorable passage.
14 MALE SPEAKER: We have -- we have one question
15 by Senator Morris for --
16 SENATOR MORRIS: Senator Womack, among the
17 factors that you considered was the community of
18 interest of the district. Something that was considered
19 in coming up with this version of the map that we have
20 before us.
21 SENATOR WOMACK: Senator Morris, this map was
22 strictly drawn from the political aspect of our
23 congressman in -- in office is how it was drawn.
24 SENATOR MORRIS: Did -- you didn't consider
25 the community of interest of people having something in

1 common with one another within the district?
2 SENATOR WOMACK: No, I didn't because it was
3 -- it was -- we had to draw two districts, and that's
4 the only way we could get two districts. One of the
5 ways we could get two districts, and still protect our
6 political interest.
7 SENATOR MORRIS: Well, one of the things you
8 said earlier was that -- that we had in common the
9 agriculture. You mentioned that. That's a community of
10 interest. So you did consider agriculture as being
11 something that everybody had in common with this
12 district, or?
13 SENATOR WOMACK: My comment was -- was the
14 fact that it was along that corridor. Ag was along that
15 corridor some -- some -- not so much in that community
16 interest. Just maintaining -- bringing out the fact
17 that I-49 does go through there, and it does encompass
18 your -- your timberland, your ag, your hospitals. Just
19 trying to bring to light some of the positives going up
20 that corridor.
21 SENATOR MORRIS: So would you -- would you say
22 that the heart of this district is Northeast Louisiana
23 and North Central Louisiana?
24 SENATOR WOMACK: I wouldn't say the heart of
25 the district is that way, but the way the district -- to

1 pick up the -- the -- and honor the courts, it had to be
2 drawn like it had to be drawn to pick that up.
3 SENATOR MORRIS: So the -- is there a heart of
4 the district?
5 SENATOR WOMACK: If it is, it'll be a small
6 majority of the heart. I don't think it's a -- it's a
7 -- it -- it has a heart of the district, but it had to
8 start somewhere.
9 SENATOR MORRIS: Do you know what the most
10 populated parish is of Congressional District Five at
11 the current moment?
12 SENATOR WOMACK: I do not. I hadn't looked at
13 that to -- to prove that myself. I (inaudible 0:08:54)
14 -- could be Ouachita Parish.
15 SENATOR MORRIS: Right. So Ouachita Parish,
16 which is the most populated parish in Congressional
17 District Five, which you seek to protect for
18 Congresswoman Letlow. Your map cuts Ouachita Parish
19 into various pieces, does it not? And puts a lot of
20 that in Congressman Johnson's District Four, correct?
21 SENATOR WOMACK: That's true. The way the map
22 is drawn. That's in my bill. That is the way it's
23 drawn.
24 SENATOR MORRIS: And like you, your -- I -- I
25 think you indicated that Congresswoman Letlow is your

1 congressperson, and -- and it's important to you for her
2 to remain to be your Congresswoman; is that correct?
3 SENATOR WOMACK: Very important.
4 SENATOR MORRIS: Well, under your map, I would
5 be Congressman Johnson's -- in his district, and so
6 would Senator Cathey, and so would Representative
7 Echols; is that correct?
8 SENATOR WOMACK: That would be correct. I
9 don't -- I know -- I've been to your house, but I hadn't
10 been in any of the others, but I think you're correct.
11 SENATOR MORRIS: So that would be important to
12 me; did you know? But -- but this district as it's
13 drawn now, would move Lincoln Parish and Louisiana Tech
14 into Congressman Johnson's district; would it not?
15 SENATOR WOMACK: That's a possibility.
16 SENATOR MORRIS: Well, your map does -- map
17 does put Lincoln Parish -- all of Lincoln Parish into
18 Congressman Johnson's district; does it not?
19 SENATOR WOMACK: It does do that, yes.
20 SENATOR MORRIS: So -- but the district does
21 reach down into Baton Rouge; does it not?
22 SENATOR WOMACK: It does.
23 SENATOR MORRIS: And the district includes
24 Tiger Stadium in the district and also Joe Aillet
25 Stadium at -- in Louisiana Tech in Ruston.

1 SENATOR WOMACK: In the minority district, in
2 district -- in District Two -- or District Six.
3 SENATOR MORRIS: Isn't it true that Tiger
4 Stadium in your -- on your map is located in
5 Congresswoman Letlow's district?
6 SENATOR WOMACK: Yes.
7 SENATOR MORRIS: And so is Joe Aillet Stadium
8 at Louisiana Tech.
9 SENATOR WOMACK: Not -- not in -- not in that
10 district. She don't go into -- under my map, she
11 doesn't go into Ruston.
12 SENATOR MORRIS: Under your map, all of
13 Lincoln Parish is in Congresswoman -- that's Lincoln on
14 the map right there. That's where Ruston is.
15 SENATOR WOMACK: Right.
16 SENATOR MORRIS: And so that is Congresswoman
17 -- that would be -- it's currently Congresswoman
18 Letlow's, but now it's going to be Congressman
19 Johnson's.
20 SENATOR WOMACK: Right.
21 SENATOR MORRIS: Okay. Right.
22 SENATOR WOMACK: Yeah.
23 SENATOR MORRIS: So they will be in different
24 districts. Tiger Stadium will be in Congresswoman -- I
25 mean, yeah, Congresswoman Letlow's district, but

1 Louisiana Tech will be in Congressman Johnson, even
2 though Louisiana Tech is only 30 mile -- 30, 40 miles
3 away from Congresswoman Letlow's home.
4 SENATOR WOMACK: I -- I agree with that --
5 with that totally, where we had to draw two minority
6 districts. That's -- that's the way the numbers worked
7 out. You've worked with -- with -- with redistricting
8 before, and that's -- that's -- you have to -- you have
9 to work everybody around the best you can. This is --
10 SENATOR MORRIS: Well, as of yesterday before
11 Committee, the map -- my home and Senator Cathey's home,
12 but you amended it to put even more in Congressman
13 Johnson's district; did you not?
14 SENATOR WOMACK: Senator Morris, my
15 understanding that -- that -- that my amendment put you
16 all in Congresswoman Letlow's district.
17 SENATOR MORRIS: In Congressman Johnson's
18 district under the -- under your amendment because it
19 added more Ouachita Parish into District Four; did it
20 not?
21 SENATOR WOMACK: My understanding that when we
22 moved that, that it added y'all. I could be wrong on
23 that, but it added y'all.
24 SENATOR MORRIS: The -- the amendment as I
25 understand it and looked at it in Committee before

1 yesterday, the bill as filed -- but now, under the
2 current version of the bill, I am in Congressman
3 Johnson's district.
4 SENATOR WOMACK: Okay.
5 SENATOR MORRIS: Don't you think we should
6 have moved -- included Louisiana Tech and Ouachita
7 Parish in the Northeast Louisiana Congressional
8 District?
9 SENATOR WOMACK: Senator Morris, it's -- it's
10 a lot of could have, and -- and -- and I regret that
11 it's not, but we also have to look at the other members
12 of Congress, and what we can live with concerning that.
13 SENATOR MORRIS: If your bill gets out of --
14 off the floor today and goes over to the House, would
15 you be amenable to amendments that would allow this
16 district, as long as all the other requisites are -- are
17 there for -- to comply with the judge's order, and to
18 comply with, you know, the -- the community of interest
19 and all the other redistricting principles that we have
20 to abide by?
21 SENATOR WOMACK: Senator Morris, I have no
22 problem in that, as long as it -- it -- it -- it -- it
23 meets the requirements of the bill.
24 SENATOR MORRIS: Thank you, Senator. I
25 appreciate your efforts, and I'm hopeful that we can --

as if -- assuming the bill does move, that we can perhaps find a resolution that can make everybody, if not absolutely happy, a little happier. Thank you.

SENATOR WOMACK: Thank you, Senator Morris.

MALE SPEAKER: Senator Stine for the floor.

(Pause.)

SENATOR STINE: Thank you, Mr. President. Members of this esteemed chamber, today we stand at a crossroads, burdened with a decision that weighs heavily on each of us. The congressional map before us, a construct far from our ideal, now demands our reluctant endorsement. It pains me, as it does many of you, to navigate these troubled waters not of our own making, but of a heavy-handed, Obama-appointed federal judge, who has regrettably left us little room to maneuver. This map, imperfect as it is, stands as a bulwark protecting not just lines on a map, but the very pillars of our representation in Congress.

It safeguards the positions of pivotal figures, the United States Speaker of the House, the majority leader, and notably, the sole female member of our congressional delegation. Her role is not merely symbolic. She is a lynchpin in the appropriations, education, and workforce committees which are vital to the prosperity and well-being of our state. We are the

guardians of Louisiana's voice on the national stage. Our decision today, while constrained, is crucial.

It's about more than lines on a map. It's about ensuring our state's continued influence in the halls of power where decisions are made that affect every citizen we represent. So with a heavy heart, but a clear understanding of the stakes, unfortunately, we must pass this map before us instead of giving the pen to a heavy-handed, Obama-appointed federal judge who seeks to enforce her will on the legislature. Into an untenable situation, rather than acting as a co-equal branch of government as laid out in our constitution.

MALE SPEAKER: Senator Carter for the floor.

SENATOR CARTER: Thank you, Mr. President, members. This proposed map by Senator Womack -- well, let me start with the current district, District Two. The current African American voting age population in District Two is currently 58 percent. This map proposed by Senator Womack reduces it to barely 51 percent, and, Committee, the bill's author testified that no sort of performance analysis had been conducted to determine whether or not District Two continues to consistently perform as an African American district. There are serious concerns about this map. There are serious concerns about this proposal.

Despite those concerns, I stand in support of this legislation. It still needs work, it must be amended, but I stand in support of it today, and I speak only for today. I would like to read to you all a statement from Congressman Carter, who currently represents the Second Congressional District. Many of us served with him either when we were in the House, or those of us who served with him in the Senate. Here's a statement.

"My dear friends and colleagues, as I said on the steps of the capital, I will work with anyone who wants to create two majority-minority districts. I am not married to any one map. I have worked tirelessly to help create two majority-minority districts that perform. That's how I know that there may be better ways to create -- to craft both of these districts. There are multiple maps that haven't been reviewed at all. However, the Womack map creates two majority-minority districts, and therefore I am supportive of it. And I urge my former colleagues and friends to vote for it while trying to make both districts stronger with appropriate amendment."

"We do not want to jeopardize this rare opportunity to give African American voters the equal representation they rightly deserve." And that's the

statement from Congressman Troy Carter. I expressed my concerns. They're serious concerns. It is my expectation and my hope that this bill continue to be worked on, that amendments continue to happen, but today I stand in support. Thank you.

MALE SPEAKER: Senator Jackson for the floor.

(Pause.)

SENATOR JACKSON: He tried to cut off my mic.

(Pause.)

MALE SPEAKER: Members, you have to talk directly into the mic, unlike in previous times, where you could kind of talk around the mic. You have to literally talk directly into the mic for it to work. We're going to adjust that for the next --

SENATOR JACKSON: Hello. Okay. Good. (inaudible 0:23:11) was going to have a fit if I wasn't able to speak. I stand in support of this map. I first want to thank Senator Womack, who had the fortitude, regardless of how we got here, but to stand up and do what the last body couldn't do, and that's to come together. But I do stand to say this because I said it in Committee. I reluctantly came to the floor to support this map because my constituents and a lot of our constituents in North Louisiana right now are still experiencing an ice state. That's what I call it

because we didn't get snow.

And so a lot of them don't even know that we're down here right now passing maps. And so this is the first time in a long time I'm probably going to vote for something that I haven't vetted through my constituency because tonight, myself, Representative Fisher and Representative Morrell will have a Zoom community meeting to catch them up on what they have lost while they were at home, because my legislative assistant was finally able to get to the office and at least send something out to our constituency.

However, at some point, what they did tell me over and over again for the last year, year and a half that we've been going through this process, that they were supportive of fair and equitable maps, and that they knew a fair and equitable -- equitable map would be something that created fair representation for all people in the State of Louisiana. I will end with this. I don't think we're in a -- in the hands of a heavy-handed judge, but we're in the hands of consequences that the last legislature created in our failure to act. And I say that with a heart of hope that we act today on what is right, on what is just, and what is fair.

I don't believe, and I said this before, any

of my colleagues in this chamber would have it to be that a certain group of people in the State of Louisiana would not be properly represented. I am an American who stands every time the flag is presented. I proudly say one nation under God. And I hope today that in this senate we will stand as one Louisiana under God, because God is for what's just and what's equitable and what helps all people.

There is nothing that says that a second African American serving in Congress in Louisiana will not help the masses. Well, if we think that, then we think that we're less or better than a person based on race. If anyone in this chamber could articulate a reason why they believe that any African American that sits before you today wouldn't go to Congress with the same zeal and vigor and heart for the people, then maybe we can say that there's not an African American in this state that's going to stand in Congress and represent us.

But I literally do not believe that there's a colleague in here that looks across this chamber at any member of the Black caucus and does not believe that we wouldn't go to Congress and represent Louisiana. And so I stand in support, with reluctancy of having to talk to my constituents after this vote, but with carrying the

spirit of fairness that they asked me to carry in the last redistricting session. And I want to thank Senator Womack because the mark of a true leader is a leader that not only does what he wants to do, but what's necessary to bring resolve and wholeness to a body that has to work together on a number of issues. Thank you.

MALE SPEAKER: Thank you, Senator Jackson. Senator Duplessis for the floor.

SENATOR DUPLESSIS: Thank you, Mr. President. Thank you, Chairman Womack. I just want to make a few brief comments based on some comments that have been made earlier today. I was not necessarily planning to speak, but I think it's important that I just share a thought or two. It was said that this is much more than just lines on a map, and I agree. It is much more than just lines on a map. We've heard a lot from Chairman Womack and my colleague, Senator Stine about the importance of protecting certain elected officials, but it's about more than lines on a map. It's about the people of this state. It's about one-third of this state going underrepresented for too long.

It's about a federal law called the Voting Rights Act that has not been interpreted just by one judge in the Middle District of Louisiana who was appointed by former president Barack Obama, but also a

US Fifth Circuit Court of Appeals that's made up of judges that were appointed by predominantly Republican presidents, and a United States Supreme Court that has already made rulings. That has been made up of justices that were appointed by a majority of Republican presidents, primarily former president Trump. This is not about one judge that was appointed by former president Barack Obama. This is about the people of this state, and one-third of that state, 33 percent, to be exact, being underrepresented.

So I think it's important that we keep the focus on why we're here today. None of us want to be here today. We've been at this for well over two years, and all of us have a level of reluctancy with the maps that are before us. Just like Senator Carter, I'm not thrilled about what's happening to send it to Congressional District Two, and the way that it's lowering the numbers.

Senator Price and I, we coauthored a bill that we felt performed better, but we too are going to support this map because not only have we been ordered to do it by, yes, a judge who was appointed by President Obama, but if we felt like the -- the -- the -- the appellate judges would overrule her, then we'd be right back in court. We're at the end of the road, and I too

will support this -- this map. Not because I think it's perfect, not because I think it's the best thing that we could do, but because it's time to give people of this state fair representation. Thank you.

MALE SPEAKER: Thank you, Senator Duplessis. Senator Pressly for the floor.

SENATOR PRESSLY: Thank you, Mr. President, and members. Senators, I rise today in opposition of this bill, and I rise in opposition because I represent a community that's unique and wonderful in many ways, very diverse, and clearly a passionate part of my life in Northwest Louisiana. I believe that Shreveport and Bossier City and the surrounding parishes of De Soto and Red River and Webster are unique from the rest of our state, and I believe that commonalities of -- of interest are important.

I agree with -- with Senator Jackson. I would have no issue whatsoever of having any member of this body, and many others from throughout our state of any background, of any creed, of any race represent our great, wonderful, diverse state in Washington, DC. But I cannot support a map that puts Caddo Parish and portions of my district, which is over 220 miles from here, in a district that will be represented by someone in East Baton Rouge that may or may not have ever even

been to Northwest Louisiana, and certainly doesn't understand the rich culture, rich, important uniqueness of our area of the state.

When we look at -- at Louisiana, we often talk about north and south, and that division is true. It's real. I think all of us acknowledge that. The I-10 corridor has unique needs. When you look at -- at the challenges that you face with storms, often you think of hurricanes. In North Louisiana, we think of tornados and ice storms. When you look at the -- the important region of our states and the -- the diverse industries that we have in Northwest Louisiana, Barksdale is vitally important. Certainly, having Barksdale and Fort Johnson now, previously Fort Polk, together in one district is the one positive thing that I see in this map, and I think that is something that we must keep in mind as we continue through this process.

But I am concerned with the important part of -- of this state, Northwest Louisiana, not having the same member of Congress. With having a -- two members of Congress, that has the potential to split our community even further along a -- a -- a -- a -- a -- line that's based purely on race, and I'm concerned about that. Therefore, I'm voting no, and I urge you to do the same.

MALE SPEAKER: Thank you, Senator Pressly. The board is clear. Senator Womack, to close on your bill.

SENATOR WOMACK: Colleagues, appreciate the questions and the comments, and I just ask that we move this bill favorable.

MALE SPEAKER: Senator Womack has moved favorable passage of Senate Bill 8. When the machines are open, all those in favor, aye. Those opposed, vote nay. Open the machines. Madam Secretary, open the machines. Go to a machine, members. Senator -- Senator Miguez. There we go. Secretary, close the machines. 27 ayes, 11 nays. The -- the -- the bill is passed. Senator Womack moves of reconsideration. The -- the vote by which the bill was passed. I lay the motion on the table without objection. So ordered.

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CHAIRMAN BEAULLIEU: Good morning. Today is Thursday, January 18th, 2024. You're in the Committee of House and Governmental Affairs. We ask everyone to please silence your cell phones. If you need to take a call, please step out. There's witness cards that are maintained in committee records. Red is in -- in -- opposed. Green is in favor. If you plan on testifying, please fill out one of those cards. Ms. Baker, would you please call the roll?

MS. BAKER: Thank you, Mr. Chairman. Chairman Beaullieu.

CHAIRMAN BEAULLIEU: Here.

MS. BAKER: Present. Representative Billings.

REPRESENTATIVE BILLINGS: Here.

MS. BAKER: Present. Representative Boyd.

REPRESENTATIVE BOYD: Present.

MS. BAKER: Present. Representative Carlson.

REPRESENTATIVE CARLSON: Present.

MS. BAKER: Present. Representative Carter. Representative Carver.

REPRESENTATIVE CARVER: Here.

MS. BAKER: Present. Representative Farnum. Representative Gadberry.

REPRESENTATIVE GADBERRY: Here.

MS. BAKER: Present. Representative Johnson.

Representative Larvadain. Vice Chair Lyons.
VICE CHAIRMAN LYONS: Present.
MS. BAKER: Present. Representative Marcelle.
REPRESENTATIVE MARCELLE: Here.
MS. BAKER: Present. Representative Newell.
REPRESENTATIVE NEWELL: Here.
MS. BAKER: Present. Representative Schamerhorn.
REPRESENTATIVE SCHAMERHORN: Here.
MS. BAKER: Present. Representative Thomas.
REPRESENTATIVE THOMAS: Here.
MS. BAKER: Present. Representative Wright. Representative Wyble.
REPRESENTATIVE WYBLE: Here.
MS. BAKER: Present. We have 12 members in a quorum.
CHAIRMAN BEAULLIEU: Thank you, Ms. Baker. Members, we have one item on the agenda today. It's Senate Bill 8 by Senator Womack. Senator Womack is -- is delayed this morning, so what we're going to do -- until I hear back from Senator Womack, we're going to stand at ease until then. So we just ask you all to kind of stay nearby.
We'll give you all some time to -- to be able to get back, but until we hear back from Senator Womack,

we're going to go ahead and stand at ease. And so just viewer -- members that are listening online or watching online, just kind of be aware. We are hoping to come back in at some time later this morning. Thank you all.
(Pause.)
CHAIRMAN BEAULLIEU: Good afternoon, members, viewing audience. Thank you for your patience. We are ready to resume our House and Governmental Affairs Committee. Today is Thursday, January 18th, 2024. Ms. Baker, can you give me an updated roll call, please?
MS. BAKER: Chairman Beaullieu.
CHAIRMAN BEAULLIEU: Here.
MS. BAKER: Present. Representative Billings.
REPRESENTATIVE BILLINGS: Here.
MS. BAKER: Present. Representative Boyd.
REPRESENTATIVE BOYD: Present.
MS. BAKER: Present. Representative Carlson.
REPRESENTATIVE CARLSON: Present.
MS. BAKER: Present. Representative Carter. Representative Carver.
REPRESENTATIVE CARVER: Here.
MS. BAKER: Present. Representative Farnum.
REPRESENTATIVE FARNUM: Here.
MS. BAKER: Present. Representative Gadberry.
REPRESENTATIVE GADBERRY: Here.

MS. BAKER: Present. Representative Johnson. Representative Larvadain.
REPRESENTATIVE LARVADAIN: Here.
MS. BAKER: Present. Vice Chair Lyons.
VICE CHAIRMAN LYONS: Present.
MS. BAKER: Present. Representative Marcelle. Representative Newell.
REPRESENTATIVE NEWELL: Here.
MS. BAKER: Present. Representative Schamerhorn.
REPRESENTATIVE SCHAMERHORN: Here.
MS. BAKER: Present. Representative Thomas.
REPRESENTATIVE THOMAS: Here.
MS. BAKER: Present. Representative Wright. Representative Wyble.
REPRESENTATIVE WYBLE: Here.
MS. BAKER: Present. We have 13 in a quorum.
CHAIRMAN BEAULLIEU: Thank you, Ms. Baker. Members, we have one item on our agenda today. That's Senate Bill 8 by Senator Womack. Ms. Lowery, would you please read-in the bill?
MS. LOWERY: Thank you so much, Mr. Chairman. Members, Senator Womack brings Senate Bill Number 8 to provide relative to the redistricting of Louisiana's Congressional District, to provide with respect to

positions and offices other than congressional based upon congressional districts, and to provide related matters.
CHAIRMAN BEAULLIEU: Senior Womack, on your bill.
SENATOR WOMACK: Thank you, Mr. Chairman. Committee members, good evening. Thank you for letting me come in today and present this bill. As you know, Louisiana Congressional Districts must be redrawn, given the Federal Voting Rights Act litigation that is still ongoing in the US District Court for the Middle District of Louisiana. The map and the bill that I'm introducing, which is the product of a long, detailed process, achieves several goals.
First, as you all are aware, Congresswoman Julia Letlow is my representative in Washington, DC. The boundaries in this bill I'm proposing, ensure that Congresswoman Letlow remains both unpaired with any other incumbents, and in the congressional district that should continue to elect a Republican to Congress for the remainder of this decade.
I have great pride in the work that Congresswoman Letlow has accomplished, and this map will ensure that Louisianans will continue to benefit from her presence in the halls of Congress for as long as she

1 decides and continues to serve our great state. As you
2 know, Congresswoman Letlow sits on appropriations. She
3 sits on ag, which is a big part of my district.
4 Second, the Louisiana 6th Congressional
5 District. The map and the proposed bill ensures that
6 four are safe Republican seats. Louisiana's Republican
7 present in the United States Congress has contributed
8 tremendously to the national discourse, and I'm very
9 proud that both Speaker of the US House of
10 Representatives, Mike Johnson, and US House Majority
11 Leader Steve Scalise are both from our great state.
12 This map ensures that the two of them will
13 have solidly Republican districts at home, so they can
14 focus on the national leadership that we need in
15 Washington, DC. The map proposed in this bill ensures
16 that the Conservative principles retained by the
17 majority of those in Louisiana will continue to extend
18 past our boundaries to our nation's capital.
19 Third, the map that I've presented is -- goes
20 along the Red River. It's the I-49 corridor. We have
21 commerce through there. We have a college through
22 there. We have a lot of ag cattlemen as well as farm
23 row crop, and a lot of people up through that corridor
24 comes back to Alexandria using that corridor for their
25 healthcare. Finally, these maps in the proposed bill

1 respond appropriate to the ongoing Federal Voting Rights
2 Act case in the Middle District of Louisiana.
3 For those who are unaware, the congressional
4 maps that we enacted in March 2022 have been the subject
5 of litigation, roughly since the day the 2022
6 Congressional Redistricting Bill went into effect and
7 even before we enacted it. After a substantial amount
8 of prolonged litigation, the Federal District Court has
9 adhered to its view that the federal law requires that
10 the state have two congressional districts with a
11 majority of Black voters.
12 Our secretary of state, attorney general, and
13 our prior legislative leadership appealed, but have yet
14 to succeed, and we are now here because of the Federal
15 Court's order that we have a first opportunity to act.
16 The District Court's order that we must have two
17 majority Black voting age population districts, combined
18 with the political imperative I just described, have
19 largely driven the boundaries for District 2 and
20 District 6, both of which are over 50 percent Black
21 voting age population.
22 Given the state's current demographics, there
23 is not enough high -- high enough Black population in
24 the southeast portion of this -- Louisiana to create two
25 majority Black districts, and to also comply with the US

1 Constitution one person, one vote requirement. That is
2 the reason why District 2 is drawn around the Orleans
3 Parish and why District 6 includes the Black population
4 of East Baton Rouge Parish and travels up I-49 corridor
5 to include Black population in Shreveport.
6 While this is a different map than the
7 plaintiffs' litigation have proposed, this is the only
8 map I reviewed that accomplishes the political goals I
9 believe are important for my district, for Louisiana,
10 and for the country.
11 While I did not draw these boundaries myself,
12 I carefully considered a number of different map
13 options, and I firmly submit the congressional voting
14 boundaries represented in this bill best achieve the
15 goals for protecting Congressman Letlow's seat,
16 maintaining strong districts for Speaker Johnson and
17 Majority Leader Scalise, ensuring four Republican
18 districts, and adhering to the command of the Federal
19 Court in the Middle District of Louisiana. I'd be happy
20 to answer any questions.
21 CHAIRMAN BEAULLIEU: Thank you, Senator
22 Womack. Representative Marcelle for a question.
23 REPRESENTATIVE MARCELLE: Thank you, Senator
24 Womack, for presenting this bill. Were -- did you have
25 the opportunity to view the map that I filed?

1 SENATOR WOMACK: I -- I reviewed several maps,
2 Representative Marcelle.
3 REPRESENTATIVE MARCELLE: HB5.
4 SENATOR WOMACK: HB5. I didn't -- I didn't
5 look at the HB5 --
6 REPRESENTATIVE MARCELLE: Did not.
7 SENATOR WOMACK: -- per se. I looked at
8 several maps. One of them could have been that.
9 REPRESENTATIVE MARCELLE: Okay. Because I
10 heard you say that you thought that your map was the
11 best possible route. A pathway to get to what we needed
12 to, first of all, make sure that we get out of the
13 litigation, apply with Section 2, and go about the
14 deviations and the compactness and all of those
15 different things that we needed to do in order to create
16 a second Black seat -- congressional seat. Is that what
17 I heard you say?
18 SENATOR WOMACK: Yes, ma'am.
19 REPRESENTATIVE MARCELLE: Okay. Well, I -- I
20 certainly want to thank you, and I know -- I spoke to
21 you yesterday about putting an amendment on your bill to
22 make sure that we could reduce the parish splits and
23 that we had some conversations, and it's a short period
24 of time. Certainly, I don't know when the amendments
25 are going to be offered up, but I certainly want to go

down those same lines of -- since I could not get my map through, which I thought was the best path, that I -- I would support this map, with some cleanup done to it.

So I -- I just want to make sure that I go on the record of saying that I spoke to you. The things that my amendment would do would certainly be to add Red River Parish to Congressional District 6, and preserving the things in Red River community as well. So I want to go on the record of saying that I -- I believe that we have had several maps that would have gotten us there, but I think because of political reasons, we are here where we are today.

CHAIRMAN BEAULLIEU: Representative Marcelle, just if I can chime in for a second, so I can let the viewing members know that online there are two different amendments that -- that will likely be proposed today, and both of those are available online for the -- for the viewing public. If we could hold off on those amendments for -- we have a -- a handful of questions on the board, Representative Marcelle, and then we'll come back. Is that okay with you?

REPRESENTATIVE MARCELLE: Yes. I just --

CHAIRMAN BEAULLIEU: Okay. Good.

REPRESENTATIVE MARCELLE: I just wanted to -- to make mention to that why -- why I was asking him some

of the questions. So when you did this map, you -- you considered the population deviation.

SENATOR WOMACK: Well, we had -- had to -- to create the two districts, we had to think about the population.

REPRESENTATIVE MARCELLE: And the parish splits as well?

SENATOR WOMACK: The parish splits as well.

REPRESENTATIVE MARCELLE: So you felt like this was the best pathway after you viewed those areas that we certainly had to do to enact this map.

SENATOR WOMACK: Representative Marcelle, I -- I -- I want to be -- and -- and I -- I was hoping that it -- that covered that in my opening statement, but it -- it -- my map is politically drawn to protect our members of Congress as it stands, as well as create the two districts, minority district, Black districts.

REPRESENTATIVE MARCELLE: So in your opinion, your map does two things. It satisfies the Court, and it also protects the politics, or our congressional members. Is that -- is that --

SENATOR WOMACK: Yes, ma'am.

REPRESENTATIVE MARCELLE: -- accurate to say?

SENATOR WOMACK: Yes, ma'am.

REPRESENTATIVE MARCELLE: Okay. Thank you

very much and thank you for your work.

SENATOR WOMACK: Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Marcelle. Representative Boyd.

REPRESENTATIVE BOYD: Good afternoon, Senator. How are you?

SENATOR WOMACK: Fine, thank you.

REPRESENTATIVE BOYD: So I agree with Rep Marcelle. This is not, in my opinion, the best map that I've seen, but I do understand what it took to get here, and my congressman seems to also be in support of the map. Therefore, I do plan on supporting the map, hopefully with some amendments. Are you open to an amendment on this?

SENATOR WOMACK: Yes, ma'am, once -- once I see some amendments.

REPRESENTATIVE BOYD: Okay.

SENATOR WOMACK: You know, we'll look at amendments.

REPRESENTATIVE BOYD: And then she mentioned the parish splits. How many parish splits are they; do you know?

SENATOR WOMACK: I think we're 16 at the -- at the present time.

REPRESENTATIVE BOYD: And do you know the

BVAPs for 2 and 6?

SENATOR WOMACK: I'm sorry?

REPRESENTATIVE BOYD: The BVAPs for 2 and 6, do you know what they are right now?

SENATOR WOMACK: No, I don't.

REPRESENTATIVE BOYD: Okay. Did you have any communication with anybody from -- with community influences on this? Have you met with other groups? Who did you meet with to come up with this map?

SENATOR WOMACK: I've had several meetings over the period of time with several groups.

REPRESENTATIVE BOYD: With community of interest as well?

SENATOR WOMACK: It -- it was hard to -- to create communities of interest with this map and -- and -- and still achieve some of the goals that we were trying to achieve from the congressional, political standpoint.

REPRESENTATIVE BOYD: Okay. Again, based on the map and my conversation with our congressman, if we can get some things cleared up and straightened up on it, I would be in support of the bill as well.

SENATOR WOMACK: Okay. Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Boyd. Representative Newell.

REPRESENTATIVE NEWELL: Thank you very much, Mr. Chairman. Senator Womack, thank you for the time that you've spent because I know myself, we've been in this redistricting process for almost three years now, so I -- I knew the time it took for me just to try to redraw my house district because of the growth in Orleans Parish. So I do understand when you're looking at congressional districts. So again, I want to thank you for the time that you dedicated to -- to doing -- to -- to redrawing this map and submitting this bill, but I must say that I am along the lines of my two colleagues that just spoke.

That although this is a good map, this isn't the best map that has come before us. It does meet the -- it does meet the Court requirements. It does meet -- meet the statute and the -- the -- the jurisprudence that is before us that guides us as to what needs to be to satisfy congressional districts. I did look at your numbers, the BVAP in 2 and 6, as well as the total population for the -- these two minority-majority districts.

However, there were two that were -- two other maps that were presented that were stronger for those two minority-majority districts and didn't do as many splits. That's House Bill 5 and Senate Bill 4.

However, the politics of those two individuals that submitted those two maps, I guess, have led us to having to work with yours. And -- and -- and it's -- it's disheartening that we do have so much politics that are guiding our maps instead of the policy, and the people helping us to guide our maps and our decisions.

Because your map gives us what we're -- what we're wanting, I am going to support your map. And again, I'm going to say it's not because it's the best map, but it is because it -- it -- it looks that -- it looks as though it's giving what we -- what we need. It does not reflect what the African Americans that we've heard from across the state during the road shows in 2021 asked for. It does not reflect all of what the Black Caucus and the Democratic Caucus has asked for these past three years.

But it's the closest that we've gotten thus far, and it seems like it's the closest one that we're going to get that we could possibly get support from my other Republican colleagues on. But I just wanted to make that clear, that it is not all that we asked for, and there have been better ones that were submitted by Democrats. But this is the best one that we've seen that's been submitted by you, sir. And again, I thank you. That's all I have for now, Mr. Chair. I'll

probably press my button again.

SENATOR WOMACK: Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Newell. Representative Marcelle would like to just make a clarification for the Committee.

REPRESENTATIVE MARCELLE: Thank you. Senator Womack, we keep using the term BVAP, and we know that there are many people in the audience who may not understand that terminology. So do you want to tell them what BVAP means, or you want me to do it?

SENATOR WOMACK: Go ahead. You got the mic.

REPRESENTATIVE MARCELLE: I got -- okay, sir. I didn't want to take over your bill. It's the Black voting age population for those that are -- that are looking online, and maybe across the state. We -- because we keep using those terms, and I want to make sure that everybody understands what BVAP means. Thank you, Senator Womack.

SENATOR WOMACK: Thank you. When she -- when she asked that question, I started running through my mind. It's got to be voting age population. And -- and I hadn't heard the term BVAP. It's voting age population, which does meet the -- I don't know exactly, but it's in a high percentage, 50 percentile on that -- on voting age population.

CHAIRMAN BEAULLIEU: Thank you, Senator Womack. And look, for the -- again, the viewing audience, those numbers are all on the bill. They're part of the bill that's been filed. So if you -- if you're listening online and you want to scroll through and -- and look at different statistics on the maps and on the amendments, they're all there for you. Vice Chairman Lyons.

VICE CHAIRMAN LYONS: Thank -- thank you, Mr. Chairman. Thank you, Senator Womack, for -- for -- for bringing this like that, even though we're looking at this piece, and I'm studying it as -- as it is there. And you mentioned in your opening statement about the -- the plaintiffs and -- and the cause of -- of why you're doing this, but my question is: did you do any -- any comparisons to the -- the plaintiffs' map or the first map that was -- that was issued, drawn on this piece with your map?

SENATOR WOMACK: Representative Lyons, I've looked at so many maps in the last three days till -- till -- to say I did or didn't would be -- be -- I couldn't answer that. I'm sorry, but -- but I've looked at so many maps from what -- even through our roadshow. But in the last two or three days to -- to say that -- that my map and how it compares to another map, I'm kind

of where I'm at right now, and I -- I can -- I know what my map looks like now.

VICE CHAIRMAN LYONS: Well, the reason why I asked that question was I wanted to know if you did any type of analysis to see how it would perform. I mean, it looks, in particular, according to certain criteria, that it is a -- a -- a workable map of some sort, but how does it perform in comparison to the plaintiffs' map that was out there, that existing map? I -- I would think that you would compare it to that one because that was the map of -- not of choice, but that was the map in litigation. How would your map perform along with that one?

SENATOR WOMACK: I -- I didn't look at a map. I looked at a performance chart --

VICE CHAIRMAN LYONS: Performance. Yes.

SENATOR WOMACK: -- and it -- it -- right. That was printed. It's online. That -- that we --

VICE CHAIRMAN LYONS: Okay.

SENATOR WOMACK: -- pull, and it does -- it does perform very well. It does in the election. It -- it performs.

VICE CHAIRMAN LYONS: Okay. And --

SENATOR WOMACK: I -- I don't have that map in front of me, I'm sorry. I thought -- I'm looking for

it. But I thought it was here, but it's not. But I did have -- I did have that with me.

VICE CHAIRMAN LYONS: Okay.

SENATOR WOMACK: But it's not with me, but I -- I do remember us looking at that.

VICE CHAIRMAN LYONS: Okay. Okay. I want -- I just wanted to know if you did analysis and it was done and how it compared. I know it could perform. Basically, as I'm looking at it now, I would think it does. And I don't think it would perform better -- better than the original map of -- of the plaintiff, but it does perform. I kind of want to see if something at least close to that performance measures there, but this is a performing map. Thank you for answering my questions.

CHAIRMAN BEAULLIEU: Thank you, Vice Chairman Lyons. Representative Farnum for a question.

REPRESENTATIVE FARNUM: Yeah. Thank you, Mr. Speaker. If it's the proper time, I'd like to offer an amendment.

CHAIRMAN BEAULLIEU: Do we have any other questions before we go into the amendments? Because we do have -- we have two amendments. No other button's pushed. So give me two seconds, and we'll -- we'll come right back to you. Give me -- we've got one more

question. Representative Larvadain.

REPRESENTATIVE LARVADAIN: Thank you, Senator Womack. I want to thank you for -- for trying to make an effort to comply with the federal judge. But when I look at your map - and you have a copy in front of you - it goes from East Baton Rouge to West Baton Rouge to Pointe Coupee to Saint Landry, some of Avoyelles, some of Rapides, all of Natchitoches, DeSoto, and then some of Caddo; is that correct? Am I right? We're looking at the right map?

SENATOR WOMACK: Which district are you going through, 2 --

REPRESENTATIVE LARVADAIN: Yeah. District 2.

SENATOR WOMACK: -- or 5 -- 6? 2?

REPRESENTATIVE LARVADAIN: 6.

SENATOR WOMACK: Right.

REPRESENTATIVE LARVADAIN: 6.

SENATOR WOMACK: You're right.

REPRESENTATIVE LARVADAIN: Okay. Now, when you look at the community of interest -- I'm in Rapides. I've got -- my district is cut up two -- two spots. I'm in District 4 and District 6. I know in the community of interest, you've got Rapides and Natchitoches, and I think that you've got the Creole Nation. You've got Northwestern State University. A

lot of my students in my district attend those, so that's the community of interest; would you agree?

SENATOR WOMACK: I agree.

REPRESENTATIVE LARVADAIN: When you look at Natchitoches, there's a community of interest with Natchitoches and Caddo. You've got a lot of -- you've got lumber companies in the Natchitoches area. A lot of people work. RoyOMartin has a big -- big plant in Natchitoches --

SENATOR WOMACK: Right.

REPRESENTATIVE LARVADAIN: -- and a lot of folks in my area work there. RoyOMartin from Alexandria. And a lot of folks work in DeSoto where you have a lot of timber. And would you agree with that?

SENATOR WOMACK: I agree.

REPRESENTATIVE LARVADAIN: You look at Saint Landry. Saint Landry has -- Opelousas has a nice-sized, medium-sized hospital. So those folks in Pointe Coupee, they will go to Saint Landry to get their medical care and so forth in the Opelousas area. Would you agree with that?

SENATOR WOMACK: I agree.

REPRESENTATIVE LARVADAIN: And you look at West Baton Rouge-East Baton Rouge Parish. Is East Baton Rouge Parish cut in one district or two districts in

your map? Because I'm having problems seeing it. Is it two?

SENATOR WOMACK: I would have to look at the --

REPRESENTATIVE LARVADAIN: Two. Okay. I've seen maps to infinitum. So I think East Baton Rouge is divided into two.

SENATOR WOMACK: It's --

REPRESENTATIVE LARVADAIN: Is that two? It's yellow, and I guess a white piece.

SENATOR WOMACK: Yeah. Right. Two.

REPRESENTATIVE LARVADAIN: Okay. And it goes all the way to the great city of Shreveport.

SENATOR WOMACK: Right. Where our LSU hospital is.

REPRESENTATIVE LARVADAIN: And the hospital is vital because in Alexandria, we had a HOEPA loan. You're familiar with that. And Jindal shut my HOEPA loan. So my folks --

SENATOR WOMACK: Right.

REPRESENTATIVE LARVADAIN: -- in Rapides have to go to LSU. So that's a community of interest. Now, with your hospital, with your district, it goes from East Baton Rouge all the way to Caddo, which is probably about a two-hour ride, give or take, because I take that

ride a lot going up to Meyer in Alexandria. There was a -- a different map that was heard in the Senate, but it was a much cleaner map. That map didn't get out of the Senate, and it didn't get out of this area. The map I'm talking about is Ed Price's. I think Ed Price had a map.

FEMALE SPEAKER 1: It was Price and Marcelle.

REPRESENTATIVE LARVADAIN: Price-Marcelle map. I'm sorry. Did you get a chance to look at that map? That map was heard on the Senate side.

SENATOR WOMACK: Yes.

REPRESENTATIVE LARVADAIN: Those districts were a lot closer, a lot compact, but you're presenting this district. When you look at District 4, that's -- that is the district for the Speaker, Mr. Johnson; is that correct?

SENATOR WOMACK: Right.

REPRESENTATIVE LARVADAIN: Does he have a problem with his district being cut in -- in half like that? If you look at Winnfield, if he's in Winnfield and he goes to Sabine, he has to go through Natchitoches, which is not (inaudible 0:26:54) district. Yet you think he has a problem with that?

SENATOR WOMACK: No. It looks like the shortest route would be through Natchitoches.

REPRESENTATIVE LARVADAIN: But his prior map was just one continuous area. Now he has to leave one district and go to another area, which is -- which he'll be representing; is that correct?

SENATOR WOMACK: Yeah, that.

REPRESENTATIVE LARVADAIN: Okay. Have you had a chance to talk to -- to Congressman Johnson about this map?

SENATOR WOMACK: Not directly to him.

REPRESENTATIVE LARVADAIN: Okay. Is he content with this map?

SENATOR WOMACK: He's content.

REPRESENTATIVE LARVADAIN: Even though it slashes right through the middle of his district.

SENATOR WOMACK: Yeah. It -- it --

REPRESENTATIVE LARVADAIN: Now, Ed Price and Denise Marcelle. Let's go to District 5. Let's go the District 5 area. Their map, they were looking at District 5, which is the eastern part of Louisiana. And their map, they had that as the minority -- majority-minority district, I think, but you kept that map so you can help your friend, Congressman Letlow; is that correct?

SENATOR WOMACK: Yes. Yes, sir.

REPRESENTATIVE LARVADAIN: So this is more of

a political map.

SENATOR WOMACK: Exactly.

REPRESENTATIVE LARVADAIN: So our objective is to get two majority-minority districts, but you have presented us a political map; isn't that correct?

SENATOR WOMACK: The influence is political. I created -- we created two minority Black districts.

REPRESENTATIVE LARVADAIN: But you also said earlier that you were trying to do your best to protect Congressman Scalise.

SENATOR WOMACK: That was -- that -- that -- Scalise, as well as Johnson, Letlow, which is my representative, and Higgins.

REPRESENTATIVE LARVADAIN: You were trying to protect your Republican team.

SENATOR WOMACK: That was a primary driver.

REPRESENTATIVE LARVADAIN: So this is a political matter. But the judge wanted you to make sure that you presented two --

SENATOR WOMACK: Two Black.

REPRESENTATIVE LARVADAIN: -- majority-minority districts.

SENATOR WOMACK: And I've done that.

REPRESENTATIVE LARVADAIN: I don't know if you've done -- you've -- you've made a effort at it, but

there was another map. There's a lot cleaner map because the map that I see goes from Shreveport to Baton Rouge, which you're just zigzagging. And you picked up Alexandria, you picked up Natchitoches, you picked up DeSoto, but it's more of a political map. The map that the Democrats pursued, it was a map that we agreed on two majority-minority districts, and this is more of a political map.

SENATOR WOMACK: Yeah, I know.

REPRESENTATIVE LARVADAIN: Okay. Thank you.

SENATOR WOMACK: Thank you.

CHAIRMAN BEAULLIEU: Senator Womack, why are we here today? What -- what brought us all to this special session as it -- as it relates to, you know, what we're discussing here today?

SENATOR WOMACK: The middle courts of the district courts brought us here from the Middle District, and said, "Draw a map, or I'll draw a map."

CHAIRMAN BEAULLIEU: Okay.

SENATOR WOMACK: So that's what we've done.

CHAIRMAN BEAULLIEU: And -- and were you -- does -- does this map achieve that middle court's orders?

SENATOR WOMACK: It does.

CHAIRMAN BEAULLIEU: Okay. When you were

drawing the maps, you also took into consideration incumbency, correct?

SENATOR WOMACK: Right.

CHAIRMAN BEAULLIEU: Okay. To protect not just our state, but our national interest as well.

SENATOR WOMACK: Our national.

CHAIRMAN BEAULLIEU: Is that correct?

SENATOR WOMACK: Right.

CHAIRMAN BEAULLIEU: This is -- this is bigger than just us.

SENATOR WOMACK: It's bigger than just us, and Louisiana has never been sitting in the poor position that they are today.

CHAIRMAN BEAULLIEU: What -- what position does Congressman Mike Johnson have in the United States House of Representatives?

SENATOR WOMACK: He's a speaker of the house.

CHAIRMAN BEAULLIEU: Okay. And what about Congressman Steve Scalise?

SENATOR WOMACK: Majority leader of the house.

CHAIRMAN BEAULLIEU: Okay. So if we've been able to accomplish what the judge has ordered through your map, and also been able to protect the political interest, that is kosher, correct?

SENATOR WOMACK: That's exactly.

CHAIRMAN BEAULLIEU: Okay. That's what -- that's what I was thinking. That's what I've learned through the process, and I just wanted to make sure that your map achieved that. Yeah.

SENATOR WOMACK: Yes, sir, Mr. Chairman.

CHAIRMAN BEAULLIEU: All right. Senator, the board's cleared. We're going to go ahead, if you don't mind, and -- and take up the amendments right now. Bear with me for two seconds. Senator Marcelle, and -- and -- excuse me. Sorry about that promotion, Representative Marcelle.

REPRESENTATIVE MARCELLE: That's okay.

CHAIRMAN BEAULLIEU: And -- and Representative Farnum both have amendments.

FEMALE SPEAKER 2: Here. This card's in Marcelle's name.

CHAIRMAN BEAULLIEU: Okay. Hold that -- hold that for me. Bear with me. So the first amendment is how -- is Amendment 68. That is Amendment 60. Give me a second while it's loading. What amendment is 68?

MS. LOWERY: That is the one offered by Representative Farnum.

CHAIRMAN BEAULLIEU: Representative Farnum, we're going to take up your amendment first. Representative Farnum, on your amendment.

REPRESENTATIVE FARNUM: Thank you, Mr. Speaker. So I offer -- does -- do we need to read it in?

MS. LOWERY: Certainly.

CHAIRMAN BEAULLIEU: Ms. Lowery, please read-in the amendment.

MS. LOWERY: Thank you so much, Mr. Chairman. Representative Farnum is offering up HCASBA-36268. And on page 1, it's going to delete lines 13 through 17, and delete pages 2 through 6, and we'll be inserting a new district configuration for the congressional districts for the State of Louisiana. This amendment is available online and is available in your packets, members, and contains maps and statistics relevant to the plan.

CHAIRMAN BEAULLIEU: Thank you, Ms. Lowery. Representative Farnum, on your amendment.

REPRESENTATIVE FARNUM: Thank you, Mr. Chairman. So in the -- in the beginning of this process, me and my colleagues from Southwest Louisiana set out to accomplish making Calcasieu whole. In the history of -- of our -- our great parish, we've always had one congressman that represented us. And -- and -- and with the current map as presented from Senator Womack, it -- it split Calcasieu Parish basically in half in population. And -- and with the community of

interest in our industrial sector down there, we thought that was not just for our area.

We -- we have -- we're -- we're probably one of the top two or three economic engines for the State of Louisiana with our oil and gas industries and our LNG industry that's going on in -- in our region. So we thought it would be -- be great to make an effort to get back to one congressman.

We have issues with -- with all sorts of natural disasters in our area, and we have a hard enough time getting -- getting the -- the adequate supplies and -- and resources to our region in those situations with one congressman, and I -- I can imagine it might be a little more difficult with two. So in that effort, we set out to make -- make ourselves whole. And in the process, a lot of folks in -- in other areas wanted to come along and -- and get -- be a part of this to -- to correct little -- little tweaks in their area.

So last night a group of senators and representatives got together. I wasn't able to attend that meeting. So this is the product of that meeting. At the end of the day, we -- we accomplished a few things. We -- we kept the, the basic intent of what Senator Womack's bill is in place, and with a -- a -- kind of a counterclockwise shift that would -- but the

process has to happen that way to increase some areas in -- in Northeast Louisiana to help that district to make Congressman Johnson come down some.

That inherently makes Congressman Higgins have to shift to the east, and so on and so forth. In the process, we increase the -- the -- both the Black population and the voting population of both of the minority districts by almost a percent each in most cases.

So it helps -- it helps the -- the workability of the two new districts and -- and what they're trying to accomplish, and it accomplished the -- the -- making more -- more parishes whole. I think we -- we only -- we're down to 15 split parishes with this map, and so I think we've accomplished several things in the process. And -- and with that, we can answer questions or ask for your passage.

CHAIRMAN BEAULLIEU: Representative Farnum, does your -- does your amendment meet the judge's order?

REPRESENTATIVE FARNUM: Absolutely.

CHAIRMAN BEAULLIEU: Okay. And so we have two majority-minority districts, or two Black districts that have a voting -- a majority voting age population over 50 percent?

REPRESENTATIVE FARNUM: I -- I think it

accomplished that, but it -- it actually increases the -- the viability of the two minority districts.

CHAIRMAN BEAULLIEU: Okay. And what about incumbency, are the -- the current members protected?

REPRESENTATIVE FARNUM: Protects all the current incumbencies. I think it -- it -- it meets all the -- all the checkboxes.

CHAIRMAN BEAULLIEU: Okay. Thank you. Representative Marcelle. Again, give me a second, Representative Marcelle, because I'm going to get Representative Farnum added back on. Bear with me.

(Pause.)

REPRESENTATIVE MARCELLE: You ready? Thank you. Representative Farnum.

REPRESENTATIVE FARNUM: Yes, ma'am.

REPRESENTATIVE MARCELLE: You said that some senators and some representatives met last night, but you weren't able to be there. Is that -- is that what you said?

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: So whose map is this?

REPRESENTATIVE FARNUM: This is Senator Womack's map.

REPRESENTATIVE MARCELLE: No, no, no, no. The

amendment.

REPRESENTATIVE FARNUM: The amendment. I'm the author because --

REPRESENTATIVE MARCELLE: Because if senator -- I don't mean --

REPRESENTATIVE FARNUM: -- it has -- it has to have an author from this committee, and -- and I'm --

REPRESENTATIVE MARCELLE: Okay. It has to have an author from this committee, so that's why. Who asked you to carry it is my question.

REPRESENTATIVE FARNUM: I started it myself without anybody asking me. Now, I -- I allowed input from other members of this body to -- to better my amendment because it -- mine was -- mine was from my region's perspective.

REPRESENTATIVE MARCELLE: It's Calcasieu.

REPRESENTATIVE FARNUM: Calcasieu's perspective.

REPRESENTATIVE MARCELLE: And so let me -- let me see -- let -- let me walk down this really quick. In Calcasieu, you said that you wanted to make your parish whole. Did I understand that correctly?

REPRESENTATIVE FARNUM: Correct.

REPRESENTATIVE MARCELLE: So instead of having two congressional representatives, you wanted to make

sure you were whole, and you just wanted one; is that accurate?

REPRESENTATIVE FARNUM: Correct. That's correct.

REPRESENTATIVE MARCELLE: Okay. But over in East Baton Rouge, if I'm reading it correctly, we now have three congressional districts; is that accurate?

REPRESENTATIVE FARNUM: That's accurate.

REPRESENTATIVE MARCELLE: That's accurate. Okay. Good. So on the one hand, you want to make yourself whole, and you want to split us three ways in East Baton Rouge Parish.

REPRESENTATIVE FARNUM: That's the net result.

REPRESENTATIVE MARCELLE: That's the net result. Okay. Got it. So are you aware of the population shift in Louisiana? You know, we had these hearings a year and a half ago, two, whatever. It was two years ago. Whenever it was. Are you aware -- because I think you were on this committee.

REPRESENTATIVE FARNUM: Yes, ma'am.

REPRESENTATIVE MARCELLE: Okay. So are you aware of the growth, the largest growth in the state?

REPRESENTATIVE FARNUM: Yes.

REPRESENTATIVE MARCELLE: Where was that?

REPRESENTATIVE FARNUM: Northshore.

REPRESENTATIVE MARCELLE: Where? Northshore.

REPRESENTATIVE FARNUM: Northshore.

REPRESENTATIVE MARCELLE: And where was Baton Rouge in that?

REPRESENTATIVE FARNUM: It's probably middle of the road.

REPRESENTATIVE MARCELLE: Middle of the road.

REPRESENTATIVE FARNUM: Yeah.

REPRESENTATIVE MARCELLE: Would you say that Baton Rouge had more growth than Calcasieu?

REPRESENTATIVE FARNUM: I don't know if that's accurate. I -- I couldn't speak to that.

REPRESENTATIVE MARCELLE: They did. My -- my point to you is that there was growth in -- in Baton Rouge. They lost population in North Louisiana. Is that accurate?

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: They did lose population, and I'm just trying to --

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: -- refresh my memory. In North Louisiana, so, but you wanted to make sure that North Louisiana -- because it looks like -- I'm looking at his map and your map, and it looks like you shift Letlow back over --

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: -- and she picked up some more, right?

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: His map -- Womack's map didn't do that. So you added back Lincoln, Jackson, and you made her whole in Ouachita.

REPRESENTATIVE FARNUM: Ouachita.

REPRESENTATIVE MARCELLE: Ouachita. Ouachita.

REPRESENTATIVE FARNUM: Ouachita whole.

REPRESENTATIVE MARCELLE: Ouachita, right?

REPRESENTATIVE FARNUM: Correct.

REPRESENTATIVE MARCELLE: Is that right? Okay.

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE MARCELLE: I -- I want to make sure I -- I got that straight. So it -- are you aware that this map that you're proposing has less compact overall than Womack's map or the enacting map? Are you aware of that? It has less compactness.

REPRESENTATIVE FARNUM: No.

REPRESENTATIVE MARCELLE: I know you didn't have a whole lot of time to study it because it was last minute.

REPRESENTATIVE FARNUM: Yeah. I don't know if

I agree with that.

REPRESENTATIVE MARCELLE: You don't know if you agree with it.

REPRESENTATIVE FARNUM: No.

REPRESENTATIVE MARCELLE: Okay. Well, it does. In fact, it's the lowest compactness of all of the maps. That's A. The district level in Congressional District 6 is less compact than Womack's map, and the Congressional District 2 is half as compact as Womack's map. Are you aware of that?

REPRESENTATIVE FARNUM: So what I do know is that the -- the BVAP increased.

REPRESENTATIVE MARCELLE: I'm not asking about the BVAP.

REPRESENTATIVE FARNUM: The population increased, and it helps those -- the electability of those minority candidates in those areas.

REPRESENTATIVE MARCELLE: I -- I guess that's your opinion, but what I'm asking you for right now is facts in -- in -- in -- in terms of the compactness of the districts. So let me go to another one. Are you aware that it splits more municipalities than Womack's and almost twice as many as the -- the bill that I brought?

REPRESENTATIVE FARNUM: I'm not familiar --

REPRESENTATIVE MARCELLE: Are you aware of that?
REPRESENTATIVE FARNUM: I'm not familiar with your bill.
REPRESENTATIVE MARCELLE: Okay. Was HB5 up?
REPRESENTATIVE FARNUM: We didn't -- we didn't have a chance to hear that.
REPRESENTATIVE MARCELLE: I presented it in here. You were -- you were here.
REPRESENTATIVE FARNUM: You -- you voluntarily withdrew it.
REPRESENTATIVE MARCELLE: Pardon me?
REPRESENTATIVE FARNUM: You voluntarily withdrew it.
REPRESENTATIVE MARCELLE: But I presented it. But you had an opportunity to get it on your laptop and see it like we get all bills, right, because you're on this committee.
REPRESENTATIVE FARNUM: Yes.
REPRESENTATIVE MARCELLE: Okay. So this map, the -- well, not map, the amendments. If these amendments get on this bill, it will split more municipalities than Womack's. The deviation on these amendments that go to this map is a 129, which is both higher than Womack's bill, which is almost twice as much

as the enacted map at 65. I -- I think what I'm saying is there were more than one goal to meet when we were told to draw these maps.
It was more than one thing that we had to consider: compactness, communities of interest, not splitting municipalities. And it appears that this map -- or these amendments, if we were to vote on this, does far more harm than good.
REPRESENTATIVE FARNUM: So -- so it's my opinion that -- that we -- we addressed all of the issues that we were set out to do. We've accomplished all the goals that we were mandated by the Court to do. We have the -- the two minority districts were very, very lightly touched, and -- and mostly White population was pulled out of those districts.
REPRESENTATIVE MARCELLE: Well, let -- let me just say this, Representative Farnum, with all due respect. If you were just trying to make Calcasieu whole and that was your parish and you were trying to do that, I might have a little bit more respect for this amendment. But since you are trying to make yourself whole, and East Baton Rouge Parish split between three congressional districts, that would mean that for the public that's watching -- because you can't see the map, or you may not be able to understand it.

That would mean that Clay Higgins would represent the people on Lakeshore Drive in Baton Rouge. That's what that would mean.
REPRESENTATIVE FARNUM: So -- so in -- in my area, Clay Higgins represents my house, and if I drive 10 houses down the road, Congressman Johnson represents those people --
REPRESENTATIVE MARCELLE: I guess --
REPRESENTATIVE FARNUM: -- 10 houses away from my house.
REPRESENTATIVE MARCELLE: I imagine because you're on the line. But what I'm saying is that's a far distance from where his district starts, to bring him down to Baton Rouge, and I'm just trying to -- it's unclear to me what the motivation of offering this amendment is, other than political reasons. It -- it -- it certainly doesn't help us in Baton Rouge.
REPRESENTATIVE FARNUM: Well, all -- all I can say is my constituents at home expressed a strong desire to remain whole. Now, whether we were in District 3 --
REPRESENTATIVE MARCELLE: So do mine.
REPRESENTATIVE FARNUM: -- or District 4 -- I -- I can appreciate that. I really can appreciate that, and that's why we all get a vote here. And so it's -- this is -- this is my attempt to -- to help my citizens

in my area.
REPRESENTATIVE MARCELLE: I get that.
REPRESENTATIVE FARNUM: And in the process, I included -- a lot of other people from a lot of other regions were included in the conversation. I can't speak to who all was included that night because I wasn't able to attend that. So it -- it was people from New Orleans. I think Senator Womack was in the room when -- when it was discussed, and -- and feel free to jump in any time.
SENATOR WOMACK: Okay. I -- I was in that meeting, and -- and the -- back to the BVAP. And in the districts, District 2 and District 6 went up -- up as far as Black voter age population. Senator Gary Carter was in the room with us looking at this and -- and working on this to -- to try to come up with the best outcome. We did --
REPRESENTATIVE MARCELLE: That would be --
SENATOR WOMACK: -- include --
REPRESENTATIVE MARCELLE: I'm sorry. That -- you said Senator Carter.
SENATOR WOMACK: Carter. Gary Carter.
REPRESENTATIVE MARCELLE: And that we be Congressional District 2, right?
SENATOR WOMACK: He was in the room.

REPRESENTATIVE MARCELLE: Okay.
SENATOR WOMACK: He was in the room, and -- and -- and looking at these districts with us. This wasn't -- this wasn't -- this was several senators trying to work to -- to try to accomplish, I guess, a lot of maybe concerns from different ones, but I know Red River Parish was put in.
REPRESENTATIVE MARCELLE: Well, the -- the only one that could have been concerned about Congressional District 2 would be Congressman Troy Carter; is that accurate? Who -- did he have a concern about your map?
SENATOR WOMACK: I -- I would think that Congressman -- Senator Carter would -- would be speaking in -- in that capacity, as to watching the -- the -- the VAP, the -- the -- the -- the voting age population. He was watching that. He was working with us to try to best fit everything that we -- that -- that people was wanting and -- and -- and concerns from each side that we're asking for and -- and to still maintain the -- the fact that -- that we -- we got a map to draw. And we had to draw this map to get --
REPRESENTATIVE MARCELLE: So let me -- let me ask you, Senator. Was somebody from Baton Rouge asking to be split three ways in that room? Because I want to

know who that was.
SENATOR WOMACK: I -- I -- I don't know where these people -- all the people live.
REPRESENTATIVE MARCELLE: Don't know where the --
SENATOR WOMACK: I -- I think Carter lives back toward New Orleans.
REPRESENTATIVE MARCELLE: Yeah. That's what I said.
SENATOR WOMACK: Okay. All right.
REPRESENTATIVE MARCELLE: Right. That's what I said. And this is --
SENATOR WOMACK: And -- and -- and that's -- and I can't say he's been on the phone, but he was in the room and worked with us on this.
REPRESENTATIVE MARCELLE: Let -- let -- let me say this, and I'll -- I'll leave it alone at this. I -- I respect you, Senator Womack. That's why when I proposed a cleanup amendment to your bill, I came over to talk to you about exactly what I was going to propose on your bill. I think it's disingenuous that we sit here, and we drop maps that changes Baton Rouge because some senators got in a room and decided to change my district. This is what I represent. I -- I -- I don't mean -- I'm -- and you --

SENATOR WOMACK: I'm sorry.
REPRESENTATIVE MARCELLE: It's not your amendment.
SENATOR WOMACK: Yeah. I'm sorry.
REPRESENTATIVE MARCELLE: I'm just making a statement.
SENATOR WOMACK: Yes, ma'am.
REPRESENTATIVE MARCELLE: And I'm not voting for any map that has Baton Rouge split three ways because that's insane. It's insane. And so for whatever motive that they had, I believe that they threw a monkey wrench in a bill that I think would have gotten out of here without any opposition, which is your bill. So I don't -- I don't know if you realize it --
SENATOR WOMACK: Yeah. Yeah.
REPRESENTATIVE MARCELLE: -- but, I mean, I don't think what they have done has helped your bill. And if Farnum wanted to protect Calcasieu, that's Calcasieu. It ain't got nothing to do with Baton Rouge. So he should have put amendment on this bill that protects Calcasieu, not Baton Rouge. Not change anything in Baton Rouge. And that's just my honest opinion. So I -- I -- I could not -- so I would object.
REPRESENTATIVE MARCELLE: I -- I -- I could not -- so I would object to this amendment being added.

And I want everybody in Baton Rouge who's listening to please call your senators and the people that represent you and tell them we do not want to be split in three ways in Baton Rouge. Thank you.
SENATOR WOMACK: Thank you. Just for correction, Senator Fields was in the room with us. So that -- that -- I appreciate Senator Kathy reminding me of that. He was in the room as well.
CHAIRMAN BEAULLIEU: Thank you. Ms. -- Representative Marcelle. Representative Johnson.
REPRESENTATIVE JOHNSON: Thank you, Mr. Chairman. Senator Womack, you represent Senate District -- what's the number?
SENATOR WOMACK: 32.
REPRESENTATIVE JOHNSON: 32. You're my senator, and we share a lot of people, a lot of population. You have spent a lot of time on this map; haven't you?
SENATOR WOMACK: Yes, sir.
REPRESENTATIVE JOHNSON: And you've tried to do it as best you can and to make it legal and to make it -- to adjust the population shift that has occurred in our state; is that right?
SENATOR WOMACK: That's right.
REPRESENTATIVE JOHNSON: And it -- you're not

doing it in a vacuum. It's affecting people that are in your district.

SENATOR WOMACK: Yes, sir. That's exactly right.

REPRESENTATIVE JOHNSON: And you are catching a lot of heat because of that; aren't you?

SENATOR WOMACK: That's right.

REPRESENTATIVE JOHNSON: You take your responsibility seriously; don't you?

SENATOR WOMACK: I do.

REPRESENTATIVE JOHNSON: Even when it hurts you politically?

SENATOR WOMACK: I do.

REPRESENTATIVE JOHNSON: It hurts me politically.

SENATOR WOMACK: It does. And I've apologized.

REPRESENTATIVE JOHNSON: I know you to be a good and honest man who tries to do the right thing. Does this map, as amended by -- by Representative Farnum, my good friend from Southwest Louisiana -- well, let me back up. You believe that you have presented a map that achieves all the necessary requirements and provides us with the best instrument that you could come up with?

SENATOR WOMACK: I do.

REPRESENTATIVE JOHNSON: Do you believe that Representative Farnum's amendment makes your bill better?

SENATOR WOMACK: Yes.

REPRESENTATIVE JOHNSON: And would you support your bill and your map and all of your time and all your political pain that you and I are feeling if he presents that amendment?

SENATOR WOMACK: I do. I would.

REPRESENTATIVE JOHNSON: Okay. Thank you, Senator.

CHAIRMAN BEAULLIEU: Thank you, Representative Johnson. Representative Newell.

REPRESENTATIVE NEWELL: Thank you very much, Mr. Chairman. And Representative Farnum, I appreciate your attempt at drawing this map. But what I don't appreciate -- and I do understand that this is a compressed session. And let me pause right quick and say thank you to our staff because our staff is truly overworked and underpaid. So I -- I -- I -- I understand how swiftly they work to try to get bills prepared, amendments prepared so that we can have them in order to get to committee.

But I -- with all of that, we also need to

consider this -- this -- how critical it is for everyone to have these -- this information and these documents in time that those of us who are sitting right here and about to vote on this -- and Senator, I'm sorry. I'm looking directly at you, but you -- you right there. But this is -- no -- no slight against you.

This was not enough time to digest everything that is in this amendment. We went at ease at about 10:15, 10:20, whatever time it was in the 10 o'clock hour. We just got these maps before we sat down. When y'all saw us sit down and pick up these papers, that's why we were shuffling because we just got these amendments. And I just needed to say this is too sensitive of a issue, too sensitive of a topic to rush through it and to be thrown a set of amendments.

There's probably more splits that we -- than -- than what we're noticing. Rep Marcelle saw Baton Rouge because that's where she lives. So that's what's kind of jumped out at her first. But I'm sure there's some other members that might feel slighted. There might be some other populations or communities of interest that feel that they are not being listened to or heard.

We -- we -- I would have appreciated more time to understand this since I was not given the benefit of

being in the room. Rep Farnum's name is on this map, and he wasn't in the room. You mentioned a lot of senators in the room talking about something that representatives are now sitting here trying to pour over, talk about, discuss, and understand in a shorter period of time.

Most of us can't really pay attention to the discussions because we're looking and trying to understand these 15 pages that we've just been given. And I just needed to put that out there, Mr. Pro Tem, that we should need to give each other more consideration in our futures, that we give each other more time to digest things that are this sensitive of a issue and of a topic. And I'm still not satisfied with this map. Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Newell. Representative Mark Wright.

REPRESENTATIVE WRIGHT: Thank you, Mr. Pro Tem. I didn't expect to get called on so soon I thought there'd be a line. I -- I don't know. I'm going to upset somebody with this statement, but I'm just going to say it. I don't understand the idea of wanting just one rep for a parish.

I think if you got two, you got two people to go to. I don't think congressmen sit there and say,

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"Oh, you know, St. Tammany, 50 percent is there. I'm only going to give it 25 percent of my time." I think if you got three, I think it's possible you get three congressmen working for your parish.

So I don't know what that does, but I just -- I've been hearing this all week, heard it the last time we did this, and to me, it's just not something I think matters. So I'll leave it there.

CHAIRMAN BEAULLIEU: Thank you. Representative Wright. Representative Boyd.

REPRESENTATIVE BOYD: Thank you, Mr. Speaker Pro Tem. I think what the problem is is that, again, following up on Candace -- on Rep Newell, we just were presented with these amendments and your map as a matter of fact.

I do understand, Rep Marcelle, that Senator Fields was in the room with this. But that's Senator Fields and Senator Carter in the room. We were not privy to that conversation, so we had no idea what we were expecting to see the -- today. And now we're shuffling through pages and pages of a bill as well as an amendment.

So I don't think anything was done intentionally, but the frustration comes from us not having this ourselves to actually digest it and meet

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with our people, our community of interest, and speak about what's being presented. So I think --

MALE SPEAKER 1: (inaudible 0:57:16).

REPRESENTATIVE BOYD: Exactly. So I think that that's the -- the main issue here. We know who was in the -- well, we know now who were in the room when this was being discussed, but we weren't, if that makes any sense. Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Boyd. Representative Larvadain.

REPRESENTATIVE LARVADAIN: Thank you, Mr. Chair. Rep Farnum, thank you for making an effort to try to comply with the judge's wishes, but I'm still confused with your map. In the great parish of Rapides, we've divided three ways; is that correct?

REPRESENTATIVE FARNUM: Two or three.

REPRESENTATIVE LARVADAIN: I -- three -- I see pink, green, and yellow in the great -- is that correct? Am I seeing something right? Yes. Look at Rapides, the real parish, where I'm from and Mike Johnson. Rapides is -- on the east side, it's in the yellow, which is Clay Higgins. In the middle, it'll be in District 6, and then it has a portion of District 5. So it's three in the -- is that correct?

REPRESENTATIVE FARNUM: That's correct.

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REPRESENTATIVE LARVADAIN: Okay. But your parish is only single; is that correct?

REPRESENTATIVE FARNUM: That's correct.

REPRESENTATIVE LARVADAIN: I think Avoyelles Parish is -- is divided into two areas; is that correct?

REPRESENTATIVE FARNUM: Excuse me?

REPRESENTATIVE LARVADAIN: Avoyelles Parish is divided in District 5 and 4.

MALE SPEAKER 1: 5 and 10.

REPRESENTATIVE LARVADAIN: 5 and --

REPRESENTATIVE FARNUM: Yes, and they're -- they're --

REPRESENTATIVE LARVADAIN: 5 and 6?

REPRESENTATIVE FARNUM: -- split in the current map.

REPRESENTATIVE LARVADAIN: Okay. Now, we had a better map that we think we proposed. But once again, with your map, you're dipping and diving, and you're going through -- you've got a -- how many split districts do you have in that area; do you know?

REPRESENTATIVE FARNUM: How many what?

REPRESENTATIVE LARVADAIN: Split parishes you have in -- just in District 6.

REPRESENTATIVE FARNUM: So in -- in this map, there are 15 split parishes. And -- and in the original

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map, if I counted it right, there's 32 split parishes.

REPRESENTATIVE LARVADAIN: If I told you it was 16 original, would that be correct? Where would you get 36?

REPRESENTATIVE FARNUM: That's not the count that I came up -- but I -- I don't know. I might be wrong, but I -- I think the asterisk --

CHAIRMAN BEAULLIEU: 16.

REPRESENTATIVE FARNUM: -- the asterisk beside the parishes mean that they're split.

REPRESENTATIVE LARVADAIN: Okay. Let -- let me correct then --

REPRESENTATIVE FARNUM: There's 32 of them.

REPRESENTATIVE LARVADAIN: Yeah. And -- and Senator Womack's map, it was 16 split; is that correct?

REPRESENTATIVE FARNUM: I don't believe that's correct. I think there's 32 in the original map. Help -- help me with that Ms. Lowery.

REPRESENTATIVE LARVADAIN: I think it's 16.

MS. LOWERY: Members, I think what Representative Farnum is counting the number of asterisks, but the asterisk in front of a parish on the report -- on the split parish report means it is split, but there are 16 split parishes --

REPRESENTATIVE FARNUM: Okay.

MS. LOWERY: -- in the plan, so.
REPRESENTATIVE FARNUM: Okay. So we reduced that by one.
REPRESENTATIVE LARVADAIN: Those 15?
REPRESENTATIVE FARNUM: I think. If I -- if I'm adding right.
MS. LOWERY: 15 in his original --
REPRESENTATIVE FARNUM: 15 in the original?
MS. LOWERY: -- and 16 in your amendment, Representative.
REPRESENTATIVE FARNUM: Okay. So we increase it by one.
REPRESENTATIVE LARVADAIN: Yeah. You added one to it, okay. What about -- where does Congressman Graves live? Is he in District 6 or he's in District 5?
REPRESENTATIVE FARNUM: I have no idea where Congressman Graves lives.
FEMALE SPEAKER 3: I think Baton Rouge.
REPRESENTATIVE LARVADAIN: I think he's in -- I think he's in East Baton Rouge Parish.
REPRESENTATIVE FARNUM: I -- I have no --
REPRESENTATIVE LARVADAIN: If I told you --
REPRESENTATIVE FARNUM: -- no idea where he lives.
REPRESENTATIVE LARVADAIN: Would he -- would

he be a part of District 5, that district, or you don't know?
REPRESENTATIVE FARNUM: I don't know. I don't know where any of the congressmen live other than the regions that they come from.
REPRESENTATIVE LARVADAIN: Okay. Okay. Did you get a chance to talk to Congressman Mike Johnson about his district?
REPRESENTATIVE FARNUM: Huh? I have not. I talked to Congressman Higgins about his.
REPRESENTATIVE LARVADAIN: Okay. And what did Congressman Higgins say about his district?
REPRESENTATIVE FARNUM: He -- he -- he thought it was a good idea that we were okay to be split. I disagreed with him. Very -- very civil conversation. He was disappointed that we would rather push -- push to the -- a single member. But, you know, I'm -- I'm listening to my constituents, and that's -- that's who I have to answer to.
REPRESENTATIVE LARVADAIN: Does Congressman Higgins have -- have a problem with going all the way from Cameron to Baton Rouge Parish? Is that ideal for him?
REPRESENTATIVE FARNUM: That wasn't an issue that he -- that he expressed to me.

REPRESENTATIVE LARVADAIN: Okay.
REPRESENTATIVE FARNUM: He -- he -- he would like to retain part of Calcasieu if possible. And --
REPRESENTATIVE LARVADAIN: Blame him. That's a big city.
REPRESENTATIVE FARNUM: -- and we -- we disagreed with that.
REPRESENTATIVE LARVADAIN: Yeah, I don't -- I don't blame him. I know he wants to control -- represent Lake Charles.
REPRESENTATIVE FARNUM: And I'm -- I'm perfectly fine having Congressman Higgins or Congressman Johnson. I like both of them. We just want to have one.
REPRESENTATIVE LARVADAIN: And it's not Representative -- Congressman Higgins. It's -- you'd rather have --
REPRESENTATIVE FARNUM: No. It's -- it's --
REPRESENTATIVE LARVADAIN: Yeah.
REPRESENTATIVE FARNUM: That's -- that's the rotation that's possible.
REPRESENTATIVE LARVADAIN: Okay.
REPRESENTATIVE FARNUM: Is -- is a counterclockwise rotation is the only one that's possible.

REPRESENTATIVE LARVADAIN: And I know with Congressman Mike Johnson, the Caddo Parish, they wanted to make sure Bossier -- they wanted to make sure Barksdale and Fort Johnson were in the same district; is that correct?
REPRESENTATIVE FARNUM: I believe so.
REPRESENTATIVE LARVADAIN: And this map does that?
REPRESENTATIVE FARNUM: I believe so.
REPRESENTATIVE LARVADAIN: Now, what about Congressman Scalise? Did he have a problem with his district?
REPRESENTATIVE FARNUM: I don't think -- I haven't spoke with him. I haven't spoke with any of his staff. I couldn't answer that question.
REPRESENTATIVE LARVADAIN: What about Congressman Letlow? Does she have a problem with her district?
REPRESENTATIVE FARNUM: I think she very happy with the fact that she made Ouachita whole, which was one of her desires, and gained more northern population to -- for -- for her district. People that she's represented in the past, she wanted to retain those people.
REPRESENTATIVE LARVADAIN: And you had a good

1 idea of what Congressman Carter wanted in District --
2 District 2?
3 REPRESENTATIVE FARNUM: I have no idea.
4 REPRESENTATIVE LARVADAIN: Okay. And let me
5 make sure in -- in District 6, the new district, the VAP
6 -- the VAP map is 54.342; is that correct? I'm looking
7 at it.
8 REPRESENTATIVE FARNUM: I'll take your word
9 for it. It -- they went up.
10 REPRESENTATIVE LARVADAIN: Yeah. BVAP. Okay.
11 And we know that that district will perform at that
12 capacity?
13 REPRESENTATIVE FARNUM: We feel like it'll
14 perform better because the population -- the -- the BVAP
15 has increased.
16 REPRESENTATIVE LARVADAIN: And what about the
17 BVAP for District 2 at 51.7? Will that increase?
18 REPRESENTATIVE FARNUM: It -- it increased as
19 well.
20 REPRESENTATIVE LARVADAIN: So your -- your map
21 will produce two majority-minority districts; is that
22 correct?
23 REPRESENTATIVE FARNUM: That's correct.
24 REPRESENTATIVE LARVADAIN: But you've got
25 several districts in District 6 where you have my

1 district, Rapides, is split three ways, and also East
2 Baton Rouge Parish is split three ways.
3 REPRESENTATIVE FARNUM: I -- I think in order
4 to accomplish the shift in population, I think some of
5 the white population was extracted from -- from that
6 minority district in order to increase their -- their
7 BVAP.
8 REPRESENTATIVE LARVADAIN: Okay. That's it.
9 Thank you.
10 REPRESENTATIVE FARNUM: Thank you.
11 CHAIRMAN BEAULLIEU: Thank you, Representative
12 Larvadain. Representative Marcelle.
13 REPRESENTATIVE MARCELLE: Thank you. Let --
14 let -- let me start out by saying I'm not personally
15 attacking any senator, particularly Gary Carter, who I
16 like and have served with. I believe that you said that
17 Senator Carter was in the room. And I believe that you
18 said that he probably was protecting the interest or
19 speaking on behalf of Senator -- I mean, Congressman
20 Carter.
21 So I -- I asked a question was anybody in
22 there from Baton Rouge? What I'm being told by my
23 senator or one of my senators, which is Cleo Fields,
24 that he was handed the finished product - he did not
25 work on the product - after the product was finished.

1 That's what I was being told.
2 That's A. And B, we do have another senator in
3 Baton Rouge. Her name is Senator Regina Barrow. She is
4 the Pro Tem. So I'm wondering why she wasn't in the
5 room. We're a metropolitan area. So I want to clear
6 that up. I guess she wasn't invited to the party. I --
7 I don't know.
8 But I -- I do want to ask our chairman if the
9 Legal Defense Fund can come up and help to clear up some
10 of the questions that we may have about these map and
11 the performance because we have the public who's
12 listening, and they should know what's going on. I
13 believe that these are the people who could perhaps
14 answer some of the questions that we have.
15 And I certainly have some questions for them
16 myself, since I can't get a clear answer on performance
17 or compactness. All of these issues that we're talking
18 about: the deviation, how many splits it is. I have an
19 attorney right here by me, Mr. Larvadain. And he's --
20 because we were given this information a few minutes
21 ago, as legislators, many of us can't decipher through
22 it.
23 So I would ask that LDF, the Legal Defense
24 Fund, would be able to come up to the table to answer
25 some questions as it relates to these amendments, if you

1 don't mind. Mr. Beaullieu -- Chairman Beaullieu. Thank
2 you.
3 REPRESENTATIVE JOHNSON: Someone here present
4 from the Legal Defense Fund like to come to the table?
5 CHAIRMAN BEAULLIEU: Ms. Lowery on a
6 clarification.
7 MS. LOWERY: I just wanted to correct. Hey,
8 Members - I'm sorry - in the audience, I want to correct
9 something I said earlier. Senator Womack's Bill
10 presently has 16 split parishes as well as
11 Representative Farnum's amendment at 16 split parishes.
12 CHAIRMAN BEAULLIEU: Thank you. Ms. Lowery,
13 Rep Marcelle. And we have -- if y'all wouldn't mind,
14 please introduce yourselves. And y'all filled out
15 cards?
16 MS. WENGER: We did not, but we can.
17 CHAIRMAN BEAULLIEU: Please do. Thank you.
18 MS. WENGER: My name is Victoria Wenger. I'm
19 an attorney with the Legal Defense Fund.
20 MR. EVANS: Jared Evans, attorney with the
21 Legal Defense Fund.
22 REPRESENTATIVE MARCELLE: Thank you all for
23 coming to the table, and thank you for your work on this
24 matter. Can you please -- first of all, let me -- let
25 me ask you a question because perhaps you all got this

map a lot sooner than us. You all have been working for how many years on getting this done?

MS. WENGER: We filed our litigation, Robinson, now, v. Landry - at the time it was Robinson v. Ardoin - the day that the legislature overrode the governor's veto. I believe it was March 30th, 2022.

MR. EVANS: But the work started around the first roadshow in October 2021 -- September 2021.

REPRESENTATIVE MARCELLE: Okay. So can you all please tell me, in your opinion, what adding -- if this amendment get on, what does it do to Womack's bill? Does it make it better? Does it make it worse? Is it more compactness? Is it more split parishes? Does it make sense?

Help me and help walk us through it because the public really needs to know what's going on. And I know they can't know because we just got hit with it today.

MS. WENGER: Representative Marcelle, we're in a similar posture to you. The map that we advocated for was presented here in the legislature as SB4 which died in committee, and HB5, sponsored by you. That exact map has been in public discourse since the roadshow, as my colleague mentioned, at least a similar version. Our attempt was to create a new Black-majority district in

District 5, uniting north Baton Rouge with the Delta parishes.

We have also seen in the public domain other versions of maps, like HB12 in 2022, that run along the Red River and the I-49 corridor. But we, for a variety of different reasons, had really coalesced around another -- another option here, and that's because it has been held up to court scrutiny for years now.

It has made its way before the District Court, but also before the Fifth Circuit Court of Appeals. We've had to show that it's possible to reduce parish splits in line with Joint Rule 21, which was passed by this legislature in 2021.

So I guess our journey started earlier than we represented. We've been following redistricting since, perhaps, the census and since you all made the rules. So --

REPRESENTATIVE MARCELLE: So -- so I guess my question is: does this amendment make more splits than -- because I think it has 16 in it.

MS. WENGER: So you'll put us on the spot. So let me pull out my notebook and -- and talk a little bit about the other maps we've seen in this process.

REPRESENTATIVE MARCELLE: Okay. Well, I'm just trying to get a little clarity for myself and other

members and -- and just trying to figure out exactly what putting this amendment -- and I know you hadn't had a long time to digest it. What is -- what is your opinion about adding this amendment to Senator Womack's bill?

MS. WENGER: Sure. So I think I heard recently - and, again, we're processing this information as quickly as you all are - that there was 16 parish splits. Am I accurate in that?

REPRESENTATIVE MARCELLE: Yeah.

MS. WENGER: Okay.

REPRESENTATIVE MARCELLE: That's what I counted.

MS. WENGER: So the enacted map that is currently in place has 15 parish splits. The remedial map that we proposed in litigation and that been vetted by the courts --

REPRESENTATIVE MARCELLE: 11.

MS. WENGER: -- has 11 parish splits.

REPRESENTATIVE MARCELLE: Yeah. That's what I thought.

MS. WENGER: Representative Marcelle, I think you also have an amendment that -- I don't know if it has this beat, but it's certainly closer to that. And, again, I know that there's been different opinions

shared here about parish splits. But that's coming not only directly from doctrine around redistricting, but also Joint Rule 21. We have been abiding by the rules that this legislature put in place for yourselves.

So that is the rubric that we are guided by, that the courts are referring to, that our map drawer is accountable to. So that's why parish splits are emphasized.

There's also a logic to it. There's a lot of governing that's done at the parish level here. There's election administration, school boards, other elements of civic life that have been recognized in your politics, in your policy, in Joint Rule 21, and by the federal courts. So that's why that principle is so important. I think there's many other things.

And, again, I -- I don't even have a copy of the amendment in front of me here, but we have had to comply with principles like deviation, trying to get that as close to zero as possible, certainly trying to keep important places.

We've heard really compelling testimony about the importance of keeping military bases whole or the communities that serve those areas, whether it's, you know, housing or other communities of interest. We have tried to comply with that over the course of the -- the

1 process. Even SB4 and HB5, we have alternative options
2 that we could pursue to keep some of the military
3 districts that have been -- or military bases that have
4 been mentioned whole.
5 We'd be happy to work on that with you all.
6 We would be happy to end this litigation with a map that
7 complies with Section 2 and also can achieve other
8 political ends. We understand for any type of politics
9 that our bill was not successful here.
10 We do, however, know based off of the
11 amendment that Representative Marcelle has presented
12 here, based off of record from prior bills filed in this
13 process or presented by the civil rights community that
14 follow the Red River and I-49, that there could be ways
15 to clean up this amendment to otherwise perfect it that,
16 maybe, maybe, could get us further towards resolution in
17 this litigation but none that could do that as
18 efficiently and cost-effectively for years and years of
19 expensive litigation with folks far above my -- my
20 bracket to get it over with and to finally just be
21 resolved.
22 There is a path forward there. It is in
23 grasp. We would love -- and on behalf of our clients,
24 we would love to see that resolution.
25 REPRESENTATIVE MARCELLE: Well, thank you. I

1 -- I just was wondering, Rapides and East Baton Rouge
2 are heavily populated by minorities, right?
3 MS. WENGER: That's correct.
4 MR. EVANS: That's correct.
5 REPRESENTATIVE MARCELLE: Would you agree with
6 that?
7 MR. EVANS: That's correct.
8 REPRESENTATIVE MARCELLE: And I'm just
9 wondering how would the Court view that, that we split
10 it three ways, both of them?
11 MS. WENGER: I think the Court would have a
12 lot of questions about what are the politics guiding
13 this. And I think my question is: why, for three years
14 or more, are we not listening to Black people who came
15 here? We had young people who drove here overnight in
16 the snow and back roads from my colleague's alma mater
17 up north at Grambling University just to have their
18 voices heard in the process.
19 We had people who were here when the whole
20 state was closed down, were here on Martin Luther King
21 Day when the nation is closed down. And they came to
22 advocate for SB4. And they still, after years, have
23 never gotten a floor debate.
24 They've never been able to see this
25 conversation happen or to have their grievances met with

1 any genuine effort to resolve this Section 2 violation
2 or just honor a principle of fairness.
3 So there might be a path forward here. We
4 tried to give a much easier one to get this litigation
5 over with. I cannot speak to whether this is that path
6 forward. I can speak to ways to do this better by
7 redistricting criteria and, hopefully, give people some
8 fairness and give you all some reprieve from federal
9 court litigation.
10 REPRESENTATIVE MARCELLE: Okay. Thank you.
11 I'm -- I'm just wondering if there's a risk that the
12 judge would say that this is -- she would go ahead and
13 draw it herself because instead of reducing it, we
14 increased it, and so -- the splits. And I -- and I --
15 I'm just curious.
16 And -- and we keep talking about the political
17 motivations. And I heard and I respect Senator Womack
18 who talked about he wanted to -- to make Scalise -- he
19 checked with Scalise. He checked with Letlow. I heard
20 every person's name except Gary Graves, and that's one
21 of my congressmen. I was wondering if y'all had a
22 conversation with him as well. But --
23 MR. EVANS: Hope you're not asking us that.
24 REPRESENTATIVE MARCELLE: Pardon me?
25 MR. EVANS: I was talking -- yeah. You

1 weren't asking that to me, right?
2 REPRESENTATIVE MARCELLE: No, no, no, no, no
3 --
4 MR. EVANS: Yeah.
5 REPRESENTATIVE MARCELLE: -- no, no, no. I
6 was just making a statement because I'm -- I'm -- I'm
7 about to be quiet.
8 But I -- I just want to make sure that
9 everybody understand when you start talking about -- and
10 I said this the other day when I was at the table. If
11 we could remove all of the people who represent the
12 districts away from it and give it to somebody and allow
13 them to draw it fairly, then we would get the best
14 product because it's not impossible to draw two Black
15 congressional districts.
16 But if everybody -- nobody wants to give up
17 any portion of anything, you're going to have the same
18 problem over and over again. And -- and I do respect
19 that Senator Womack says he's -- you know, his district
20 is -- is getting hit as well. But everybody has to give
21 up something to do what is right. And nobody wants to
22 do that.
23 Some people want to make sure that they have,
24 you know, a certain number of a certain population to
25 win. And it's just not right. It is not right. It is

1 far too long that Louisiana has done things wrong. And
2 it's about time that we do something that's right and
3 get us out of the courts.
4 And I want to thank you guys for your work. I
5 don't know if anybody else has any questions for you,
6 but I -- I see this as strictly politics, last minute,
7 let's throw in something and confuse the whole issue.
8 But I will not vote for this bill with that amendment on
9 it. Thank you.
10 CHAIRMAN BEAULLIEU: Also -- have -- have --
11 have y'all filled out cards. If not, would you please
12 do it?
13 MR. EVANS: We going to fill them out.
14 MS. WENGER: We will. Thank you.
15 CHAIRMAN BEAULLIEU: Thank you.
16 Representative Wyble.
17 REPRESENTATIVE WYBLE: Yes. Thank you. If
18 you could remain just for a minute, please. Sorry. I'm
19 sorry. I didn't catch your name.
20 MS. WENGER: Sorry. I'm Victoria Wenger.
21 REPRESENTATIVE WYBLE: Oh, thank you both for
22 being here. I appreciate it. You mentioned in -- in
23 your remarks, you connected splitting parishes with
24 local politics and, like, school board elections. So
25 just connect for me, where's the voter confusion if a

1 parish is split with a school board election? Make that
2 connection for me, because you mentioned school board
3 particularly --
4 MS. WENGER: So --
5 REPRESENTATIVE WYBLE: -- specifically.
6 MS. WENGER: Yeah, this could vary based off
7 -- parish to parish, based off where -- what types of
8 elections are happening, whether they're a district, at
9 large, whether -- you know, how many folks are on a
10 school board, if there's someone elected at large and
11 another position. It can happen a lot of different
12 ways.
13 Again, what -- what I was speaking to, again,
14 is Joint Rule 21, which signified the fact that this
15 legislature and the prior legislature that enacted it,
16 wanted to keep in consideration how current lines,
17 political lines, like parishes -- that's probably the
18 most significant one you could think of here.
19 But another thing that our map drawer
20 considered and that Joint Rule 21 is considering is
21 municipalities or unincorporated areas. And so you're
22 thinking about how are ballots drawn around that. How
23 are people conceptualizing?
24 And, you know, we -- we don't just work on
25 redistricting or litigating. We do civic education all

1 the time, and we represent groups that are trying to get
2 folks engaged in this process, excited, and knowing that
3 their vote's going to matter. So it's perhaps a way to
4 reduce some confusion or to have, again, the lines line
5 up.
6 But, again, I think the legislature and the
7 folks behind Joint Rule 21, many of y'all, colleagues,
8 or folks that, you know, have moved along to the Senate
9 but were part of that process, can speak best to why
10 that matters specifically to them.
11 But it is something that's been dignified in
12 the courts, that's been recognized both at a very
13 Louisiana-specific level. Most other places, we're
14 calling them counties instead of parishes. So it means
15 something here. It really matters.
16 So I think that's why, perhaps, it was
17 involved in Joint Rule 21. Perhaps it's mattered to the
18 courts. But parish splits is -- is something you can
19 quantify. You can look at how many times the parishes
20 are split overall. There's this other quantitative
21 metric we talk about called fracking, which is, like,
22 where multiple districts or different non-contiguous
23 parts of a district are coming into a parish.
24 We're just really looking at what are those
25 metrics where it's fair to put one map side by side and

1 make some observations about how they compare, where you
2 can take politics or you can take other subjective
3 measures out of the equation for a moment just to do
4 that side by side. So I was mentioning that as one of
5 those quantitative measures that's codified for this
6 legislature in Joint Rule 21.
7 REPRESENTATIVE WYBLE: I -- I was just curious
8 where the correlation was because, I'm not sure if
9 you're aware, but we actually have parishes in Louisiana
10 that have multiple public school districts.
11 MS. WENGER: Absolutely.
12 REPRESENTATIVE WYBLE: So in some of those
13 parishes, they're already voting for different school
14 board members and -- and there are splits, if you want
15 to call it that. And I just -- you -- you -- you caught
16 my attention when you mentioned school boards. And I
17 was trying to figure out the correlation to that and
18 splitting a parish in a congressional district.
19 MS. WENGER: Yeah. And it really depends
20 parish by parish, and those are -- those are the types
21 of lines. Or, like, you could halve the districts,
22 those school districts. That's one of the things that
23 map drawers can actually have on the screen and can use
24 as a measure of how to look at that.
25 So you can also look at what's called landmark

or COI landmark. So thinking of school districts or hospitals, airports, everything else when you're looking at that metric, all I can speak to -- I can't speak to this amendment. I just saw it. But in terms of landmark place splits, the map that we had proposed had the exact same amount as the enacted map.

So that was another metric that, in our process, we were able to hold ourselves accountable to, to making sure our map was as good as or, in most of the instances, better than the enacted map.

CHAIRMAN BEAULLIEU: So, Representative Wyble, what we can do -- I know you're a big school board guy. Why don't we get you with them afterwards, and y'all can talk in some details on that?

MS. WENGER: We've got slide decks on this.

CHAIRMAN BEAULLIEU: Right. No. They have -- they have -- they have tons of information.

MS. WENGER: I'd be happy to provide it for us anytime.

REPRESENTATIVE WYBLE: Thank -- thank you so much.

MS. WENGER: Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Wyble. Members, that clears the board. Representative Farnum has a motion on the table to adopt Amendment Set

68. And objection -- what's that?

VICE CHAIRMAN LYONS: (inaudible 1:22:44).

CHAIRMAN BEAULLIEU: Oh, oh. One second, Members. Vice Chairman Lyons.

VICE CHAIRMAN LYONS: Thank you, Mr. Chairman. And I was going to address this -- this to Representative Farnum on -- on your amendment. And after the table was just -- was clear with that information, now, I -- I just want to say that the past two years, I've been through every roadshow throughout this state.

I was in Calcasieu, and I heard the testimony there. And I -- I sympathize in it with the individual residents there as they talked about being whole as other communities of interest throughout the state. That was the most impacting testimony that we received throughout this process. And it went on for not only from our community to your community, everywhere else.

And the question remains always - and we don't have an answer for - is: can we draw the perfect map? I don't think we ever can draw the perfect map. I don't think that there's ever going to be a situation where everybody's going to be happy or even whole.

But I'm looking at the mission that we have here. And the mission that we have here is that we have

to create two majority-Black districts. And performance of those maps that we saw earlier, some that didn't make it through, some that were here, including yours, Senator Womack, some of them perform. Some perform better than others.

But we have to look at the -- the -- the center of this piece, and that is to create those districts that perform. And some of that's going to be for debate and some that's going to be for the -- the clearing pieces to happen as we go forward.

But I just want to put on the record, you know, that I know the senators worked hard on this piece. And that goal is what was in mind, to create these two majority-Black districts and to do it with as much of the criteria as possible to be done to -- to make sure that it -- it -- it is conforming.

And -- and with that being said, I wanted to get that clear of what that message is and what we're doing here, which you remember before we -- we go with this piece. And I wanted to say that, Mr. Chairman, as we go forward in this opportunity. Thank you.

CHAIRMAN BEAULLIEU: Thank you, Vice Chairman Lyons. Members, back on the motion, we have a -- a motion by Representative Foreman to adopt -- Farnum to adopt Amendment Set 68. Is there any objections to the

adoption of that amendment set? Hearing no -- no objection, Amendment Set 68 is -- is hereby adopted.

On to the next amendment. We have Amendment Set 70, I believe, Representative Marcelle. Representative Marcelle, on -- on your amendment.

REPRESENTATIVE MARCELLE: That's amendment (inaudible 1:25:52).

CHAIRMAN BEAULLIEU: Or Ms. Lowery, would you mind reading that in?

REPRESENTATIVE MARCELLE: I just missed my objection -- amendment.

MS. LOWERY: Thank you, Mr. Chairman. Representative Marcelle brings Amendment Set HCASB-8362, number 70. This is available, Members, in front of you, and also for members of the public, it's available online.

CHAIRMAN BEAULLIEU: Representative Marcelle, on your amendment.

REPRESENTATIVE MARCELLE: Thank you. Amendment Number 3 adds River -- the Red River Parish to Congressional District 6, better preserving the Red River community of interest and the community of interest formed by Red River, Natchitoches, and DeSoto Parishes. It also makes Ouachita Parish whole in Congressional District 5.

It keeps all the Delta parishes whole and together. It reduces the parish splits to 11. It reduces the deviation to 22. It keeps more of Shreveport together in Congressional District 6 - I did that for Representative Phelps - substantially improves compactness of Congressional District 6, performs as well for Black voters as Senate Bill 8 with a lower Black voting-age population.

And that's what it does. And I ask for your favorable passes. This is actually a cleanup bill. It doesn't change Senator Womack's bill a whole lot. It's just a cleanup bill, and it gives us fewer splits. And I'd ask for your favorable passage.

CHAIRMAN BEAULLIEU: Thank you, Representative Marcelle. Members, just as a clarification, the way these amendments are drafted, they are drafted in a -- in a -- in a fashion that -- it's the whole plan. It's not -- we're not taking a precinct here or there and -- and adding them. And so it's a -- it's a whole plan.

So the amendment set that we just adopted, Representative Farnum, is currently the whole plan. What Representative Marcelle is proposing is that we abandon Representative Farnum's plan and we adopt Amendment Set 70, which would be another -- which would be a separate whole plan. And should this amendment

pass, it would replace the Representative Farnum amendment that -- that just passed.

I just want to make sure we have a clarification on there. Do we have any questions on the amendment? Okay. There are no questions at this time. If you give me a second, I believe we have some -- I got a bunch of cards up here, and we might have some cards on the amendment set. Bear with me for a second while I start through some of these.

(Pause.)

SENATOR WOMACK: Mr. Chairman, if I might --

CHAIRMAN BEAULLIEU: Yeah. Go ahead, Senator.

SENATOR WOMACK: -- have the mic. I just want to clarify that Senator Fields did come in with the plan -- on the plan, but he was not for splitting up Baton Rouge. I want to clarify that.

REPRESENTATIVE MARCELLE: I -- I certainly thank you for that, because I was going to vote against Senator Fields the next time he ran if you told me he was splitting up Baton Rouge three ways. And I -- and I like him, but he -- he was going to have to go if he did that.

SENATOR WOMACK: Well, I just wanted to -- wanted to put that on the record.

REPRESENTATIVE MARCELLE: Yes, sir. Thank

you.

SENATOR WOMACK: Thank you.

REPRESENTATIVE MARCELLE: Thank you.

CHAIRMAN BEAULLIEU: Representative Marcelle, we do have some -- some green cards. All of them present and do not wish to speak, but all in favor of this amendment set: Ms. Martha Davis (phonetic), Mr. Jared Evans, Ms. Ashley Shelton (phonetic), and Ms. Victoria Wenger. So all those green cards in favor.

There are no questions for you, Representative Marcelle. Members, Representative Marcelle has offered up Amendment Set 70 --

REPRESENTATIVE FARNUM: Objection.

CHAIRMAN BEAULLIEU: -- for your consideration. Representative Farnum has objected. Ms. Baker, would you please call -- so look -- an -- a -- vote yes replaces Representative Farnum's amendment with Representative Marcelle's amendment. A vote of no keeps Representative Farnum's amendment as your -- your primary maps. Ms. Baker.

MS. BAKER: Thank you. Mr. Chairman. Chairman Beaullieu?

CHAIRMAN BEAULLIEU: No.

MS. BAKER: No. Representative Billings?

REPRESENTATIVE BILLINGS: No.

MS. BAKER: No. Representative Boyd?

REPRESENTATIVE BOYD: Yes.

MS. BAKER: Yes. Representative Carlson?

REPRESENTATIVE CARLSON: No.

MS. BAKER: No. Representative Carter -- Representative Carver?

REPRESENTATIVE CARTER: No.

MS. BAKER: No. Representative Farnum?

REPRESENTATIVE FARNUM: No.

MS. BAKER: No. Representative Gadberry?

REPRESENTATIVE GADBERRY: No.

MS. BAKER: No. Representative Johnson?

REPRESENTATIVE JOHNSON: No.

MS. BAKER: No. Representative Larvadain?

REPRESENTATIVE LARVADAIN: Yes.

MS. BAKER: Yes. Representative -- Vice Chair Lyons?

VICE CHAIRMAN LYONS: Yes.

MS. BAKER: Yes. Representative Marcelle?

REPRESENTATIVE MARCELLE: Yes.

MS. BAKER: Yes. Representative Newell?

REPRESENTATIVE NEWELL: Yes.

MS. BAKER: Yes. Representative Schamerhorn?

REPRESENTATIVE SCHAMERHORN: No.

MS. BAKER: No. Representative Thomas?

REPRESENTATIVE THOMAS: No.
MS. BAKER: No. Representative Wright?
REPRESENTATIVE WRIGHT: No.
MS. BAKER: No. Representative Wyble?
REPRESENTATIVE WYBLE: No.
MS. BAKER: No. There are 5 yeas and 11 nays.
CHAIRMAN BEAULLIEU: Members, Amendment Set 70 has failed to pass. So we're back on the bill, which is the Amendment Set of 68, which we have just adopted. We're going to go ahead and -- and -- and read in some cards present in support and not wishing to speak.
We have Ms. Brianna Robillard (phonetic), present in support and not wishing to speak; Deborah Hebert (phonetic); Gary Hebert as well; Elise Blade (phonetic), present, in support, not wishing to speak.
All of these are present in support, not wishing to speak. Ashley Duly (phonetic), Heather Trice (phonetic), Catherine Mays (phonetic), Gail Baralt (phonetic), Julia Harris, Joyce LaCour, Lucille Harris (phonetic), Kristy Robinson (phonetic), Kathleen -- maybe, Matharms.
MS. FARMS: Farms.
CHAIRMAN BEAULLIEU: Form?
MS. FARMS: F-A-R-M-S.
CHAIRMAN BEAULLIEU: Oh, Farms. Okay, yeah.

Thank you. Farms, Tisha -- and Tisha Lathan.
We have a couple of red cards present and not wishing to speak, in opposition. Christine Robinson, Gail Paralt. And then we have some red cards present and would like to speak. We'll start with Chris Alexander. So if you'll give the floor, please, Senator.
MR. ALEXANDER: Thank you.
CHAIRMAN BEAULLIEU: Mr. Alexander, if you would please introduce yourself for the committee?
MR. ALEXANDER: Sure. My name is Chris.
CHAIRMAN BEAULLIEU: Give me -- give me one second, Mr. Alexander.
MR. ALEXANDER: Sure.
CHAIRMAN BEAULLIEU: Representative Newell, do you have a question?
REPRESENTATIVE NEWELL: Newell.
CHAIRMAN BEAULLIEU: Newell.
REPRESENTATIVE NEWELL: We're back --
CHAIRMAN BEAULLIEU: I get it right most of the time.
REPRESENTATIVE NEWELL: Sometimes you do (inaudible 1:33:36). These red cards are on the amendment that we just voted on or back on the bill?
CHAIRMAN BEAULLIEU: So they can -- so that's

-- so the bill now is the amendment. So as -- as the -- the red cards come up, if they have a clarification to where they -- this is -- they're not in opposition anymore, they can waive and -- or -- or -- or correct it. And we can -- we can waive these red cards if -- if they are in favor of this amendment. So they could -- we give the liberty of those who turned in the red card to be able to clarify that. I don't want to speak for them.
REPRESENTATIVE NEWELL: Okay. So we listening to these red cards before we do the final vote on passing --
CHAIRMAN BEAULLIEU: Yes, ma'am.
REPRESENTATIVE NEWELL: -- the bill as amended.
CHAIRMAN BEAULLIEU: Yes, ma'am.
REPRESENTATIVE NEWELL: Okay. Thank you for that clarification, Mr. Chair.
CHAIRMAN BEAULLIEU: No. I'm -- thank you for asking. Mr. Alexander.
MR. ALEXANDER: Thank you, Representative Beaullieu. Thank you, members of the committee. My name is Chris Alexander. I'm here simply on behalf of the Louisiana Citizen Advocacy Group.
As each of you know, conservatives in the US

House of Representatives now have a two-vote majority, razor-thin Republican majority. This is a super-majority Republican legislature. And it's that for a reason because 70 percent of the citizens of Louisiana are conservative. And, actually, in the US House of Representatives, at this second, there's -- there's a one-vote majority -- Republican majority because Representative Scalise is on medical leave now.
So we're one vote away in our country right now, in the US Congress, from having the Biden-Schumer agenda essentially unleashed on the country. Some people may say it's already been. But there is some protection in the US Congress right now because of that razor-thin majority.
By voting for this bill, creating an additional minority district in Louisiana, it's our view that you are giving that majority away. And you're putting the very delicate balance of power in the US Congress in very grave jeopardy on matters of profound consequence to citizens of Louisiana and citizens across the country. Everything is at risk here.
Now, the argument that we've heard from a lot of Republican members here is that if you don't pass a new plan creating an additional minority district in Louisiana, then the Federal Court judge will make that

decision.

Well, her actual order says that the plaintiffs, when they went into Court for a preliminary injunction, never tried on the merits, just a summary proceeding, said that they had carried their burden of showing that the current map violates Section 2 of the Voting Rights Act and that the plaintiffs had a substantial likelihood of making their claim successful, which is that we'll have a second minority district in Louisiana.

But there was no trial on the merits. But the judge essentially said, if we have a trial on the merits, I'm going to rule in favor of the plaintiffs, and I'm going to create a second majority-minority district in Louisiana. That's exactly what this bill is doing right now.

And if our current map goes -- if you do nothing and our current map goes back before Judge Dick, she's going to probably end up doing the same thing. But at least we have a chance to fight for the current map in our state. And no matter how she rules, we have the Fifth Circuit Court of Appeal, and we have the US Supreme Court.

And, again, everything is at stake, and it seems like we're simply giving it all away right now.

We believe that this is worth fighting for. We believe that that balance of power is worth fighting for.

And I would remind the members of this panel that I know, some of whom we helped get elected, along with Governor Landry whom we worked very hard for and who we respect and think he's going to be a great governor, that the citizens of Louisiana worked very tirelessly to get you elected to come here, not to cave in to political pressure, which is it appears to hundreds and hundreds of citizens across the state that that's what you're doing. You're caving in to political pressure, and you're giving in without a fight.

Speaker Mike Johnson has weighed in on this. We heard some testimony earlier that Congressman Johnson apparently was okay with this proposed legislation. That's not our legislation. That's not our understanding at all. In fact, Congressman Johnson specifically said that our current map from 2022 needs a full trial on the merits, with appellate review all the way to the Supreme Court, if necessary, because the issue is so profoundly important to the future of this republic. I will -- I want to reiterate before I close, as I said, people all over the state are watching this right now, many of whom voted for you to come here, some of you who were just elected very recently.

And if six months or a year from now, the United States Congress is controlled by Democrats, it started in this house, it started and ended in this capital, and that's what will have made it possible. And the citizens of Louisiana, I can tell you, will have a very, very good memory if that occurs. I would respectfully submit that your responsibility is to represent the interests of the substantial majority of Louisiana citizens and not to cave to political pressure. And we're asking you to defeat this legislation. Thank you.

CHAIRMAN BEAULLIEU: Thank you, Mr. Alexander. And look just to -- to -- and -- and you got a couple of questions. But just from -- from my standpoint, I sat on the committee when we drew the other maps that we all believe were fair, and we believe is representative of the state of Louisiana. The Fifth Circuit sent it back to the federal judge and basically held us hostage that if -- if we don't do it, she's going to do it. And so none of us like the position we're in.

But -- you know, and -- and a little bit to your point, we were elected to serve, and we feel that -- that we would prefer to have the lines drawn in this committee than have some Obama-appointed judge drawing the lines for us. And so we don't like it. It's

painful to do. And so I feel your sentiment, and -- and I don't -- I'm not disagreeing with most of what you said. I mean, it's -- it's -- it's -- it's what goes on in a lot of our minds. So I -- I appreciate your comments. Thank you. And you do have -- you do have a question. Representative Newell.

REPRESENTATIVE NEWELL: Thank you very much, Mr. Chairman. I'm troubled by your statements because this is not a process by which one party is losing power, caving into another party. This is a process by which the other 30 percent of the people in this state are trying to get the representation that their population and numbers deserve in Congress. This isn't a caving in or power grab or giving away of power or losing of power of the Republican Party.

It's an opportunity for this body to represent all of the people that they supposed to represent in their district, listening to them and giving them the opportunity to vote for someone of their choice, whether that person of their choice is a Black Republican or White Democrat. It's an opportunity for Black people, as some of my colleagues would prefer to be said, but a minority-majority district to have the opportunity to vote for their candidate of choice. And I'm troubled by the way you said your statement. You're very

1 respectful, but I listen to the words.
2 This is not supposed to be a process that is
3 this contentious and this divisive, but it is a very
4 difficult process. And we have been fighting this for
5 three years now, and I've been on this committee since
6 the very start. Went to Utah with the rest of the
7 people from across this country that had the same job
8 that we all have here to learn what we're doing.
9 Traveled this state from north to south, east to west,
10 to listen to what all of the people in this state
11 wanted. The White citizens in this state, their issue
12 was keeping their -- their communities together.
13 You know what Black people wanted? Just an
14 opportunity to have a voice in a room. And that is what
15 we're trying to do. It is not to -- it's not a power
16 grab. It's not to say that Republicans rule or that if
17 that -- if there's another chance where Democrats are
18 ruling, that that's a problem. We should not see one
19 party as a problem. We should not see another person
20 that has a different letter behind the name as the
21 enemy. I like him. He's not the enemy because he's a
22 Republican. We just have a different way of looking at
23 things, and that's how we should see it. We both
24 observing the same problem.
25 We just have different ways as -- different

1 ways as how we gets to the solution. And we cannot
2 continue to have this rhetoric on -- out in the -- in
3 the world like it's a problem to be of another party, or
4 it's a problem for another party to be in -- in
5 leadership. We're not giving away power. The
6 Republicans are not caving in because they're helping
7 African Americans have an opportunity to vote for a
8 candidate of their choice.
9 That is what we're doing here because -- and
10 we're going through this fight because, as I've said
11 many times before, this is the first time that this
12 country has gone through redistricting where -- after
13 the expiration of Section 5 of the Voting Rights Act.
14 Section 5 required all states that had a history of
15 racism that any bills -- any laws that were passed that
16 would affect people's access and rights to voting had to
17 be overseen and approved by the Department of Justice.
18 This is our first time doing this where we no longer
19 have that supervision.
20 And God knows, I wish we still had that
21 supervision because, clearly, we can't do this on our
22 own, because, clearly, somewhere along the lines, the
23 message is getting construed that this is a giving up of
24 power. Instead, this is an opportunity to let other
25 people enjoy the benefits that another group has had for

1 forever. And we're just -- I just want to see African
2 Americans across the state have the same privileges
3 you've had all your life, and that is voting in someone
4 that they know or believe will have their best interest
5 at heart, whether it's in this building or whether it's
6 in our United States Capitol.
7 It's not a caving-in. Because if it was a
8 caving-in, this process would have been over a long time
9 ago. And I just needed to say, I don't have any
10 questions for you, but your statement kind of disturbed
11 me a little bit --
12 MR. ALEXANDER: Sure.
13 REPRESENTATIVE NEWELL: -- because I don't
14 want you to think that it's a caving-in of any party.
15 MR. ALEXANDER: Well, I respect you,
16 Representative Newell, and I respect your right to
17 speak.
18 REPRESENTATIVE NEWELL: Newell.
19 MR. ALEXANDER: And I would always -- Newell.
20 And I would always protect your right to speak, but we
21 do live in a democracy here. And when a majority with a
22 particular ideology is in power and control, policy
23 should reflect that ideology. Our position here is very
24 simple, that Congressman Mike Johnson, the Speaker of
25 the House, represents a conservative ideology. Many

1 citizens across Louisiana are very proud and happy that
2 he's there, and this legislation threatens the authority
3 that conservatives have in the United States Congress.
4 He has said very clearly that our current map
5 is constitutional and that we should fight for it in
6 federal court in order to reflect the interests of a
7 majority of Louisiana citizens. And democracy and a
8 republic means something. But I would always fight, by
9 the way, for your right to speak, and I -- I value it
10 greatly, as much as I value mine.
11 REPRESENTATIVE NEWELL: Thank you for giving
12 me my right for letting me know I have a right to speak.
13 I also have a right to vote. And I also have had a
14 right all my life, coming from Orleans Parish as having
15 an opportunity to vote for a representative of my
16 choosing that I believe represented my interests. And
17 this democracy, we need to make sure that it enables
18 other people across this state to also have a voice and
19 a right to vote for a candidate of choice that could
20 also be their voices in rooms that they're not able to
21 be in. That is what this process is, sir.
22 So I appreciate you reminding me of my right
23 to speak because I'm going to do it anyway.
24 MR. ALEXANDER: Yes, ma'am.
25 REPRESENTATIVE NEWELL: But it also is my

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1 right to ensure that others have their right to speak
2 and their right to vote and keep their access to voting
3 intact. And while they have that right in that access,
4 that they also have the ability to vote for a person of
5 their choice. Thank you very much, Mr. Chairman.
6 CHAIRMAN BEAULLIEU: Thank you, Representative
7 Newell. We have a handful of representatives that want
8 to exercise their right to speak. Representative
9 Carlson.
10 REPRESENTATIVE CARLSON: Thank you, Mr. Chair.
11 Mr. Alexander, I appreciate your comments.
12 MR. ALEXANDER: Sure.
13 REPRESENTATIVE CARLSON: I really do. I'm --
14 MR. ALEXANDER: And congratulations on your
15 election.
16 REPRESENTATIVE CARLSON: Thank you very much.
17 I appreciate that. Look, I'm -- certainly wish that
18 we're in a different position in the House of
19 Representatives with more than just a one-vote majority
20 --
21 MR. ALEXANDER: Sure.
22 REPRESENTATIVE CARLSON: -- and that this
23 wasn't looked at as a "we're going to lose the majority
24 or not" kind of decision. But unfortunately, that's the
25 position that we find ourselves in. I can assure you

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1 this: that we are not -- that we're not here today
2 because we're caving to any kind of political pressure.
3 The fact of the matter is, like it or not, Judge Dick
4 has said, "Either you do your job and draw the map, or
5 I'll draw the map for you," period. We've argued this
6 case before the Fifth Circuit twice.
7 We've asked the Supreme Court to hear it.
8 They've said, "You need to go and do your job first,"
9 which our job is to draw these maps.
10 MR. ALEXANDER: Sure.
11 REPRESENTATIVE CARLSON: I don't like this
12 position. I wish we were not in this position. I like
13 the maps that the legislature a few years ago voted on
14 and approved, but here we are. And so we -- if I -- as
15 I look at it today, I can -- I'm a -- I'm a realist,
16 right? I don't -- I -- I could say I wish things were
17 different. But today, what is presented in front of me
18 is either Judge Dick draw the map or we draw the maps.
19 I feel like this legislative body is going to draw a
20 better map than Judge Dick will, period.
21 MR. ALEXANDER: Yeah.
22 REPRESENTATIVE CARLSON: And that's why we're
23 here. That's why we're going to vote on the map that we
24 think is the best.
25 MR. ALEXANDER: Yeah.

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1 REPRESENTATIVE CARLSON: And, you know, I
2 would rather put this decision in the hands of elected
3 representatives than in -- in the hands of an unelected
4 judge.
5 CHAIRMAN BEAULLIEU: Thank you for that
6 (inaudible 1:48:43).
7 MR. ALEXANDER: And I very much appreciate
8 that, Representative Carlson. And I would simply argue,
9 I'm consistent with Speaker Johnson's position that our
10 current map is constitutional, and it's worth fighting
11 for when you consider what is so profoundly at stake.
12 REPRESENTATIVE CARLSON: I understand, but
13 there is no position to fight at this time. It is
14 either Judge Dick draw a map or we create a map. There
15 is no continue --
16 MR. ALEXANDER: Right. That's true.
17 REPRESENTATIVE CARLSON: The -- the fight
18 cannot continue on beyond that until we draw a map or we
19 don't draw a map.
20 MR. ALEXANDER: But if you don't draw a map,
21 you're -- or do draw a map, either way, you end up with
22 a one --
23 REPRESENTATIVE CARLSON: If we don't draw --
24 MR. ALEXANDER: -- majority-minority increase.
25 REPRESENTATIVE CARLSON: If we don't draw a

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1 map, we end up with the map that Judge Dick draws, which
2 will be a map with two majority Black districts. But if
3 you say worse than that is --
4 MR. ALEXANDER: Exactly what we're going to
5 have as a result of this legislation.
6 REPRESENTATIVE CARLSON: But it will not be as
7 good as the senator's map.
8 MR. ALEXANDER: Well, in the net effect, I
9 would respectfully submit, would be the same.
10 REPRESENTATIVE CARLSON: It -- it certainly
11 is. And, look, I -- I -- I think there is a legal basis
12 for it. Look, I'm glad that we are having this
13 conversation. In -- in all fairness and all honesty, I
14 think all of these maps look crazy because --
15 MR. ALEXANDER: Yeah.
16 REPRESENTATIVE CARLSON: -- the truth is that
17 every -- the overarching argument that I've heard from
18 nearly everyone over the last four days has been race
19 first. I wish it weren't that. This is the first
20 argument today that said, "I'm basing a -- a map on
21 political reasons, not on race." And I -- I think it's
22 a shame that we are having a conversation where race
23 seems to be, at least based on the conversations, the
24 driving force, when we do not live in a -- a -- a -- a
25 segregated society or nearly as segregated as it once

was 40, 50 years ago.
And so the reason why this is so difficult is because we are moving in the right direction. We don't have concentrated populations of -- of certain minorities or populations of White folks in certain areas. It is spread out throughout the state. Compared to Alabama, Alabama has 17 counties that are minority-majority, and they're all contiguous. Louisiana has seven parishes that are minority-majority and only three are contiguous. That's why this process is so difficult, but here we are without any other options to move forward.
And so I -- I hear what you're saying. I respectfully disagree with the characterization that it's bending to political pressure.
MR. ALEXANDER: Yeah.
REPRESENTATIVE CARLSON: I -- I -- you know me, and you know that I wouldn't do that. But I don't see any other path forward. This is the best of two bad options, and I'm going to always do my job --
MR. ALEXANDER: Yeah.
REPRESENTATIVE CARLSON: -- that's before me.
MR. ALEXANDER: And I understand that.
CHAIRMAN BEAULLIEU: Thank you.
MR. ALEXANDER: Is there -- is -- is there --

do you think there's anything that would be -- an option would be to allow our attorney general to argue the constitutionality of our current map in Federal Court, Fifth Circuit Court of Appeal, and Supreme Court?
REPRESENTATIVE CARLSON: Already been done twice in the Fifth Circuit and asked of the Supreme Court, and they've refused to do that. And here we lie today.
MR. ALEXANDER: Yeah.
CHAIRMAN BEAULLIEU: There's never even been a trial on the merits, Representative Carlson, on this map --
REPRESENTATIVE CARLSON: That's not our decision.
CHAIRMAN BEAULLIEU: -- even in district court.
REPRESENTATIVE CARLSON: That -- that is the judge's decision, unfortunately.
CHAIRMAN BEAULLIEU: And if you don't do anything, they'll have one.
REPRESENTATIVE CARLSON: And if we don't do anything, we'll have a worse map. Thank you, Mr. Chair.
CHAIRMAN BEAULLIEU: Thank you.
MR. ALEXANDER: Thank you, sir. I appreciate the interchange.

CHAIRMAN BEAULLIEU: Representative Marcelle.
REPRESENTATIVE MARCELLE: Thank you. Mr. Alexander, I guess it's disheartening for me to sit here in 2024 and hear that we certainly need to keep the power. And if you all do what's right in Louisiana, we're going to lose our thin majority. If we would have done what was right long time ago, you probably wouldn't be in a majority. If Alabama passes what they need to pass and we pass what we need to pass, then, perhaps, we will have a fair and balanced Congress.
MR. ALEXANDER: And you'll be in the majority.
REPRESENTATIVE MARCELLE: Well -- and -- and what's the problem with that, sir?
MR. ALEXANDER: Well, there's millions of Americans who have a problem with that.
REPRESENTATIVE MARCELLE: And guess what, it's millions of people who have not had an opportunity to have a seat at the table. We have a problem with voter suppression. We have a problem with people thinking that we can't make decisions. And let me say this: on the other side of the aisle -- on the other side of the chamber in the Senate, I have colleagues that have some of the same beliefs that some of you have, right? And they believe in pro-life. They are African Americans. I believe in pro-choice. So to say that everybody's

ideology because they are Black is one way, is certainly crazy, number one.
And number two, I really agree with you with something, and that is, send it back to the courts and let Judge Shelly Dick draw the maps. We could then remove --
MR. ALEXANDER: But you -- you agree with me.
REPRESENTATIVE MARCELLE: I -- I do agree with that because then we could remove all of these different people and these moving parts that everybody -- these political interests because we do deserve two Black congressional seats because where I went to school - it was a Black school, though, Capitol High School - when you divide six into a third, a third into sixth, you get two. And so we deserve two seats, and that's what we deserve. We didn't -- we're not begging for something that we don't deserve. That's what we deserve.
And -- and God forbid, maybe somebody will get elected that feels like you, have the same ideologies as you, but perhaps they won't. People need an opportunity to have their voices heard.
MR. ALEXANDER: I respect that.
REPRESENTATIVE MARCELLE: And when I send somebody to Congress that feels like you that represents my district, then you do not represent what I believe.

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1 And that's called community --
2 MR. ALEXANDER: But what about representing
3 majority of the people in your district?
4 REPRESENTATIVE MARCELLE: What -- what?
5 CHAIRMAN BEAULLIEU: Look, let's let --
6 REPRESENTATIVE MARCELLE: I'm -- I'm just --
7 CHAIRMAN BEAULLIEU: The questions come from
8 this way to you.
9 MR. ALEXANDER: I'm sorry. I'm sorry.
10 CHAIRMAN BEAULLIEU: So we don't go the other
11 way.
12 MR. ALEXANDER: Thank -- thank you. I
13 appreciate that.
14 REPRESENTATIVE MARCELLE: All I'm saying to
15 you is -- is --
16 CHAIRMAN BEAULLIEU: And we keep this
17 timeline.
18 MR. ALEXANDER: Yeah. Absolutely.
19 REPRESENTATIVE MARCELLE: I think it's -- it's
20 -- it's disingenuous to sit here and say -- and look at
21 us in 2024 and say, "Black people in Louisiana, you
22 might be a third. You could be 40 percent, but we do
23 not want you at the table making decisions as it relates
24 to what you want or your constituents want." And that's
25 what I'm hearing. And it's really, really sad.

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1 MR. ALEXANDER: Representative Marcelle, I
2 hear you.
3 REPRESENTATIVE MARCELLE: It's really -- it's
4 about -- it's about control. It's about power. And it
5 is really fundamentally wrong. And I -- I said this
6 last year, and I -- I was hoping not to get upset, but
7 we -- we meet afterwards. We barbeque. We go across
8 the street. We hang out. We cool. I love you. You
9 love me. We go up to the bible study and we pray
10 together, but we do not feel like we are equal, and that
11 is wrong.
12 CHAIRMAN BEAULLIEU: Thank you, Representative
13 Marcelle. Representative Boyd.
14 MR. ALEXANDER: Thank you, Representative
15 Marcelle. I appreciate that.
16 REPRESENTATIVE BOYD: Thank you, Mr. Chair.
17 Sitting here today, thinking about the fact that we are
18 literally fighting for an opportunity. It's not given
19 because people still have to vote. An opportunity to
20 have two Black representation of African Americans in
21 DC. The opportunity, nothing is guaranteed. We're here
22 fighting for the last three years just for the
23 opportunity. And with voter apathy, we really don't
24 know where that's going to end up. The closed
25 primaries, we really don't know where that's going to

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1 end up. But if we continue along this path, I feel this
2 -- the state as a whole will suffer. The reality of it
3 is, is that Mike Johnson is the Speaker of the House.
4 They still have four Republicans representing
5 Louisiana. We're here trying to stop just one
6 additional African American seat. What does that say
7 for us? We have my chairman referring to the judge as
8 an Obama-judge. We cannot continue to divide the city
9 -- the state and expect to survive. It won't happen.
10 We have to learn to coexist, appreciate our differences,
11 appreciate the culture and differences. There are
12 things that you cannot possibly understand in African
13 American life because you're not one. We cannot
14 continue to throw out and spew divisive words and think
15 that we can survive as a state. It won't happen.
16 MR. ALEXANDER: Yeah.
17 REPRESENTATIVE BOYD: Thank you.
18 MR. ALEXANDER: Representative Boyd, in what
19 you're saying, it just -- it makes me think of what
20 Thomas Jefferson said as one of the founders of our
21 country. He said, "In matters of taste and culture,
22 swim like a fish. In matters of principle, stand like a
23 rock." And that's what I'm asking this committee to do,
24 is stand like a rock and allow our country to not argue
25 the constitutionality.

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1 REPRESENTATIVE BOYD: I repeat, that makes no
2 sense. So you're looking to further divide the state.
3 MR. ALEXANDER: I'm not here to divide anyone.
4 REPRESENTATIVE BOYD: That's exactly what
5 you're doing. Thank you.
6 MR. ALEXANDER: Thank you.
7 CHAIRMAN BEAULLIEU: Thank you. Mr.
8 Alexander, that clears the board.
9 MR. ALEXANDER: Thank you. Appreciate your
10 time.
11 CHAIRMAN BEAULLIEU: Thank you.
12 FEMALE SPEAKER 4: Mr. Chairman, it's possible
13 to have a --
14 CHAIRMAN BEAULLIEU: We -- we have three
15 witnesses left. Let's -- let's hold tight on that.
16 Let's try and get through these three -- three
17 witnesses. If y'all could just be respectful of --
18 everyone be respectful of time. Ms. -- Ms. Suzie
19 Labrie. What's that?
20 MS. LABRIE: Labrie.
21 CHAIRMAN BEAULLIEU: Ms. Suzie Labrie, would
22 you --
23 MS. LABRIE: Yes, (inaudible 1:58:09).
24 CHAIRMAN BEAULLIEU: -- would like to speak in
25 opposition.

MS. LABRIE: Let me pull it up.
CHAIRMAN BEAULLIEU: Ms. Labrie, you're ready to go.
MS. LABRIE: Okay. Mr. Speaker, Mr. Chair, and all the state representatives and US representatives, I'm Suzie Labrie, appropriate situational individuals who takes one issue at a time and represent -- represent myself against this bill because I'm in support of J. Hill Harmon's for proposals, really the Speaker of the House, Mike Johnson, and Congressman Steve Scalise and the power, where they sit in Congress. First, gerrymandering is illegal. Number two, I'm for integration, not segregation. Number three, individualism is better in a collective class approach. One-size-fit-all fails by hiding different individuals within a large class fall between the cracks.
This causes -- number four, this causes interdivision, which we're seeing now within the political, ethnic, and cultural areas causing conflict and confusion, chopping up and pulverizing once contented and happy integrated districts when more important deeper issues than just color. Small businesses of both colors, working people of both races, disabled of both races, economics and taxation streaks

introductory to all races, schools, et cetera. I'm going to skip number five. Well, it -- I want to leave room for other maps to be proposed by J.C. Harmon, which we had emailed to you last night. And I hope that y'all have seen. It's called Harmon 2.
Number six, Louisiana is in a better and higher position of power nationally due to Speaker Mike Johnson and Majority Leader Steve Scalise and the different chairs and seniority we enjoy. If we have minority districts, we will -- if we have two majority districts -- no. If we have two minority districts, we will be short two votes in the US House of Representative. Most of the state is conservative, as you see here, and we don't want the House going back to the left. With the present map or with J.C. Harmon's map, we would beat the cost of time, effort, and money in the courts and other activities.
Number seven, I'm either for the present map or J.C. Harmon's maps, which we had emailed to you last night. Eight, most everyone I have heard from in Louisiana are against two or any minority districts. Number nine, opening it would be other cans worms, opening Pandora's box of suits, and other descriptions. I love Senator Womack, who is doing well and his best to serve his constituents in his district under restrictive

circumstances. I want to thank you and to keep up the good work and thank you for rejecting the rest of the bills calling for minority districts. It's been a pleasure coming to you -- before you.
Representatives, please keep up the good work and God bless you, God bless Louisiana, God bless the USA, and God bless our great Speaker Mike Johnson and Congressman Steve Scalise. Thank you.
MR. ALEXANDER: Thank -- thank you, Ms. Labrie.
CHAIRMAN BEAULLIEU: I have a Bert Callais (phonetic), and that also says you're with Chris Alexander. Is there something additional that you wanted to add to -- to Chris's comments?
MR. CALLAIS: I don't know if it's so much in addition right now. What -- what was going on is Christopher had a conflict of meeting. He had to make another meeting with Congressman Higgins. So he couldn't be here at the time, but the recess -- or at least the at ease went long enough to where he had a chance to make it and speak for himself. So I'm here on my own behalf.
CHAIRMAN BEAULLIEU: Thank you.
MR. CALLAIS: My name is Bert Callais. I'm West Baton Rouge Parish, RPAC chairman, and I'm speaking

for basically my constituency. And they had some concerns, and I wanted to convey that to you all. They're wondering where they're -- the courage is to stand up to a federal judge. Basically, this federal judge, they feel is ignoring the Constitution. The Constitution supersedes any act of Congress, such as the Voting Rights Act. And the Constitution places determining congressional districts solely on the state legislatures. And we feel that it's an overreach of the federal government.
And this is what we're having enough of being dictated to by the federal government on state and local issues, especially our own personal sovereignty. The past two, three years, you know, is -- is -- it really -- it really brought all that to light how far the federal government will go to trample on individual rights. So somewhere we got to stop and draw the line. So, again -- and I -- I -- I grew up -- I was young when -- when -- and naive, whatever you might want to call it, but I was a person who supported desegregation when my grandparents and my parents didn't exactly do so, given the time of the '60s, early '70s.
I don't understand why we seem to be wanting to segregate ourselves again, because all I hear -- and from what I understand, gerrymandering is illegal when

it comes to prioritizing race. And they said, "Well, then it's not a priority." But that's all I hear and as far as the argument. And I understand having a seat at the table. Trust me, I do. I served in the military and swore to defend the Constitution. I sit on the board of election supervisors. We've had these same kind of arguments and disagreements.

But when I brought up the fact that if we refer to the law and follow the law, no one can really be upset with us, unless they're ready to change the law. And -- and that is to go ahead and draw the -- the -- the balls, right, with the numbers on it so that there's no picking and choosing in favoritism. It's -- it's a blank slate. So if we follow the Constitution, the basics of the Constitution, the -- the -- the core of it, we really don't have this issue, other than we're having to fight a judge that is trying to dictate what we must do.

So, again, if -- if -- as one of them stated, "If Martin Luther King or Nelson Mandela had been as -- not as strong-willed and -- and cowed to it," I'm not going to -- I don't like the word cowardly in this case. As our current leadership, then apartheid and Jim Crow would still be in place. A country is not lost in an invasion. It's lost to the cowardice on the part of its

leadership. So that's why we're not in favor of this. Thank you very much.

CHAIRMAN BEAULLIEU: Thank you, Mr. Callais. Mr. -- Mr. Hurd, the floor is yours. Would you please introduce yourself? Pick one.

MR. HURD: My name's Paul -- Paul Hurd. I am an attorney. I was lead counsel when we set this foolishness aside 30 years ago. The district -- and -- and what I'm going to do is this: I have never represented anyone but voters. I believe in compact contiguous districts for White, Black, Asian voters that live together, work together, go to school together. We have successfully defended that right in Louisiana. We've -- we've done it -- I've done it in Texas. I've done it in Virginia. The point is this, you're being misled, and you politicians don't get misled. It's the cover. Here's where we are with the Section 2 claim. It is not --

CHAIRMAN BEAULLIEU: I think you might have pushed your own button there. You're trying to tell us something?

MR. HURD: Even my wife can't mute me, so.

CHAIRMAN BEAULLIEU: Like, leave your -- you -- you leave the button alone. We'll control it for you; how's that?

MR. HURD: All right. We good?

CHAIRMAN BEAULLIEU: Yes, sir.

MR. HURD: All right. I apologize. Here's where we are with Section 2 voting -- voting rights claims. It is not unconstitutional to use race to draw districts. It is presumptively unconstitutional, okay? What does that mean? How can I use race to draw a district? I can use race provided that there is a compelling governmental interest, compliance with Section 2. There's a compelling governmental interest. Judge Dick has more or less signaled she's that far down the process, okay? The second step -- and this is where you're missing the opportunity of a proud vote of your life.

And that is this: the second requirement of Section 2 is whatever remedy there is going to be, it must be racially narrow-tailored. What that means is you take a traditional districting plan before you start fixing a Section 2 remedy. And what makes it constitutional is when you have an opportunity to draw a majority-minority district based upon communities of interest, whole parishes, whole cities. The points being made today are excellent, but what I'm going to tell you is you've made the full point that what you're considering is a racial gerrymander. This slash -- and

it's even worse than that.

If you don't -- I -- I don't -- I -- I don't know who was here in the '90s, but Ms. -- Ms. -- Ms. Lowery and I were. And what -- two things happened. The Zorro district was set aside. It went all the way from Caddo -- does this ring a bell? Caddo, all the way down to Baton Rouge, all the way over to Lafayette, all the way a little bit east. And it was held to be a gross racial gerrymander, unconstitutional, under Section 2. Why? The reason it was held as unconstitutional is because the use of race that is apparent in that district and apparent in the -- this district was not narrowly tailored to meet the requirements of -- of Section 2.

Race was overused to the subordination of other districting principles, or as Justice O'Connor said, "When race predominates, it's unconstitutional." If you can -- why can we draw a compact minority district out of Orleans up the river? The reason why is it's otherwise lots of community interests. It doesn't violate commonalities of interest.

CHAIRMAN BEAULLIEU: Mr. Hurd, would you -- would you entertain a question? I think something may have just come back, sparked a question. Would you entertain a question?

MR. HURD: Yeah. If I can just get --
CHAIRMAN BEAULLIEU: Okay.
MR. HURD: Wait. Once I -- I've spent all day and I'll spend all night. I'll be glad to help anyone. But what you have done now, after we voided the -- the Zorro district, the Z district, they enacted what was called by the federal judge "the slash." This district that you're considering is 90 percent of "the slash." If you will look at Hays v. Louisiana, 839 F. Supp. 1188, and then that's the Zorro district, Judge Jacques Wiener, who is still on the Fifth Circuit, went through racial gerrymandering community by community and said why it was excessive.
He asked the question to start the opinion, "Can we use race in districting?" And he said the answer is yes, "We -- we can use it to comply with a compelling governmental interest." He said that this body -- two things, and I'll be glad to go anywhere that a member would like to ask. He said two things. One, this was excessive. He said the same thing about "the slash" that did exactly what you all are about to do that went up to East Baton Rouge goes to Avoyelles, then goes up the river taking minority districts.
He said they're both racial gerrymanders because they subordinate all interest. This district

will hand -- I got good news for the plaintiffs. This district, if enacted, will hand them and Judge Dick unrestrained power to redraw your district because you just did it again. And it -- it started -- it ends in --
CHAIRMAN BEAULLIEU: All right. Mr. Hurd, let's -- let's get to the question. Just --
MR. HURD: The last point -- the last point is what Judge Wiener said, and this is what's equally important for you. He said, "The federal government --" this point was Section 5. "The -- the federal government, one, has no authority to impose on a state the violation of the Fourteenth Amendment." So the idea that we're afraid of Judge Dick may be more demanding of the district, just like the DOJ was under pre-Clarence. It is of no concern. That's why our system gives us the Fifth Circuit in the supremes.
This court -- I mean, this body should consider either giving Judge Dick an opportunity to judge it, then submit a remedy plan if you lose, or enact a remedy. Now, I've handed in material --
CHAIRMAN BEAULLIEU: We've -- we've gotten all that.
MR. HURD: I --
CHAIRMAN BEAULLIEU: So I'm going to

Representative Carlson for a question. Representative Carlson.
REPRESENTATIVE CARLSON: Thank you, Mr. Chair. Mr. Hurd, after the Zorro district was eliminated and the -- "the slash" district, as you represented, was -- was enacted, who created that district?
MR. HURD: The legislature.
REPRESENTATIVE CARLSON: And who did away with that district, or who said that that was unconstitutional or -- or -- or not -- could not stand?
MR. HURD: Judge Jacques Wiener wrote the opinion.
REPRESENTATIVE CARLSON: Okay. And then we went back to the districts that we had up until recently, right, that we were --
MR. HURD: That's correct.
REPRESENTATIVE CARLSON: So as I hear that -- I see one major difference between then and now. I know you stated that the district that we're looking at creating through the senator's -- the senator's bill looks very similar. You said about 90 percent the same as -- as that "slash" district.
MR. HURD: I will reserve because y'all have done (inaudible 2:15:30) since you've made unavailable to the public, okay?

CHAIRMAN BEAULLIEU: Like, the -- the -- the --
MR. HURD: But the district isn't --
CHAIRMAN BEAULLIEU: The minutes are public, and they -- they are online and public, (inaudible 2:15:38).
MR. HURD: You put them online ten minutes before we started the meeting six hours late. That's not available for the public.
REPRESENTATIVE CARLSON: Mr. Hurd, I appreciate that, and I understand. I wish we had more time to -- to review those. That's when those were made available, but they are there for the public. I think there's one difference. We are being mandated by the judge to create a second Black district, period. In your example, it's complete opposite.
MR. HURD: No, it's not.
REPRESENTATIVE CARLSON: The legislature tried to create a district that followed this similar route, and it was ruled unconstitutional. We're being told by the judge, by Shelly Dick, that we must do this, period. It's complete opposite. We must do it or she will. It's a complete opposite scenario than it was 20 years ago.
MR. HURD: Can I -- can I respond?

REPRESENTATIVE CARLSON: Absolutely. And thank you, Mr. Chair. I'm done.

MR. HURD: It's absolutely the same. What they held was in the '90s, the federal agency that was telling you, "You had to do it," was the DOJ under Section 5, which itself was later held unconstitutional. The answer is they were wrong. They were unconstitutionally demanding racial districting beyond what the federal courts now recognize as the permissible range of remedy. We may be -- we don't -- I -- I -- look, I'll give Judge Dick an opportunity. It's not that she's hailed Section 2 applies.

The question is whether or not Section 2 has a constitutional remedy, i.e., I believe that my districting plan that I've handed in and I did it for an -- an example is as close as you can get to a non-racially gerrymandered district and get to two majority-minority districts, and it does. The plaintiff's remedy, Senate Bill 4 and 5, they're both racial gerrymanders and will not stand up to the Fifth Circuit. There are abilities to draw a compact contiguous majority-minority district, second one, in Louisiana. What you're going to do, you're going to enact this.

If I was Judge Dick, I'd look at it and go,

"I'm sorry. I've got -- already got the judge that wrote the opinion on the Fifth Circuit that says what y'all are about to do is a constitutional gerrymander. Therefore, I can disregard it." Disregard it. It is null and void. And she's going to draw the plan if you want to remedy an actual remedy. That's why it's exactly the same. You read the opinion, and you'll see they said, "The federal power does not override or force you to violate the Constitution." Stand up for the Constitution.

Stand up if you want a compact district. Draw the one that makes sense with our traditional districting principles because you can do it. The -- the -- the -- the -- the answer is, this is an unconstitutional alternative.

CHAIRMAN BEAULLIEU: Okay. Thank you, Mr. Hurd. You -- you -- I think you've been very, very clear on it. The board is clear. We have no more witnesses. Senator Womack, we're going to go ahead and -- and call you back up to -- to close.

MR. HURD: Your Honor, if -- I mean, Your Honor. I apologize. I'd like to -- I've got a copy of that opinion that outlines all the reasons that what you've got is a racial gerrymander. I had an outline of what it -- of -- of the -- each criteria that the judge

applies on why this is a -- a -- a ineffective remedy, and I hope -- I hope your good judgment finds another solution.

CHAIRMAN BEAULLIEU: Thank you. Representative Phelps, you failed to call, but you didn't say you wanted to speak. Are you trying to speak now?

REPRESENTATIVE PHELPS: Yes, (inaudible 2:19:39).

CHAIRMAN BEAULLIEU: I know you're not on the committee, but you want -- all right. Come on. Let's -- all right. All right. So let's fill this out that says she does want to speak. She's providing information only, not a green card or a red card. So Representative Phelps?

REPRESENTATIVE PHELPS: Thank you for the opportunity to speak. I -- I just wanted to mention to maybe some of our new colleagues here when we talk about why we're here. This started from an increase of the population from our census. So I -- and I think that's not -- we haven't heard a lot of that with the audience on the outside. It just was not a mandate to draw a map. So this does go with the 2020, the Census results that resulted in a population increase of African Americans across the state.

Secondly, I hope that there is some passion here about if there were a different population, a White population, and there was so much pushback about creating a district so that everyone would be represented, how that may feel. Just a thought. Thirdly, when I heard Judge Dick's name reference to Obama's judge, I don't know if I've ever heard someone say Trump's judge or Carter's judge or Reagan's judge or whomever. I don't know if we're going to start referencing judges that way, but I hope that we do not do that in this body.

I think we should give all of our elected officials a little bit more respect in that, regardless of what president they were appointed to or from. Thank you for your time.

CHAIRMAN BEAULLIEU: Thank you, Representative Phelps. The board is clear. Senator Womack, would you come up and close on your bill?

SENATOR WOMACK: Thank you, Mr. Chairman. Members of the committee, we all know why we're here. We were ordered to -- to draw a new Black district, and that's what I've done. At the same time, I tried to protect Speaker Johnson, Minority Leader Scalise, and my representative, Congresswoman Letlow. I'm agreeable to the amendment, and we complied with everything the judge

has asked. And I just ask for favorable passage.
CHAIRMAN BEAULLIEU: Thank you, Senator -- Senator Womack. Representative Farnum has made a motion that we adopt Senate Bill 8 as amended. Is there any objection? Representative Marcell objects. Ms. Baker -- listen, do we have anybody in an anteroom needs to come in real quick? We have everyone here? Looks like everyone's here. Okay. Ms. Baker, would you please call the role? So let me clarify the vote. A vote of yes moves Senator Womack's bill as amended by Representative Farnum forward. A vote of no leaves it here in the committee. Ms. Baker?
MS. BAKER: Thank you. Mr. Chairman. Chairman Beaullieu?
CHAIRMAN BEAULLIEU: Yes.
MS. BAKER: Yes. Representative Billings?
REPRESENTATIVE BILLINGS: Yes.
MS. BAKER: Yes. Representative Boyd?
REPRESENTATIVE BOYD: Yes.
MS. BAKER: Yes. Representative Carlson?
REPRESENTATIVE CARLSON: Yes.
MS. BAKER: Yes. Representative Carter? Representative Carver?
REPRESENTATIVE CARVER: Yes.
MS. BAKER: Yes. Representative Farnum?

REPRESENTATIVE FARNUM: Yes.
MS. BAKER: Yes. Representative Gadberry? Yes. Representative Johnson? Representative Larvadain? Yes. Representative Lyons?
VICE CHAIRMAN LYONS: Yes.
MS. BAKER: Yes. Representative Marcelle? Representative Newell?
REPRESENTATIVE MARCELLE: Not as amended. No, as amended.
MS. BAKER: No for Representative Marcelle.
REPRESENTATIVE MARCELLE: No.
MS. BAKER: Representative Newell?
REPRESENTATIVE NEWELL: Yes.
MS. BAKER: Yes. Representative Schamerhorn?
REPRESENTATIVE SCHAMERHORN: Yes.
MS. BAKER: Yes. Representative Thomas?
REPRESENTATIVE THOMAS: Yes.
MS. BAKER: Yes. Representative Wright?
REPRESENTATIVE WRIGHT: Yes.
MS. BAKER: Yes. Representative Wybel?
REPRESENTATIVE WYBEL: Yes.
MS. BAKER: Yes. There are 14 yeas and 1 nay.
CHAIRMAN BEAULLIEU: Members -- members have a vote of 14 yeas, 1 nay. Senate Bill 8 is hereby adopted as amended. Reported as amended. There are no other

matters before this committee. Representative Thomas had made a motion that we adjourn. Look, and -- as we adjourn, thank you everyone for your patience. Thank you everyone for your time. It's been a -- a great debate and -- and we appreciate you. Meeting adjourned. Thank you all.
(Meeting adjourned.)

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SPEAKER DEVILLIER: The House will come to order. The clerk will open the machine. Members, vote your machines. Members, vote your machines. Are you through voting? Representative Newell? Members, vote your machines. Are you through voting? The clerk will close the machine. We have 102 yeas, 102 members present and a quorum. The House will be opened in prayer by Representative Illg.

REPRESENTATIVE ILLG: Thank you, Mr. Speaker. It's always a great honor to be able to come up here and start the day or late evening with a prayer. I've met some of my best friends in -- in -- in -- in this room. I've served with you for a little over four years, and for our newer members, the -- your colleagues that you have in this room, you're blessed to serve with.

Because we're leaders for our districts and for the state and we take up important issues, and sometimes it does drag out and it -- we need patience to be able to do this job properly. And I'm proud to serve with each and every one of you because I know it's been a long day and it's been a tough beginning for a number of our members. And will you please join me and bow your heads in prayer.

Lord, as we continue our special session dealing with important and transformative issues facing

our wonderful state, we pray to you for guidance as representatives and leaders of our district of the -- in the state of Louisiana. Help us in making good solid decisions, knowing that our actions today will shape not only our future but that of generations to come. Lord, please help us to learn from our mistakes and make a more loving and caring example of how we can work together to heal this state. Amen.

SPEAKER DEVILLIER: Representative Jordan will lead us in the pledge.

REPRESENTATIVE JORDAN: I pledge allegiance to the flag, the United States Of America, and to the republic for which --

(Pledge of Allegiance.)

SPEAKER DEVILLIER: Morning hour, number 4.

THE CLERK: Official journal, the House of Representatives. The House of Representatives was called to order at 12:15 p.m. --

SPEAKER DEVILLIER: Representative Bacala moves to dispense with the journal -- the reading of the journal and moves to adopt the journal. Without objection. So ordered. Members, we are waiting on the receipt from the committee report. Morning hour 9.

THE CLERK: Reports of committees. Mr. Speaker and members, the House and Governmental Affairs

Committee submits the following report. Senate Bill 8 reported with amendments. Signed, Gerald Beau Beaullieu, Chair. Senate Bill 8 by Senator Womack, to enact Title 18 relative to congressional districts, provide for the redistricting of Louisiana's congressional districts, provides with respect to offices and positions other than congressional based on those congressional districts.

(Pause.)

SPEAKER DEVILLIER: Representative McFarland for a motion?

REPRESENTATIVE MCFARLAND: Thank you, Mr. Speaker. I move we suspend the rules in advance and not send SB8 to Appropriations Committee.

SPEAKER DEVILLIER: Without objection.

THE CLERK: Mr. Speaker and members, under the rules, that senate bill is referred to the Legislative Bureau.

(Pause.)

THE CLERK: Mr. Speaker and members, the House is in receipt of a privileged report from the Legislative Bureau. The bureau submits the following report. Senate Bill 8 reported without bureau amendments. Respectfully submitted, Dodie Horton, Chair.

And Representative Beaullieu moves to suspend the rules for the purpose of considering this (inaudible 0:04:58) on the same day in which the bureau report was received.

SPEAKER DEVILLIER: Without objection. Representative Beaullieu moves to adopt the amendments and moves to pass the bill to its third reading. Without objection. So ordered.

(Pause.)

SPEAKER DEVILLIER: Representative Thompson for a motion.

REPRESENTATIVE THOMPSON: Mr. Speaker, members, I move we adjourn till 9:00 in the morning.

SPEAKER DEVILLIER: Without objection.

(Meeting adjourned.)

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THE CLERK: Mr. Speaker and members, Representative Beaullieu moves to advance to Regular Order No. 6, Senate Bills on Third Reading and Final Passage.

MR. SPEAKER: Without objection.

THE CLERK: Mr. Speaker and members, first instrument in this order -- only instrument in this order is Senate Bill 8 by Senator Womack: to enact Title 18 relative to congressional districts; provide relative to redistricting Louisiana's congressional district; provide with respect to offices, positions, other than congressional, which are based on congressional districts.

MR. SPEAKER: Representative Beaullieu on the bill.

REPRESENTATIVE BEAULLIEU: Thank you, Mr. Speaker. Thank you, Madam Clerk. Members, also, thank you. Thank you for your patience this week. I know we have been charged with a tall task, and your patience, your fortitude, your strong desires to represent your district, it's impressive. It's -- it's nice to see, especially -- especially with some of the new members. You've been awesome this week, and you've -- you've stood strong. And to say it's impressive is -- is -- is a -- is just the bit of it.

Members, I'm bringing you this congressional redistricting map that Senator Womack presented. You've -- you've heard it debated a couple of times. You heard it in -- in committee as well. Yesterday, we added an amendment in committee to Senator Womack's bill. And so my first order of business, even before I make my opening remarks, is going to get this bill in a proper posture. I'd like to offer up an amendment to delete the amendments that we added in committee yesterday. So if you'll check your monitors, it's going to -- or Madam Clerk, would you mind reading in the amendment?

THE CLERK: Mr. Speaker and members, Representative Beaullieu, as he's just discussed, is offering up a one-page set of amendments. That set is online. It's set number 83.

REPRESENTATIVE BEAULLIEU: So, members, after hearing from a lot of you, it's my thought that this instrument was in its best posture when it came over here from the Senate. And so I am offering an amendment to put it back in that posture, and I'd ask for your support.

MR. SPEAKER: I see no questions on the amendment. Representative Marcelle for the floor on the amendment.

REPRESENTATIVE MARCELLE: Thank you, Mr.

Speaker and Chairman. And thank you, members. On yesterday, we had a pretty, I would say, heated debate in H&G about these amendments, and so I rise in support of removing those amendments. And I had a lot of questions after I got home about why didn't I object to the amendments, but I'd stepped out of the room and so that's the reason for me not objecting to the amendments. I did object to the bill because the amendments had been added.

I know this is the process. I think that the bill was in its best posture when it came over with Representative -- I mean, with Senator Womack, Senate Bill 8. However, I tried to put that bill in a better posture. That matter failed. I know the process. I appreciate the process. And I appreciate the chairman taking that amendment off that I think does us no good to get to a better place where we can get the second congressional district. And I'd ask that you all would support the chairman in removing the amendment that was placed on there on yesterday. Thank you.

MR. SPEAKER: Is there any objections to the adoption of the amendment? Representative Farnum, objection. Would you like to speak on your objection? Representative Beaullieu, would you like to close on your amendment?

REPRESENTATIVE BEAULLIEU: Members, I just ask you to support the removal of the amendment that we added in -- in House and Governmental. Thank you.

MR. SPEAKER: Representative Beaullieu has offered up an amendment which Representative Farnum objects. All those in favor, vote yea. All those opposed, vote nay. The clerk will open the machine.

THE CLERK: (inaudible 0:04:34).

MR. SPEAKER: Wright, yea.

THE CLERK: Emerson, yea.

MR. SPEAKER: Emerson, yea. Are you through voting, members? The clerk will close the machine. We have 84 yeas and 16 nays, and amendment passes. Representative Beaullieu on the bill.

REPRESENTATIVE BEAULLIEU: Okay, Mr. Speaker. Thank you, members, for supporting me on that amendment. You'll bear with me for a second. So, members, I -- I appreciate you giving me the opportunity to be with you here today. Two years ago, I sat on the committee that -- that passed the original congressional map after redistricting, and we spent a lot of time going around the state listening to folks from all over our state. And this House, by two -- over two-thirds vote, supported a map that we thought was fair, that we thought was representative of the state of Louisiana.

As Senator Stine said earlier in this week, "It's with a heavy heart that I present to you this other map," but we have to. It's that clear. A federal judge has ordered us to draw an additional minority seat in the state of Louisiana. We have the -- the federal Voting Rights Act litigation is still going on in the US District Court in the Middle District of Louisiana. The map in this bill that I'm presenting is one of a product of long, detailed process with several goals.

First, and as a lot of you are aware, Congresswoman Julia Letlow represents north Louisiana in our nation's capital and serves on both the appropriations and agricultural committees. The boundaries in the bill that I'm presenting ensure that Congresswoman Letlow remains both unimpaired with any other incumbents, and in a congressional district that should continue to elect a Republican Congress for the remainder of this decade.

I have great pride in the work Congresswoman Letlow has accomplished, and this map will ensure that Louisianians will continue to benefit from her presence in the halls of Congress for as long as she decides to continue serving our great state of Louisiana.

Second, of Louisiana's six congressional districts, the map and the proposed bill ensures that

1 four are safe from -- or safe Republican seats.
2 Louisiana's Republican presence in the United States
3 Congress has contributed tremendously to the national
4 discourse, and I'm very proud, and it's remarkable, that
5 both the speaker of the United States House of
6 Representatives, Mike Johnson, and the US House majority
7 leader, Steve Scalise, are both from our great state.
8 This map ensures that the two men -- the two
9 of them will have solidly Republican districts at home
10 so they can focus on the national leadership that we
11 need in Washington, DC. The map proposed in this bill
12 ensures that the conservative principles retained by the
13 majority of those in Louisiana will continue to extend
14 past our boundaries to our nation's capital.
15 Finally, the maps in the proposed bill respond
16 appropriately to the ongoing federal litigation, the
17 ongoing federal Voting Rights Act case in the Middle
18 District of Louisiana. For those who are unaware of the
19 background, the congressional maps that we enacted, that
20 I mentioned a second ago, in March of -- in March of
21 2022, have been the subject of litigation roughly since
22 the day the 2022 congressional redistricting bill went
23 into effect, and even before we enacted it. So the suit
24 was filed before we actually enacted the bill.
25 After a substantial amount of prolonged

1 litigation, two trips to the Fifth Circuit asking it to
2 reverse it, and a trip to the US Supreme Court, the
3 federal District Court has adhered to its view that the
4 federal law requires that the state have two
5 congressional districts with a majority of Black voters.
6 It's that simple. Our secretary of state, our attorney
7 general, and our prior legislative leadership appealed
8 but have yet to succeed. We are now here because the
9 federal courts order that we have a first opportunity to
10 act.
11 If we don't act, it is very clear that the
12 federal court will impose the plaintiff's proposed map
13 on our state, and we don't want that. The District
14 Court's order that we must have two majority-Black
15 voting-age population districts, combined with the
16 political imperatives I just described, have largely
17 driven the boundaries for District 2 and District 6,
18 both of which are over 50 percent Black voting-age
19 population, or BVAP as you've heard discussed a lot in
20 committees and may hear with folks discussing today.
21 Given the state's current demographics,
22 there's not a high enough Black -- Black population in
23 the southeast portion of Louisiana to create two
24 majority-Black districts and to also comply with the US
25 Constitution's one vote, one person requirement. That a

1 -- the reason why District 2 is growing around Orleans
2 Parish, while District 6 includes the Black population
3 of east Baton Rouge Parish and travels up the I-49
4 corridor and the Red River to include Black population
5 in Shreveport.
6 While this is a different map than the
7 plaintiffs in the litigation have proposed, this is the
8 only map I reviewed that accomplishes the political
9 goals I believe are important for my district, for
10 Louisiana, and for our country.
11 While I did not draw these boundaries myself,
12 and I'm bringing the bill to the floor for the --
13 Senator Womack carried through the Senate and through
14 committee yesterday in this House, I firmly submit that
15 the congressional voting boundaries represented in this
16 bill best achieve the goals of protecting Congresswoman
17 Letlow's seat, maintaining strong districts for Speaker
18 Johnson and Majority Leader Scalise, ensuring four
19 Republican districts, and adhering to the command of the
20 federal court in the Middle District of Louisiana.
21 I submit to you this map, and I'll be happy to
22 take any questions.
23 MR. SPEAKER: Representative Taylor on a
24 question.
25 THE CLERK: She waives.

1 MR. SPEAKER: She waives. Representative
2 Amedee on a question.
3 REPRESENTATIVE AMEDEE: Thank you, Mr.
4 Speaker. Rep. Beaullieu, thanks for carrying the bill
5 over here. Is this bill intended to create another
6 Black district?
7 REPRESENTATIVE BEAULLIEU: Yes, ma'am, and to
8 comply with the judge's order.
9 REPRESENTATIVE AMEDEE: Thank you.
10 MR. SPEAKER: Seeing no further questions,
11 Representative Bayham for the floor.
12 (Pause.)
13 REPRESENTATIVE BAYHAM: When I ran for the
14 legislature, I had one goal, and that is to give my
15 community a voice. I've studied some of the plans that
16 were submitted by my colleagues here. Representative
17 Wilford Carter had a plan, I believe, that kept St.
18 Bernard Parish intact, and I appreciate that,
19 Representative Carter. I am here to stand up for my
20 community. St. Bernard has never been split into two
21 congressional districts. We've already been split into
22 two Senate districts. And to be brutally honest,
23 looking at the way these precincts are -- and I know
24 every precinct. I've campaigned in every precinct in
25 St. Bernard.

We have two precincts, for example, that are in the 2nd Congressional District. One, Precinct 24, gave President Trump 75 percent of the vote. Precinct 25 gave President Trump 69 percent of the vote. Those are in the 2nd District. In the 1st District is Precinct 44, which gave President Biden 83 percent of the vote. Precinct 45 gave President Biden 85 percent of the vote. It seems like these precincts were just thrown together like a mechanical claw machine, just grabbing people and dropping them off.

Now, I participated in the hearings on the congressional reapportionment where they toured the state, and I appreciated the leadership of the House and the Senate, the committees in doing this. I took advantage of it. I testified. We are being told that we have to redraw all of this in a period of less than eight days. That is not how you make sausage. That's how you make a mess. I cannot in good conscience vote for this bill that divides my community, and I will stand by that for my community. Thank you.

MR. SPEAKER: There's no questions.

REPRESENTATIVE BAYHAM: Thank you.

MR. SPEAKER: Representative Beaullieu to close on the bill.

REPRESENTATIVE BEAULLIEU: As a colleague

mentioned earlier - sorry, Representative Cox, if I have to poach you - "Everybody likes to eat sausage, but nobody likes to see how it's made." And it's -- it has been painful, and it has been painful for all of us. But it's simple. We're under a federal judge's mandate, and this bill is our best attempt to comply with her decision. So, members, I ask you to support me in voting for this map. Thank you.

MR. SPEAKER: Representative Beaullieu moves for final passage of the bill. Those in favor, vote yea. Those opposed, vote nay. The clerk will open the machine. Vote your machine, members. Members, are you through voting? The clerk will close the machine. We have 86 yeas, 16 nays, and the bill is finally passed. Representative Beaullieu moves to adopt the title, and moves to reconsider the vote for which the bill finally passed and lay that motion on the table without objection.

MR. SPEAKER: Open the machine for co-authors.

(Pause.)

MR. SPEAKER: The clerk will close the machine. We have ten co-authors.

MALE SPEAKER: Representative Bagley for a motion to move to correct his vote.

REPRESENTATIVE BAGLEY: I want to correct on

-- on Senate Bill Number 8. I want to correct from absent to nay.

MALE SPEAKER: Without objection.

REPRESENTATIVE BAGLEY: Thank you, Mr. --

MALE SPEAKER: Representative Taylor moves for a motion to correct her vote.

REPRESENTATIVE TAYLOR: Good afternoon. I would also like to vote from absent to yea on the amendment.

MALE SPEAKER: Without objection. Representative Jackson moves to correct his vote.

REPRESENTATIVE JACKSON: Yes. I want to change my vote from nay to yea.

MALE SPEAKER: Without objection.

REPRESENTATIVE JACKSON: Thank you.

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January 19, 2024

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MALE SPEAKER: Secretary will open the machines. Vote at the machines, members. Vote at the machines. Are we finished voting? 36 members in a quorum. Next order of business.

THE CLERK: Messages. Messages from the House. The -- I'm directed to inform you that the House of Representatives has finally passed the following Senate bills and joint resolutions. Senate Bill 8 reported with amendments respectfully submitted. Michelle Fontana, clerk of the house. Senate bills returned from the House with amendments. Senate Bill 8 by Senator Womack is an act to amend Title 18, relative to congressional districts, to provide for the redistricting of Louisiana's congressional districts to provide with respect to positions and offices other than congressional, which are based upon congressional districts. The bill comes from the House with a set of House Committee amendments and House Floor amendments.

Senator Womack now moves for suspension of the rules to take up the bill at this time.

MALE SPEAKER: Without objection. Without objection. Senator Womack, on your bill.

SENATOR WOMACK: Thank you, Mr. President. Members, Senate Bill 8, which provides for redistricting of congressional districts, appears to be before you now

in the exact posture that it left the Senate. The House is removed. HGA Committee amendment I move to concur with on Senate Bill Number 8.

(Pause.)

MALE SPEAKER: Gotcha. Members, the summaries are being passed out right now, so we're just going to slow down a little bit. I want to give everybody the chance to see what we're voting on.

(Pause.)

MALE SPEAKER: Senator Womack, would you mind going over the -- I know we've all seen the amendment once. We -- we know what the bill looks like, but if you could just go over some high points on it while they're passing this out. Members, if you have a -- members, if you want to speak, hit your Floor button if anybody would like to come to the Floor to discuss the bill. I know some members -- make sure that you do that.

(Pause.)

SENATOR WOMACK: Okay. They're passing out the amendments. The -- the way they did lay up the House -- I mean, lay up the Senate, it was one district change on that amendment. That took in part of Avoyelles Parish. That was the only change, to my knowledge, that was in the -- that was in the new map.

MALE SPEAKER: Okay. Senate Morris for -- for -- Senator Morris for a question on the bill, and you also have your Floor button, so which -- you want to question. Let's do question first, please, and then we can do the Floor. Thank you.

SENATOR MORRIS: Senator Womack, you said the only change was -- was taking some of Avoyelles Parish and putting it in Miss Letlow's district, correct?

SENATOR WOMACK: Correct.

SENATOR MORRIS: However, it actually took my personal home out of Miss Letlow's district, as well as Senator Cathey's home precinct, as well as State Rep Echols' home precinct, and put that in Representative Johnson's district; did it not?

SENATOR WOMACK: It did.

SENATOR MORRIS: So the only thing being done was not just Avoyelles Parish, correct?

SENATOR WOMACK: I stand to be corrected. You're correct.

SENATOR MORRIS: Why did we do that for Avoyelles Parish?

SENATOR WOMACK: That was -- that was brought before the -- the -- I'll have to look back. I -- I was -- I was thinking that was a -- a -- a Senate Committee amendment on that, and that's the way it came out of

Committee.

SENATOR MORRIS: Yes, sir. I think you altered the amendment.

SENATOR WOMACK: Senator Morris, I'll have to -- I'll have to look back and -- and put that together for you. Any other questions?

SENATOR MORRIS: So you don't know why we put Avoyelles in Miss Letlow's district?

SENATOR WOMACK: As I stated earlier, we were -- we were trying to put what we could to -- to give senator -- Representative Letlow as much North Louisiana as we could. So that was what we -- that was what we done on -- on that amendment.

SENATOR MORRIS: By -- by trading Avoyelles for Monroe, we gave her more North Louisiana.

SENATOR WOMACK: As I understand it, in that bill, I didn't think that -- that your home or Senator Cathey or Echols was in the original bill to start with. My recollection.

SENATOR MORRIS: It wasn't in Miss Letlow's district.

SENATOR WOMACK: Right.

SENATOR MORRIS: Would you be shocked if that was not the case, and that we were all in Miss Letlow's district?

SENATOR WOMACK: Probably so. But that -- at the -- at the time I put that amendment on, I don't remember the original map having that -- y'all's address in her district.

SENATOR MORRIS: But you did know that the amendment took some more of Ouachita Parish out of Letlow's, and put it into Johnson's district; you did know that, right?

SENATOR WOMACK: I knew it had to come from somewhere.

SENATOR MORRIS: Yes, sir. Thank you.

MALE SPEAKER: Senator Morris, you have the Floor now for the -- for Senate (inaudible 0:08:19).

SENATOR MORRIS: Thank you, Mr. President. We came here to redistrict because there's a chance. It's not absolute, but there's a chance that the judge will rule that our districts that we -- that we completed in the last couple of years will not be declared unconstitutional. That case never went to a final judgment. It hasn't even gone to a full trial on the merits, but yet here we are. So what do we do? We're supposed to redistrict with a lot of principles in mind. Among those include compactness and contiguity.

This bill does neither. It's neither contiguous nor compact. We're all supposed to do it and

consider political subdivisions and communities of interest. So now, by everyone's account, I live in Northeast Louisiana, and now I'm in the same district as Lake Charles. Louisiana Tech, Grambling, and University of Louisiana, Monroe are now in different congressional districts. They're all only 30 miles apart.

Senator Womack said in Committee that what he wanted to do was protect Julia Letlow. She's the only woman in our congressional delegation in this state, she's the only member of appropriations, and she's on the Agriculture Committee. So protecting her district because she has seniority, and because she's a bright, articulate, and effective Congresswoman, that's a very noble and worthwhile goal. And I applaud him for having stated that that is one of the objectives of this bill, but this bill doesn't do that.

This bill puts more votes south of the Mississippi line in the Florida parishes than it does in the northeast corner of the state. Now, I'm not horribly disappointed to be in Congressman Johnson's district because I admire him immensely. It's nothing against him. He -- I served with him in the House, and we are friends, and I'm a supporter, and he knows that. It has nothing to do with him. But we didn't do the things that I believe that we should have done. Well,

what did we do?

It looks like to me we primarily considered race, and we considered the personal interest of a handful of members. There was no reason. The bill, as originally filed, we did not like. It cut my home parish in half. I understand it's got to go through somebody's district, right? A lot of you have your districts, your home parishes cut through, but you didn't have to zigzag it around just so somebody can get a personal stake, who might want to run for Congress, or just wants their parish there because of their personal interest.

I'm not going to be around to run for Congress or anything of the sort in two years, eight years, or ten years. This is about districts and regions that will represent the people of our area, and the lack of compactness is going to effectively disenfranchise, I believe, to a certain degree, the people that I represent. And for these reasons, I urge you to vote against this bill. Thank you, Mr. President.

MALE SPEAKER: Thank you, Senator Morris. Senator Cathey to the Floor on the bill.

(Pause.)

SENATOR CATHEY: Thank you, Mr. President. Members, I -- I don't know that I can say any better

than what Senator Morris just said, and I wholeheartedly agree with everything that he said. You know, I love the Senate, and I love being a member of this body, and I'm excited about the things that we're going to do in this term. I think we're going to do some great things. Unfortunately, today is not one of those days.

What we're doing to Northeast Louisiana with this map is a travesty and a disservice to the only woman that we have serving in our congressional delegation. The only member that we have that sits on the House Appropriations Committee, which controls federal dollars to this state. When we say that this map protects Northeast Louisiana and Congresswoman Letlow, I'll have you know, 50 percent of the votes in Congresswoman Letlow's district now reside within 30 miles of this building. Let that sink in. 30 miles of this building. Look, I can see the writing on the wall, and I know where this is going to go.

And so, look, I'm -- I'm -- I've been around long enough to -- to count, and -- and I know that -- that we can't get to 20, but -- but I just couldn't let this go without standing up for my people and my district and my congresswoman. And so I guess there is one other thing that -- that I do want to say just to put it into perspective. Again, kind of like Senator

Morris said, my home, my personal home, which is 35 miles from the Arkansas line, and 65 miles from the Mississippi line will now be in the same congressional district as Fort Polk and McNeese State University and Lake Charles. That's a disservice and a travesty. So with that, I close.

MALE SPEAKER: Thank you, Senator Cathey. Senator Luneau for the Floor.

(Pause.)

SENATOR LUNEAU: Thank you, Mr. President. Members, we -- we did redistricting last year, I'm sure most of you remember that, and it was an utter failure. And there were a lot of us that talked about some of the things that we could have done different to make it different, but it didn't work out that way, so here we are again. And I remember when we redistricted our own district, our Senate districts, Rapides Parish, my home parish, now has six different senators. Six. And I fought that, but I lost on that -- on that -- on that quest. I -- I just couldn't -- couldn't get everybody together.

And they said, "You know, it's going to be great if you have six centers. Then you've got six people coming together." That -- that didn't happen. That's not true. We didn't come together, and it hurt

Rapides Parish. And now this map, yet again, has Rapides Parish divided in half. I guess that's better than six, but I guess we would have to have every congressperson from the -- from the state to have six. It's important that we do these maps, and we do them correctly, where we establish another minority majority district. And for that reason, I'm going to support and I'm going to vote for this map, but like my colleagues before me, I have to admit we should do better.

MALE SPEAKER: Thank you, Senator Luneau. Senator Carter for the floor.

SENATOR CARTER: Thank you, Mr. President. Members, we have an historic opportunity before us today, and it's an exciting day for the great State of Louisiana. If we concur and accept Senate Bill 8, we get to create two performing African American districts right here in the State of Louisiana. That is historic. That is to be celebrated. I really want to say thank you to everyone in this room. I can't thank you all enough. I appreciate the sincere effort. I appreciate the -- the -- the working late into the evenings that -- I want to thank the staff of the SGA committee and the tireless hours that they have. This is -- this is historic.

I know that it's hard to do anything that's

perfect, and I know redistricting is the hardest thing that we do of all. This is my second redistricting session, and they're very tough, but we came together in a effort to comply with a federal judge's order that Louisiana provide equal representation to the African Americans in the State of Louisiana, and we have an opportunity to do that. Let's celebrate. Let's be happy. Let's be glad this state has an opportunity to provide equal representation in our congressional leadership right here in the State of Louisiana. Thank you all so much.

And I also want to thank -- I'll be remiss if I didn't thank the -- the president, all the members of SGA committee, the -- the governor who called this session. We began with the governor addressing us on Dr. King's Day, and here we are celebrating at the end of that week. And it just didn't start at the beginning of this week with Dr. King's Day. It started way back when Dr. King was alive, in a push for a voters' rights act. There's so many hurdles along the way and so many battles. There's so many -- so many -- so much effort. So much energy.

And when we were in Committee, we heard from many people. From the LDF people to the plaintiffs to all the -- the community people that came to testify

because they did it last year. And some of them said, "We are tired. We're tired of keep doing this." But let me tell my friends and my colleagues, to everyone, we shall not tire. We shall continue to fight for what's right. It is -- this is how we make progress. It is not easy, it is challenging, but this is how we make progress, and we make progress. We celebrate it. We acknowledge it. So thank you to my colleagues. Thank you to all of us who engaged in this process. Thank you, Mr. President.

MALE SPEAKER: Thank you, Senator Carter. Senator Womack to close.

SENATOR WOMACK: Members, we all -- we all know what we went through and worked through and tirelessly. Late nights. Many hours. Many hours spent in the drafting room, of trying to help Senator Morris and Senator Cathey in trying to alleviate some of the problems they had. We worked on that. However, congressional, it wasn't working for everybody. So we're here where we're at, and here your bill's before you. I ask that you concur with Senate Bill 8. Thank you.

MALE SPEAKER: Thank you, Senator Womack. Senator Womack moves to concur in Senate amendments proposed to House -- to Senate Bill 8. When the

machines are open, all those in favor to concur in the Senate amendments will vote aye. All opposed will vote nay. Madam Secretary may open the machines.

SENATOR HENRY: Go to machine, members. Go to machines. Go to machines, members. Close machine, please.

27 yeas, 11 nays, and the motion carries.

Senator Talbot for a motion.

SENATOR TALBOT: Thank you, Mr. President. I make a motion that we adjourn sine die.

SENATOR HENRY: Without objection. Members, if you could have your seat just for a second. Sit down just.

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Dated this 8th of March, 2024.

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PLAINTIFFS' EXHIBIT
PE13
exhibitsticker.com

Exhibit 1

Michael C. Hefner

Vitae of Reapportionment, Economic, & Demographic Work Experience

1.0 Qualifications

1.1 Demographic, Reapportionment and Economic Development Experience

Mike Hefner is the Chief Demographer and owner of Geographic Planning and Demographic Services, LLC. He has extensive experience working with specialized demographics, census counts from the Census Bureau and use of the Bureau's TIGER Line Files, dating back to 1990. These computer-generated map files are used to enumerate the Census as well as serving as the base map for reapportionments and other demographic uses.

Hefner served as the Economic Development Manager and later became the Assistant Director of the Evangeline Economic and Planning District from 1990-1995. Among other things, EEPD was the Census Data Center Affiliate for District 4. During that time, he served as the Census Bureau's liaison for the 8 Parish Acadiana area. He and staff from the Imperial Calcasieu Planning District were the first in the State to use the Census Bureau's TIGER Line Files and related census data on PC-based computers. He was also among the first in the State to fully computerize the functions of reapportioning based on PCs. During this time he also provided extensive assistance to other Planning and Development Districts statewide in use of the TIGER Line Files, the 1990 Census data, and reapportionment through the use of PC computers.

Hefner also provides demographic services under contract to the newly renamed Acadiana Regional Development District. His experience, combined with his familiarity of the service area of the District, provides the district with a comprehensive source of demographic and economic data.

From 1995 to 1999, Hefner served as the Executive Director of the Enterprise Center of Louisiana. In that capacity, he provided hundreds of hours of assistance to entrepreneurs starting or expanding a business. In addition, he provided economic development assistance to municipalities and parish entities throughout the eight parish Acadiana Area. He also served as President of the Louisiana Business Incubator Association.

Hefner also served on the Lafayette Parish School Board, having first been appointed to the Board in 1986 to fill the unexpired term of his father-in-law, E. Lloyd Faulk. He was elected to the Board in 1990 and re-elected in the elections of 1994, 1998, 2002 and 2006. He has served in the capacity of President and Vice President of the Board. Hefner chose not to run for re-election in 2010 due to anticipated schedule conflicts arising from 2010 redistricting projects.

1.2 Legal Qualifications

In connection with the 1990 Census, Hefner was certified as an expert witness in the United States District Court Western District of Louisiana and testified when the Evangeline Parish School Board defended a Section 2 suit brought against their reapportionment plan by a citizen of the parish. The citizen filed suit against a Parish School Board on the plan after they had adopted and received Justice Department Section 5 approval. The plan was successfully defended.

For the 2000 Census, Hefner was retained by the Attorney General of the State of Louisiana and the Department of Elections to develop alternative plans and provide expert testimony in the case of City of Baker School Board vs. State of Louisiana. The case was heard in the 19th Judicial Circuit Court and Hefner was the sole witness presented by the State. That case was ruled in favor of the State at both the district court and the Appellate Court.

After the 2000 census redistricting the redistricting plan for St. Landry Parish School Board was challenged under Section 2 of the Voting Rights Act. Hefner served as the expert witness for the defendants. The case was resolved among the parties based on some suggested modifications by Hefner.

Hefner currently serves as an expert witness in demography and reapportionment for the Louisiana Department of Justice. Recent cases involve the method of election for the five judicial seats in the 32nd JDC in Terrebonne Parish and in the 40th JDC. Hefner's earlier work in the Terrebonne 32nd JDC case on behalf of the Louisiana Secretary of State played a large part in successfully dismissing the Secretary as a defendant in the case. Hefner is also providing expert witness services in a case concerning the minority representation in the current Louisiana Congressional Districts.

Hefner is currently certified as an Expert Witness in reapportionment and demography for the U.S. District Court Western District of Louisiana, the Middle District of Louisiana, and the 15th and 19th District Courts in Louisiana. In the 15th District Court, Hefner was reaffirmed as an expert in reapportionment and demography in the 15th Judicial District Court in the case of Kishbaugh vs The City of Lafayette Government, Lafayette Parish Government, and Lafayette City-Parish Government.

Hefner also provided expert witness services in the area of demographics for St. Bernard Parish (Defendant) as well as for the Burlington Northern and Santa Fe litigation (Defendant). The BNSF litigation involved demographics of the population using a plume analysis. The St. Bernard Parish case involved determining the number of persons and households in the collection area using a variety of sources.

Hefner is actively involved in providing expert witness services, but not testifying in Court as of this date, in the cases of: *Ricky Bush vs. Clean Harbors Colfax, LLC*, CA No. 1:22-CV-02026, *Smith, et al., and United States v Concordia Parish School Board, et al.,* CA No. 1:65-cv-11577 (W.D. La.), and *Boudreaux, et al., v School Board of St. Mary Parish, et al*., CA No. 6:65-cv-11351 (W.D. La.).

Hefner has never been rejected as an expert witness in any case. His qualifications have survived several *Daubert* challenges.

Hefner completed his legal education and received his Juris Doctorate in law in January 2008. He successfully passed the California Bar exam and is a member in good standing with the California Bar.

2.0 Past Reapportionment, Economic Development, Demographic & Mediation/Facilitation Work

2.1 Reapportionment, Demography & Economic Development

After the 1990 Census, Hefner provided Technical Assistance Services to some 22 governmental entities for reapportionment. In addition, some half dozen was performed directly whereby the full scope of the reapportionment process was conducted. Much of the Technical Assistance comprised of drawing up a number of possible plans with the associated data for consultants and governmental staff working on reapportionment or providing detailed demographic data at the precinct and/or census block level.

With the release of the 2000 Census, Hefner had been primarily involved in performing analyzing population trends in connection with the reapportionment services to over 41 jurisdictions throughout Louisiana.

For the 2010 Census, Hefner successfully completed redistricting plans for over 73 jurisdictions. Hefner has also performed a number of market analyses for private companies and site location analysts.

Hefner is currently serving on a legislative committee charged with reviewing redistricting statutes. He was appointed by the Louisiana Secretary of State to represent demographers.

Additionally, population census counts, updates, and projections have been conducted for several municipal governments, water, fire, and wastewater districts. The projections have withstood state reviews and court scrutiny as well as U.S. Department of Justice review where applicable.

During his tenure at the Evangeline Economic and Planning District, Hefner provided numerous economic and site location analyses for major corporations looking to locate or expand in south central

Louisiana. Nearly every municipality, water district, wastewater district, and Parish government in the 8 parish Acadiana area was the recipient of one or more demographic studies performed at their request.

In addition, Hefner performed Economic Needs Assessments for each of the 8 Parishes in the District annually and developed reports of the findings to the U.S. Department of Commerce. Many of these assessments were used to help secure millions of dollars in infrastructure grants.

2.2 School Demographic Work

In the highly specialized area of school demographics, Hefner has provided demographic services to the Lafayette Parish School Board, the St. Landry Parish School Board, the Pointe Coupee Parish School Board, the St. John the Baptist School Board, the Vermilion Parish School Board, the Bossier Parish School Board, the E. Feliciana Parish School Board, the Evangeline Parish School Board, the Union Parish School Board, the Ouachita Parish School Board, Monroe City School Board, the W. Baton Rouge Parish School Board, the DeSoto Parish School Board, the Jackson Parish School Board, the Lincoln Parish School Board, the St. Martin Parish School Board, the St. Mary Parish School Board, the Concordia Parish School Board, and the U.S. Department of Justice. For the Lafayette, Bossier, St. Martin, St. Mary, E. Feliciana, Vermilion, Evangeline, Union, Ouachita, Monroe City, DeSoto, W. Baton Rouge Parish School Boards as well as for the U.S. Department of Justice, much of the demographic work has concentrated on general population trends, student demographics, analyzing, and/or constructing school attendance zones in connection with their respective desegregation cases.

Recent efforts in St. Landry, Concordia, Evangeline, Monroe City, Union, DeSoto, Ouachita, St. John the Baptist, St. Martin, St. Mary, and Bossier have centered on modification of their school attendance zones as they relate to their school facilities in order to meet the mandates of their respective desegregation litigation. Pointe Coupee was a combined project of consolidating schools, redrawing attendance zones, and a complete redesign of their bus transportation system and a complete audit of their contract bus routes. The U.S. Department of Justice project involved the student assignment plan for the Avoyelles Parish School Board and Morehouse Parish School Board.

To date the school districts in Ouachita, Evangeline, St. Landry, Avoyelles, and Morehouse Parishes have received Unitary Status based on the student assignment work conducted by Hefner. Union has recently received Unitary Status.

The use of computer GIS software has been extensively used to help with these efforts and provides the maximum opportunity to rapidly assess a number of different school district configurations or to

analyze existing zones. Hefner is one of the few, if not the only one in the State currently using specialized GIS software for these educational-related activities.

2.3 Mediation/Facilitation

Hefner has extensive mediation and facilitation experience. For the Federal courts, he was one of the representatives from the School Board chosen to facilitate an agreement regarding the District's dress code and the exercise of religious customs of students attending Lafayette Parish Public Schools. A successful agreement was reached thereby avoiding a costly court hearing and trial.

Hefner also facilitated the Consent Decree response in the Alfreda Trahan v. Lafayette Parish School Board desegregation case. After the court ruling of May 19, 2002, Judge Richard Haik ordered the Board to develop a new desegregation plan within 6 weeks. Hefner was chosen by the Board President to facilitate the development of that plan. Street wisdom at that time said it would take over a year for the Board to develop a plan and one could never be developed that all parties would agree to. By bringing all parties together from the beginning, a plan was developed within 5 weeks that all parties to the desegregation suit signed off on and the plan was later accepted by Judge Haik.

Hefner also exercised mediation and facilitation skills during many of the reapportionment projects undertaken during the past two censuses. Competing interests often came to the surface during many of the reapportionment discussions, which had to be successfully mediated in order to come reach agreement on a plan that would meet community and legal criteria. Many reapportionment projects conducted after the 2000 and 2010 censuses required mediation among elected officials as well as among some community leadership. All reapportionment projects conducted by Hefner received Section 5 approval from the U.S. Department of Justice on the first submission prior to the *Shelby* ruling.

2.4 Government Demographic, GIS, Reapportionment Projects, Expert Witness Testimony:

Acadia Parish Police Jury (reapportionment 2000, 2010, 2020 precinct mergers, 2021 prospective precincts).
Acadia Parish School Board (reapportionment 2000, 2010, 2020).
Acadia Parish Police Jury (parish wide GIS project).
Allen Parish Police Jury (reapportionment 2020).
Allen Parish School Board (reapportionment 2020).
Ascension Parish School Board (student attendance boundaries, school site selection, reapportionment 2020)
Ascension Parish Council (reapportionment 2020)

Avoyelles Parish Police Jury (reapportionment 2020).

Bossier Parish School Board (new school zones, student pop projections, school site planning).

Bossier Parish School Board (grade realignments/school zone modification project).

Bossier Parish School Board (school desegregation expert witness services).

Bossier Parish School Board (reapportionment 2010, 2020).

Bossier Parish Police Jury (reapportionment 2020).

Cameron Parish School Board (Reapportionment 2010).

Central Community School System (5/10 Year student projection report, reapportionment 2020)

DeSoto Parish Police Jury (Precinct mergers and consolidations, 2021 prospective precincts, 2020 redistricting, 2023 precinct mergers, witness testimony).

Concordia Parish School Board (desegregation-student assignment, transportation).

DeSoto Parish School Board (desegregation plan review, student projections, plan modification, USDoJ plan review, expert witness services, 2020 redistricting).

East Baton Rouge Parish School Board (Five-year student projection reports 2017, 2018, redistricting 2020).

East Baton Rouge Metro Council (redistricting 2020).

Evangeline Parish Police Jury (reapportionment 2000, 2010, 2020, Census update, precinct mergers).

Evangeline Parish School Board (reapportionment 1990, 2000, 2010, 2020).

Evangeline Parish School Board (School Consolidations, student projections, student assignment plans, and expert witness services).

E. Feliciana Parish Police Jury (Precinct realignments, 2021 Prospective Precincts, 2020 redistricting).

E. Feliciana Parish School Board (change in board composition, 12-year student population projections, 2020 redistricting).

Lafayette Parish School Board/Consolidated Council (TA) (reapportionment 2000, 2010, 2020).

Lafayette Parish School Board (30-year study of Parish demographic shifts by race, comprehensive student assignment plan, 2017 five-year student projection report with 2023 update).

Lafayette Consolidate Government (City of Lafayette & Lafayette Parish council reapportionments for charter revision, expert witness testimony).

Livingston Parish Police Jury (precinct realignments).

Iberia Parish HRC Council (reapportionment 1990, 2000, 2010, 2020, precinct mergers, 2021 prospective precincts).

Iberia Parish School Board (reapportionment 2000, 2010, 2020).

Iberia Parish School Board (student assignment plan 2018, 2019, 2023).

Iberia Parish HRC Council (Membership reduction plans).

Iberville Parish Police Jury (precinct realignments).

Jackson Parish School Board (student assignment plans, basic student projection report, expert witness services).

Madison Parish (Precinct realignments).

Monroe City School Board (Student projections and Zone Alignments 2010-2012, 2020, 2022).

Ouachita Parish School Board (Unitary Status *Green* factor review and expert witness services).

Plaquemine Parish Police Jury (precinct realignments).

Pointe Coupee Parish Police Jury (election districts for new Home Rule Charter implementation, precinct mergers, 2021 prospective precincts, 2020 redistricting).

Pointe Coupee Parish School Board (reapportionment 2000, 2010, 2020).

Pointe Coupee Parish School Board (transportation routing/school consolidation/zone boundary changes, bus audits).

Richland Parish School Board (student assignment plans).

St. Bernard Parish Government (residential housing study)

St. John the Baptist School Board (5/10 year student census projections).

St. Landry Parish Police Jury (reapportionment 2000, 2010 for new Home Rule Charter, 2020 redistricting).

St. Landry Parish Council (precinct realignments, Census LUCA updates, precinct mergers, 2021 prospective precincts).

St. Landry Parish School Board (reapportionment 2000, 2010, 2020).

St. Landry Parish School Board (student assignment plans, bus transportation plan, student population projection report, expert witness services).

St. James Parish School Board (student assignment, school attendance boundaries, 5-Year projection report, reapportionment 2010, 2020).

St. James Parish Council (Housing study).

St. John the Baptist Parish School Board (10-year student projection report)

St. Martin Parish HRC Council (reapportionment 2000, 2010, 2020).

St. Martin Parish School Board (reapportionment 2000, 2010, 2020).

St. Martin Parish School Board (2016 student assignment plans, expert witness services).

St. Martin Parish HRC Government (parish wide GIS project, Census LUCA updates).

St. Martin Parish Government (precinct realignments and mergers, 2021 prospective precincts).

St. Mary Parish HRC Council (reapportionment 2000 and 2010).

St. Mary Parish HRC Council (precinct realignments).

St. Mary Parish School Board (2010, 2020 reapportionment, student assignment plans, expert witness services).

State of Louisiana-Secretary of State (alternative reapportionment plans, demographic and reapportionment expert witness services).

State of Louisiana-Louisiana Department of Justice (32nd JDC, 40JDC demographic and reapportionment expert witness services.)

State of Louisiana-Louisiana Department of Justice (2022 Congressional Districts reapportionment expert witness services.)

Tangipahoa Parish School Board (5/10 Year Student Projection Report).

City of Scott (reapportionment 1990, 2000, 2010, 2020 Census LUCA update).

City of Eunice (reapportionment 1990, 2000, 2010, 2020).

City of Broussard (reapportionment 2000, 2010, 2020).

City of Broussard (50-year population study).

City of Breaux Bridge (reapportionment 2010, 2020).

City of Crowley (reapportionment 1990, 2000, 2010, 2020).

City of Donaldsonville (reapportionment 2020).

City of Marksville (reapportionment 2010, 2020).

City of Rayne (reapportionment 2000, 2010, 2020).

City of Church Point (reapportionment 2000, 2010, 2020).

City of Opelousas (reapportionment 2010, 2020).

City of Central (reapportionment 2020).

City of Ville Platte (reapportionment 2010, 2020).

City of Zachary (2010, 2020 reapportionment).

Town of Sunset (reapportionment 2000, 2010, 2020).

Town of Mamou (reapportionment 2000, 2010, 2020).

Town of Washington (reapportionment 2000, 2010, 2020).

Town of Bunkie (reapportionment 2000, 2010, 2020).

Town of Cottonport (reapportionment 2000, 2010, 2020).

Town of Kinder (reapportionment 2000, 2010, 2020).

Town of Tallulah (reapportionment 2000).

Town of Springhill (reapportionment 2010, 2020).

Town of St. Francisville (reapportionment 2020).

Tucson Independent School District No. 1, Tucson AZ (Desegregation Initiatives and Review).

City of Youngsville (census update 2004, 2014, reclassification as a City in 2004, 30-Year

Demographic Projection).

Union Parish School Board (student assignment plan for Union Parish Deseg case, expert witness services).

U.S. Department of Justice (student assignment plan for Avoyelles Parish Schools, expert witness services).

U.S. Department of Justice (student assignment plan review for Morehouse Parish, expert witness services).

Vermilion Parish School Board (school rezoning, parish-wide street and address updates, student population projection report, 2020).

Vermilion Parish School Board (reapportionment 2000, 2010, 2020).

Webster Parish School Board (school attendance plan, expert witness services).

W. Feliciana Parish HRC Council (Precinct mergers, 2021 prospective precincts, redistricting 2020).

W. Feliciana Parish Police Jury (redistricting plan for Home Rule Charter compliance).

W. Feliciana Parish School Board (Twelve-year student projection report 2018, Report Update 2019).

W. Baton Rouge Parish School Board (5-year student projection, redistricting 2010, 2020)

Winona-Montgomery Consolidated School District (School desegregation-Transportation bus route analysis).

1990 Census Reapportionments:

City of Crowley

City of Scott

City of Eunice

Evangeline Parish School Board

Iberia Parish Council (TA)

Several Private Consultants *(primarily city engineers doing redistricting plans)*

Vermilion Parish Police Jury (TA)

Lafayette Parish School Board (TA)

Town of Ville Platte (TA)

City of Breaux Bridge (TA)

Town of St. Martinville (TA)

3.0 Educational Background

- Graduated from Concord Law School earning a Juris Doctorate in law. Successfully passed the February 2008 administration of the California Bar exam. Member of the California Bar, Bar #257492.
- Commissioned as a Louisiana Notary Public, May 2015.
- Completed Public Service course sessions at the Leadership Institute, Greensboro, NC March 1993
- Graduated from the Basic Economic Development Course, University of Kansas, 1992
- Completed Leadership Lafayette, Class II, 1987
- Graduated from University of Southwestern Louisiana 1978, Degree in Business Administration, Marketing
- Graduated from Our Lady of Fatima High School, 1974

4.0 Community Leadership

- Member of the Lafayette Parish School Board, District 5, 1986, 1990 to 2010. Did not seek reelection due to meeting conflicts anticipated with redistricting.
- Past Chairman and director on the Board of Directors for Goodwill Industries.
- Director CADENCE non-profit board.
- Past Chairman of the Lafayette Parish Industrial Development Board
- Past Chairman of the Louisiana Business Incubation Association
- Past Chairman Citizens for Public Education
- One of the charter founders of the Lafayette Public Education Foundation, past member.

5.0 Contact Information:

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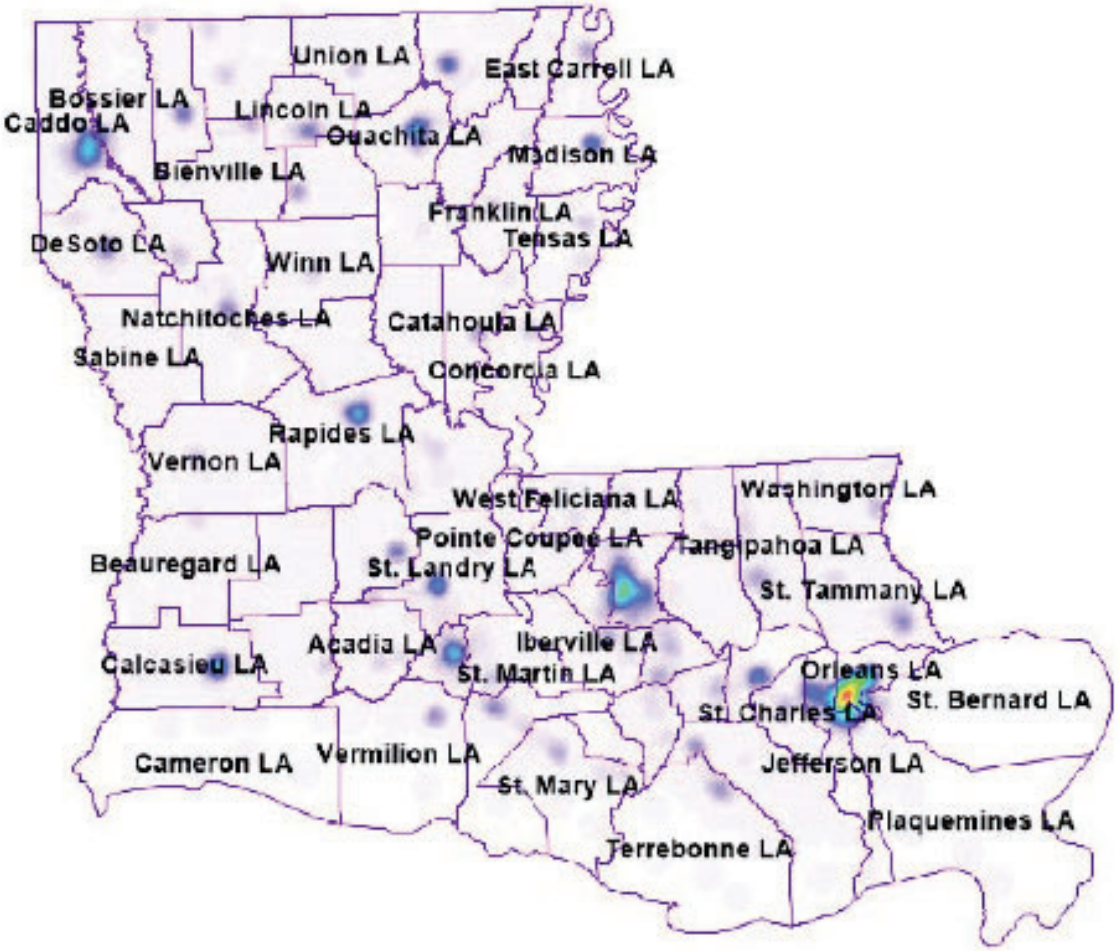
(337) 739-4499 (cell/text)

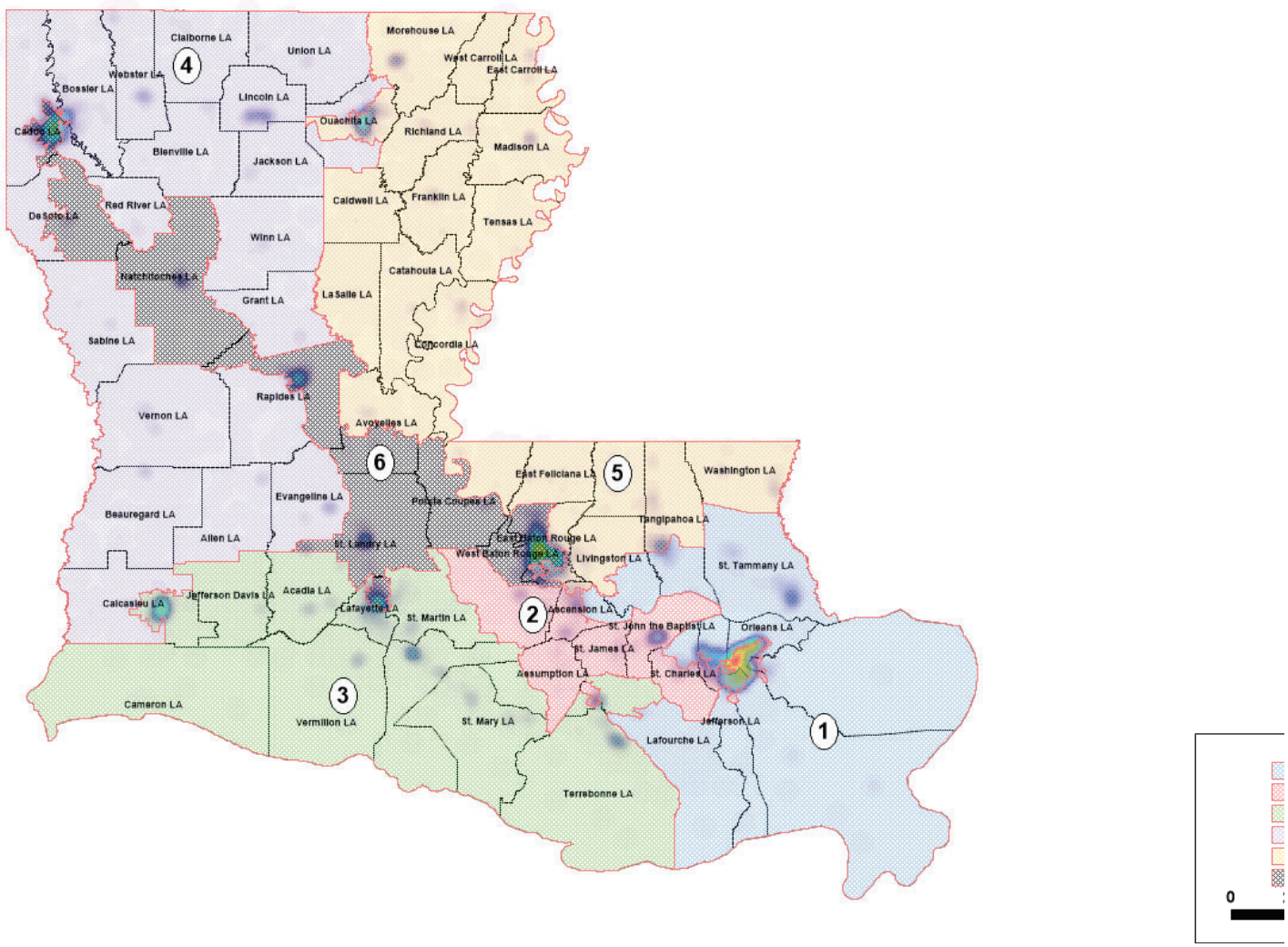
mhefner@cox.net

Cal. Bar #257492

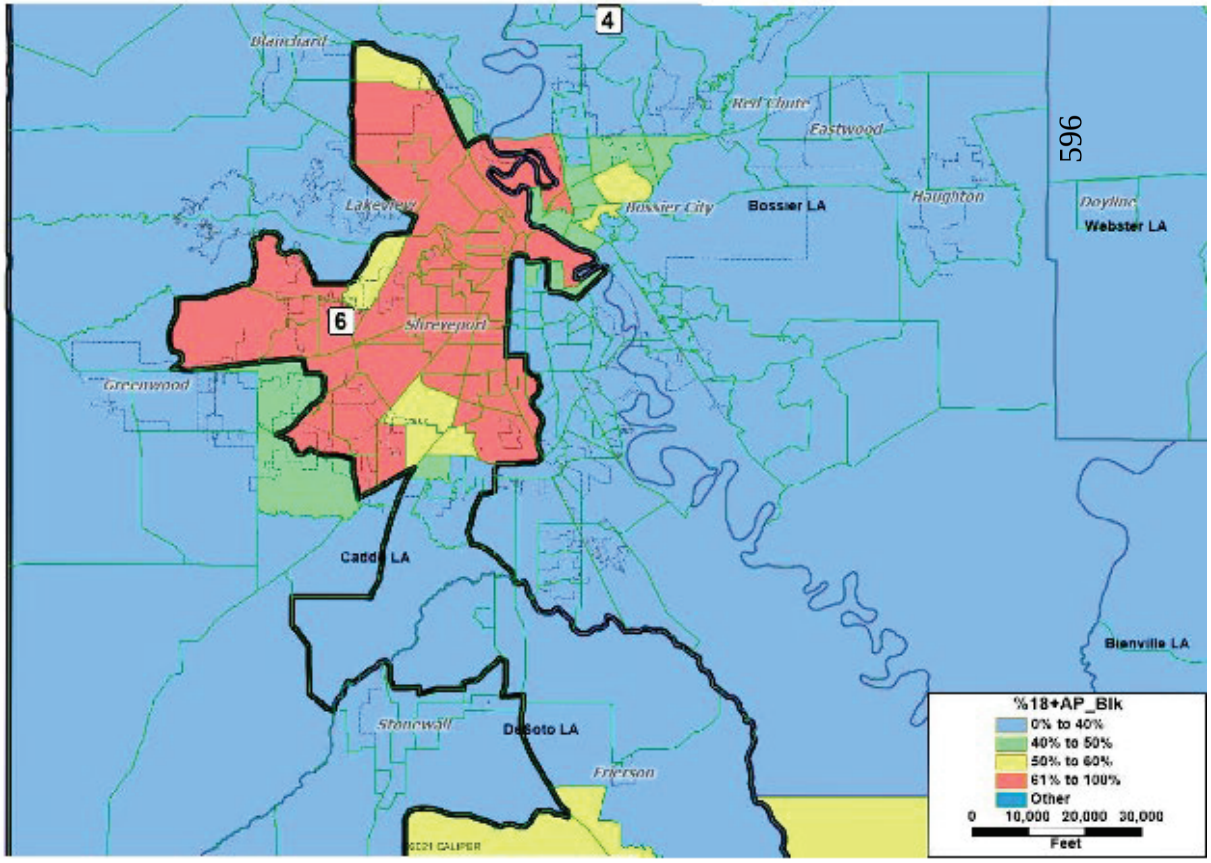
Map 14 – Heat Map of African American Voting Age Population (2020 Census)



Map 15 – SB 8 Plan with African American Populations



Map 21 – Shreveport Area in Caddo Parish



596

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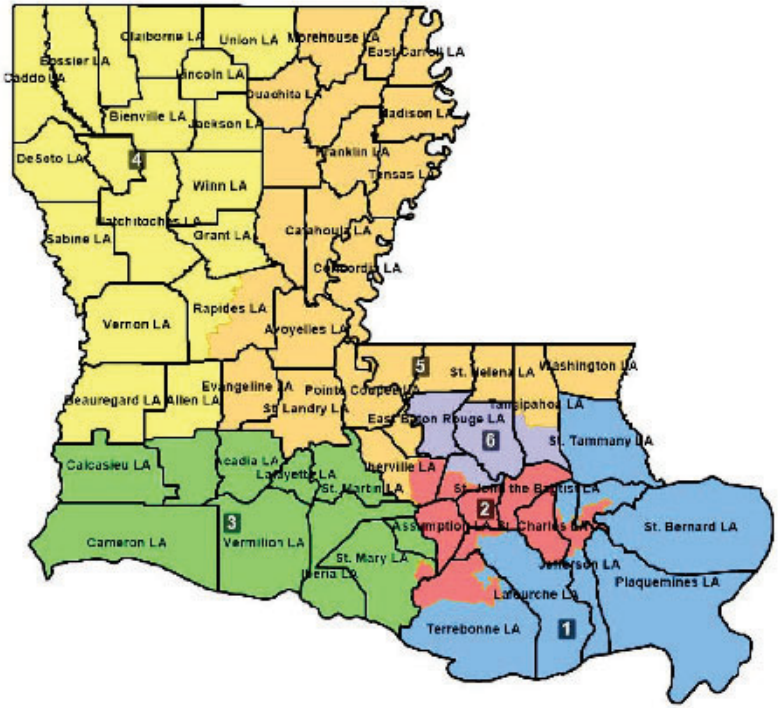
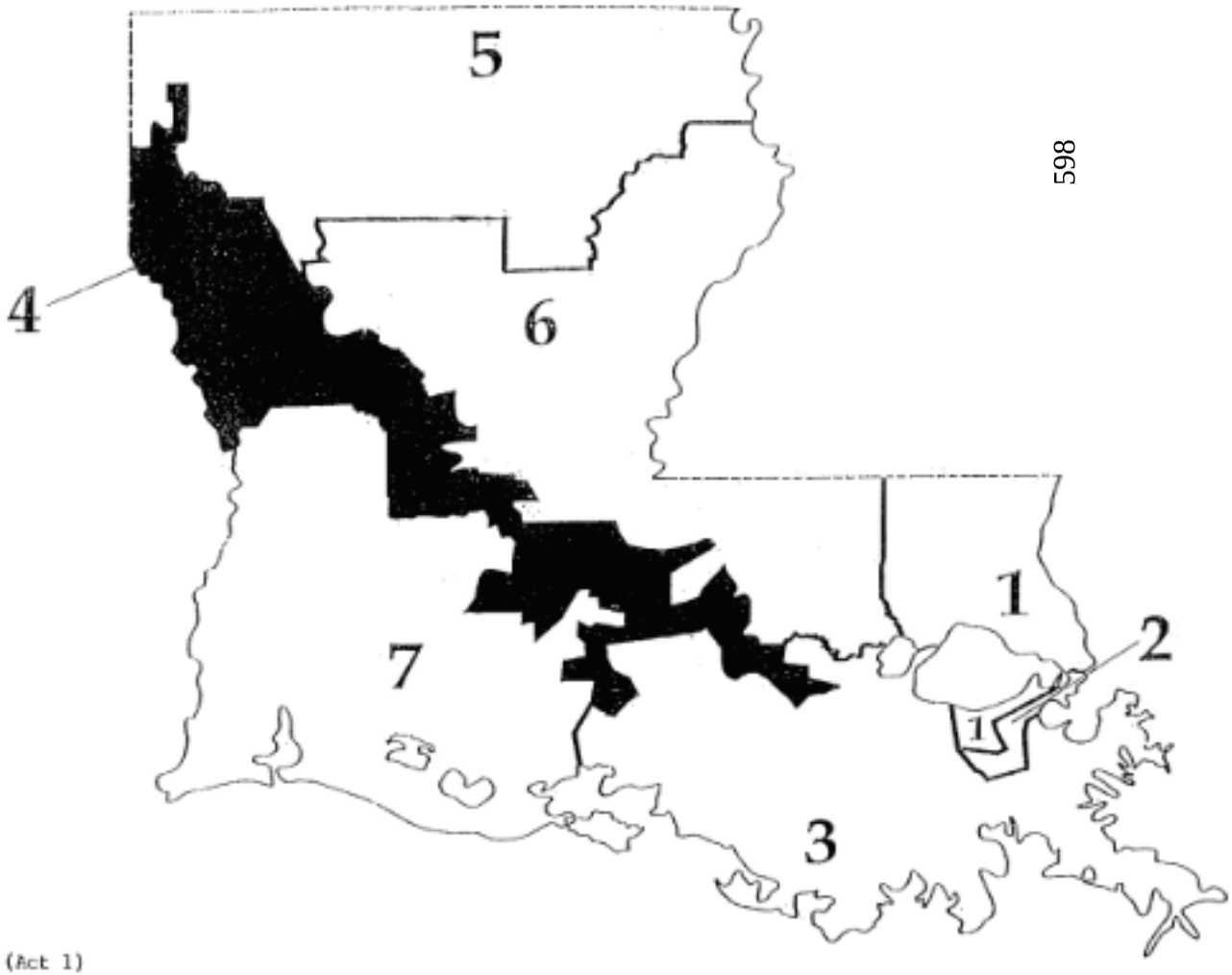
Map 4– Plaintiffs' Illustrative Plan 1



598



(Act 1)

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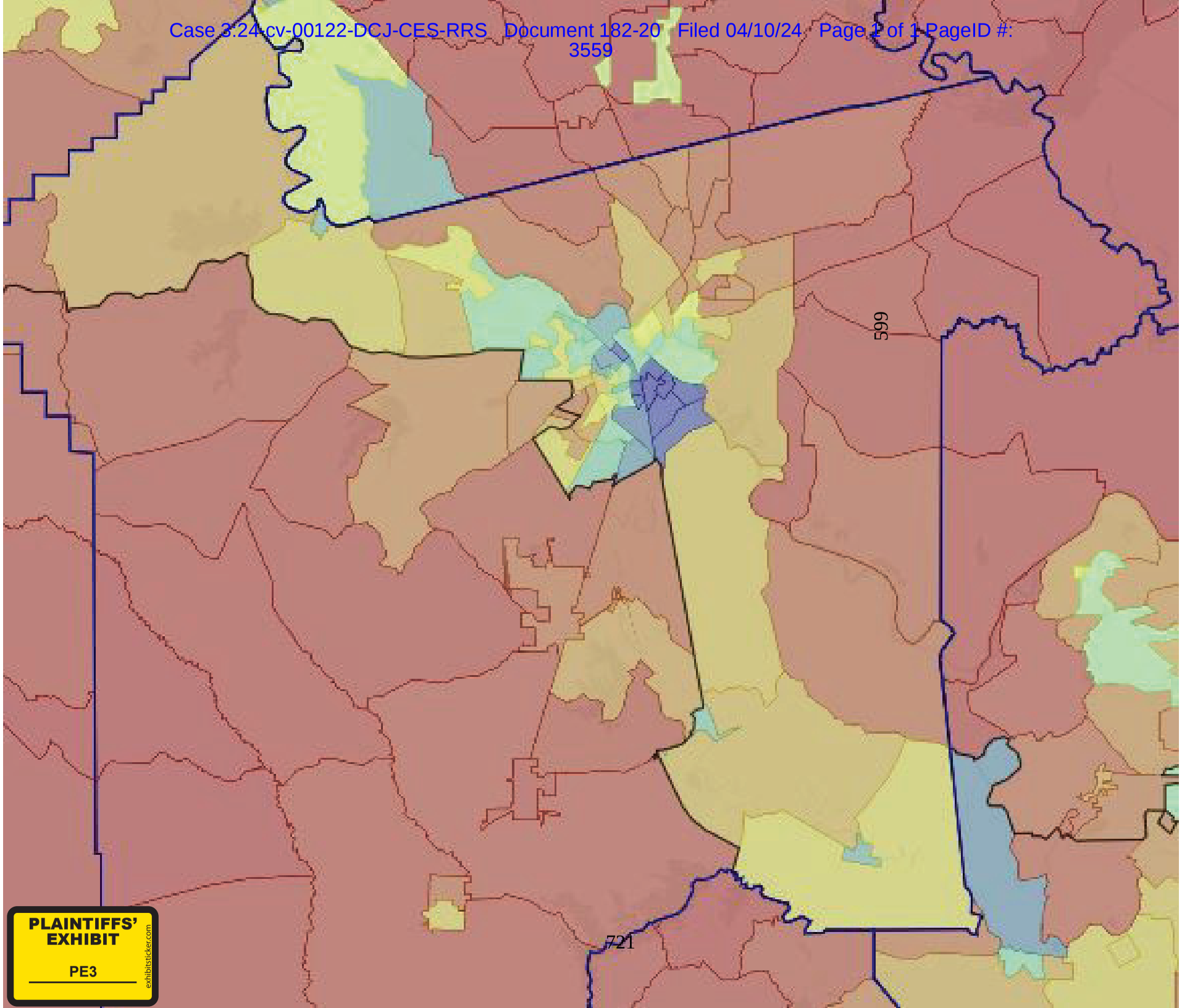
exhibitsticker.com



PLAINTIFFS' EXHIBIT
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PLAINTIFFS' EXHIBIT

PE4

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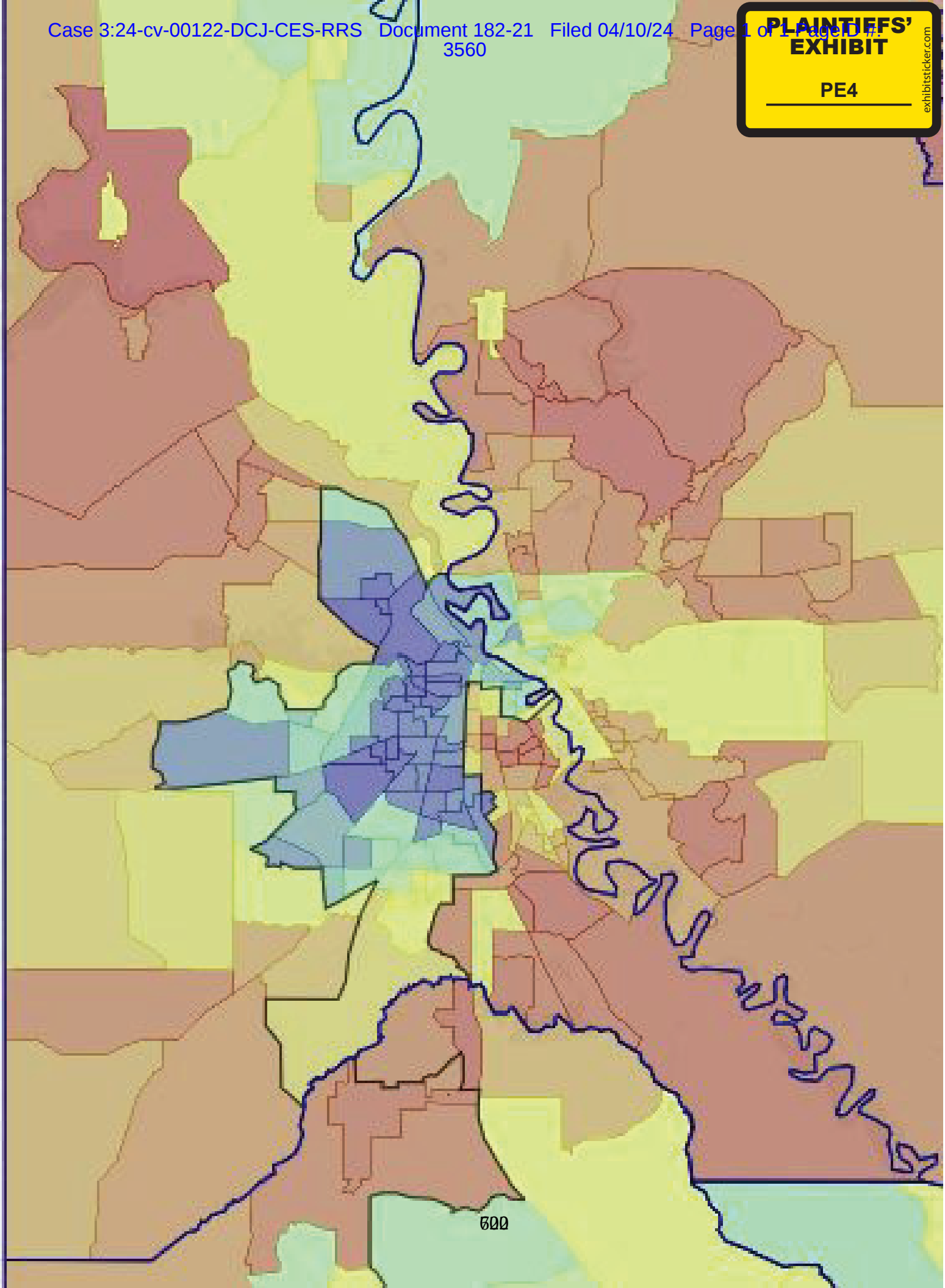

Map	Compactness of the (P & P)	(Reock)	Entire Scheme (KIWYSI)
2022 Enacted	0.14	0.35	26
2020 Obsolete	0.14	0.33	25
2024 Enacted	0.11	0.30	19

Table 1: The 2024 Map is Less Compact than its Predecessors

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PE6
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Map	Overall P & P	Overall Reock	Overall KIWYSI	2nd Black P & P	2nd Black Reock	2nd Black KIWYSI
Price/ Ma rcelle	.19	.39	37	.10	.37	14
Ro binson	.18	.41	35	.10	.39	17
Carter	.16	.38	32	.07	.35	9
Echols	.14	.29	23	.07	.21	9
2024 E nacted	.11	.30	19	.05	.12	1

Table 7: Compactness of the Entire Scheme and 2nd Black District: Enacted Map is the Worst

724

PLAINTIFFS' EXHIBIT
PE7
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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	Case No. 3:24-cv-00122-DCJ-CES-RRS
v.	)	District Judge David C. Joseph Circuit Judge Carl E. Stewart District Judge Robert R. Summerhays
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	Magistrate Judge Kayla D. McClusky
Defendant.	)	

THE PARTIES' DESIGNATIONS OF THE 2024 FIRST LEGISLATIVE SESSION

COME NOW Plaintiffs Philip Callais, Lloyd Price, Bruce Odell, Elizabeth Ersoff, Albert Caissie, Daniel Weir, Joyce LaCour, Candy Carroll Peavy, Tanya Whitney, Mike Johnson, Grover Joseph Rees, and Rolfe McCollister (collectively, "Plaintiffs") by and through counsel and designate the following:

January 15, 2024 House Governmental Affairs Committee Hearing	
Start	**End**
Attorney General Murrill: 36:1	37:1
Attorney General Murrill, Rep. Marcelle: 43:22	45:14
Attorney General Murrill: 48:13	49:7
Rep. Farnum, Attorney General Murrill: 52:14	53:15
Rep. Carter: 57:11	57:14
Attorney General Murrill:	

61:20	62:12
Attorney General Murrill: 62:24	63:5
Attorney General Murrill: 67:17	67:24
Attorney General Murrill: 76:12	76:22

January 17, 2024 Senate Floor Session	
Start	**End**
Sen. Womack, Sen. Morris: 3:19	8:6
Sen. Morris, Sen. Womack: 8:21	9:8
Sen. Womack: 12:4	12:9
Sen. Carter: 15:14	17:5
Sen. Duplessis: 21:8	21:25
Sen. Pressly: 22:7	23:25

January 18, 2024 House Governmental Affairs Committee Hearing	
Start	**End**
Sen. Womack: 5:8	5:12
Sen. Womack: 6:25	8:5
Rep. Marcelle, Sen. Womack: 9:9	9:18
Rep. Boyd, Sen. Womack: 13:6	13:18
Rep. Beaullieu, Sen. Womack: 26:12	27:3
Rep. Beaullieu, Sen. Womack: 27:21	28:4

Rep. Lyons: 75:24	76:21
Rep. Newell: 89:8	89:21
Rep. Marcelle: 101:08	101:16
Sen. Womack: 121:19	122:1

January 19, 2024 House Floor Session	
Start	**End**
Rep. Beaullieu: 4:15	8:10
Rep. Amedee, Rep. Beaullieu: 9:3	9:8

January 19, 2024 Senate Floor Session	
Start	**End**
Sen. Morris, Sen. Womack: 5:14	7:4
Sen. Cathey: 8:7	8:18
Sen. Luneau: 10:5	10:9
Sen. Carter: 10:13	10:17

Dated this 7th day of April, 2024

Respectfully submitted,

PAUL LOY HURD, APLC
/s/ Paul Loy Hurd
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kgraves@gravesgarrett.com
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I do hereby certify that, on this 7th day of April, 2024, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

/s/ *Edward D. Greim*
Edward D. Greim

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House Governmental Affairs Committee Hearing -Audio Transcription

January 15, 2024

Phillip Callais, et al.

vs.

Nancy Landry

REPRESENTATIVE GADBERRY: That's the one that she looked at though, that she rejected?

MS. LOWREY-DUFOUR: Well, I mean -- and -- and also there have been other plans --

REPRESENTATIVE GADBERRY: Okay.

MS. LOWREY-DUFOUR: -- that have been submitted by plaintiffs to the court.

REPRESENTATIVE GADBERRY: And -- and would you say that Act 5 did not meet the redistricting criteria?

MS. LOWREY-DUFOUR: Representative Gadberry --

REPRESENTATIVE GADBERRY: I know. You're not (inaudible 0:43:45) --

MS. LOWREY-DUFOUR: That is a -- that is a legal matter that is currently the subject of litigation in the Middle District, and again, much more appropriately addressed by our chief legal officer.

REPRESENTATIVE BEAULLIEU: Yeah. We can let our attorney general handle that one.

REPRESENTATIVE GADBERRY: Okay. Thank you.

MS. LOWREY-DUFOUR: Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Ms. Lowrey. Members, as -- as you all were just -- got a -- got a teaser from Representative Gadberry, we have our attorney general here with us, Ms. -- Ms. Liz Murrill. She's going to join us and give us an update on the

litigation. And I see Ms. Murrill has a familiar face with her, so I'd like to welcome back to the House of Representatives former colleague Representative Larry Frieman. Welcome, welcome, Mr. Frieman.

MR. FRIEMAN: Thank you, Chair. Thank you, members. It's -- I'm glad to be back. And sitting on this side of the table is a familiar place --

REPRESENTATIVE BEAULLIEU: Yeah.

MR. FRIEMAN: -- for myself as well. So thank you for having me.

REPRESENTATIVE BEAULLIEU: If you wouldn't mind, everyone, and introduce yourself for the committee, and then it's all yours.

MS. MURRILL: Thank you, Mr. Chairman, and members of the committee. It's great to be with you today as your new attorney general. I'm Liz Murrill. I also have with me Tom Jones who is the new director of the civil division and has been involved in the litigation. And now, chief deputy -- almost chief deputy, assuming you confirm him, is Larry Frieman. So that'll be before you soon, too.

I -- I -- I want to tell you that redistricting is hard. I'm not going to tell you this is easy. I -- I think that you did a -- you did the best job you could before. We've been in litigation.

The last time redistricting, in the 1990s, it -- it was -- when the second majority/minority map was drawn, we ended up in litigation for a decade. So there is no guarantee that when you do this again, we won't still be in litigation. But we are in litigation now.

The District Court judge has conducted a fact-finding mission - that's what will -- what always happens - and made fact findings regarding the map. She issued an injunction. That injunction is not currently in effect for reasons that I can explain to you, but I think the bottom line is it is not currently in effect because the deadlines for the election that it enjoined are -- are over.

The courts, nevertheless, have told us to draw a new map, and they have indicated that we have a deadline to do that or Judge Dick will draw the map for us. So you have an opportunity now to go back and draw the map again. And -- and I think that it is not an easy task because the United States Supreme Court has not made it an easy task. They've given you some directives that seem to be -- to not give you a lot of clear lines for doing your job. I -- I apologize on their behalf for -- but, you know, we tried.

I mean, I am defending that map, and so you won't hear me say that I believe that that map violated

the redistricting criteria. I'm defending that map, but I will defend your new map if you draw a new map. So, you know, it's an act of the legislature. My job is to defend the work of the legislature, and I will do that to the very best of my ability.

I think that the difficulty is that in the Merrill v. Milligan case, which was the Alabama litigation that preceded ours, the Supreme Court issued an opinion. And it says that in a Section 2 disparate impact claim, which is different really from the work that you did -- you did your work. You did it in good faith. But they can -- they -- the plaintiffs will go to court, and they will make a disparate impact claim, and that's what gets litigated.

That has nothing to do with whether your intent was nefarious or not. Everyone can have had the right intent and followed the rules as they believed they were given to them, and go to court. And the court can still say, "Under Section 2, there's a disparate impact. And because there's a disparate impact, you have to go back and do it again, or I will do it for you."

And that is -- that is the short version of what Judge Dick has held and what has not been overturned by any court that we have brought it before,

that core retention is the part that the court has given the least amount of attention to in this process now, that once you are trying to redraw the map, I think that core retention takes -- is -- becomes a less important factor under Merrill v. Milligan.

REPRESENTATIVE THOMAS: Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Representative Thomas. Representative Marcelle.

REPRESENTATIVE MARCELLE: Thank you. Let me start by congratulating you. I don't know if I should say congratulations or condolences. I'm not really sure. Congratulations.

MS. MURRILL: Well, I asked for the job, so thank you.

REPRESENTATIVE MARCELLE: Okay. Let -- let me just go over a couple of things that you said, and -- and so I can be clear in what you're -- what you're telling us today. Number one, you said you're going to defend the map, Act 5, that they presented because that is your job to do so, correct?

MS. MURRILL: Yes.

REPRESENTATIVE MARCELLE: And so --

MS. MURRILL: I am defending it now.

REPRESENTATIVE MARCELLE: Correct. Because that's -- that's what we hired you to do, to defend us,

right? And if we pass another map, you'll defend that map as well?

MS. MURRILL: That's correct.

REPRESENTATIVE MARCELLE: The other thing that I -- I -- I -- I -- I -- I heard you say was this is a -- the judge has fact-finding matters. Can you kind of elaborate on what that means? Is that -- that's based upon the testimony that was presented by the plaintiffs; is that accurate? And -- and the -- and the defense, obviously, she took both -- both matters into consideration when she was doing her fact finding.

MS. MURRILL: She did. That doesn't mean I agree with them.

REPRESENTATIVE MARCELLE: Okay. So --

MS. MURRILL: And I -- and I think that it's also a product of -- this is part of what's frustrating, I think, for the legislature when it goes into litigation because people can -- like, experts, for example, that are hired by the plaintiffs, no matter who they are -- this could happen on the new map. Right? Those experts can come and testify in court, and the judge can control that testimony. In our case, it happened in a very, very short, short turnaround in a preliminary injunction hearing which is different from a trial on the merits. We've never had a trial on the

merits.

So, you know, the -- the -- the court -- the judge, whoever that judge may be, has an enormous amount of control over how much testimony is allowed and by whom, and -- and how much time we will have to do that. That was all very, very compressed when we litigated this right after the map was passed. We have not had any other fact finding because we haven't had a trial on the merits. I have raised an objection to that because I think that you are entitled to have a trial on the merits, but the courts have not accepted those arguments at this point.

They have told us to go back and draw the map, and they have given us a deadline. So, you know, I am making the same arguments that I would make on the new map. But at the -- at the same time, you know, the -- the courts haven't given us a lot of safe harbor to go litigate --

REPRESENTATIVE MARCELLE: Okay.

MS. MURRILL: -- the rest of this case. They've said, "Go do this."

REPRESENTATIVE MARCELLE: So it's -- it -- it is a fact that we do have six congressional districts in Louisiana? That is --

MS. MURRILL: It is.

REPRESENTATIVE MARCELLE: -- a fact, right? Is -- is it also a fact that a third of that -- the population is African American?

MS. MURRILL: Approximately, based on the data. I would also point out that 50 percent are women. I mean, there are other -- there are other population, you know, and gender and differences -- like, that's why Section 2 has never been -- I mean, it is expressly stated in Section 2 of the Voting Rights Act that this is not an act of proportionate dividing. That is not permitted under Section 2. And so we can't just take that number and say that's -- that's how we do this, because it's not that simple and that's actually not permitted under the law.

REPRESENTATIVE MARCELLE: So -- so it's not permitted to say that we have six congressional districts, and of those six congressional districts, we -- we talk about community interests, I think was one of them. So do you believe that all five of the other districts has all the community interests impacted in those, and African American districts only should have one?

MS. MURRILL: Representative Marcelle, the -- the -- the -- the job of drawing the districts is yours.

REPRESENTATIVE MARCELLE: I get it.

MS. MURRILL: It's not mine.
REPRESENTATIVE MARCELLE: Right.
MS. MURRILL: And I -- I am defending what I believe to have been a -- a defensible map. And if you draw a new map, I will defend that map. Judge Dick has put us in a -- in a position -- and the Fifth Circuit, the panel that reviewed that decision, and the whole court, when I asked them to go en banc, by declining to go en banc, have put us in a position of where we are today, where we -- we need to draw a map. So I'm here to tell -- I'm not here to tell you don't draw a map. I mean, I think we do have to draw a map --
REPRESENTATIVE MARCELLE: And -- and --
MS. MURRILL: -- and I will defend that map.
REPRESENTATIVE WYBLE: And -- and my final question. I heard Representative Beaullieu talk about two-thirds of the legislature approving this map and -- and -- and voting for it. Beaullieu. I'm sorry.
(Simultaneous speaking.)
REPRESENTATIVE MARCELLE: Beaullieu?
(Simultaneous speaking.)
REPRESENTATIVE MARCELLE: I just call you Beau, so I'm -- I'm trying to get your real name because --
REPRESENTATIVE BEAULLIEU: We'll -- we'll --

REPRESENTATIVE MARCELLE: -- I been calling you Beau.
REPRESENTATIVE BEAULLIEU: -- we'll work on you --
REPRESENTATIVE MARCELLE: Yes.
REPRESENTATIVE BEAULLIEU: -- Representative Marcelle.
(Laughter.)
REPRESENTATIVE MARCELLE: So Beaullieu -- I always call him Beau. But Beaullieu, I -- I -- I -- I heard him say that two-thirds of the legislature voted for this map. And he's absolutely accurate because the majority of the legislature would support this map because it benefits them. We talked about, you know, our districts and our interests. What I did not hear him say is -- because I sat at that table on the other side and presented a map, and none of the maps that we presented got out of this committee.
So it's, you know, it's unfair to say, "Okay, we passed it with the majority of the people," because a majority of the people would support us not having an -- an additional African American representation in another district. I get that. But it's not fair to say that those arguments weren't made to -- to support that. I was one of those that made the argument to support an

additional congressional map. And I think what we're hearing from Judge Kelly Dick is --
MS. MURRILL: Shelly Dick.
REPRESENTATIVE MARCELLE: -- Shelly Dick is that the map is not fair for the state of Louisiana. And -- and what I -- what I agree with her on is that if we cannot -- and we had an opportunity to draw this map ourselves and we did not do it as it supports Section 2, in my opinion. I know you gave yours, but this is my opinion. So then we will allow her to draw that map if we can't do that. We can't draw a map right now, right? Is that accurate?
MS. MURRILL: So what will happen if you do not draw a map is that she has set a trial date. It's very, very quick, and we will still be operating under the old map. So we will move forward then with a trial on the -- under the old map. There'll be a trial on the merits, the same record I think that was presented, and Tom can affirm or -- or correct me if I'm wrong, but the -- the record from the preliminary injunction hearing will all go into the -- into the -- into the court record, and we will look at whether we want to have additional testimony. And that trial will move forward.
I -- I don't expect Judge Dick to change her position. I think she will draw a map, and -- and so

you are getting the first opportunity to do that. I mean, we could have -- in theory, we could have had a trial on the merits, and she could have said, "I don't --" you know, again, "I don't like the old map," and -- or, "I don't like the map that you drew and I'm going to redraw your map." But as a matter of law, you get the first shot at doing that, so.
REPRESENTATIVE MARCELLE: No. We get the second shot at doing it. Thank you very much, though.
REPRESENTATIVE BEAULLIEU: Thank you. Representative Marcelle. Representative Farnum.
REPRESENTATIVE FARNUM: Thank you, Mr. Chairman. So a couple of things. So the -- the parallel that the argument has been based on is the -- the case in Alabama; was that the one?
MS. MURRILL: Yeah. The Alabama case was litigated just, you know, a few months ahead of ours, and so it went up to the Supreme Court before ours did. And so we've basically been held -- our case was held in abeyance pending the outcome of that case.
REPRESENTATIVE FARNUM: So -- and that was a seven-member district, right?
MS. MURRILL: I believe so.
REPRESENTATIVE FARNUM: So -- so they were trying to reach a second district in a seven-member

state. So would you say, just in your opinion, is it harder to -- to draw two of six than it is two of seven, just based on the compactness of the population of that state? Because wouldn't you say that every state has a different compactness, there's no two states that are identical, and maybe it's easier in one state, that maybe the compactness is -- is much more centrally located to reach that conclusion. Wouldn't -- would you agree with that?

MS. MURRILL: I -- I would agree with you that every state is different and that -- that our population -- how our population is spread out is -- is different from every other state.

REPRESENTATIVE FARNUM: Would -- would you --

MS. MURRILL: So our population is -- our population, I think, is relatively close to theirs. I -- they'd probably have a little more population because they still have seven districts. You know, we -- this isn't going to be easy. I -- I didn't -- that's why I started out by saying, "I'm not here to tell you this is an easy job." You have a hard job. Our state is different. Every state is different from each other, and -- and you have to do this based on the facts in our state.

We have argued in our case that our state is

different from Alabama with regard to -- so that they -- the fact findings aren't -- can't be the same. We're not the same. Our history isn't the same. Our history of redistricting and redistricting litigation is not the same. And we -- we brought those issues up, and here we are still, so.

REPRESENTATIVE FARNUM: I -- I -- I know. I spent the better part of three years going over this. I was on the committee last time and sat through numerous, numerous meetings on -- on this across a period of the three years. Help -- help me understand how the -- the voting-age population factors in when the voting -- the Black voting-age population is lower than the total population in the state. How does that factor in?

MS. MURRILL: You want to take that one?

MR. JONES: Yeah. The -- the judge --

MS. MURRILL: Introduce yourself just quickly again.

REPRESENTATIVE BEAULLIEU: You're on. You're on.

MR. JONES: The judge here in the Middle District has based her rulings on the Black --

REPRESENTATIVE BEAULLIEU: If you don't mind, could you kind of speak into the mic a little bit? Or you can pull the mic to you, I believe, as well.

MR. JONES: I'm sorry. My name is Tom Jones. I'm the director of the civil division in the attorney general's office.

The judge has principally based her ruling on Black voting-age population. That's what she's used as the primary criteria. Then the experts take that Black voting-age population, and they're very clever people, and they do very clever things with those numbers. They can persuade you on one side that the Black voting-age population should be analyzed this way, and the other experts can convince you of just the opposite the next day. But Black voting-age population has been the primary criteria for this judge's rulings.

REPRESENTATIVE FARNUM: Because you did say something earlier, that -- that race cannot be a determining factor of -- of why you draw maps.

MS. MURRILL: It can't be the predominant factor.

REPRESENTATIVE FARNUM: Isn't that the only reason we're here right now?

MS. MURRILL: You know, we're here because of --

REPRESENTATIVE FARNUM: But isn't that the predominant reason?

MS. MURRILL: -- the court's telling us we

have to be here. I mean, I -- I think that's part of it. You know, the -- I mean, I'm defending the map. I'm going to defend the new map. I -- I want you to know, I mean, if you draw a new map, I'm defending that map, so.

REPRESENTATIVE FARNUM: I -- I agree.

MS. MURRILL: I'm not going to say that, you know, I mean, I think -- I don't -- I have complaints about how this case was managed, I mean, not by our litigators, not -- you know, I just think that we need -- we should have a trial on the merits. I've always -- I have argued that in court. I have signed off on those pleadings. I still believe that that's true. The courts have told us to do this by a certain date or it's going to be done for us.

REPRESENTATIVE FARNUM: I -- I think the circular fashion of -- of the 14th, the 15th Amendment, and this Section 2 of the Voting Rights Act is a circle. So it -- it -- it sends you in this race to chase your tail to try and accomplish what you're trying to accomplish. And -- and each one contradicts the other one in the circle. So you end up in this never ending loop of -- of how do you accomplish what we're tasked to do here.

We did look at a lot of maps and -- and, you

1 know, I -- I personally think that the one we passed was
2 -- was a very legal, legitimate map. And -- and -- and
3 we'll do the best we can with what we have. So,
4 appreciate your time today. Thank you, Mr. Chairman.
5 REPRESENTATIVE BEAULLIEU: Thank you,
6 Representative Farnum. Representative Carter.
7 REPRESENTATIVE CARTER: Thank you, Mr.
8 Chairman. I -- because this committee meeting is being
9 viewed by people throughout the state, I think it's
10 important that we be honest and -- and -- and -- and put
11 the whole picture, why we here, how we got here. It
12 seemed to be an impression that the old Judge Dick's
13 begging us, trying to make us do something even though
14 we've done the right thing.
15 Is it not true that the judge's job, her task,
16 is to look at the law, first the law, the -- the
17 jurisprudence of reapportionment, and look at the -- the
18 -- the -- the statute that's been passed,
19 reapportionment and other criteria that Congress and --
20 has given us, to see if we went about this the right
21 way. She just didn't come up the side to say, "I'm
22 going to make them have another Black district." That
23 is not her job. And -- and -- and she did anything
24 contrary to that, she certainly would have been reversed
25 quite quickly.

1 But -- but -- but what she did, she looked at
2 the law, and there was -- there was -- there was a
3 request made by motion to -- to -- as to whether or not
4 the plaintiff would succeed on this problem with
5 disparity and what have you if they went to trial. And
6 she pretty much said, after studying the law and
7 studying the facts and what actually took place in this
8 legislature, she decided it would probably succeed. So
9 she asked the legislature to go back and try to do this
10 over again the right way. And the legislature has that
11 opportunity. We could get nothing done, okay?
12 So now the judge -- it will stay -- the
13 attorney general office -- she -- she expressed that she
14 wanted another map and she -- a better map, she thought,
15 that's more legal. And so she -- she asked the
16 legislature to -- there was a state made by the attorney
17 general's office, and that was granted by the Fifth
18 Circuit.
19 And because of the Alabama case -- and Alabama
20 is different from -- first of all, Alabama has 26
21 percent population of African Americans. Louisiana, 33
22 percent. Alabama has a larger overall population than
23 Louisiana as well. That's why they have seven
24 congressman. But -- but you can't compare Alabama to
25 Louisiana.

1 But the law is pretty much the -- it's the
2 same. So based on that law, that judge says, "Well,
3 y'all either going to do a map, or I'm going to do a
4 map." So -- so he gave us another -- a third time to do
5 the map. Now, if you look at the analysis of the -- of
6 what we done the last time, there was about eight maps
7 that were presented to this House and Government Affairs
8 Committee, but there's only one map, the speaker map,
9 House Bill 1, that was even considered, seriously
10 considered.
11 I mean, there was some people came to the --
12 to the table and -- and talked about these other maps,
13 but -- but -- but it was asked by the speaker then --
14 the then speaker who was carrying the House Bill 1, "Did
15 you look at Section 2 of the Voters Right Act? And did
16 you try to comply this map with Section 2?" And the
17 speaker said no.
18 "Well, did you look at the disparity that this
19 map represents? It's just common sense. If you got a
20 third of the population that is African American and --
21 and -- and 33 -- over 33 percent, did you look at those
22 -- those figures? You don't have to be the primary
23 criteria, but you got to first look at whether or not
24 it's a -- it's appears to be a fair map and complying
25 with the 14th Amendment, Section 2 and other -- other of

1 Supreme Court jurisprudence?" He said no.
2 He said that he -- he -- he -- he -- this is
3 his map that he's presenting, and he didn't -- let the
4 lawyers worry about all this other stuff. This is his
5 map. So the -- the -- the record -- the record of the
6 -- and I tried to tell him this because I was asking
7 questions to this -- to -- on House Bill 1, like
8 everybody else, "Why this map have a problem?" And so
9 -- so -- so the legislature knew the map had a problem,
10 but they wouldn't listen to anybody else.
11 So while I agree that the -- your
12 representation that race is not the -- the sole factor,
13 the -- the fact is you got to have six divided equally,
14 okay? And -- and if it -- but -- but -- but Section 2
15 says if you've got a group that is compact, that is
16 compact and that vote certain voting patterns, that you
17 should try to create a map that allow that group to
18 represent a person of their choice. That's all it says.
19 So I asked the speaker, "Did you look at Section 2 and
20 try to come up with a map that does that?" He said,
21 "No, I didn't."
22 So it's the speaker's and -- and -- and the
23 legislators' testimony in the record that caused them
24 the problem they had when it went to the judge. Had
25 they said, "We looked at Section 2, we tried to comply

with Section 2 but we couldn't because the Black population is so dispersed in the state. We could not get another district that was compact," they didn't say that, didn't even try. So that's why the state is in the position it's in, not because somebody is out there -- some federal judge is out there trying to make Louisiana have another -- another minority district now.

However, I do agree that we need to have this opportunity, and it's wonderful to have this opportunity to try to create a map that will comply. Now -- now -- and I think that I applaud the governor because I think the governor wants to do the right thing. The new governor wants to do the right thing. He wants to have a map to -- so we can do our own map and not a federal judge. And I support that. And so -- but I don't want to give the impression that federal judge is just a bad, bad monster, is trying to make us do something we shouldn't do. She has to comply with the law.

Now, the Supreme Court has reviewed what the -- the -- the -- the attorney general's office presented there on confection of the state, and it's really -- they -- they denied that. It's the United States Supreme Court saying you got to go back and do this map, not just Judge Dick, okay? So -- so we need to accept the fact that the map we had, based on the record, based

on the testimony presented here in the legislature, based on the debate in the legislature, based on the law, that it was not in compliance.

Now, you can differ. People can differ because they -- they don't like what the law says, maybe, or they want to twist the law. But the fact of the matter is it's not a sustainable map. This map is not sustainable that we have now. And so we have a chance to do that and not offend too many political notions at the same time.

And so I just -- I just want to make that -- put that in the record that -- that this is a effort on the part of people of different political interests to try to resolve the issue that had been defined by -- by Supreme Court decision and by federal statute, and -- and try to come up with a district that is acceptable.

That's what we're trying to do, you know. And it doesn't mean that you're a bad person or you -- or you got a problem because you supported that last map. It's just that the record did not support -- we didn't get enough input from other people that had concerns about it. We didn't allow people to have -- have -- put their input in. Had we putting three or four maps on the floor and explain why we putting on the floor, that might have been different. Have we tried to do what the

-- what the Supreme Courts over the years have told us to do?

I happened to be on the legislature in '84 to '92 when we wrote a lot of the reapportion maps. Okay. So this problem been around a long time. So we -- and -- and so we had -- oftentimes, federal judges had to put us on the right track, say, "Okay. Y'all doing good. Y'all working in the right direction, but y'all got to go back and do this over again." And that's what she did.

REPRESENTATIVE BEAULLIEU: Thank you, Judge Carter. Vice-chairman Lyons.

VICE-CHAIRMAN LYONS: Thank you, Mr. Chairman. Is it Ms. Murrill?

MS. MURRILL: Murrill.

VICE-CHAIRMAN LYONS: Murrill. I'm sorry, sorry. I -- I -- I have a question for you, but before I get into my question, I just wanted to note that as we talk about the Voting Rights Act and -- and the premise of a lot of things that we've done, today is actually the holiday of Martin Luther King Day, today, which his actual birthday is tomorrow. This is -- the observance of it is today. So a lot of us question, you know, as the federal holiday (inaudible 1:14:43) was -- was empty, what have you, is why we're here today.

So I just want to just remind everyone that one of the things that Martin Luther King did say was there's never a wrong time to do the right thing. So we're here today and we would not have any other, I guess, issue -- he wouldn't. Now we're doing something that we'll be doing to correct where we at and -- and so forth. But my question to you, ma'am, is you alluded to earlier that you want to have a -- preference to have a trial on the merits, that you were requesting -- asking for.

So as a body here, as we're going to be going through this process, can you outline to us in any form necessary that -- to get it across, what were some of those merits? Because I'm assuming when you say the trial on the merits, you mean that the merits of -- of the decision that you may have had difference with, you had other merits that you wanted to talk about or maybe defend in the -- in the fact-finding portion that was not revealed.

MS. MURRILL: So, Representative Lyons, when we went into this litigation right after the legislature completed the map drawing process, we went into a very, very compressed hearing on a motion for a preliminary injunction. That is a different standard. It was very compressed. We did not have the -- the length of time

1 that we would ordinarily have for a full trial.
2 I believe that -- I mean, this is -- you can
3 blame it on the litigator in me, which is fine, but I
4 believe that it -- that -- that the state and -- and I
5 believe this under the new map that you pass, that we
6 should be entitled to have a trial on the merits --
7 merits before we are forced to go in and change an act
8 of the legislature. That is just a fundamental premise
9 that I have about acts of the legislature and us being
10 required by the courts to redo them. That -- that -- as
11 a practical matter, we did not have a lot of time, but I
12 have lost -- we lost on that issue.
13 I mean, we -- we did. Not just me, but the
14 entire litigation team, including the lawyers who
15 represented the legislature or the -- the -- the speaker
16 and the -- the president of the Senate at the time and
17 the secretary of state. We asked to have a trial on the
18 merits set before you were required to go into session,
19 and we offered to do it quickly. So just to be clear,
20 we were not trying to delay. We offered to do it in
21 November. There was another trial set. I mean, we
22 tried to do this quickly so that we could have a
23 complete record upon which whatever the decision was.
24 And we did not believe that Judge Dick would
25 change her decision, but we still believe that the case

1 should be before the courts on a complete record. It is
2 not, because we weren't -- we never had a trial on the
3 merits. The courts have told you to go back and draw a
4 map. And they said, "We can have a trial on the merits,
5 but we can do that after you draw a map."
6 So as a -- I mean, just fundamentally as a
7 lawyer who represents the -- you and defends the laws
8 that you pass, your laws -- if you have a law that you
9 pass, that you feel very strongly about, and the entire
10 legislature has voted for it even though some people may
11 disagree with it, then I will defend your law. And I --
12 I think that -- that you are entitled and the
13 legislature is entitled to that defense. So that's the
14 point that I was making. I -- I don't think any of
15 these cases should be tried and decided at the
16 preliminary injunction stage. I think we are entitled
17 to a trial on the merits.
18 And -- but at this point, the courts have told
19 you -- the federal courts have told me and they have
20 told you that we don't get that right now. You -- you
21 get to have this session right now, or Judge Dick is
22 going to draw the map for you. So, you know, I'm not
23 here to say, "Don't draw the map." I'm here to tell
24 you, "Draw the map."
25 VICE-CHAIRMAN LYONS: Okay. Thank -- thank

1 you very much. Thank you, Mr. Chairman.
2 REPRESENTATIVE BEAULLIEU: Thank you,
3 Representative Lyons. Representative Gadberry.
4 REPRESENTATIVE GADBERRY: Thank you, Mr.
5 Chair. Ms. Murrill, if we draw a new map and Judge Dick
6 decides she don't like that one, do we start all over
7 again, or will she immediately draw a map? I don't
8 think she's capable of drawing a map, number one. I
9 just don't think she could do it. But --
10 MS. MURRILL: She -- I mean, no federal judge
11 does this without a demographer helping. I mean,
12 they're -- she'll appoint -- she will ask for experts.
13 She will ask for the maps to be submitted to her with
14 expert testimony, and then she will -- typically, she's
15 probably going to decide which map to take, but she can
16 tweak those lines. She can decide how to draw the map,
17 how she wants to draw this map based on the input of the
18 experts from both sides. She could appoint her own
19 expert and have that expert assist her in the
20 map-drawing exercise.
21 And remember, you've been through this before.
22 A large part of this exercise is done through computer
23 generated maps. So, you know, you put the numbers in,
24 you start changing -- you change the inputs, it spits
25 out a new map. She's going to have to go through that

1 same process that you did, and then -- and then we
2 continue. So I -- I mean, I can't tell you that the
3 plaintiffs will accept the map that you draw. She has
4 established a timeline for the plaintiffs to amend their
5 petition and challenge that map, and then we will -- we
6 will go through the process again to determine whether
7 or not that map is acceptable.
8 REPRESENTATIVE GADBERRY: And for four years
9 on this committee previously, I spent hours upon hours
10 looking at this map, all the maps. And I looked at the
11 plaintiff's map, so to speak, that they presented before
12 this group, and I didn't feel like any of those met the
13 criteria. The -- the -- the overriding factor, I guess,
14 was they had gerrymander lines, which is against the
15 Voting Rights Act. So I'm hearing that you said that
16 the map -- that the current map that's been rejected, I
17 guess, by the judge, has it been to the US Supreme
18 Court? Because that's the next step.
19 MS. MURRILL: It has not. It -- the -- the --
20 the US Supreme Court can decide whether to take a case
21 or not take a case.
22 REPRESENTATIVE GADBERRY: Right.
23 MS. MURRILL: They have not taken our case.
24 They took our -- they -- they stayed our case last
25 summer while the Alabama case went forward and was

1 litigated. They said, "You just wait." They thought we
2 had made a good case for a stay and so they paused our
3 case while they decided that one. But they did
4 something and these -- this is kind of a term of art,
5 but I mean, they granted cert in advance of judgment.
6 That means they actually took our case, and then after
7 they decided the Merrill case, the Alabama case, they
8 just vacated their own grant and sent it back to us.
9 So in a way, they took our case, and then they
10 vacated their own decision to take our case and they
11 sent it back down to the Fifth Circuit and to judge
12 Dick. And so it's -- it's back in the hands of the
13 District Court judge who is supervised by the Fifth
14 Circuit Court of Appeals. And so there has been some
15 litigation between August and, really, through the
16 summer since the Merrill case came out all the way
17 through the time that the opinion was issued in
18 November, I think, from the Fifth Circuit where a panel
19 of the Fifth Circuit said, "You need to go draw a map by
20 February 15th."
21 So they actually suggested we should have done
22 this before -- before we legally, really -- or -- or --
23 or I think it was practically possible to even get it
24 done. But, you know, here you are. I think the
25 governor heeded that call that -- that -- that demand.

1 I mean, we've had it reviewed by a number of judges.
2 They have had nothing to say about our arguments. It's
3 been radio silence. And so the only decision that
4 remains in front of us right now is Judge Dick's.
5 And -- and so Judge Dick has set a timeline
6 for us to have a trial. They did say we get to have a
7 trial, but we don't get to have that trial until after
8 you go through this exercise. And, you know, she will
9 do it for you.
10 REPRESENTATIVE GADBERRY: And once we have
11 that trial, we have the opportunity, if she still
12 rejects the map, to appeal that?
13 MS. MURRILL: If she -- if she rejects the new
14 map?
15 REPRESENTATIVE GADBERRY: Or the existing one
16 again.
17 MS. MURRILL: Well, I mean, if she -- if you
18 don't draw a map, then we will be back in front of her
19 for the trial on the merits in very short order and that
20 -- that case will continue. If you do draw a map, then
21 the plaintiffs will have to decide whether they wish to
22 challenge that map, whether they accept that map. And
23 if they accept that map, then -- then the whole case
24 should be over.
25 REPRESENTATIVE BEAULLIEU: Yeah.

1 MS. MURRILL: If they do not accept that map
2 for whatever reason, then if they don't like it, I mean,
3 they may -- it may be a perfectly acceptable map for
4 some people. It may be a second majority/minority map
5 that -- that some people like or that some people don't.
6 So there's no guarantee that someone won't, that they
7 -- that the plaintiffs will like the map. But if they
8 -- they can -- so they could continue to challenge it,
9 and now they will have to go and amend their pleadings
10 and we, basically, will start over because it is a new
11 act of the legislature.
12 REPRESENTATIVE BEAULLIEU: It's going to
13 replace the existing map --
14 MS. MURRILL: It will replace the existing
15 map.
16 REPRESENTATIVE BEAULLIEU: -- Representative
17 Gadberry.
18 REPRESENTATIVE GADBERRY: Well, I mean, along
19 what Representative Farnum -- Farnum was saying earlier,
20 you chase your tail on this thing.
21 MS. MURRILL: Well, that's why I said it's not
22 easy.
23 REPRESENTATIVE GADBERRY: You comply with one
24 part, and you check another part and it doesn't meet the
25 criteria. So you go back and rework your population or

1 your districts, and that doesn't meet. So you're --
2 you're constantly going in a circle.
3 MS. MURRILL: Look, I believe that the United
4 States Supreme Court should give you better
5 instructions. I -- I do. I think that -- that -- that
6 is the argument that we made last summer. And, you
7 know, if -- if you pass a map and somebody else
8 challenges that map, it -- I will make that argument
9 again. I mean, I think that they -- the courts have
10 made this a difficult task for you and -- and so you are
11 doing the best that you can now within the constraints
12 of the rulings of the federal court.
13 So, you know, it's -- it's not an easy task
14 that you have and I believe that the jurisprudence has
15 made it confusing and that the Supreme Court would be
16 well -- I mean, you know, in my opinion, that the
17 Supreme Court ought to make its own jurisprudence
18 clearer to those of you who have the job of drawing the
19 maps. I think that's fair.
20 The constitution makes it clear that it is
21 your job to draw the maps. I believe that it is not
22 correct in terms of the balance of power between the
23 state and federal government, between the constitution,
24 you know, purview of how this should be happening, for
25 the courts to create precedent that makes it impossible

also said that we had maps, and he pointed out the fact that the -- we as -- and I want -- I think it was Rep. Marcelle that said it. We did not have an opportunity to vote on all maps because all maps were not allowed to come out of this committee.

There were options upon options to draw a second minority/majority congressional district, and they went all across the state to give minorities an opportunity to vote for their candidate of choice. They were not allowed to come out of this committee. We sat for a month, six hours, at least, a day, listening to the arguments of -- and the -- the makeup of each map and discussing voting -- voting-age population vs. population. So I understand why we still having those questions because we talked about it ad nauseam.

But when you choose not to do right, that is when the process becomes difficult and it -- it seems as though we can't make a headway. But I want to put it on the record that I didn't vote for none of them maps that came out. I didn't vote for any of the maps that Judge Dick had in front of her because they were not maps that were fair and they were not maps that were taking consideration of all of the citizens of this great state that I call home no matter how unfair or how unjust it is to me.

We still need to look and make sure that Louisiana is a state that it used to be, considering all of her citizens. And thank you for your time, Mr. Chair. I don't have a question for anybody.

REPRESENTATIVE BEAULLIEU: Yeah. Let's try and -- and look -- let's try and keep this to questions for the attorney general. We -- we going to have a time to -- to talk about maps and -- and all that, but if -- like to try and stick to any kind of questions out of respect for the attorney general's time. Representative Schamerhorn.

REPRESENTATIVE SCHAMERHORN: Thank you, Mr. Chairman. Good morning.

MS. MURRILL: Good morning.

REPRESENTATIVE SCHAMERHORN: Welcome aboard.

MS. MURRILL: Thank you.

REPRESENTATIVE SCHAMERHORN: My question is if we do not present a different map, Judge Dick has threatened to draw her map. Is it not our --

MS. MURRILL: Promised, not threatened.

REPRESENTATIVE SCHAMERHORN: Well, okay. Is it not our responsibility as legislators by the -- and protected by the constitution, that our map should be the one that is approved? Now if she draws her own map, when she does, do we still have to approve -- would we

have to approve her map --

MS. MURRILL: No.

REPRESENTATIVE SCHAMERHORN: -- or would it automatically go in force above what the constitution says is our duties as representatives?

MS. MURRILL: So let me kind of -- let me untangle that a little bit. If you draw a map now, that map will become an act of the legislature and it will supersede the prior act of the legislature. The old map goes away.

REPRESENTATIVE SCHAMERHORN: Okay.

MS. MURRILL: If -- if you do not draw a map, then the -- the map that you drew before will remain -- will be the map, and the plaintiffs will continue to litigate that. We will have a trial on the merits. The -- the record from the preliminary injunction will be, probably, supplemented with some additional testimony. She will issue a new ruling and she will issue a permanent injunction against the map. And then that will be litigated, which is my duty. And so I will continue to carry forth my duty to defend against the injunction. That's the process.

If she draws the map herself, then someone could intervene and challenge that map. You know, there are a number of different potential outcomes if she

draws the map. If she draws the map, you know, we could accept that map. You don't get it back. You don't get a second -- you don't get another opportunity to approve her work. The only question is can her work survive the scrutiny of the Fifth Circuit who grades her papers, and potentially, the United States Supreme Court who grades their papers.

And, you know, I think what makes your job a little more complicated is that the prior -- not the -- the exact prior map, but the map before that had been pre-cleared, there had been litigation in the past over a majority/minority map that was declared unconstitutional. So, you know, that's why I have never taken the position that our history is -- or at least our recent history is the same in redistricting as Alabama.

And I believe that the courts need to make it more clear what your job is so that you can do it properly the first time and we can all avoid the litigation side of this and -- and continue to move forward with -- with an act that -- that, as I believe all your acts are, presumed to be constitutional. That is, you know, that's how I'll approach the next -- the next act that you issue. So I'm not picking and choosing. I mean, I think unless it's very clearly

minority district. Thank you.

REPRESENTATIVE BEAULLIEU: Thank you, Ms. Labry. The -- the board is clear. Members, this is going to conclude our educational meeting this morning. I appreciate you all being here this morning and -- and your attentiveness and your questions. We're going to have a busy week. I ask you all to stay close to your computers. As bills are uploaded, read them, become familiar with them. If you have amendments, please get them to staff as soon as possible.

Remember, you also -- if anybody in any -- from the outside is submitting information or submitting maps, to include shapefiles as well so we can have the -- the equivalency -- block equivalency files so that we can -- we can have that data and -- and get it to staff as -- as soon as possible. But, members, look forward to it. It'll be a fun week. Thank you.

MS. BAKER: Move to adjourn?

REPRESENTATIVE BEAULLIEU: Yeah. Representative Thomas has moved to adjourn.

(Meeting adjourned.)

CERTIFICATE OF TRANSCRIPTION

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Dated this 12th of March, 2024.

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Nathan Pikover, COO TranscribeMe, Inc.

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Louisiana State Senate 1st Special Session-Audio Transcription

January 17, 2024

In Re: Louisiana House Floor/Committee Video

MS. MIZELL: Official Journal of the Senate of the state of Louisiana, Second day's proceedings, Tuesday, January 16th, 2024.

MALE SPEAKER: Senator Hodges moves to dispense the reading of the journal without objection.

MS. MIZELL: Petitions, memorials, and communications, I am in receipt of a letter from the president appointing the parliamentarians, Senator Gregory Miller. Messages from the house, the house is finally passed and asked for concurrence in the following house bills and joint resolutions. House Bill 16. House Bill 8, respectfully submit headed. Michelle Fontenot, Clerk of the House. Introduction of House bills. Senator Talbot now moves for suspension of the rules for the purpose of reading the house bills the first and second time and referring them to Committee.

House Bill 8 by Representative Mike Johnson is an act to Entitled 13 relative to the Supreme Court to provide relative to redistricting Supreme Court Justice districts. It is referred to senate and governmental affairs. House Bill 16 by Representative McFarland is an act to appropriate funds and to make certain reductions from certain sources to be allocated to the designated agencies and purposes in specific amounts for making of supplemental appropriations. Refer to

finance.

MALE SPEAKER: Oh, Senator O'Connor for an introduction.

MALE SPEAKER 2: (inaudible 0:04:15).

MALE SPEAKER: Oh, okay.

MALE SPEAKER 2: It's okay.

MALE SPEAKER: Never mind. It's -- that zip sound? Senate bills on third reading and final passage.

MS. MIZELL: First bill? Senator Womack now moves for a suspension of the rules for the purpose of calling out of order, Senate Bill 8 by Senator Womack. It's an act to amend Title 18 relative to congressional districts to provide for the redistricting of Louisiana's congressional

FEMALE SPEAKER: To provide with respect to positions and offices other than congressional, which are based on congressional districts.

MALE SPEAKER: Senator Womack, on your bill.

SENATOR WOMACK: Thank you, Mr. President. Colleagues, I bring Senate Bill Number 8 before you this evening. As you know, Louisiana congressional districts must be drawn, given the Federal Voting Rights Act litigation that is still ongoing in the US District Court for the Middle District of Louisiana. This map in the bill that I'm introducing, which is the product of a

long, detailed process, achieves several goals.

First, as you know and you're aware of, Congresswoman Julia Letlow is my representative in Washington, DC. The boundaries in the bill I'm proposing ensure that Congresswoman Letlow remains both unpaired with any other incumbents, and in a congressional district that should continue to elect a Republican to Congress for the remainder of this decade. I have great pride in the work of Congresswoman Letlow and -- that she's accomplished, and this map will ensure that Louisianans will continue to benefit from her presence in the halls of the Congress for as long as she decides to continue to serve this great state.

Second. Louisiana has six congressional districts. The map that's proposed bill ensures that four are safe Republican seats. Louisiana Republican presence in the United States' countours has contributed tremendously to the national discourse, and I'm very proud that both Speaker of the US House of Representatives, Mike Johnson, and US House Majority Leader Steve Scalise are both from our great state. This map ensures that two of them will have solidly Republican districts at home, so they can focus on the national leadership that we need in Washington, DC. The map that's proposed in this bill ensures conservative

principle is retained by the majority of those in Louisiana and will continue to extend past our boundaries to the nation's capital.

Third. The corridor that you see on the map that -- that you have on your -- your table, if you'll notice the map runs up Red River, which is barge traffic, commerce. It also has I-49, which is a -- which is -- goes from Lafayette to Shreveport, which is also a corridor for our state that is very important to our commerce. We have a college. We have education along that corridor. We have a presence with ag with our row crop, as well as our cattle industry all up along Red River in those parishes.

A lot of people from that area, the Natchitoches Parish, as well as Alexandria, use Alexandria for -- for -- for their healthcare, their hospitals, and so forth in that area. So finally, the amounts in the proposed bill responds appropriate to the ongoing Federal Voting Rights Act in the Middle District of Louisiana. For those who are unaware, the congressional amounts that we enacted in 2022 of March have been the subject of litigation, roughly since the day -- the 2022 Congressional Redistricting Bill went into effect. Even before we enacted it.

After a substantial amount of prolonged

1 litigation, the Federal District Court has adhered to
2 its view that the federal law requires that the state
3 have two congressional districts with a majority of
4 Black voters. Our secretary of state, attorney general,
5 and our prior legislative leadership appealed that, but
6 have yet to succeed. And we are now here because of the
7 federal court order, that we have to have first
8 opportunity to act. The district court order that we
9 must have two majority voting-age population districts,
10 combined with the political impurities I just described,
11 have largely -- largely driven the boundaries of
12 District Two and District Six on your map, both of which
13 are over 50 percent voting -- Black voting age
14 population.
15 Given the state's current demographics, there
16 is not enough high Black population in the southeast
17 portion of Louisiana to create two majority Black
18 districts, and to also comply with the US Constitution
19 one person, one vote requirement. That is the reason
20 why District Two is drawn around Orleans Parish, while
21 District Six includes the Black population of East Baton
22 Rouge Parish and travels up the I-49 quarter to include
23 Black population in Shreveport. While this is a
24 different map than the Plaintiffs' litigation have
25 proposed, this is the only map I reviewed that

1 accomplishes the political goals I believe that are
2 important for my district, for Louisiana, and for the
3 country.
4 While I did not draw these boundaries myself,
5 I carefully considered the number of different map
6 options. I firmly submit that the congressional voting
7 boundaries represented in this bill best achieve the
8 goals of protecting Congresswoman Letlow's seat,
9 maintaining a strong district for Speaker Johnson, as
10 well as Majority Leader Steve Scalise, ensuring four
11 Republican districts, and adhering to the command of the
12 Federal Court in the Middle District of Louisiana. And
13 I ask for favorable passage.
14 MALE SPEAKER: We have -- we have one question
15 by Senator Morris for --
16 SENATOR MORRIS: Senator Womack, among the
17 factors that you considered was the community of
18 interest of the district. Something that was considered
19 in coming up with this version of the map that we have
20 before us.
21 SENATOR WOMACK: Senator Morris, this map was
22 strictly drawn from the political aspect of our
23 congressman in -- in office is how it was drawn.
24 SENATOR MORRIS: Did -- you didn't consider
25 the community of interest of people having something in

1 common with one another within the district?
2 SENATOR WOMACK: No, I didn't because it was
3 -- it was -- we had to draw two districts, and that's
4 the only way we could get two districts. One of the
5 ways we could get two districts, and still protect our
6 political interest.
7 SENATOR MORRIS: Well, one of the things you
8 said earlier was that -- that we had in common the
9 agriculture. You mentioned that. That's a community of
10 interest. So you did consider agriculture as being
11 something that everybody had in common with this
12 district, or?
13 SENATOR WOMACK: My comment was -- was the
14 fact that it was along that corridor. Ag was along that
15 corridor some -- some -- not so much in that community
16 interest. Just maintaining -- bringing out the fact
17 that I-49 does go through there, and it does encompass
18 your -- your timberland, your ag, your hospitals. Just
19 trying to bring to light some of the positives going up
20 that corridor.
21 SENATOR MORRIS: So would you -- would you say
22 that the heart of this district is Northeast Louisiana
23 and North Central Louisiana?
24 SENATOR WOMACK: I wouldn't say the heart of
25 the district is that way, but the way the district -- to

1 pick up the -- the -- and honor the courts, it had to be
2 drawn like it had to be drawn to pick that up.
3 SENATOR MORRIS: So the -- is there a heart of
4 the district?
5 SENATOR WOMACK: If it is, it'll be a small
6 majority of the heart. I don't think it's a -- it's a
7 -- it -- it has a heart of the district, but it had to
8 start somewhere.
9 SENATOR MORRIS: Do you know what the most
10 populated parish is of Congressional District Five at
11 the current moment?
12 SENATOR WOMACK: I do not. I hadn't looked at
13 that to -- to prove that myself. I (inaudible 0:08:54)
14 -- could be Ouachita Parish.
15 SENATOR MORRIS: Right. So Ouachita Parish,
16 which is the most populated parish in Congressional
17 District Five, which you seek to protect for
18 Congresswoman Letlow. Your map cuts Ouachita Parish
19 into various pieces, does it not? And puts a lot of
20 that in Congressman Johnson's District Four, correct?
21 SENATOR WOMACK: That's true. The way the map
22 is drawn. That's in my bill. That is the way it's
23 drawn.
24 SENATOR MORRIS: And like you, your -- I -- I
25 think you indicated that Congresswoman Letlow is your

congressperson, and -- and it's important to you for her to remain to be your Congresswoman; is that correct?

SENATOR WOMACK: Very important.

SENATOR MORRIS: Well, under your map, I would be Congressman Johnson's -- in his district, and so would Senator Cathey, and so would Representative Echols; is that correct?

SENATOR WOMACK: That would be correct. I don't -- I know -- I've been to your house, but I hadn't been in any of the others, but I think you're correct.

SENATOR MORRIS: So that would be important to me; did you know? But -- but this district as it's drawn now, would move Lincoln Parish and Louisiana Tech into Congressman Johnson's district; would it not?

SENATOR WOMACK: That's a possibility.

SENATOR MORRIS: Well, your map does -- map does put Lincoln Parish -- all of Lincoln Parish into Congressman Johnson's district; does it not?

SENATOR WOMACK: It does do that, yes.

SENATOR MORRIS: So -- but the district does reach down into Baton Rouge; does it not?

SENATOR WOMACK: It does.

SENATOR MORRIS: And the district includes Tiger Stadium in the district and also Joe Aillet Stadium at -- in Louisiana Tech in Ruston.

SENATOR WOMACK: In the minority district, in district -- in District Two -- or District Six.

SENATOR MORRIS: Isn't it true that Tiger Stadium in your -- on your map is located in Congresswoman Letlow's district?

SENATOR WOMACK: Yes.

SENATOR MORRIS: And so is Joe Aillet Stadium at Louisiana Tech.

SENATOR WOMACK: Not -- not in -- not in that district. She don't go into -- under my map, she doesn't go into Ruston.

SENATOR MORRIS: Under your map, all of Lincoln Parish is in Congresswoman -- that's Lincoln on the map right there. That's where Ruston is.

SENATOR WOMACK: Right.

SENATOR MORRIS: And so that is Congresswoman -- that would be -- it's currently Congresswoman Letlow's, but now it's going to be Congressman Johnson's.

SENATOR WOMACK: Right.

SENATOR MORRIS: Okay. Right.

SENATOR WOMACK: Yeah.

SENATOR MORRIS: So they will be in different districts. Tiger Stadium will be in Congresswoman -- I mean, yeah, Congresswoman Letlow's district, but

Louisiana Tech will be in Congressman Johnson, even though Louisiana Tech is only 30 mile -- 30, 40 miles away from Congresswoman Letlow's home.

SENATOR WOMACK: I -- I agree with that -- with that totally, where we had to draw two minority districts. That's -- that's the way the numbers worked out. You've worked with -- with -- with redistricting before, and that's -- that's -- you have to -- you have to work everybody around the best you can. This is --

SENATOR MORRIS: Well, as of yesterday before Committee, the map -- my home and Senator Cathey's home, but you amended it to put even more in Congressman Johnson's district; did you not?

SENATOR WOMACK: Senator Morris, my understanding that -- that -- that my amendment put you all in Congresswoman Letlow's district.

SENATOR MORRIS: In Congressman Johnson's district under the -- under your amendment because it added more Ouachita Parish into District Four; did it not?

SENATOR WOMACK: My understanding that when we moved that, that it added y'all. I could be wrong on that, but it added y'all.

SENATOR MORRIS: The -- the amendment as I understand it and looked at it in Committee before

yesterday, the bill as filed -- but now, under the current version of the bill, I am in Congressman Johnson's district.

SENATOR WOMACK: Okay.

SENATOR MORRIS: Don't you think we should have moved -- included Louisiana Tech and Ouachita Parish in the Northeast Louisiana Congressional District?

SENATOR WOMACK: Senator Morris, it's -- it's a lot of could have, and -- and -- and I regret that it's not, but we also have to look at the other members of Congress, and what we can live with concerning that.

SENATOR MORRIS: If your bill gets out of -- off the floor today and goes over to the House, would you be amenable to amendments that would allow this district, as long as all the other requisites are -- are there for -- to comply with the judge's order, and to comply with, you know, the -- the community of interest and all the other redistricting principles that we have to abide by?

SENATOR WOMACK: Senator Morris, I have no problem in that, as long as it -- it -- it -- it -- it meets the requirements of the bill.

SENATOR MORRIS: Thank you, Senator. I appreciate your efforts, and I'm hopeful that we can --

as if -- assuming the bill does move, that we can perhaps find a resolution that can make everybody, if not absolutely happy, a little happier. Thank you.

SENATOR WOMACK: Thank you, Senator Morris.

MALE SPEAKER: Senator Stine for the floor.

(Pause.)

SENATOR STINE: Thank you, Mr. President. Members of this esteemed chamber, today we stand at a crossroads, burdened with a decision that weighs heavily on each of us. The congressional map before us, a construct far from our ideal, now demands our reluctant endorsement. It pains me, as it does many of you, to navigate these troubled waters not of our own making, but of a heavy-handed, Obama-appointed federal judge, who has regrettably left us little room to maneuver. This map, imperfect as it is, stands as a bulwark protecting not just lines on a map, but the very pillars of our representation in Congress.

It safeguards the positions of pivotal figures, the United States Speaker of the House, the majority leader, and notably, the sole female member of our congressional delegation. Her role is not merely symbolic. She is a lynchpin in the appropriations, education, and workforce committees which are vital to the prosperity and well-being of our state. We are the

guardians of Louisiana's voice on the national stage. Our decision today, while constrained, is crucial.

It's about more than lines on a map. It's about ensuring our state's continued influence in the halls of power where decisions are made that affect every citizen we represent. So with a heavy heart, but a clear understanding of the stakes, unfortunately, we must pass this map before us instead of giving the pen to a heavy-handed, Obama-appointed federal judge who seeks to enforce her will on the legislature. Into an untenable situation, rather than acting as a co-equal branch of government as laid out in our constitution.

MALE SPEAKER: Senator Carter for the floor.

SENATOR CARTER: Thank you, Mr. President, members. This proposed map by Senator Womack -- well, let me start with the current district, District Two. The current African American voting age population in District Two is currently 58 percent. This map proposed by Senator Womack reduces it to barely 51 percent, and, Committee, the bill's author testified that no sort of performance analysis had been conducted to determine whether or not District Two continues to consistently perform as an African American district. There are serious concerns about this map. There are serious concerns about this proposal.

Despite those concerns, I stand in support of this legislation. It still needs work, it must be amended, but I stand in support of it today, and I speak only for today. I would like to read to you all a statement from Congressman Carter, who currently represents the Second Congressional District. Many of us served with him either when we were in the House, or those of us who served with him in the Senate. Here's a statement.

"My dear friends and colleagues, as I said on the steps of the capital, I will work with anyone who wants to create two majority-minority districts. I am not married to any one map. I have worked tirelessly to help create two majority-minority districts that perform. That's how I know that there may be better ways to create -- to craft both of these districts. There are multiple maps that haven't been reviewed at all. However, the Womack map creates two majority-minority districts, and therefore I am supportive of it. And I urge my former colleagues and friends to vote for it while trying to make both districts stronger with appropriate amendment."

"We do not want to jeopardize this rare opportunity to give African American voters the equal representation they rightly deserve." And that's the

statement from Congressman Troy Carter. I expressed my concerns. They're serious concerns. It is my expectation and my hope that this bill continue to be worked on, that amendments continue to happen, but today I stand in support. Thank you.

MALE SPEAKER: Senator Jackson for the floor.

(Pause.)

SENATOR JACKSON: He tried to cut off my mic.

(Pause.)

MALE SPEAKER: Members, you have to talk directly into the mic, unlike in previous times, where you could kind of talk around the mic. You have to literally talk directly into the mic for it to work. We're going to adjust that for the next --

SENATOR JACKSON: Hello. Okay. Good. (inaudible 0:23:11) was going to have a fit if I wasn't able to speak. I stand in support of this map. I first want to thank Senator Womack, who had the fortitude, regardless of how we got here, but to stand up and do what the last body couldn't do, and that's to come together. But I do stand to say this because I said it in Committee. I reluctantly came to the floor to support this map because my constituents and a lot of our constituents in North Louisiana right now are still experiencing an ice state. That's what I call it

because we didn't get snow.

And so a lot of them don't even know that we're down here right now passing maps. And so this is the first time in a long time I'm probably going to vote for something that I haven't vetted through my constituency because tonight, myself, Representative Fisher and Representative Morrell will have a Zoom community meeting to catch them up on what they have lost while they were at home, because my legislative assistant was finally able to get to the office and at least send something out to our constituency.

However, at some point, what they did tell me over and over again for the last year, year and a half that we've been going through this process, that they were supportive of fair and equitable maps, and that they knew a fair and equitable -- equitable map would be something that created fair representation for all people in the State of Louisiana. I will end with this. I don't think we're in a -- in the hands of a heavy-handed judge, but we're in the hands of consequences that the last legislature created in our failure to act. And I say that with a heart of hope that we act today on what is right, on what is just, and what is fair.

I don't believe, and I said this before, any

of my colleagues in this chamber would have it to be that a certain group of people in the State of Louisiana would not be properly represented. I am an American who stands every time the flag is presented. I proudly say one nation under God. And I hope today that in this senate we will stand as one Louisiana under God, because God is for what's just and what's equitable and what helps all people.

There is nothing that says that a second African American serving in Congress in Louisiana will not help the masses. Well, if we think that, then we think that we're less or better than a person based on race. If anyone in this chamber could articulate a reason why they believe that any African American that sits before you today wouldn't go to Congress with the same zeal and vigor and heart for the people, then maybe we can say that there's not an African American in this state that's going to stand in Congress and represent us.

But I literally do not believe that there's a colleague in here that looks across this chamber at any member of the Black caucus and does not believe that we wouldn't go to Congress and represent Louisiana. And so I stand in support, with reluctancy of having to talk to my constituents after this vote, but with carrying the

spirit of fairness that they asked me to carry in the last redistricting session. And I want to thank Senator Womack because the mark of a true leader is a leader that not only does what he wants to do, but what's necessary to bring resolve and wholeness to a body that has to work together on a number of issues. Thank you.

MALE SPEAKER: Thank you, Senator Jackson. Senator Duplessis for the floor.

SENATOR DUPLESSIS: Thank you, Mr. President. Thank you, Chairman Womack. I just want to make a few brief comments based on some comments that have been made earlier today. I was not necessarily planning to speak, but I think it's important that I just share a thought or two. It was said that this is much more than just lines on a map, and I agree. It is much more than just lines on a map. We've heard a lot from Chairman Womack and my colleague, Senator Stine about the importance of protecting certain elected officials, but it's about more than lines on a map. It's about the people of this state. It's about one-third of this state going underrepresented for too long.

It's about a federal law called the Voting Rights Act that has not been interpreted just by one judge in the Middle District of Louisiana who was appointed by former president Barack Obama, but also a

US Fifth Circuit Court of Appeals that's made up of judges that were appointed by predominantly Republican presidents, and a United States Supreme Court that has already made rulings. That has been made up of justices that were appointed by a majority of Republican presidents, primarily former president Trump. This is not about one judge that was appointed by former president Barack Obama. This is about the people of this state, and one-third of that state, 33 percent, to be exact, being underrepresented.

So I think it's important that we keep the focus on why we're here today. None of us want to be here today. We've been at this for well over two years, and all of us have a level of reluctancy with the maps that are before us. Just like Senator Carter, I'm not thrilled about what's happening to send it to Congressional District Two, and the way that it's lowering the numbers.

Senator Price and I, we coauthored a bill that we felt performed better, but we too are going to support this map because not only have we been ordered to do it by, yes, a judge who was appointed by President Obama, but if we felt like the -- the -- the -- the appellate judges would overrule her, then we'd be right back in court. We're at the end of the road, and I too

will support this -- this map. Not because I think it's perfect, not because I think it's the best thing that we could do, but because it's time to give people of this state fair representation. Thank you.

MALE SPEAKER: Thank you, Senator Duplessis. Senator Pressly for the floor.

SENATOR PRESSLY: Thank you, Mr. President, and members. Senators, I rise today in opposition of this bill, and I rise in opposition because I represent a community that's unique and wonderful in many ways, very diverse, and clearly a passionate part of my life in Northwest Louisiana. I believe that Shreveport and Bossier City and the surrounding parishes of De Soto and Red River and Webster are unique from the rest of our state, and I believe that commonalities of -- of interest are important.

I agree with -- with Senator Jackson. I would have no issue whatsoever of having any member of this body, and many others from throughout our state of any background, of any creed, of any race represent our great, wonderful, diverse state in Washington, DC. But I cannot support a map that puts Caddo Parish and portions of my district, which is over 220 miles from here, in a district that will be represented by someone in East Baton Rouge that may or may not have ever even

been to Northwest Louisiana, and certainly doesn't understand the rich culture, rich, important uniqueness of our area of the state.

When we look at -- at Louisiana, we often talk about north and south, and that division is true. It's real. I think all of us acknowledge that. The I-10 corridor has unique needs. When you look at -- at the challenges that you face with storms, often you think of hurricanes. In North Louisiana, we think of tornados and ice storms. When you look at the -- the important region of our states and the -- the diverse industries that we have in Northwest Louisiana, Barksdale is vitally important. Certainly, having Barksdale and Fort Johnson now, previously Fort Polk, together in one district is the one positive thing that I see in this map, and I think that is something that we must keep in mind as we continue through this process.

But I am concerned with the important part of -- of this state, Northwest Louisiana, not having the same member of Congress. With having a -- two members of Congress, that has the potential to split our community even further along a -- a -- a -- a -- a -- line that's based purely on race, and I'm concerned about that. Therefore, I'm voting no, and I urge you to do the same.

MALE SPEAKER: Thank you, Senator Pressly. The board is clear. Senator Womack, to close on your bill.

SENATOR WOMACK: Colleagues, appreciate the questions and the comments, and I just ask that we move this bill favorable.

MALE SPEAKER: Senator Womack has moved favorable passage of Senate Bill 8. When the machines are open, all those in favor, aye. Those opposed, vote nay. Open the machines. Madam Secretary, open the machines. Go to a machine, members. Senator -- Senator Miguez. There we go. Secretary, close the machines. 27 ayes, 11 nays. The -- the -- the bill is passed. Senator Womack moves of reconsideration. The -- the vote by which the bill was passed. I lay the motion on the table without objection. So ordered.

CERTIFICATE OF TRANSCRIPTION

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Dated this 8th of March, 2024.

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Nathan Pikover, COO TranscribeMe, Inc.

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House Governmental Affairs - Audio Transcription

January 18, 2024

Phillip Callais, et al.

vs.

Nancy Landry

Page 2

Representative Larvadain. Vice Chair Lyons.
VICE CHAIRMAN LYONS: Present.
MS. BAKER: Present. Representative Marcelle.
REPRESENTATIVE MARCELLE: Here.
MS. BAKER: Present. Representative Newell.
REPRESENTATIVE NEWELL: Here.
MS. BAKER: Present. Representative Schamerhorn.
REPRESENTATIVE SCHAMERHORN: Here.
MS. BAKER: Present. Representative Thomas.
REPRESENTATIVE THOMAS: Here.
MS. BAKER: Present. Representative Wright. Representative Wyble.
REPRESENTATIVE WYBLE: Here.
MS. BAKER: Present. We have 12 members in a quorum.
CHAIRMAN BEAULLIEU: Thank you, Ms. Baker. Members, we have one item on the agenda today. It's Senate Bill 8 by Senator Womack. Senator Womack is -- is delayed this morning, so what we're going to do -- until I hear back from Senator Womack, we're going to stand at ease until then. So we just ask you all to kind of stay nearby.
We'll give you all some time to -- to be able to get back, but until we hear back from Senator Womack,

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we're going to go ahead and stand at ease. And so just viewer -- members that are listening online or watching online, just kind of be aware. We are hoping to come back in at some time later this morning. Thank you all.
(Pause.)
CHAIRMAN BEAULLIEU: Good afternoon, members, viewing audience. Thank you for your patience. We are ready to resume our House and Governmental Affairs Committee. Today is Thursday, January 18th, 2024. Ms. Baker, can you give me an updated roll call, please?
MS. BAKER: Chairman Beaullieu.
CHAIRMAN BEAULLIEU: Here.
MS. BAKER: Present. Representative Billings.
REPRESENTATIVE BILLINGS: Here.
MS. BAKER: Present. Representative Boyd.
REPRESENTATIVE BOYD: Present.
MS. BAKER: Present. Representative Carlson.
REPRESENTATIVE CARLSON: Present.
MS. BAKER: Present. Representative Carter. Representative Carver.
REPRESENTATIVE CARVER: Here.
MS. BAKER: Present. Representative Farnum.
REPRESENTATIVE FARNUM: Here.
MS. BAKER: Present. Representative Gadberry.
REPRESENTATIVE GADBERRY: Here.

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MS. BAKER: Present. Representative Johnson. Representative Larvadain.
REPRESENTATIVE LARVADAIN: Here.
MS. BAKER: Present. Vice Chair Lyons.
VICE CHAIRMAN LYONS: Present.
MS. BAKER: Present. Representative Marcelle. Representative Newell.
REPRESENTATIVE NEWELL: Here.
MS. BAKER: Present. Representative Schamerhorn.
REPRESENTATIVE SCHAMERHORN: Here.
MS. BAKER: Present. Representative Thomas.
REPRESENTATIVE THOMAS: Here.
MS. BAKER: Present. Representative Wright. Representative Wyble.
REPRESENTATIVE WYBLE: Here.
MS. BAKER: Present. We have 13 in a quorum.
CHAIRMAN BEAULLIEU: Thank you, Ms. Baker. Members, we have one item on our agenda today. That's Senate Bill 8 by Senator Womack. Ms. Lowery, would you please read-in the bill?
MS. LOWERY: Thank you so much, Mr. Chairman. Members, Senator Womack brings Senate Bill Number 8 to provide relative to the redistricting of Louisiana's Congressional District, to provide with respect to

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positions and offices other than congressional based upon congressional districts, and to provide related matters.
CHAIRMAN BEAULLIEU: Senior Womack, on your bill.
SENATOR WOMACK: Thank you, Mr. Chairman. Committee members, good evening. Thank you for letting me come in today and present this bill. As you know, Louisiana Congressional Districts must be redrawn, given the Federal Voting Rights Act litigation that is still ongoing in the US District Court for the Middle District of Louisiana. The map and the bill that I'm introducing, which is the product of a long, detailed process, achieves several goals.
First, as you all are aware, Congresswoman Julia Letlow is my representative in Washington, DC. The boundaries in this bill I'm proposing, ensure that Congresswoman Letlow remains both unpaired with any other incumbents, and in the congressional district that should continue to elect a Republican to Congress for the remainder of this decade.
I have great pride in the work that Congresswoman Letlow has accomplished, and this map will ensure that Louisianans will continue to benefit from her presence in the halls of Congress for as long as she

decides and continues to serve our great state. As you know, Congresswoman Letlow sits on appropriations. She sits on ag, which is a big part of my district.

Second, the Louisiana 6th Congressional District. The map and the proposed bill ensures that four are safe Republican seats. Louisiana's Republican present in the United States Congress has contributed tremendously to the national discourse, and I'm very proud that both Speaker of the US House of Representatives, Mike Johnson, and US House Majority Leader Steve Scalise are both from our great state.

This map ensures that the two of them will have solidly Republican districts at home, so they can focus on the national leadership that we need in Washington, DC. The map proposed in this bill ensures that the Conservative principles retained by the majority of those in Louisiana will continue to extend past our boundaries to our nation's capital.

Third, the map that I've presented is -- goes along the Red River. It's the I-49 corridor. We have commerce through there. We have a college through there. We have a lot of ag cattlemen as well as farm row crop, and a lot of people up through that corridor comes back to Alexandria using that corridor for their healthcare. Finally, these maps in the proposed bill

respond appropriate to the ongoing Federal Voting Rights Act case in the Middle District of Louisiana.

For those who are unaware, the congressional maps that we enacted in March 2022 have been the subject of litigation, roughly since the day the 2022 Congressional Redistricting Bill went into effect and even before we enacted it. After a substantial amount of prolonged litigation, the Federal District Court has adhered to its view that the federal law requires that the state have two congressional districts with a majority of Black voters.

Our secretary of state, attorney general, and our prior legislative leadership appealed, but have yet to succeed, and we are now here because of the Federal Court's order that we have a first opportunity to act. The District Court's order that we must have two majority Black voting age population districts, combined with the political imperative I just described, have largely driven the boundaries for District 2 and District 6, both of which are over 50 percent Black voting age population.

Given the state's current demographics, there is not enough high -- high enough Black population in the southeast portion of this -- Louisiana to create two majority Black districts, and to also comply with the US

Constitution one person, one vote requirement. That is the reason why District 2 is drawn around the Orleans Parish and why District 6 includes the Black population of East Baton Rouge Parish and travels up I-49 corridor to include Black population in Shreveport.

While this is a different map than the plaintiffs' litigation have proposed, this is the only map I reviewed that accomplishes the political goals I believe are important for my district, for Louisiana, and for the country.

While I did not draw these boundaries myself, I carefully considered a number of different map options, and I firmly submit the congressional voting boundaries represented in this bill best achieve the goals for protecting Congressman Letlow's seat, maintaining strong districts for Speaker Johnson and Majority Leader Scalise, ensuring four Republican districts, and adhering to the command of the Federal Court in the Middle District of Louisiana. I'd be happy to answer any questions.

CHAIRMAN BEAULLIEU: Thank you, Senator Womack. Representative Marcelle for a question.

REPRESENTATIVE MARCELLE: Thank you, Senator Womack, for presenting this bill. Were -- did you have the opportunity to view the map that I filed?

SENATOR WOMACK: I -- I reviewed several maps, Representative Marcelle.

REPRESENTATIVE MARCELLE: HB5.

SENATOR WOMACK: HB5. I didn't -- I didn't look at the HB5 --

REPRESENTATIVE MARCELLE: Did not.

SENATOR WOMACK: -- per se. I looked at several maps. One of them could have been that.

REPRESENTATIVE MARCELLE: Okay. Because I heard you say that you thought that your map was the best possible route. A pathway to get to what we needed to, first of all, make sure that we get out of the litigation, apply with Section 2, and go about the deviations and the compactness and all of those different things that we needed to do in order to create a second Black seat -- congressional seat. Is that what I heard you say?

SENATOR WOMACK: Yes, ma'am.

REPRESENTATIVE MARCELLE: Okay. Well, I -- I certainly want to thank you, and I know -- I spoke to you yesterday about putting an amendment on your bill to make sure that we could reduce the parish splits and that we had some conversations, and it's a short period of time. Certainly, I don't know when the amendments are going to be offered up, but I certainly want to go

down those same lines of -- since I could not get my map through, which I thought was the best path, that I -- I would support this map, with some cleanup done to it.

So I -- I just want to make sure that I go on the record of saying that I spoke to you. The things that my amendment would do would certainly be to add Red River Parish to Congressional District 6, and preserving the things in Red River community as well. So I want to go on the record of saying that I -- I believe that we have had several maps that would have gotten us there, but I think because of political reasons, we are here where we are today.

CHAIRMAN BEAULLIEU: Representative Marcelle, just if I can chime in for a second, so I can let the viewing members know that online there are two different amendments that -- that will likely be proposed today, and both of those are available online for the -- for the viewing public. If we could hold off on those amendments for -- we have a -- a handful of questions on the board, Representative Marcelle, and then we'll come back. Is that okay with you?

REPRESENTATIVE MARCELLE: Yes. I just --

CHAIRMAN BEAULLIEU: Okay. Good.

REPRESENTATIVE MARCELLE: I just wanted to -- to make mention to that why -- why I was asking him some

of the questions. So when you did this map, you -- you considered the population deviation.

SENATOR WOMACK: Well, we had -- had to -- to create the two districts, we had to think about the population.

REPRESENTATIVE MARCELLE: And the parish splits as well?

SENATOR WOMACK: The parish splits as well.

REPRESENTATIVE MARCELLE: So you felt like this was the best pathway after you viewed those areas that we certainly had to do to enact this map.

SENATOR WOMACK: Representative Marcelle, I -- I -- I want to be -- and -- and I -- I was hoping that it -- that covered that in my opening statement, but it -- it -- my map is politically drawn to protect our members of Congress as it stands, as well as create the two districts, minority district, Black districts.

REPRESENTATIVE MARCELLE: So in your opinion, your map does two things. It satisfies the Court, and it also protects the politics, or our congressional members. Is that -- is that --

SENATOR WOMACK: Yes, ma'am.

REPRESENTATIVE MARCELLE: -- accurate to say?

SENATOR WOMACK: Yes, ma'am.

REPRESENTATIVE MARCELLE: Okay. Thank you

very much and thank you for your work.

SENATOR WOMACK: Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Marcelle. Representative Boyd.

REPRESENTATIVE BOYD: Good afternoon, Senator. How are you?

SENATOR WOMACK: Fine, thank you.

REPRESENTATIVE BOYD: So I agree with Rep Marcelle. This is not, in my opinion, the best map that I've seen, but I do understand what it took to get here, and my congressman seems to also be in support of the map. Therefore, I do plan on supporting the map, hopefully with some amendments. Are you open to an amendment on this?

SENATOR WOMACK: Yes, ma'am, once -- once I see some amendments.

REPRESENTATIVE BOYD: Okay.

SENATOR WOMACK: You know, we'll look at amendments.

REPRESENTATIVE BOYD: And then she mentioned the parish splits. How many parish splits are they; do you know?

SENATOR WOMACK: I think we're 16 at the -- at the present time.

REPRESENTATIVE BOYD: And do you know the

BVAPs for 2 and 6?

SENATOR WOMACK: I'm sorry?

REPRESENTATIVE BOYD: The BVAPs for 2 and 6, do you know what they are right now?

SENATOR WOMACK: No, I don't.

REPRESENTATIVE BOYD: Okay. Did you have any communication with anybody from -- with community influences on this? Have you met with other groups? Who did you meet with to come up with this map?

SENATOR WOMACK: I've had several meetings over the period of time with several groups.

REPRESENTATIVE BOYD: With community of interest as well?

SENATOR WOMACK: It -- it was hard to -- to create communities of interest with this map and -- and -- and still achieve some of the goals that we were trying to achieve from the congressional, political standpoint.

REPRESENTATIVE BOYD: Okay. Again, based on the map and my conversation with our congressman, if we can get some things cleared up and straightened up on it, I would be in support of the bill as well.

SENATOR WOMACK: Okay. Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Boyd. Representative Newell.

there was another map. There's a lot cleaner map because the map that I see goes from Shreveport to Baton Rouge, which you're just zigzagging. And you picked up Alexandria, you picked up Natchitoches, you picked up DeSoto, but it's more of a political map. The map that the Democrats pursued, it was a map that we agreed on two majority-minority districts, and this is more of a political map.

SENATOR WOMACK: Yeah, I know.

REPRESENTATIVE LARVADAIN: Okay. Thank you.

SENATOR WOMACK: Thank you.

CHAIRMAN BEAULLIEU: Senator Womack, why are we here today? What -- what brought us all to this special session as it -- as it relates to, you know, what we're discussing here today?

SENATOR WOMACK: The middle courts of the district courts brought us here from the Middle District, and said, "Draw a map, or I'll draw a map."

CHAIRMAN BEAULLIEU: Okay.

SENATOR WOMACK: So that's what we've done.

CHAIRMAN BEAULLIEU: And -- and were you -- does -- does this map achieve that middle court's orders?

SENATOR WOMACK: It does.

CHAIRMAN BEAULLIEU: Okay. When you were

drawing the maps, you also took into consideration incumbency, correct?

SENATOR WOMACK: Right.

CHAIRMAN BEAULLIEU: Okay. To protect not just our state, but our national interest as well.

SENATOR WOMACK: Our national.

CHAIRMAN BEAULLIEU: Is that correct?

SENATOR WOMACK: Right.

CHAIRMAN BEAULLIEU: This is -- this is bigger than just us.

SENATOR WOMACK: It's bigger than just us, and Louisiana has never been sitting in the poor position that they are today.

CHAIRMAN BEAULLIEU: What -- what position does Congressman Mike Johnson have in the United States House of Representatives?

SENATOR WOMACK: He's a speaker of the house.

CHAIRMAN BEAULLIEU: Okay. And what about Congressman Steve Scalise?

SENATOR WOMACK: Majority leader of the house.

CHAIRMAN BEAULLIEU: Okay. So if we've been able to accomplish what the judge has ordered through your map, and also been able to protect the political interest, that is kosher, correct?

SENATOR WOMACK: That's exactly.

CHAIRMAN BEAULLIEU: Okay. That's what -- that's what I was thinking. That's what I've learned through the process, and I just wanted to make sure that your map achieved that. Yeah.

SENATOR WOMACK: Yes, sir, Mr. Chairman.

CHAIRMAN BEAULLIEU: All right. Senator, the board's cleared. We're going to go ahead, if you don't mind, and -- and take up the amendments right now. Bear with me for two seconds. Senator Marcelle, and -- and -- excuse me. Sorry about that promotion, Representative Marcelle.

REPRESENTATIVE MARCELLE: That's okay.

CHAIRMAN BEAULLIEU: And -- and Representative Farnum both have amendments.

FEMALE SPEAKER 2: Here. This card's in Marcelle's name.

CHAIRMAN BEAULLIEU: Okay. Hold that -- hold that for me. Bear with me. So the first amendment is how -- is Amendment 68. That is Amendment 60. Give me a second while it's loading. What amendment is 68?

MS. LOWERY: That is the one offered by Representative Farnum.

CHAIRMAN BEAULLIEU: Representative Farnum, we're going to take up your amendment first. Representative Farnum, on your amendment.

REPRESENTATIVE FARNUM: Thank you, Mr. Speaker. So I offer -- does -- do we need to read it in?

MS. LOWERY: Certainly.

CHAIRMAN BEAULLIEU: Ms. Lowery, please read-in the amendment.

MS. LOWERY: Thank you so much, Mr. Chairman. Representative Farnum is offering up HCASBA-36268. And on page 1, it's going to delete lines 13 through 17, and delete pages 2 through 6, and we'll be inserting a new district configuration for the congressional districts for the State of Louisiana. This amendment is available online and is available in your packets, members, and contains maps and statistics relevant to the plan.

CHAIRMAN BEAULLIEU: Thank you, Ms. Lowery. Representative Farnum, on your amendment.

REPRESENTATIVE FARNUM: Thank you, Mr. Chairman. So in the -- in the beginning of this process, me and my colleagues from Southwest Louisiana set out to accomplish making Calcasieu whole. In the history of -- of our -- our great parish, we've always had one congressman that represented us. And -- and -- and with the current map as presented from Senator Womack, it -- it split Calcasieu Parish basically in half in population. And -- and with the community of

or COI landmark. So thinking of school districts or hospitals, airports, everything else when you're looking at that metric, all I can speak to -- I can't speak to this amendment. I just saw it. But in terms of landmark place splits, the map that we had proposed had the exact same amount as the enacted map.

So that was another metric that, in our process, we were able to hold ourselves accountable to, to making sure our map was as good as or, in most of the instances, better than the enacted map.

CHAIRMAN BEAULLIEU: So, Representative Wyble, what we can do -- I know you're a big school board guy. Why don't we get you with them afterwards, and y'all can talk in some details on that?

MS. WENGER: We've got slide decks on this.

CHAIRMAN BEAULLIEU: Right. No. They have -- they have -- they have tons of information.

MS. WENGER: I'd be happy to provide it for us anytime.

REPRESENTATIVE WYBLE: Thank -- thank you so much.

MS. WENGER: Thank you.

CHAIRMAN BEAULLIEU: Thank you, Representative Wyble. Members, that clears the board. Representative Farnum has a motion on the table to adopt Amendment Set

68. And objection -- what's that?

VICE CHAIRMAN LYONS: (inaudible 1:22:44).

CHAIRMAN BEAULLIEU: Oh, oh. One second, Members. Vice Chairman Lyons.

VICE CHAIRMAN LYONS: Thank you, Mr. Chairman. And I was going to address this -- this to Representative Farnum on -- on your amendment. And after the table was just -- was clear with that information, now, I -- I just want to say that the past two years, I've been through every roadshow throughout this state.

I was in Calcasieu, and I heard the testimony there. And I -- I sympathize in it with the individual residents there as they talked about being whole as other communities of interest throughout the state. That was the most impacting testimony that we received throughout this process. And it went on for not only from our community to your community, everywhere else.

And the question remains always - and we don't have an answer for - is: can we draw the perfect map? I don't think we ever can draw the perfect map. I don't think that there's ever going to be a situation where everybody's going to be happy or even whole.

But I'm looking at the mission that we have here. And the mission that we have here is that we have

to create two majority-Black districts. And performance of those maps that we saw earlier, some that didn't make it through, some that were here, including yours, Senator Womack, some of them perform. Some perform better than others.

But we have to look at the -- the -- the center of this piece, and that is to create those districts that perform. And some of that's going to be for debate and some that's going to be for the -- the clearing pieces to happen as we go forward.

But I just want to put on the record, you know, that I know the senators worked hard on this piece. And that goal is what was in mind, to create these two majority-Black districts and to do it with as much of the criteria as possible to be done to -- to make sure that it -- it -- it is conforming.

And -- and with that being said, I wanted to get that clear of what that message is and what we're doing here, which you remember before we -- we go with this piece. And I wanted to say that, Mr. Chairman, as we go forward in this opportunity. Thank you.

CHAIRMAN BEAULLIEU: Thank you, Vice Chairman Lyons. Members, back on the motion, we have a -- a motion by Representative Foreman to adopt -- Farnum to adopt Amendment Set 68. Is there any objections to the

adoption of that amendment set? Hearing no -- no objection, Amendment Set 68 is -- is hereby adopted.

On to the next amendment. We have Amendment Set 70, I believe, Representative Marcelle. Representative Marcelle, on -- on your amendment.

REPRESENTATIVE MARCELLE: That's amendment (inaudible 1:25:52).

CHAIRMAN BEAULLIEU: Or Ms. Lowery, would you mind reading that in?

REPRESENTATIVE MARCELLE: I just missed my objection -- amendment.

MS. LOWERY: Thank you, Mr. Chairman. Representative Marcelle brings Amendment Set HCASB-8362, number 70. This is available, Members, in front of you, and also for members of the public, it's available online.

CHAIRMAN BEAULLIEU: Representative Marcelle, on your amendment.

REPRESENTATIVE MARCELLE: Thank you. Amendment Number 3 adds River -- the Red River Parish to Congressional District 6, better preserving the Red River community of interest and the community of interest formed by Red River, Natchitoches, and DeSoto Parishes. It also makes Ouachita Parish whole in Congressional District 5.

1 decision.
2 Well, her actual order says that the
3 plaintiffs, when they went into Court for a preliminary
4 injunction, never tried on the merits, just a summary
5 proceeding, said that they had carried their burden of
6 showing that the current map violates Section 2 of the
7 Voting Rights Act and that the plaintiffs had a
8 substantial likelihood of making their claim successful,
9 which is that we'll have a second minority district in
10 Louisiana.
11 But there was no trial on the merits. But the
12 judge essentially said, if we have a trial on the
13 merits, I'm going to rule in favor of the plaintiffs,
14 and I'm going to create a second majority-minority
15 district in Louisiana. That's exactly what this bill is
16 doing right now.
17 And if our current map goes -- if you do
18 nothing and our current map goes back before Judge Dick,
19 she's going to probably end up doing the same thing.
20 But at least we have a chance to fight for the current
21 map in our state. And no matter how she rules, we have
22 the Fifth Circuit Court of Appeal, and we have the US
23 Supreme Court.
24 And, again, everything is at stake, and it
25 seems like we're simply giving it all away right now.

1 We believe that this is worth fighting for. We believe
2 that that balance of power is worth fighting for.
3 And I would remind the members of this panel
4 that I know, some of whom we helped get elected, along
5 with Governor Landry whom we worked very hard for and
6 who we respect and think he's going to be a great
7 governor, that the citizens of Louisiana worked very
8 tirelessly to get you elected to come here, not to cave
9 in to political pressure, which is it appears to
10 hundreds and hundreds of citizens across the state that
11 that's what you're doing. You're caving in to political
12 pressure, and you're giving in without a fight.
13 Speaker Mike Johnson has weighed in on this.
14 We heard some testimony earlier that Congressman Johnson
15 apparently was okay with this proposed legislation.
16 That's not our legislation. That's not our
17 understanding at all. In fact, Congressman Johnson
18 specifically said that our current map from 2022 needs a
19 full trial on the merits, with appellate review all the
20 way to the Supreme Court, if necessary, because the
21 issue is so profoundly important to the future of this
22 republic. I will -- I want to reiterate before I close,
23 as I said, people all over the state are watching this
24 right now, many of whom voted for you to come here, some
25 of you who were just elected very recently.

1 And if six months or a year from now, the
2 United States Congress is controlled by Democrats, it
3 started in this house, it started and ended in this
4 capital, and that's what will have made it possible.
5 And the citizens of Louisiana, I can tell you, will have
6 a very, very good memory if that occurs. I would
7 respectfully submit that your responsibility is to
8 represent the interests of the substantial majority of
9 Louisiana citizens and not to cave to political
10 pressure. And we're asking you to defeat this
11 legislation. Thank you.
12 CHAIRMAN BEAULLIEU: Thank you, Mr. Alexander.
13 And look just to -- to -- and -- and you got a couple
14 of questions. But just from -- from my standpoint, I
15 sat on the committee when we drew the other maps that we
16 all believe were fair, and we believe is representative
17 of the state of Louisiana. The Fifth Circuit sent it
18 back to the federal judge and basically held us hostage
19 that if -- if we don't do it, she's going to do it. And
20 so none of us like the position we're in.
21 But -- you know, and -- and a little bit to
22 your point, we were elected to serve, and we feel that
23 -- that we would prefer to have the lines drawn in this
24 committee than have some Obama-appointed judge drawing
25 the lines for us. And so we don't like it. It's

1 painful to do. And so I feel your sentiment, and -- and
2 I don't -- I'm not disagreeing with most of what you
3 said. I mean, it's -- it's -- it's -- it's what goes on
4 in a lot of our minds. So I -- I appreciate your
5 comments. Thank you. And you do have -- you do have a
6 question. Representative Newell.
7 REPRESENTATIVE NEWELL: Thank you very much,
8 Mr. Chairman. I'm troubled by your statements because
9 this is not a process by which one party is losing
10 power, caving into another party. This is a process by
11 which the other 30 percent of the people in this state
12 are trying to get the representation that their
13 population and numbers deserve in Congress. This isn't
14 a caving in or power grab or giving away of power or
15 losing of power of the Republican Party.
16 It's an opportunity for this body to represent
17 all of the people that they supposed to represent in
18 their district, listening to them and giving them the
19 opportunity to vote for someone of their choice, whether
20 that person of their choice is a Black Republican or
21 White Democrat. It's an opportunity for Black people,
22 as some of my colleagues would prefer to be said, but a
23 minority-majority district to have the opportunity to
24 vote for their candidate of choice. And I'm troubled by
25 the way you said your statement. You're very

was 40, 50 years ago.

And so the reason why this is so difficult is because we are moving in the right direction. We don't have concentrated populations of -- of certain minorities or populations of White folks in certain areas. It is spread out throughout the state. Compared to Alabama, Alabama has 17 counties that are minority-majority, and they're all contiguous. Louisiana has seven parishes that are minority-majority and only three are contiguous. That's why this process is so difficult, but here we are without any other options to move forward.

And so I -- I hear what you're saying. I respectfully disagree with the characterization that it's bending to political pressure.

MR. ALEXANDER: Yeah.

REPRESENTATIVE CARLSON: I -- I -- you know me, and you know that I wouldn't do that. But I don't see any other path forward. This is the best of two bad options, and I'm going to always do my job --

MR. ALEXANDER: Yeah.

REPRESENTATIVE CARLSON: -- that's before me.

MR. ALEXANDER: And I understand that.

CHAIRMAN BEAULLIEU: Thank you.

MR. ALEXANDER: Is there -- is -- is there --

do you think there's anything that would be -- an option would be to allow our attorney general to argue the constitutionality of our current map in Federal Court, Fifth Circuit Court of Appeal, and Supreme Court?

REPRESENTATIVE CARLSON: Already been done twice in the Fifth Circuit and asked of the Supreme Court, and they've refused to do that. And here we lie today.

MR. ALEXANDER: Yeah.

CHAIRMAN BEAULLIEU: There's never even been a trial on the merits, Representative Carlson, on this map --

REPRESENTATIVE CARLSON: That's not our decision.

CHAIRMAN BEAULLIEU: -- even in district court.

REPRESENTATIVE CARLSON: That -- that is the judge's decision, unfortunately.

CHAIRMAN BEAULLIEU: And if you don't do anything, they'll have one.

REPRESENTATIVE CARLSON: And if we don't do anything, we'll have a worse map. Thank you, Mr. Chair.

CHAIRMAN BEAULLIEU: Thank you.

MR. ALEXANDER: Thank you, sir. I appreciate the interchange.

CHAIRMAN BEAULLIEU: Representative Marcelle.

REPRESENTATIVE MARCELLE: Thank you. Mr. Alexander, I guess it's disheartening for me to sit here in 2024 and hear that we certainly need to keep the power. And if you all do what's right in Louisiana, we're going to lose our thin majority. If we would have done what was right long time ago, you probably wouldn't be in a majority. If Alabama passes what they need to pass and we pass what we need to pass, then, perhaps, we will have a fair and balanced Congress.

MR. ALEXANDER: And you'll be in the majority.

REPRESENTATIVE MARCELLE: Well -- and -- and what's the problem with that, sir?

MR. ALEXANDER: Well, there's millions of Americans who have a problem with that.

REPRESENTATIVE MARCELLE: And guess what, it's millions of people who have not had an opportunity to have a seat at the table. We have a problem with voter suppression. We have a problem with people thinking that we can't make decisions. And let me say this: on the other side of the aisle -- on the other side of the chamber in the Senate, I have colleagues that have some of the same beliefs that some of you have, right? And they believe in pro-life. They are African Americans. I believe in pro-choice. So to say that everybody's

ideology because they are Black is one way, is certainly crazy, number one.

And number two, I really agree with you with something, and that is, send it back to the courts and let Judge Shelly Dick draw the maps. We could then remove --

MR. ALEXANDER: But you -- you agree with me.

REPRESENTATIVE MARCELLE: I -- I do agree with that because then we could remove all of these different people and these moving parts that everybody -- these political interests because we do deserve two Black congressional seats because where I went to school - it was a Black school, though, Capitol High School - when you divide six into a third, a third into sixth, you get two. And so we deserve two seats, and that's what we deserve. We didn't -- we're not begging for something that we don't deserve. That's what we deserve.

And -- and God forbid, maybe somebody will get elected that feels like you, have the same ideologies as you, but perhaps they won't. People need an opportunity to have their voices heard.

MR. ALEXANDER: I respect that.

REPRESENTATIVE MARCELLE: And when I send somebody to Congress that feels like you that represents my district, then you do not represent what I believe.

REPRESENTATIVE CARLSON: Absolutely. And thank you, Mr. Chair. I'm done.

MR. HURD: It's absolutely the same. What they held was in the '90s, the federal agency that was telling you, "You had to do it," was the DOJ under Section 5, which itself was later held unconstitutional. The answer is they were wrong. They were unconstitutionally demanding racial districting beyond what the federal courts now recognize as the permissible range of remedy. We may be -- we don't -- I -- I -- look, I'll give Judge Dick an opportunity. It's not that she's hailed Section 2 applies.

The question is whether or not Section 2 has a constitutional remedy, i.e., I believe that my districting plan that I've handed in and I did it for an -- an example is as close as you can get to a non-racially gerrymandered district and get to two majority-minority districts, and it does. The plaintiff's remedy, Senate Bill 4 and 5, they're both racial gerrymanders and will not stand up to the Fifth Circuit. There are abilities to draw a compact contiguous majority-minority district, second one, in Louisiana. What you're going to do, you're going to enact this.

If I was Judge Dick, I'd look at it and go,

"I'm sorry. I've got -- already got the judge that wrote the opinion on the Fifth Circuit that says what y'all are about to do is a constitutional gerrymander. Therefore, I can disregard it." Disregard it. It is null and void. And she's going to draw the plan if you want to remedy an actual remedy. That's why it's exactly the same. You read the opinion, and you'll see they said, "The federal power does not override or force you to violate the Constitution." Stand up for the Constitution.

Stand up if you want a compact district. Draw the one that makes sense with our traditional districting principles because you can do it. The -- the -- the -- the -- the answer is, this is an unconstitutional alternative.

CHAIRMAN BEAULLIEU: Okay. Thank you, Mr. Hurd. You -- you -- I think you've been very, very clear on it. The board is clear. We have no more witnesses. Senator Womack, we're going to go ahead and -- and call you back up to -- to close.

MR. HURD: Your Honor, if -- I mean, Your Honor. I apologize. I'd like to -- I've got a copy of that opinion that outlines all the reasons that what you've got is a racial gerrymander. I had an outline of what it -- of -- of the -- each criteria that the judge

applies on why this is a -- a -- a ineffective remedy, and I hope -- I hope your good judgment finds another solution.

CHAIRMAN BEAULLIEU: Thank you. Representative Phelps, you failed to call, but you didn't say you wanted to speak. Are you trying to speak now?

REPRESENTATIVE PHELPS: Yes, (inaudible 2:19:39).

CHAIRMAN BEAULLIEU: I know you're not on the committee, but you want -- all right. Come on. Let's -- all right. All right. So let's fill this out that says she does want to speak. She's providing information only, not a green card or a red card. So Representative Phelps?

REPRESENTATIVE PHELPS: Thank you for the opportunity to speak. I -- I just wanted to mention to maybe some of our new colleagues here when we talk about why we're here. This started from an increase of the population from our census. So I -- and I think that's not -- we haven't heard a lot of that with the audience on the outside. It just was not a mandate to draw a map. So this does go with the 2020, the Census results that resulted in a population increase of African Americans across the state.

Secondly, I hope that there is some passion here about if there were a different population, a White population, and there was so much pushback about creating a district so that everyone would be represented, how that may feel. Just a thought. Thirdly, when I heard Judge Dick's name reference to Obama's judge, I don't know if I've ever heard someone say Trump's judge or Carter's judge or Reagan's judge or whomever. I don't know if we're going to start referencing judges that way, but I hope that we do not do that in this body.

I think we should give all of our elected officials a little bit more respect in that, regardless of what president they were appointed to or from. Thank you for your time.

CHAIRMAN BEAULLIEU: Thank you, Representative Phelps. The board is clear. Senator Womack, would you come up and close on your bill?

SENATOR WOMACK: Thank you, Mr. Chairman. Members of the committee, we all know why we're here. We were ordered to -- to draw a new Black district, and that's what I've done. At the same time, I tried to protect Speaker Johnson, Minority Leader Scalise, and my representative, Congresswoman Letlow. I'm agreeable to the amendment, and we complied with everything the judge

has asked. And I just ask for favorable passage.

CHAIRMAN BEAULLIEU: Thank you, Senator -- Senator Womack. Representative Farnum has made a motion that we adopt Senate Bill 8 as amended. Is there any objection? Representative Marcell objects. Ms. Baker -- listen, do we have anybody in an anteroom needs to come in real quick? We have everyone here? Looks like everyone's here. Okay. Ms. Baker, would you please call the role? So let me clarify the vote. A vote of yes moves Senator Womack's bill as amended by Representative Farnum forward. A vote of no leaves it here in the committee. Ms. Baker?

MS. BAKER: Thank you. Mr. Chairman. Chairman Beaullieu?

CHAIRMAN BEAULLIEU: Yes.

MS. BAKER: Yes. Representative Billings?

REPRESENTATIVE BILLINGS: Yes.

MS. BAKER: Yes. Representative Boyd?

REPRESENTATIVE BOYD: Yes.

MS. BAKER: Yes. Representative Carlson?

REPRESENTATIVE CARLSON: Yes.

MS. BAKER: Yes. Representative Carter? Representative Carver?

REPRESENTATIVE CARVER: Yes.

MS. BAKER: Yes. Representative Farnum?

REPRESENTATIVE FARNUM: Yes.

MS. BAKER: Yes. Representative Gadberry? Yes. Representative Johnson? Representative Larvadain? Yes. Representative Lyons?

VICE CHAIRMAN LYONS: Yes.

MS. BAKER: Yes. Representative Marcelle? Representative Newell?

REPRESENTATIVE MARCELLE: Not as amended. No, as amended.

MS. BAKER: No for Representative Marcelle.

REPRESENTATIVE MARCELLE: No.

MS. BAKER: Representative Newell?

REPRESENTATIVE NEWELL: Yes.

MS. BAKER: Yes. Representative Schamerhorn?

REPRESENTATIVE SCHAMERHORN: Yes.

MS. BAKER: Yes. Representative Thomas?

REPRESENTATIVE THOMAS: Yes.

MS. BAKER: Yes. Representative Wright?

REPRESENTATIVE WRIGHT: Yes.

MS. BAKER: Yes. Representative Wybel?

REPRESENTATIVE WYBEL: Yes.

MS. BAKER: Yes. There are 14 yeas and 1 nay.

CHAIRMAN BEAULLIEU: Members -- members have a vote of 14 yeas, 1 nay. Senate Bill 8 is hereby adopted as amended. Reported as amended. There are no other

matters before this committee. Representative Thomas had made a motion that we adjourn. Look, and -- as we adjourn, thank you everyone for your patience. Thank you everyone for your time. It's been a -- a great debate and -- and we appreciate you. Meeting adjourned. Thank you all.

(Meeting adjourned.)

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January 19, 2024

Phillip Callais, et al.

vs.

Nancy Landry

Members, I'm bringing you this congressional redistricting map that Senator Womack presented. You've -- you've heard it debated a couple of times. You heard it in -- in committee as well. Yesterday, we added an amendment in committee to Senator Womack's bill. And so my first order of business, even before I make my opening remarks, is going to get this bill in a proper posture. I'd like to offer up an amendment to delete the amendments that we added in committee yesterday. So if you'll check your monitors, it's going to -- or Madam Clerk, would you mind reading in the amendment?

THE CLERK: Mr. Speaker and members, Representative Beaullieu, as he's just discussed, is offering up a one-page set of amendments. That set is online. It's set number 83.

REPRESENTATIVE BEAULLIEU: So, members, after hearing from a lot of you, it's my thought that this instrument was in its best posture when it came over here from the Senate. And so I am offering an amendment to put it back in that posture, and I'd ask for your support.

MR. SPEAKER: I see no questions on the amendment. Representative Marcelle for the floor on the amendment.

REPRESENTATIVE MARCELLE: Thank you, Mr.

Speaker and Chairman. And thank you, members. On yesterday, we had a pretty, I would say, heated debate in H&G about these amendments, and so I rise in support of removing those amendments. And I had a lot of questions after I got home about why didn't I object to the amendments, but I'd stepped out of the room and so that's the reason for me not objecting to the amendments. I did object to the bill because the amendments had been added.

I know this is the process. I think that the bill was in its best posture when it came over with Representative -- I mean, with Senator Womack, Senate Bill 8. However, I tried to put that bill in a better posture. That matter failed. I know the process. I appreciate the process. And I appreciate the chairman taking that amendment off that I think does us no good to get to a better place where we can get the second congressional district. And I'd ask that you all would support the chairman in removing the amendment that was placed on there on yesterday. Thank you.

MR. SPEAKER: Is there any objections to the adoption of the amendment? Representative Farnum, objection. Would you like to speak on your objection? Representative Beaullieu, would you like to close on your amendment?

REPRESENTATIVE BEAULLIEU: Members, I just ask you to support the removal of the amendment that we added in -- in House and Governmental. Thank you.

MR. SPEAKER: Representative Beaullieu has offered up an amendment which Representative Farnum objects. All those in favor, vote yea. All those opposed, vote nay. The clerk will open the machine.

THE CLERK: (inaudible 0:04:34).

MR. SPEAKER: Wright, yea.

THE CLERK: Emerson, yea.

MR. SPEAKER: Emerson, yea. Are you through voting, members? The clerk will close the machine. We have 84 yeas and 16 nays, and amendment passes. Representative Beaullieu on the bill.

REPRESENTATIVE BEAULLIEU: Okay, Mr. Speaker. Thank you, members, for supporting me on that amendment. You'll bear with me for a second. So, members, I -- I appreciate you giving me the opportunity to be with you here today. Two years ago, I sat on the committee that -- that passed the original congressional map after redistricting, and we spent a lot of time going around the state listening to folks from all over our state. And this House, by two -- over two-thirds vote, supported a map that we thought was fair, that we thought was representative of the state of Louisiana.

As Senator Stine said earlier in this week, "It's with a heavy heart that I present to you this other map," but we have to. It's that clear. A federal judge has ordered us to draw an additional minority seat in the state of Louisiana. We have the -- the federal Voting Rights Act litigation is still going on in the US District Court in the Middle District of Louisiana. The map in this bill that I'm presenting is one of a product of long, detailed process with several goals.

First, and as a lot of you are aware, Congresswoman Julia Letlow represents north Louisiana in our nation's capital and serves on both the appropriations and agricultural committees. The boundaries in the bill that I'm presenting ensure that Congresswoman Letlow remains both unimpaired with any other incumbents, and in a congressional district that should continue to elect a Republican Congress for the remainder of this decade.

I have great pride in the work Congresswoman Letlow has accomplished, and this map will ensure that Louisianians will continue to benefit from her presence in the halls of Congress for as long as she decides to continue serving our great state of Louisiana.

Second, of Louisiana's six congressional districts, the map and the proposed bill ensures that

four are safe from -- or safe Republican seats. Louisiana's Republican presence in the United States Congress has contributed tremendously to the national discourse, and I'm very proud, and it's remarkable, that both the speaker of the United States House of Representatives, Mike Johnson, and the US House majority leader, Steve Scalise, are both from our great state.

This map ensures that the two men -- the two of them will have solidly Republican districts at home so they can focus on the national leadership that we need in Washington, DC. The map proposed in this bill ensures that the conservative principles retained by the majority of those in Louisiana will continue to extend past our boundaries to our nation's capital.

Finally, the maps in the proposed bill respond appropriately to the ongoing federal litigation, the ongoing federal Voting Rights Act case in the Middle District of Louisiana. For those who are unaware of the background, the congressional maps that we enacted, that I mentioned a second ago, in March of -- in March of 2022, have been the subject of litigation roughly since the day the 2022 congressional redistricting bill went into effect, and even before we enacted it. So the suit was filed before we actually enacted the bill.

After a substantial amount of prolonged

litigation, two trips to the Fifth Circuit asking it to reverse it, and a trip to the US Supreme Court, the federal District Court has adhered to its view that the federal law requires that the state have two congressional districts with a majority of Black voters. It's that simple. Our secretary of state, our attorney general, and our prior legislative leadership appealed but have yet to succeed. We are now here because the federal courts order that we have a first opportunity to act.

If we don't act, it is very clear that the federal court will impose the plaintiff's proposed map on our state, and we don't want that. The District Court's order that we must have two majority-Black voting-age population districts, combined with the political imperatives I just described, have largely driven the boundaries for District 2 and District 6, both of which are over 50 percent Black voting-age population, or BVAP as you've heard discussed a lot in committees and may hear with folks discussing today.

Given the state's current demographics, there's not a high enough Black -- Black population in the southeast portion of Louisiana to create two majority-Black districts and to also comply with the US Constitution's one vote, one person requirement. That a

-- the reason why District 2 is growing around Orleans Parish, while District 6 includes the Black population of east Baton Rouge Parish and travels up the I-49 corridor and the Red River to include Black population in Shreveport.

While this is a different map than the plaintiffs in the litigation have proposed, this is the only map I reviewed that accomplishes the political goals I believe are important for my district, for Louisiana, and for our country.

While I did not draw these boundaries myself, and I'm bringing the bill to the floor for the -- Senator Womack carried through the Senate and through committee yesterday in this House, I firmly submit that the congressional voting boundaries represented in this bill best achieve the goals of protecting Congresswoman Letlow's seat, maintaining strong districts for Speaker Johnson and Majority Leader Scalise, ensuring four Republican districts, and adhering to the command of the federal court in the Middle District of Louisiana.

I submit to you this map, and I'll be happy to take any questions.

MR. SPEAKER: Representative Taylor on a question.

THE CLERK: She waives.

MR. SPEAKER: She waives. Representative Amedee on a question.

REPRESENTATIVE AMEDEE: Thank you, Mr. Speaker. Rep. Beaullieu, thanks for carrying the bill over here. Is this bill intended to create another Black district?

REPRESENTATIVE BEAULLIEU: Yes, ma'am, and to comply with the judge's order.

REPRESENTATIVE AMEDEE: Thank you.

MR. SPEAKER: Seeing no further questions, Representative Bayham for the floor.

(Pause.)

REPRESENTATIVE BAYHAM: When I ran for the legislature, I had one goal, and that is to give my community a voice. I've studied some of the plans that were submitted by my colleagues here. Representative Wilford Carter had a plan, I believe, that kept St. Bernard Parish intact, and I appreciate that, Representative Carter. I am here to stand up for my community. St. Bernard has never been split into two congressional districts. We've already been split into two Senate districts. And to be brutally honest, looking at the way these precincts are -- and I know every precinct. I've campaigned in every precinct in St. Bernard.

We have two precincts, for example, that are in the 2nd Congressional District. One, Precinct 24, gave President Trump 75 percent of the vote. Precinct 25 gave President Trump 69 percent of the vote. Those are in the 2nd District. In the 1st District is Precinct 44, which gave President Biden 83 percent of the vote. Precinct 45 gave President Biden 85 percent of the vote. It seems like these precincts were just thrown together like a mechanical claw machine, just grabbing people and dropping them off.

Now, I participated in the hearings on the congressional reapportionment where they toured the state, and I appreciated the leadership of the House and the Senate, the committees in doing this. I took advantage of it. I testified. We are being told that we have to redraw all of this in a period of less than eight days. That is not how you make sausage. That's how you make a mess. I cannot in good conscience vote for this bill that divides my community, and I will stand by that for my community. Thank you.

MR. SPEAKER: There's no questions.

REPRESENTATIVE BAYHAM: Thank you.

MR. SPEAKER: Representative Beaullieu to close on the bill.

REPRESENTATIVE BEAULLIEU: As a colleague

mentioned earlier - sorry, Representative Cox, if I have to poach you - "Everybody likes to eat sausage, but nobody likes to see how it's made." And it's -- it has been painful, and it has been painful for all of us. But it's simple. We're under a federal judge's mandate, and this bill is our best attempt to comply with her decision. So, members, I ask you to support me in voting for this map. Thank you.

MR. SPEAKER: Representative Beaullieu moves for final passage of the bill. Those in favor, vote yea. Those opposed, vote nay. The clerk will open the machine. Vote your machine, members. Members, are you through voting? The clerk will close the machine. We have 86 yeas, 16 nays, and the bill is finally passed. Representative Beaullieu moves to adopt the title, and moves to reconsider the vote for which the bill finally passed and lay that motion on the table without objection.

MR. SPEAKER: Open the machine for co-authors.

(Pause.)

MR. SPEAKER: The clerk will close the machine. We have ten co-authors.

MALE SPEAKER: Representative Bagley for a motion to move to correct his vote.

REPRESENTATIVE BAGLEY: I want to correct on

-- on Senate Bill Number 8. I want to correct from absent to nay.

MALE SPEAKER: Without objection.

REPRESENTATIVE BAGLEY: Thank you, Mr. --

MALE SPEAKER: Representative Taylor moves for a motion to correct her vote.

REPRESENTATIVE TAYLOR: Good afternoon. I would also like to vote from absent to yea on the amendment.

MALE SPEAKER: Without objection. Representative Jackson moves to correct his vote.

REPRESENTATIVE JACKSON: Yes. I want to change my vote from nay to yea.

MALE SPEAKER: Without objection.

REPRESENTATIVE JACKSON: Thank you.

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January 19, 2024

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in the exact posture that it left the Senate. The House is removed. HGA Committee amendment I move to concur with on Senate Bill Number 8.

(Pause.)

MALE SPEAKER: Gotcha. Members, the summaries are being passed out right now, so we're just going to slow down a little bit. I want to give everybody the chance to see what we're voting on.

(Pause.)

MALE SPEAKER: Senator Womack, would you mind going over the -- I know we've all seen the amendment once. We -- we know what the bill looks like, but if you could just go over some high points on it while they're passing this out. Members, if you have a -- members, if you want to speak, hit your Floor button if anybody would like to come to the Floor to discuss the bill. I know some members -- make sure that you do that.

(Pause.)

SENATOR WOMACK: Okay. They're passing out the amendments. The -- the way they did lay up the House -- I mean, lay up the Senate, it was one district change on that amendment. That took in part of Avoyelles Parish. That was the only change, to my knowledge, that was in the -- that was in the new map.

MALE SPEAKER: Okay. Senate Morris for -- for -- Senator Morris for a question on the bill, and you also have your Floor button, so which -- you want to question. Let's do question first, please, and then we can do the Floor. Thank you.

SENATOR MORRIS: Senator Womack, you said the only change was -- was taking some of Avoyelles Parish and putting it in Miss Letlow's district, correct?

SENATOR WOMACK: Correct.

SENATOR MORRIS: However, it actually took my personal home out of Miss Letlow's district, as well as Senator Cathey's home precinct, as well as State Rep Echols' home precinct, and put that in Representative Johnson's district; did it not?

SENATOR WOMACK: It did.

SENATOR MORRIS: So the only thing being done was not just Avoyelles Parish, correct?

SENATOR WOMACK: I stand to be corrected. You're correct.

SENATOR MORRIS: Why did we do that for Avoyelles Parish?

SENATOR WOMACK: That was -- that was brought before the -- the -- I'll have to look back. I -- I was -- I was thinking that was a -- a -- a Senate Committee amendment on that, and that's the way it came out of

Committee.

SENATOR MORRIS: Yes, sir. I think you altered the amendment.

SENATOR WOMACK: Senator Morris, I'll have to -- I'll have to look back and -- and put that together for you. Any other questions?

SENATOR MORRIS: So you don't know why we put Avoyelles in Miss Letlow's district?

SENATOR WOMACK: As I stated earlier, we were -- we were trying to put what we could to -- to give senator -- Representative Letlow as much North Louisiana as we could. So that was what we -- that was what we done on -- on that amendment.

SENATOR MORRIS: By -- by trading Avoyelles for Monroe, we gave her more North Louisiana.

SENATOR WOMACK: As I understand it, in that bill, I didn't think that -- that your home or Senator Cathey or Echols was in the original bill to start with. My recollection.

SENATOR MORRIS: It wasn't in Miss Letlow's district.

SENATOR WOMACK: Right.

SENATOR MORRIS: Would you be shocked if that was not the case, and that we were all in Miss Letlow's district?

SENATOR WOMACK: Probably so. But that -- at the -- at the time I put that amendment on, I don't remember the original map having that -- y'all's address in her district.

SENATOR MORRIS: But you did know that the amendment took some more of Ouachita Parish out of Letlow's, and put it into Johnson's district; you did know that, right?

SENATOR WOMACK: I knew it had to come from somewhere.

SENATOR MORRIS: Yes, sir. Thank you.

MALE SPEAKER: Senator Morris, you have the Floor now for the -- for Senate (inaudible 0:08:19).

SENATOR MORRIS: Thank you, Mr. President. We came here to redistrict because there's a chance. It's not absolute, but there's a chance that the judge will rule that our districts that we -- that we completed in the last couple of years will not be declared unconstitutional. That case never went to a final judgment. It hasn't even gone to a full trial on the merits, but yet here we are. So what do we do? We're supposed to redistrict with a lot of principles in mind. Among those include compactness and contiguity.

This bill does neither. It's neither contiguous nor compact. We're all supposed to do it and

1 consider political subdivisions and communities of
2 interest. So now, by everyone's account, I live in
3 Northeast Louisiana, and now I'm in the same district as
4 Lake Charles. Louisiana Tech, Grambling, and University
5 of Louisiana, Monroe are now in different congressional
6 districts. They're all only 30 miles apart.
7 Senator Womack said in Committee that what he
8 wanted to do was protect Julia Letlow. She's the only
9 woman in our congressional delegation in this state,
10 she's the only member of appropriations, and she's on
11 the Agriculture Committee. So protecting her district
12 because she has seniority, and because she's a bright,
13 articulate, and effective Congresswoman, that's a very
14 noble and worthwhile goal. And I applaud him for having
15 stated that that is one of the objectives of this bill,
16 but this bill doesn't do that.
17 This bill puts more votes south of the
18 Mississippi line in the Florida parishes than it does in
19 the northeast corner of the state. Now, I'm not
20 horribly disappointed to be in Congressman Johnson's
21 district because I admire him immensely. It's nothing
22 against him. He -- I served with him in the House, and
23 we are friends, and I'm a supporter, and he knows that.
24 It has nothing to do with him. But we didn't do the
25 things that I believe that we should have done. Well,

1 what did we do?
2 It looks like to me we primarily considered
3 race, and we considered the personal interest of a
4 handful of members. There was no reason. The bill, as
5 originally filed, we did not like. It cut my home
6 parish in half. I understand it's got to go through
7 somebody's district, right? A lot of you have your
8 districts, your home parishes cut through, but you
9 didn't have to zigzag it around just so somebody can get
10 a personal stake, who might want to run for Congress, or
11 just wants their parish there because of their personal
12 interest.
13 I'm not going to be around to run for Congress
14 or anything of the sort in two years, eight years, or
15 ten years. This is about districts and regions that
16 will represent the people of our area, and the lack of
17 compactness is going to effectively disenfranchise, I
18 believe, to a certain degree, the people that I
19 represent. And for these reasons, I urge you to vote
20 against this bill. Thank you, Mr. President.
21 MALE SPEAKER: Thank you, Senator Morris.
22 Senator Cathey to the Floor on the bill.
23 (Pause.)
24 SENATOR CATHEY: Thank you, Mr. President.
25 Members, I -- I don't know that I can say any better

1 than what Senator Morris just said, and I wholeheartedly
2 agree with everything that he said. You know, I love
3 the Senate, and I love being a member of this body, and
4 I'm excited about the things that we're going to do in
5 this term. I think we're going to do some great things.
6 Unfortunately, today is not one of those days.
7 What we're doing to Northeast Louisiana with
8 this map is a travesty and a disservice to the only
9 woman that we have serving in our congressional
10 delegation. The only member that we have that sits on
11 the House Appropriations Committee, which controls
12 federal dollars to this state. When we say that this
13 map protects Northeast Louisiana and Congresswoman
14 Letlow, I'll have you know, 50 percent of the votes in
15 Congresswoman Letlow's district now reside within 30
16 miles of this building. Let that sink in. 30 miles of
17 this building. Look, I can see the writing on the wall,
18 and I know where this is going to go.
19 And so, look, I'm -- I'm -- I've been around
20 long enough to -- to count, and -- and I know that --
21 that we can't get to 20, but -- but I just couldn't let
22 this go without standing up for my people and my
23 district and my congresswoman. And so I guess there is
24 one other thing that -- that I do want to say just to
25 put it into perspective. Again, kind of like Senator

1 Morris said, my home, my personal home, which is 35
2 miles from the Arkansas line, and 65 miles from the
3 Mississippi line will now be in the same congressional
4 district as Fort Polk and McNeese State University and
5 Lake Charles. That's a disservice and a travesty. So
6 with that, I close.
7 MALE SPEAKER: Thank you, Senator Cathey.
8 Senator Luneau for the Floor.
9 (Pause.)
10 SENATOR LUNEAU: Thank you, Mr. President.
11 Members, we -- we did redistricting last year, I'm sure
12 most of you remember that, and it was an utter failure.
13 And there were a lot of us that talked about some of the
14 things that we could have done different to make it
15 different, but it didn't work out that way, so here we
16 are again. And I remember when we redistricted our own
17 district, our Senate districts, Rapides Parish, my home
18 parish, now has six different senators. Six. And I
19 fought that, but I lost on that -- on that -- on that
20 quest. I -- I just couldn't -- couldn't get everybody
21 together.
22 And they said, "You know, it's going to be
23 great if you have six centers. Then you've got six
24 people coming together." That -- that didn't happen.
25 That's not true. We didn't come together, and it hurt

Rapides Parish. And now this map, yet again, has Rapides Parish divided in half. I guess that's better than six, but I guess we would have to have every congressperson from the -- from the state to have six. It's important that we do these maps, and we do them correctly, where we establish another minority majority district. And for that reason, I'm going to support and I'm going to vote for this map, but like my colleagues before me, I have to admit we should do better.

MALE SPEAKER: Thank you, Senator Luneau. Senator Carter for the floor.

SENATOR CARTER: Thank you, Mr. President. Members, we have an historic opportunity before us today, and it's an exciting day for the great State of Louisiana. If we concur and accept Senate Bill 8, we get to create two performing African American districts right here in the State of Louisiana. That is historic. That is to be celebrated. I really want to say thank you to everyone in this room. I can't thank you all enough. I appreciate the sincere effort. I appreciate the -- the -- the working late into the evenings that -- I want to thank the staff of the SGA committee and the tireless hours that they have. This is -- this is historic.

I know that it's hard to do anything that's

perfect, and I know redistricting is the hardest thing that we do of all. This is my second redistricting session, and they're very tough, but we came together in a effort to comply with a federal judge's order that Louisiana provide equal representation to the African Americans in the State of Louisiana, and we have an opportunity to do that. Let's celebrate. Let's be happy. Let's be glad this state has an opportunity to provide equal representation in our congressional leadership right here in the State of Louisiana. Thank you all so much.

And I also want to thank -- I'll be remiss if I didn't thank the -- the president, all the members of SGA committee, the -- the governor who called this session. We began with the governor addressing us on Dr. King's Day, and here we are celebrating at the end of that week. And it just didn't start at the beginning of this week with Dr. King's Day. It started way back when Dr. King was alive, in a push for a voters' rights act. There's so many hurdles along the way and so many battles. There's so many -- so many -- so much effort. So much energy.

And when we were in Committee, we heard from many people. From the LDF people to the plaintiffs to all the -- the community people that came to testify

because they did it last year. And some of them said, "We are tired. We're tired of keep doing this." But let me tell my friends and my colleagues, to everyone, we shall not tire. We shall continue to fight for what's right. It is -- this is how we make progress. It is not easy, it is challenging, but this is how we make progress, and we make progress. We celebrate it. We acknowledge it. So thank you to my colleagues. Thank you to all of us who engaged in this process. Thank you, Mr. President.

MALE SPEAKER: Thank you, Senator Carter. Senator Womack to close.

SENATOR WOMACK: Members, we all -- we all know what we went through and worked through and tirelessly. Late nights. Many hours. Many hours spent in the drafting room, of trying to help Senator Morris and Senator Cathey in trying to alleviate some of the problems they had. We worked on that. However, congressional, it wasn't working for everybody. So we're here where we're at, and here your bill's before you. I ask that you concur with Senate Bill 8. Thank you.

MALE SPEAKER: Thank you, Senator Womack. Senator Womack moves to concur in Senate amendments proposed to House -- to Senate Bill 8. When the

machines are open, all those in favor to concur in the Senate amendments will vote aye. All opposed will vote nay. Madam Secretary may open the machines.

SENATOR HENRY: Go to machine, members. Go to machines. Go to machines, members. Close machine, please.

27 yeas, 11 nays, and the motion carries.

Senator Talbot for a motion.

SENATOR TALBOT: Thank you, Mr. President. I make a motion that we adjourn sine die.

SENATOR HENRY: Without objection. Members, if you could have your seat just for a second. Sit down just.

CERTIFICATE OF TRANSCRIPTION

I, Nathan Pikover, COO of TranscribeMe, Inc., do hereby certify that 290872-Audio-011924SCHAMB2-Edited-Appended was transcribed utilizing computer aided means and the TranscribeMe transcription team.

The transcript of the audio mentioned above, having been transcribed and reviewed by TranscribeMe, Inc. to the best of the company's ability, is a full, true, and correct transcription.

I further certify that neither I, nor the TranscribeMe, Inc. transcription team, have any personal association with the parties involved or are in any way interested in the outcome thereof.

Dated this 8th of March, 2024.

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Nathan Pikover, COO TranscribeMe, Inc.

2024 First Extraordinary Session **ENROLLED**

SENATE BILL NO. 8

BY SENATOR WOMACK AND REPRESENTATIVES BRYANT, WILFORD CARTER, CHASSION, GREEN, MANDIE LANDRY, LARVADAIN, MOORE, SELDERS, WALTERS, YOUNG AND KNOX

AN ACT

To enact R.S. 18:1276.1 and to repeal R.S. 18:1276, relative to congressional districts; to provide for the redistricting of Louisiana's congressional districts; to provide with respect to positions and offices, other than congressional, which are based upon congressional districts; to provide for the effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 18:1276.1 is hereby enacted to read as follows:

§1276.1. Congressional districts

Louisiana shall be divided into six congressional districts, and the qualified electors of each district shall elect one representative to the United States House of Representatives. The districts shall be composed as follows:

(1) District 1 is composed of Precincts 13, 14, 15, 18, 21, 22, 25, 26, 27, 33, 34, 35, 41, 43 and 69 of Ascension Parish; Precincts 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 51, 52, 53, 54, 55, 56, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 105, 106, 117, 118, 119, 120, 121, 122, 123, 124, 125A, 125B, 126, 127, 128, 129, 130, 132, 134, 136, 192, 198, 199, 246, 247, 248, 1-GI, 1-H, 2-H, 3-H, 4-H, 5-H, 6-H, 7-H, 8-H, 9-H, 1-K, 2-K, 3-K, 4-K, 5-K, 6-KA, 6-KB, 7-KA, 7-KB, 8-K, 9-K, 10-K, 11-K, 12-K, 13-KA, 14-K, 16-K, 17-K, 18-K, 19-K, 20-K, 25-K, 27-K, 28-K, 29-K, 34-K, 35-K and 1-L of Jefferson Parish; Precincts 3-3, 3-6, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 7-4, 8-1, 9-1, 9-2, 10-1, 10-2, 10-3, 10-4, 10-6, 10-8, 10-9, 10-10,

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Hearing Exhibit
R033
Case No: 3:24-cv-00122-DCJ-CES-RRS

10-11, 10-12, 10-13, 10-14, 10-15, 10-16, 11-1, 11-2, 11-3 and 11-5 of Lafourche Parish; Precincts 13A, 13B, 14, 15, 16, 17, 22, 31, 32 and 38 of Livingston Parish; Precincts 4-7, 4-8, 4-9, 4-11, 4-14, 4-15, 4-17, 4-17A, 4-18, 4-20, 4-21, 4-22, 4-23, 5-12, 5-13, 5-15, 5-16, 5-17, 5-18, 6-9, 7-41, 7-42, 9-45, 9-45A, 11-4, 11-5, 11-8, 11-9, 11-10, 11-11, 12-5, 12-6, 12-7, 12-9, 12-10, 13-5, 13-7, 13-8, 14-1, 14-2, 14-3, 14-4, 14-5, 14-6, 14-7, 14-8, 14-9, 14-10, 14-11, 14-13A, 14-14, 14-15, 14-16, 14-17, 14-18A, 14-20, 14-21, 16-1, 16-1A, 17-1, 17-17, 17-18, 17-18A, 17-19 and 17-20 of Orleans Parish; Plaquemines Parish; Precincts 32, 33, 34, 41, 42A, 43, 44, 45, 46, 50, 51, 52, 53, 54 and 55 of St. Bernard Parish; Precincts 1-6, 2-6, 3-1, 3-2, 3-3, 5-5, 6-1, 6-2, 6-3, 6-4, 6-6 and 6-8 of St. Charles Parish; St. Tammany Parish and Precincts 44, 49, 70, 70A, 71, 72, 72A, 73, 74, 120B, 122A, 122B, 122C, 124, 137, 137A, 137B, 137C, 137D, 139, 141, 141A, 143, 143A, 145, 147, 149, 149A and 151 of Tangipahoa Parish.

(2) District 2 is composed of Precincts 6, 7, 9, 11, 17, 20, 23, 24, 28, 30, 31, 32, 36, 37, 38, 39, 40, 42, 44, 45, 47, 48, 50, 51, 52, 53, 54, 55, 57, 58, 62, 63, 65, 66, 68, 71, 72, 73, 77 and 78 of Ascension Parish; Assumption Parish; Iberville Parish; Precincts 57, 104, 108, 115, 116, 131, 133, 138, 150, 151, 152, 153, 154, 155, 156, 157A, 157B, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179A, 179B, 180, 181, 182, 183, 184, 185A, 185B, 187, 188, 189, 190, 191, 193A, 193B, 194A, 194B, 195, 196, 197A, 197B, 200, 201, 202, 203, 204, 205, 210, 211, 212, 213A, 213B, 213C, 214A, 214B, 215, 216A, 216B, 216C, 217, 225, 226, 227, 228, 229, 230, 231, 232A, 232B, 234, 235, 236, 237, 238A, 238B, 1-G, 2-G, 3-G, 4-G, 5-G, 6-G, 7-G, 8-G, 9-G, 10-G, 11-G, 12-G, 13-G, 13-KB, 15-K, 21-K, 22-K, 23-K, 24-K, 26-K, 30-K, 31-K, 33-K, 1-W, 2-W, 3-W, 4-W, 5-W, 6-W and 7-W of Jefferson Parish; Precincts 1-2, 1-3, 1-4, 1-5, 1-6, 2-1, 2-1A, 2-3, 2-5, 2-7, 2-9, 2-10, 2-11, 2-16, 5-1, 5-1A and 5-3 of Lafourche Parish; Precincts 1-1, 1-2, 1-5, 1-6, 2-1, 2-2, 2-4, 2-6, 2-7, 3-1, 3-8, 3-9, 3-12, 3-14, 3-15, 3-18, 3-19, 3-20, 4-2, 4-3, 4-6, 5-1, 5-2, 5-3, 5-5, 5-7, 5-8, 5-9, 5-10, 5-11, 6-1, 6-2, 6-4, 6-6, 6-7, 6-8, 7-1, 7-2, 7-4, 7-5, 7-6, 7-7, 7-8, 7-9A, 7-10, 7-11, 7-12, 7-13, 7-14, 7-15, 7-16, 7-17, 7-18, 7-19, 7-20, 7-21, 7-23, 7-24, 7-25, 7-25A, 7-26, 7-27, 7-27B, 7-28, 7-28A, 7-29,

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7-30, 7-32, 7-33, 7-35, 7-37, 7-37A, 7-40, 8-1, 8-2, 8-4, 8-6, 8-7, 8-8, 8-9, 8-12, 8-13, 8-14, 8-15, 8-19, 8-20, 8-21, 8-22, 8-23, 8-24, 8-25, 8-26, 8-27, 8-28, 8-30, 9-1, 9-3, 9-4, 9-5, 9-6, 9-7, 9-8, 9-9, 9-10, 9-11, 9-12, 9-13, 9-14, 9-15, 9-16, 9-17, 9-19, 9-21, 9-23, 9-25, 9-26, 9-28, 9-28C, 9-29, 9-30, 9-30A, 9-31, 9-31A, 9-31B, 9-31D, 9-32, 9-33, 9-34A, 9-35, 9-35A, 9-36, 9-36B, 9-37, 9-38, 9-38A, 9-39, 9-39B, 9-40, 9-40A, 9-40C, 9-41, 9-41A, 9-41B, 9-41C, 9-41D, 9-42, 9-42C, 9-43A, 9-43B, 9-43C, 9-43E, 9-43F, 9-43G, 9-43H, 9-43I, 9-43J, 9-43K, 9-43L, 9-43M, 9-43N, 9-44, 9-44A, 9-44B, 9-44D, 9-44E, 9-44F, 9-44G, 9-44I, 9-44J, 9-44L, 9-44M, 9-44N, 9-44O, 9-44P, 9-44Q, 10-3, 10-6, 10-7, 10-8, 10-9, 10-11, 10-12, 10-13, 10-14, 11-2, 11-3, 11-12, 11-13, 11-14, 11-17, 12-1, 12-2, 12-3, 12-4, 12-11, 12-12, 12-13, 12-14, 12-16, 12-17, 12-19, 13-1, 13-2, 13-3, 13-4, 13-6, 13-9, 13-10, 13-11, 13-12, 13-13, 13-14, 13-15, 13-16, 14-12, 14-19, 14-23, 14-24A, 14-25, 14-26, 15-1, 15-2, 15-3, 15-5, 15-6, 15-8, 15-9, 15-10, 15-11, 15-12, 15-12A, 15-13, 15-13A, 15-13B, 15-14, 15-14A, 15-14B, 15-14C, 15-14D, 15-14E, 15-14F, 15-14G, 15-15, 15-15A, 15-15B, 15-16, 15-17, 15-17A, 15-17B, 15-18, 15-18A, 15-18B, 15-18C, 15-18D, 15-18E, 15-18F, 15-19, 15-19A, 15-19B, 15-19C, 16-2, 16-3, 16-4, 16-5, 16-6, 16-7, 16-8, 16-9, 17-2, 17-3, 17-4, 17-5, 17-6, 17-7, 17-8, 17-9, 17-10, 17-11, 17-12, 17-13, 17-13A, 17-14, 17-15 and 17-16 of Orleans Parish; Precincts 10, 11, 12, 13, 14, 15, 20, 21, 22, 23, 24, 25, 30, 31, 40 and 42 of St. Bernard Parish; Precincts 1-1, 1-2, 1-3, 1-4, 1-5, 2-1, 2-3, 2-4, 2-5, 4-1, 4-2, 4-3, 4-4, 4-5, 5-1, 5-3, 5-4, 7-1, 7-2, 7-3, 7-4, 7-5 and 7-6 of St. Charles Parish; St. James Parish and St. John the Baptist Parish.

(3) District 3 is composed of Acadia Parish; Precincts 167, 260, 261, 262, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309E, 309W, 310, 311, 312, 313E, 313W, 314, 315E, 315W, 316E, 316W, 317, 318, 319N, 319S, 320E, 320W, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332N, 332S, 333, 334, 335, 336, 337, 338, 339, 340, 360, 361, 362, 363, 364, 368, 369, 370, 372, 405, 440, 441, 463, 464, 467, 800, 801, 860S, 861E and 861W of Calcasieu Parish; Cameron Parish; Iberia Parish; Jefferson Davis Parish; Precincts 1, 3, 8, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 65, 66, 67, 69, 70,

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71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 114, 115, 116, 117, 118, 119, 120, 121, 123, 124, 125, 126, 127, 128, 130, 131, 133, 134, 135 and 136 of Lafayette Parish; Precincts 1-1, 2-2, 2-6, 2-8, 2-12, 2-13, 2-14, 2-15, 3-1, 3-2, 3-4, 3-5, 3-7, 5-2, 6-1, 6-2, 6-3, 6-4, 6-5, 7-1, 7-2, 7-3 and 11-4 of Lafourche Parish; St. Martin Parish; St. Mary Parish; Terrebonne Parish and Vermilion Parish.

(4) District 4 is composed of Allen Parish; Beauregard Parish; Bienville Parish; Bossier Parish; Precincts 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, 1-7, 1-8, 1-9, 1-10, 1-11, 1-12, 1-13, 1-14, 2-1, 2-2, 2-4, 2-7, 3-1, 3-8, 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 5-10, 6-1, 7-1, 8-1, 8-2, 8-3, 8-4, 8-5, 8-6, 8-7, 8-8, 8-9, 9-1, 9-2, 9-3, 9-4, 9-5, 9-6, 9-7, 9-8, 9-9, 9-10, 9-11, 9-12, 9-13, 10-2, 11-1, 11-2, 11-3, 11-6, 11-7, 11-9, 11-10, 12-1, 12-3, 12-7, 12-8 and 12-9 of Caddo Parish; Precincts 160E, 160W, 161, 162E, 162W, 163, 164, 165, 166E, 166W, 365, 366, 367, 371N, 371S, 400, 401, 402, 403, 404, 406, 407, 408, 460E, 460W, 461, 465, 466E, 466W, 468, 469, 560, 561, 562, 600, 601, 602, 603, 660, 661, 662, 663, 664, 700, 701, 702, 703, 760, 761, 762 and 860N of Calcasieu Parish; Claiborne Parish; Precincts 10, 11, 11B, 11C, 16, 16A, 16B, 16C, 23, 28, 30A, 31A, 34, 34A, 34B, 35, 35A, 35B, 37, 37C, 46, 46A, 48, 49, 49A and 51 of De Soto Parish; Evangeline Parish; Grant Parish; Jackson Parish; Lincoln Parish; Precincts 1, 1A, 2, 4, 25, 32, 33, 38, 41, 43, 44, 44A, 45, 49, 50, 51, 51A, 53, 55, 57, 58, 61, 64, 71, 75, 76 and 77 of Ouachita Parish; Precincts C22, C23, C35, C37-A, C37-B, C41, S7, S8, S9, S10, S11, S13, S14, S21, S22, S23, S24, S25, S26, S27, S28 and S29 of Rapides Parish; Red River Parish; Sabine Parish; Union Parish; Vernon Parish; Webster Parish and Winn Parish.

(5) District 5 is composed of Precincts 1, 2, 3, 4, 5, 8, 10, 12, 16, 19, 61, 64 and 76 of Ascension Parish; Precincts 1-1, 1-2, 1-3, 1-3A, 2-1, 2-1A, 2-2, 2-2A, 2-2B, 2-2C, 2-2D, 2-2F, 2-3A, 2-4, 2-4A, 2-5, 2-5E, 2-7, 2-8, 3-1B, 4-1, 4-2, 5-1, 5-1A, 5-1B, 6-1A, 6-2, 6-2A, 7-3B and 9-4B of Avoyelles Parish; Caldwell Parish; Catahoula Parish; Concordia Parish; Precincts 1-12, 1-34, 1-41, 1-42, 1-43, 1-44,

1-46, 1-47, 1-49, 1-56, 1-69, 1-74, 1-75, 1-76, 1-79, 1-80, 1-99, 1-105, 1-107, 2-6, 2-7, 2-8, 2-33, 3-1, 3-2, 3-3, 3-4, 3-5, 3-6, 3-7, 3-9, 3-13, 3-14, 3-15, 3-16, 3-17, 3-18, 3-21, 3-22, 3-23, 3-25, 3-26, 3-29, 3-30, 3-31, 3-33, 3-34, 3-35, 3-36, 3-37, 3-38, 3-39, 3-40, 3-41, 3-43, 3-45, 3-46, 3-47, 3-48, 3-49, 3-51, 3-53, 3-58, 3-60, 3-61, 3-62, 3-64, 3-65, 3-66, 3-67, 3-68, 3-71, 3-73 and 3-74 of East Baton Rouge Parish; East Carroll Parish; East Feliciana Parish; Franklin Parish; La Salle Parish; Precincts 1, 1A, 1B, 1C, 1D, 2, 2A, 3, 3A, 3B, 4, 4A, 4B, 5, 5A, 5B, 5D, 6, 6A, 6B, 7, 7A, 7B, 7C, 7D, 8A, 8B, 9, 10, 11, 11A, 12, 18, 18A, 19, 19A, 20, 21, 21A, 21B, 23, 23A, 23B, 23C, 24, 24B, 24C, 24D, 25, 26, 26A, 26B, 26C, 27, 28, 29, 30, 33, 34, 35, 35A, 36, 36A, 39, 39A, 39B, 40, 40A, 41 and 43 of Livingston Parish; Madison Parish; Morehouse Parish; Precincts 3, 5, 6, 7, 8, 9, 9A, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 30, 31, 34, 35, 36, 37, 39, 40, 42, 46, 47, 48, 52, 52A, 54, 56, 56A, 59, 60, 62, 63, 65, 65A, 66, 67, 68, 69, 70, 72, 73, 74, 78 and 79 of Ouachita Parish; Richland Parish; St. Helena Parish; Precincts 2, 6, 11, 15, 16, 17, 28, 33, 40A, 41, 42, 43, 45A, 45B, 46, 47, 101, 102, 104, 105, 106, 106A, 107, 108, 109, 110, 111A, 112, 114, 115B, 116, 117, 118, 118A, 119, 120, 120A, 121, 121A, 123, 125, 127, 129A, 133 and 133A of Tangipahoa Parish; Tensas Parish; Washington Parish; West Carroll Parish and West Feliciana Parish.

(6) District 6 is composed of Precincts 3-1, 3-3, 4-2A, 4-2B, 6-1B, 7-1, 7-3, 8-1, 8-2A, 8-2B, 8-3, 8-3A, 9-1A, 9-2, 9-2A, 9-3, 9-4, 9-5B, 10-2, 10-2A, 10-2B, 10-3A, 10-3B, 10-4, 11-1 and 11-2A of Avoyelles Parish; Precincts 2-3, 2-5, 2-6, 2-8, 2-9, 2-10, 2-11, 2-12, 3-2, 3-3, 3-4, 3-5, 3-6, 3-7, 3-9, 5-1, 5-2, 5-3, 5-4, 5-5, 5-6, 5-7, 5-8, 5-9, 5-11, 6-2, 6-3, 6-4, 6-5, 6-6, 6-7, 6-8, 6-9, 6-10, 7-2, 7-3, 7-4, 7-5, 7-6, 7-7, 7-8, 7-9, 7-10, 10-1, 10-3, 10-4, 10-5, 10-6, 10-7, 10-8, 10-9, 11-4, 11-5, 11-8, 12-2, 12-4, 12-5, 12-6, 12-10 and 12-11 of Caddo Parish; Precincts 1, 4, 5, 5A, 6, 6A, 6B, 9, 21, 22, 22A, 26, 26A, 30, 31, 32, 33, 33A, 38, 38A, 42, 44, 46B, 53, 55, 56, 59, 60, 60A, 63 and 63A of De Soto Parish; Precincts 1-1, 1-2, 1-3, 1-4, 1-5, 1-6, 1-7, 1-8, 1-9, 1-10, 1-11, 1-13, 1-14, 1-15, 1-16, 1-17, 1-18, 1-19, 1-20, 1-21, 1-22, 1-23, 1-24, 1-25, 1-26, 1-27, 1-28, 1-29, 1-30, 1-31, 1-32, 1-33, 1-35, 1-36,

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1-37, 1-38, 1-39, 1-40, 1-45, 1-48, 1-50, 1-51, 1-52, 1-53, 1-54, 1-55, 1-57, 1-58, 1-59, 1-60, 1-61, 1-62, 1-63, 1-64, 1-65, 1-66, 1-67, 1-68, 1-70, 1-71, 1-72, 1-73, 1-77, 1-78, 1-81, 1-82, 1-83, 1-84, 1-85, 1-86, 1-87, 1-88, 1-89, 1-90, 1-91, 1-92, 1-93, 1-94, 1-95, 1-96, 1-97, 1-98, 1-100, 1-101, 1-102, 1-103, 1-104, 2-1, 2-2, 2-3, 2-4, 2-5, 2-9, 2-10, 2-11, 2-12, 2-13, 2-14, 2-15, 2-16, 2-17, 2-18, 2-19, 2-20, 2-21, 2-22, 2-23, 2-24, 2-25, 2-26, 2-27, 2-28, 2-29, 2-30, 2-31, 2-32, 2-34, 2-35, 2-36, 2-37, 2-38, 3-8, 3-10, 3-11, 3-12, 3-19, 3-20, 3-24, 3-27, 3-28, 3-32, 3-42, 3-44, 3-50, 3-52, 3-54, 3-55, 3-56, 3-57, 3-59, 3-63, 3-69, 3-70, 3-72, 3-75 and 3-76 of East Baton Rouge Parish; Precincts 2, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 64, 68, 112, 113, 122 and 129 of Lafayette Parish; Natchitoches Parish; Pointe Coupee Parish; Precincts C1, C2, C3, C4, C5, C6, C7, C8, C9, C10, C11-A, C11-B, C13, C14, C15, C17, C18, C19, C20, C21, C24, C25, C26, C27, C28, C30, C31, C32, C33, C34, C36, C38-A, C38-B, C39, C40, C42, N1, N2, N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, N13-A, N13-B, N14-A, N14-B, N15, N16, N17, N18-A, N18-B, N19, N20, N21, N22, N23, N24, N25, N26, N27, N28, N29, S1, S2, S4, S5, S6A, S6B, S15, S16, S17, S18, S19 and S20 of Rapides Parish; St. Landry Parish and West Baton Rouge Parish.

Section 2. R.S. 18:1276 is hereby repealed.

Section 3.(A) The precincts referenced in this Act are those contained in the file named "2024 Precinct Shapefiles (1-10-2024)" available on the website of the Legislature of Louisiana on the effective date of this Section. The 2024 Precinct Shapefiles are based upon those Voting Districts (VTDs) contained in the 2020 Census Redistricting TIGER/Line Shapefiles for the State of Louisiana as those files have been modified and validated through the data verification program of the Louisiana House of Representatives and the Louisiana Senate to represent precinct changes submitted through January 10, 2024, to the Legislature of Louisiana by parish governing authorities pursuant to the provisions of R.S. 18:532 and 532.1.

(B) When a precinct referenced in this Act has been subdivided by action of the parish governing authority on a nongeographic basis or subdivided by action of the parish

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

governing authority on a geographic basis in accordance with the provisions of R.S. 18:532.1, the enumeration in this Act of the general precinct designation shall include all nongeographic and all geographic subdivisions thereof, however such subdivisions may be designated.

(C) The territorial limits of the districts as provided in this Act shall continue in effect until changed by law regardless of any subsequent change made to the precincts by the parish governing authority.

Section 4. The provisions of this Act shall not reduce the term of office of any person holding any position or office on the effective date of this Section for which the appointment or election is based upon a congressional district as composed pursuant to R.S. 18:1276. Any position or office that is filled by appointment or election based upon a congressional district and that is to be filled after January 3, 2025, shall be appointed or elected from a district as it is described in Section 1 of this Act.

Section 5.(A) Solely for the purposes of qualifying for election and the conduct of the election of representatives to the United States Congress at the regularly scheduled election for representatives to the congress in 2024, the provisions of Section 1 of this Act shall become effective upon signature of this Act by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided in Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and subsequently approved by the legislature, the provisions of Section 1 of this Act shall become effective on the day following such approval for the purposes established in this Subsection.

(B) For subsequent elections of representatives to the United States Congress and for all other purposes, the provisions of Section 1 of this Act shall become effective at noon on January 3, 2025.

(C) The provisions of Section 2 of this Act shall become effective at noon on January 3, 2025.

(D) The provisions of this Section and Sections 3 and 4 of this Act shall become effective upon signature of this Act by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided

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in Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and subsequently approved by the legislature, the provisions of this Section and Sections 3 and 4 of this Act shall become effective on the day following such approval.

_____
PRESIDENT OF THE SENATE

_____
SPEAKER OF THE HOUSE OF REPRESENTATIVES

_____
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

Plan Statistics

Plan: Senate Bill 8 Enrolled by Sen. Womack

Districts:	# of Members	Actual Population	Ideal Population	Absolute Deviation	Relative Deviation
District 1	1	776,327	776,292	35	0.005%
District 2	1	776,316	776,292	24	0.003%
District 3	1	776,287	776,292	-5	-0.001%
District 4	1	776,302	776,292	10	0.001%
District 5	1	776,285	776,292	-7	-0.001%
District 6	1	776,240	776,292	-52	-0.007%
Grand Total:	6	4,657,757	4,657,752		

Ideal Population Per Member:	776292		
Number of Districts for Plan Type:	6		
Range of District Populations:	776,240	to	776,327
Absolute Mean Deviation:	14		
Absolute Range:	-52	to	35
Absolute Overall Range:	87		
Relative Mean Deviation:	0.00%		
Relative Range:	-0.01%	to	0.00%
Relative Overall Range:	0.01%		

Ideal - Actual:	-5
Remainder:	5
Unassigned Population:	0

Total Population

Plan: Senate Bill 8 Enrolled by Sen. Womack

	Total Population	Total White	Total Black	Total Asian	Total American Indian	Total Other	Total Hispanic	VAP Total	VAP White	VAP Black	VAP Asian	VAP American Indian	VAP Other	VAP Hispanic Total
District 1	776,327	553,751	108,188	23,991	17,494	72,903	90,968	603,907	444,675	76,646	17,622	12,740	52,224	64,365
	100.000%	71.330%	13.936%	3.090%	2.253%	9.391%	11.718%	100.000%	73.633%	12.692%	2.918%	2.110%	8.648%	10.658%
District 2	776,316	271,367	412,387	24,960	9,683	57,919	74,305	598,204	225,203	305,124	19,711	7,377	40,789	51,406
	100.000%	34.956%	53.121%	3.215%	1.247%	7.461%	9.571%	100.000%	37.647%	51.007%	3.295%	1.233%	6.819%	8.593%
District 3	776,287	514,019	189,998	16,980	18,502	36,788	43,292	588,557	405,242	132,825	12,215	12,990	25,285	29,021
	100.000%	66.215%	24.475%	2.187%	2.383%	4.739%	5.577%	100.000%	68.853%	22.568%	2.075%	2.207%	4.296%	4.931%
District 4	776,302	541,739	169,212	13,823	20,170	31,358	39,630	593,646	424,349	122,168	9,987	15,060	22,082	27,348
	100.000%	69.785%	21.797%	1.781%	2.598%	4.039%	5.105%	100.000%	71.482%	20.579%	1.682%	2.537%	3.720%	4.607%
District 5	776,285	491,932	225,122	14,471	12,211	32,549	38,166	597,217	392,767	160,995	10,902	9,249	23,304	26,564
	100.000%	63.370%	29.000%	1.864%	1.573%	4.193%	4.916%	100.000%	65.766%	26.958%	1.825%	1.549%	3.902%	4.448%
District 6	776,240	284,844	438,212	13,063	9,000	31,121	36,188	589,017	232,275	318,011	9,979	6,824	21,928	24,958
	100.000%	36.695%	56.453%	1.683%	1.159%	4.009%	4.662%	100.000%	39.434%	53.990%	1.694%	1.159%	3.723%	4.237%
Grand Total	4,657,757	2,657,652	1,543,119	107,288	87,060	262,638	322,549	3,570,548	2,124,511	1,115,769	80,416	64,240	185,612	223,662
	100.000%	57.059%	33.130%	2.303%	1.869%	5.639%	6.925%	100.000%	59.501%	31.249%	2.252%	1.799%	5.198%	6.264%

Voter Registration

Plan: Senate Bill 8 Enrolled by Sen. Womack

	Reg Total Dec 2023	Reg White Dec 2023	Reg Black Dec 2023	Reg Other Dec 2023	Reg Dem Total Dec 2023	Reg Rep Total Dec 2023	Reg Other Total Dec 2023
District 1	479,186	385,098	51,969	42,119	127,253	205,251	146,682
	79.348%	80.365%	10.845%	8.790%	26.556%	42.833%	30.611%
District 2	466,623	181,215	245,721	39,687	267,146	76,552	122,925
	78.004%	38.835%	52.659%	8.505%	57.251%	16.406%	26.344%
District 3	452,113	336,261	94,266	21,586	142,481	185,022	124,610
	76.817%	74.375%	20.850%	4.774%	31.514%	40.924%	27.562%
District 4	443,328	339,359	84,236	19,733	124,622	202,564	116,142
	74.679%	76.548%	19.001%	4.451%	28.111%	45.692%	26.198%
District 5	453,903	315,312	120,990	17,601	154,290	182,707	116,906
	76.003%	69.467%	26.655%	3.878%	33.992%	40.252%	25.756%
District 6	447,134	183,201	244,647	19,286	236,714	99,530	110,890
	75.912%	40.972%	54.714%	4.313%	52.940%	22.260%	24.800%
Grand Total	2,742,287	1,740,446	841,829	160,012	1,052,506	951,626	738,155

Splits

Plan: Senate Bill 8 Enrolled by Sen. Womack

	Total Population	Total White	Total Black	Total Asian	Total American Indian	Total Other	VAP Total	VAP White	VAP Black	VAP Asian	VAP American Indian	VAP Other	Reg Total Dec 2023	Reg White Dec 2023	Reg Black Dec 2023	Reg Other Dec 2023
District 1																
*Ascension	27,718	23,228	2,058	201	522	1,709	20,611	17,693	1,304	121	368	1,125	17,243	15,672	954	617
*Jefferson	240,081	155,518	30,822	11,880	4,356	37,505	192,148	129,999	22,555	8,951	3,295	27,348	144,399	112,491	12,528	19,380
*Lafourche	47,193	37,212	3,189	577	3,242	2,973	35,543	29,123	1,939	413	2,140	1,928	25,117	22,442	1,115	1,560
*Livingston	13,310	11,276	1,138	84	259	553	10,369	8,949	804	46	207	363	8,639	7,732	668	239
*Orleans	64,493	50,312	6,498	2,503	749	4,431	53,843	42,329	5,556	1,950	609	3,399	41,535	34,071	3,239	4,225
Plaquemines	23,515	14,287	5,428	1,317	697	1,786	17,334	10,856	3,857	925	500	1,196	13,143	8,996	2,934	1,213
*St. Bernard	20,543	11,907	5,780	617	436	1,803	14,871	8,992	3,854	424	327	1,274	12,975	8,866	3,231	878
*St. Charles	19,887	13,870	3,607	347	356	1,707	14,990	10,865	2,485	229	241	1,170	12,791	9,837	2,063	891
St. Tammany	264,570	196,641	38,643	5,774	5,660	17,852	202,228	154,621	26,761	4,075	4,161	12,610	174,307	141,262	21,129	11,916
*Tangipahoa	55,017	39,500	11,025	691	1,217	2,584	41,970	31,248	7,531	488	892	1,811	29,037	23,729	4,108	1,200
District 1	776,327	553,751	108,188	23,991	17,494	72,903	603,907	444,675	76,646	17,622	12,740	52,224	479,186	385,098	51,969	42,119
	100.000%	71.330%	13.936%	3.090%	2.253%	9.391%	100.000%	73.633%	12.692%	2.918%	2.110%	8.648%	79.348%	80.365%	10.845%	8.790%
District 2																
*Ascension	67,009	34,447	25,291	1,260	985	5,026	48,560	26,086	17,639	850	679	3,306	41,549	23,859	15,251	2,439
Assumption	21,039	13,722	6,220	96	258	743	16,616	11,145	4,707	57	197	510	13,323	8,977	4,131	215
Iberville	30,241	14,833	13,730	202	274	1,202	24,086	12,462	10,232	149	221	1,022	19,906	9,999	9,484	423
*Jefferson	200,700	65,417	95,395	11,144	3,330	25,414	152,506	54,136	69,620	8,741	2,540	17,469	109,034	40,445	53,674	14,915
*Lafourche	19,271	10,678	7,472	188	292	641	14,620	8,657	5,185	132	200	446	10,440	6,675	3,412	353
*Orleans	319,504	76,150	212,471	10,353	2,917	17,613	252,353	67,923	160,512	8,570	2,339	13,009	196,855	52,054	127,351	17,450
*St. Bernard	23,221	12,590	6,529	764	511	2,827	16,904	10,000	4,090	558	361	1,895	12,710	9,178	2,362	1,170
*St. Charles	32,662	19,680	10,321	490	569	1,602	24,551	15,289	7,405	300	426	1,131	20,791	13,574	6,207	1,010
St. James	20,192	9,973	9,762	60	82	315	15,505	7,883	7,297	31	64	230	14,531	7,116	7,196	219
St. John the Baptist	42,477	13,877	25,196	403	465	2,536	32,503	11,622	18,437	323	350	1,771	27,484	9,338	16,653	1,493
District 2	776,316	271,367	412,387	24,960	9,683	57,919	598,204	225,203	305,124	19,711	7,377	40,789	466,623	181,215	245,721	39,687
	100.000%	34.956%	53.121%	3.215%	1.247%	7.461%	100.000%	37.647%	51.007%	3.295%	1.233%	6.819%	78.004%	38.835%	52.659%	8.505%
District 3																
Acadia	57,576	44,480	10,864	238	573	1,421	42,943	34,071	7,383	173	400	916	36,151	29,438	5,995	718
*Calcasieu	131,299	69,747	50,290	3,564	1,764	5,934	99,893	55,812	35,987	2,563	1,347	4,184	65,841	39,808	22,822	3,211
Cameron	5,617	5,232	125	30	75	155	4,358	4,100	79	23	47	109	4,072	3,936	61	75
Iberia	69,929	39,206	24,556	2,123	794	3,250	52,791	31,295	17,069	1,562	581	2,284	42,188	26,848	13,441	1,899
Jefferson Davis	32,250	25,066	5,837	183	472	692	24,039	19,121	4,006	111	325	476	18,733	15,509	2,784	440
*Lafayette	180,411	131,849	29,263	5,960	2,665	10,674	137,635	103,919	19,952	4,314	2,029	7,421	111,925	91,759	13,498	6,668
*Lafourche	31,093	23,820	5,194	260	690	1,129	24,456	19,058	3,953	193	437	815	18,681	16,364	1,750	567
St. Martin	51,767	33,259	15,921	597	539	1,451	39,404	26,278	11,293	407	413	1,013	33,997	23,306	9,880	811
St. Mary	49,406	26,949	15,991	835	1,670	3,961	37,521	21,594	11,520	593	1,173	2,641	29,204	17,999	9,570	1,635

Splits

Plan: Senate Bill 8 Enrolled by Sen. Womack

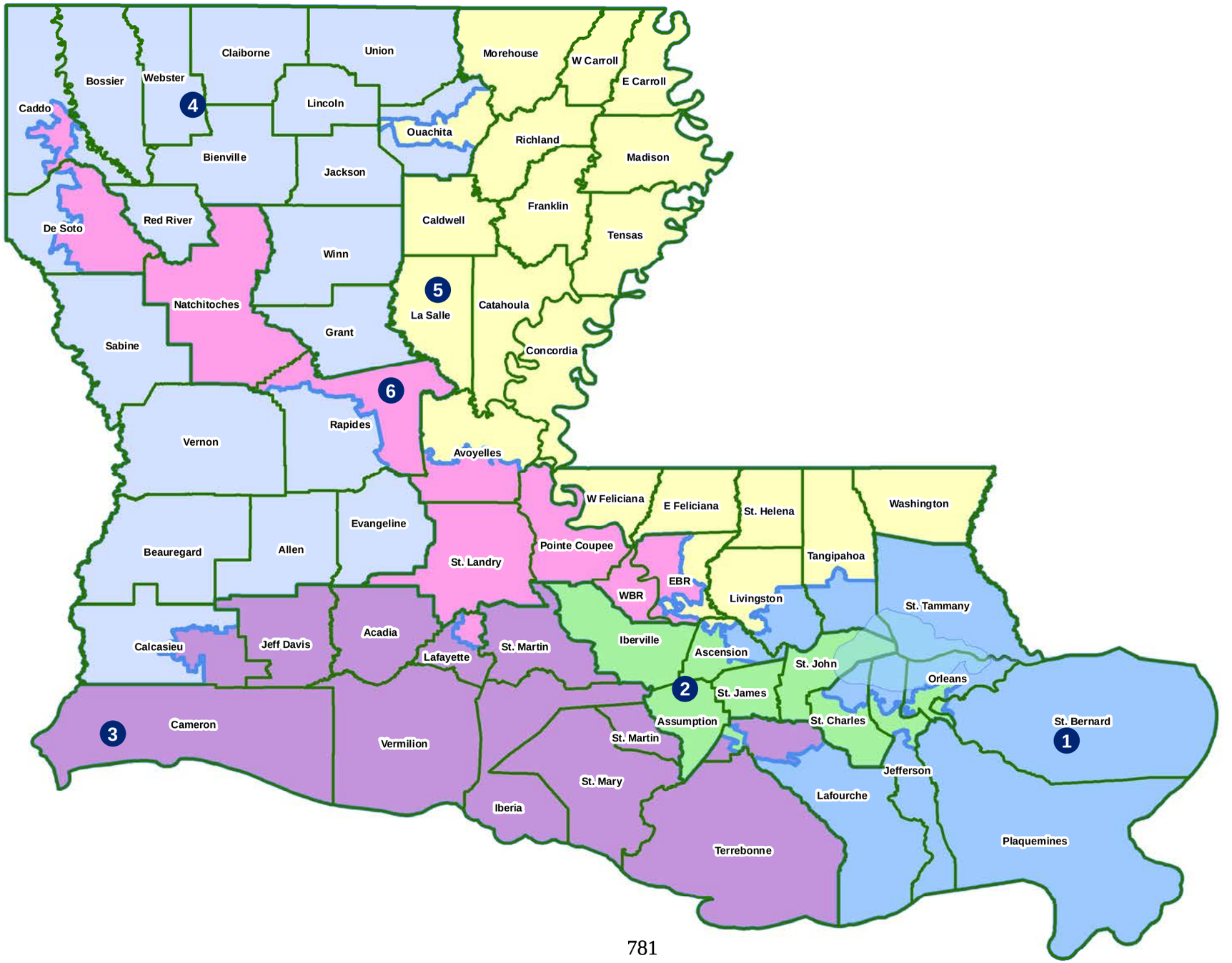
	Total Population	Total White	Total Black	Total Asian	Total American Indian	Total Other	VAP Total	VAP White	VAP Black	VAP Asian	VAP American Indian	VAP Other	Reg Total Dec 2023	Reg White Dec 2023	Reg Black Dec 2023	Reg Other Dec 2023
District 3																
Terrebonne	109,580	69,934	23,147	1,743	8,637	6,119	82,505	55,631	15,796	1,239	5,750	4,089	55,810	41,601	9,910	4,299
Vermilion	57,359	44,477	8,810	1,447	623	2,002	43,012	34,363	5,787	1,037	488	1,337	35,511	29,693	4,555	1,263
District 3	776,287	514,019	189,998	16,980	18,502	36,788	588,557	405,242	132,825	12,215	12,990	25,285	452,113	336,261	94,266	21,586
	100.000%	66.215%	24.475%	2.187%	2.383%	4.739%	100.000%	68.853%	22.568%	2.075%	2.207%	4.296%	76.817%	74.375%	20.850%	4.774%
District 4																
Allen	22,750	16,327	4,490	246	947	740	17,510	12,751	3,275	182	646	656	11,079	8,704	1,920	455
Beauregard	36,549	29,529	4,649	402	1,052	917	27,489	22,304	3,495	269	773	648	22,071	18,639	2,264	1,168
Bienville	12,981	6,950	5,600	57	207	167	10,073	5,486	4,284	30	162	111	8,336	4,509	3,728	99
Bossier	128,746	81,052	32,551	3,492	3,273	8,378	95,876	62,931	22,440	2,448	2,477	5,580	65,726	48,229	13,555	3,942
*Caddo	115,441	81,078	24,210	3,063	2,680	4,410	90,776	65,789	17,575	2,243	2,062	3,107	69,121	52,696	12,684	3,741
*Calcasieu	85,486	70,025	9,096	1,138	1,772	3,455	63,273	52,977	5,911	796	1,257	2,332	45,978	40,556	3,671	1,751
Claiborne	14,170	7,263	6,360	88	185	274	11,507	6,258	4,824	55	140	230	8,390	4,557	3,677	156
*De Soto	11,787	8,939	2,074	35	377	362	8,971	6,910	1,554	25	266	216	8,699	6,940	1,476	283
Evangeline	32,350	21,354	9,235	241	280	1,240	24,408	16,460	6,483	187	217	1,061	20,388	14,274	5,744	370
Grant	22,169	17,709	3,335	133	644	348	17,527	13,964	2,717	97	507	242	12,226	10,764	1,120	342
Jackson	15,031	9,967	4,166	175	255	468	11,783	7,967	3,125	140	174	377	9,375	6,570	2,610	195
Lincoln	48,396	26,034	19,364	892	662	1,444	38,655	21,306	15,119	744	526	960	24,408	15,139	8,357	912
*Ouachita	55,373	45,898	5,641	1,121	1,225	1,488	41,613	34,950	3,864	771	961	1,067	36,532	32,374	2,853	1,305
*Rapides	24,719	19,507	2,233	699	829	1,451	18,855	15,256	1,530	494	627	948	15,222	13,127	1,240	855
Red River	7,620	4,195	3,106	25	171	123	5,714	3,338	2,164	3	116	93	5,475	3,034	2,358	83
Sabine	22,155	15,036	3,861	94	2,723	441	17,064	12,054	2,655	66	1,970	319	13,570	10,287	1,912	1,371
Union	21,107	14,460	5,224	62	338	1,023	16,632	11,807	3,861	39	254	671	14,802	10,847	3,497	458
Vernon	48,750	35,087	7,611	1,442	1,600	3,010	36,261	26,765	5,133	1,074	1,160	2,129	22,409	18,129	2,608	1,672
Webster	36,967	22,735	12,679	208	687	658	28,753	18,144	9,464	154	558	433	21,259	14,068	6,744	447
Winn	13,755	8,594	3,727	210	263	961	10,906	6,932	2,695	170	207	902	8,262	5,916	2,218	128
District 4	776,302	541,739	169,212	13,823	20,170	31,358	593,646	424,349	122,168	9,987	15,060	22,082	443,328	339,359	84,236	19,733
	100.000%	69.785%	21.797%	1.781%	2.598%	4.039%	100.000%	71.482%	20.579%	1.682%	2.537%	3.720%	74.679%	76.548%	19.001%	4.451%
District 5																
*Ascension	31,773	23,466	4,867	839	497	2,104	22,786	17,357	3,196	543	343	1,347	19,854	16,011	2,623	1,220
*Avoyelles	20,125	14,889	4,417	132	397	290	15,393	11,696	3,076	102	282	237	11,431	8,976	2,117	338
Caldwell	9,645	7,646	1,632	51	150	166	7,478	5,969	1,224	46	116	123	5,813	4,959	762	92
Catahoula	8,906	5,776	2,395	46	119	570	6,951	4,557	1,736	33	87	538	6,113	4,363	1,695	55
Concordia	18,687	10,275	7,725	122	233	332	14,217	8,108	5,613	100	167	229	11,419	6,816	4,418	185
*East Baton Rouge	172,199	119,876	31,907	8,088	2,420	9,908	138,993	99,727	23,872	6,216	1,935	7,243	104,631	81,782	15,706	7,143
East Carroll	7,459	2,054	5,272	29	43	61	5,901	1,773	4,043	19	27	39	4,564	1,218	3,305	41

Splits

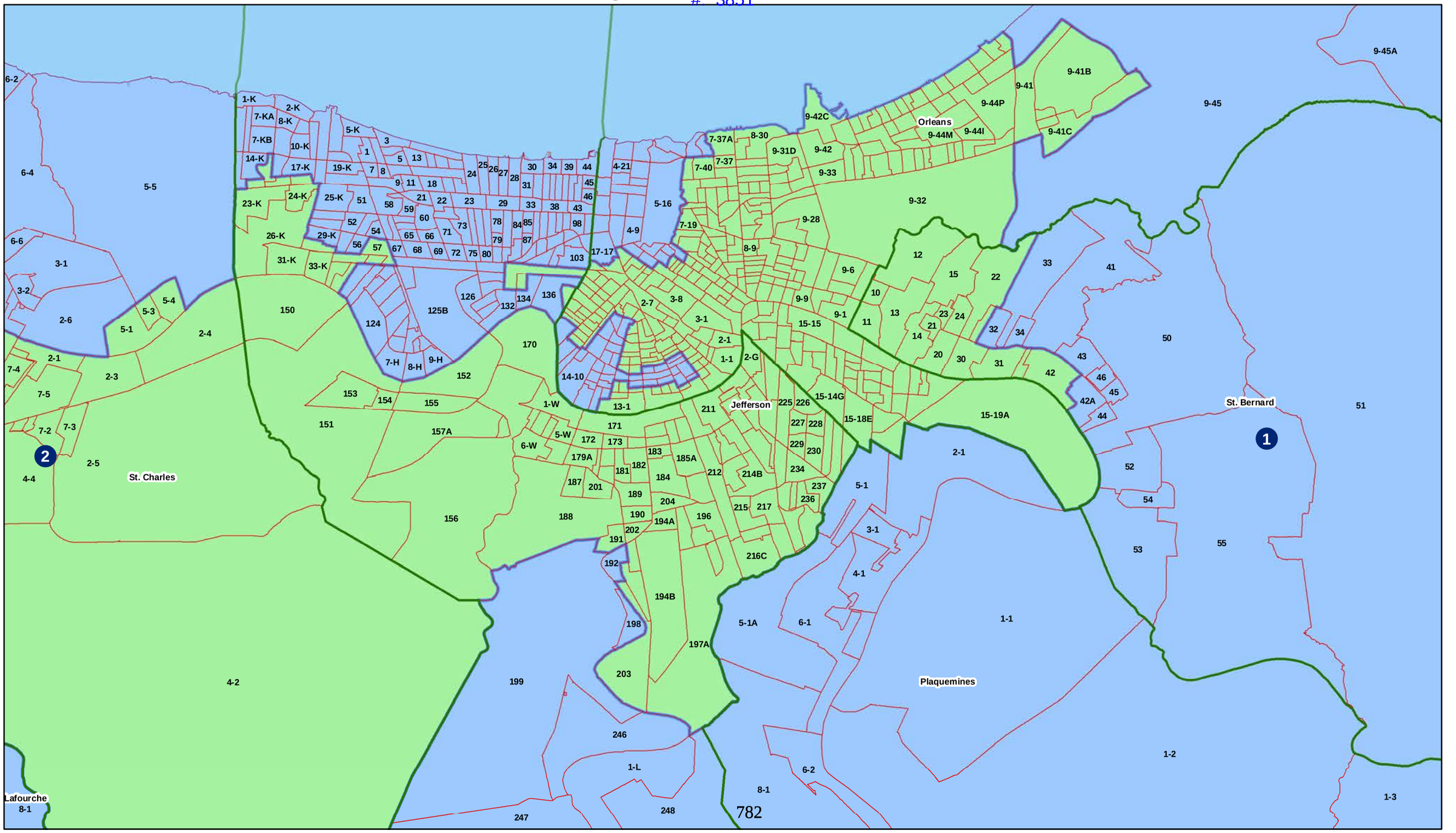
Plan: Senate Bill 8 Enrolled by Sen. Womack

	Total Population	Total White	Total Black	Total Asian	Total American Indian	Total Other	VAP Total	VAP White	VAP Black	VAP Asian	VAP American Indian	VAP Other	Reg Total Dec 2023	Reg White Dec 2023	Reg Black Dec 2023	Reg Other Dec 2023
District 5																
East Feliciana	19,539	11,516	7,341	91	262	329	16,183	9,740	5,918	61	198	266	13,327	7,805	5,075	447
Franklin	19,774	12,492	6,802	70	205	205	15,028	9,901	4,779	44	153	151	12,350	8,524	3,718	108
La Salle	14,791	11,348	1,422	283	372	1,366	11,563	8,636	1,065	264	271	1,327	8,380	7,633	583	164
*Livingston	128,972	105,579	11,520	1,613	2,852	7,408	94,772	79,483	7,332	1,053	2,104	4,800	73,766	65,923	4,974	2,869
Madison	10,017	3,475	6,363	20	59	100	7,435	2,906	4,391	9	48	81	7,068	2,439	4,518	111
Morehouse	25,629	12,281	12,484	160	370	334	20,062	10,095	9,300	117	279	271	15,440	7,806	7,377	257
*Ouachita	104,995	42,647	55,576	1,667	1,436	3,669	78,587	35,024	38,426	1,347	1,098	2,692	59,098	25,775	31,168	2,155
Richland	20,043	11,785	7,603	83	258	314	15,383	9,338	5,546	66	203	230	13,141	8,144	4,753	244
St. Helena	10,920	4,527	6,031	39	134	189	8,463	3,805	4,371	28	109	150	8,260	3,626	4,492	142
*Tangipahoa	78,140	41,836	30,854	783	1,237	3,430	59,521	33,957	21,686	612	935	2,331	34,249	22,443	10,704	1,102
Tensas	4,147	1,744	2,312	23	26	42	3,235	1,446	1,728	12	23	26	3,485	1,510	1,937	38
Washington	45,463	29,943	13,434	216	736	1,134	34,951	23,743	9,732	154	561	761	27,151	18,603	7,892	656
West Carroll	9,751	7,894	1,425	27	180	225	7,532	6,223	1,010	20	136	143	6,871	5,770	1,013	88
West Feliciana	15,310	10,883	3,740	89	225	373	12,783	9,283	2,951	56	174	319	7,492	5,186	2,160	146
District 5	776,285	491,932	225,122	14,471	12,211	32,549	597,217	392,767	160,995	10,902	9,249	23,304	453,903	315,312	120,990	17,601
	100.000%	63.370%	29.000%	1.864%	1.573%	4.193%	100.000%	65.766%	26.958%	1.825%	1.549%	3.902%	76.003%	69.467%	26.655%	3.878%
District 6																
*Avoyelles	19,568	10,736	7,261	302	370	899	15,185	8,573	5,235	277	288	812	10,007	6,266	3,505	236
*Caddo	122,407	22,379	95,094	971	1,160	2,803	91,631	19,270	68,784	765	896	1,916	62,821	11,685	48,787	2,349
*De Soto	15,025	6,345	7,899	82	363	336	11,469	4,999	5,871	61	291	247	9,188	4,065	4,841	282
*East Baton Rouge	284,582	76,193	181,491	8,337	2,307	16,254	216,619	64,154	132,918	6,383	1,812	11,352	164,206	50,963	103,796	9,447
*Lafayette	61,342	21,514	35,873	494	545	2,916	46,240	17,689	25,965	350	358	1,878	36,884	14,039	21,247	1,598
Natchitoches	37,515	19,361	15,725	255	861	1,313	29,349	16,010	11,415	198	683	1,043	20,675	11,761	8,016	898
Pointe Coupee	20,758	12,395	7,504	107	159	593	16,250	10,108	5,502	91	119	430	14,107	9,040	4,837	230
*Rapides	105,304	58,003	40,359	1,729	2,273	2,940	79,937	46,117	28,675	1,292	1,707	2,146	60,064	36,829	20,719	2,516
St. Landry	82,540	43,611	35,836	499	636	1,958	61,811	34,209	25,497	353	451	1,301	52,429	28,933	22,135	1,361
West Baton Rouge	27,199	14,307	11,170	287	326	1,109	20,526	11,146	8,149	209	219	803	16,753	9,620	6,764	369
District 6	776,240	284,844	438,212	13,063	9,000	31,121	589,017	232,275	318,011	9,979	6,824	21,928	447,134	183,201	244,647	19,286
	100.000%	36.695%	56.453%	1.683%	1.159%	4.009%	100.000%	39.434%	53.990%	1.694%	1.159%	3.723%	75.912%	40.972%	54.714%	4.313%

Congress - Statewide



Congress - Jefferson / Orleans



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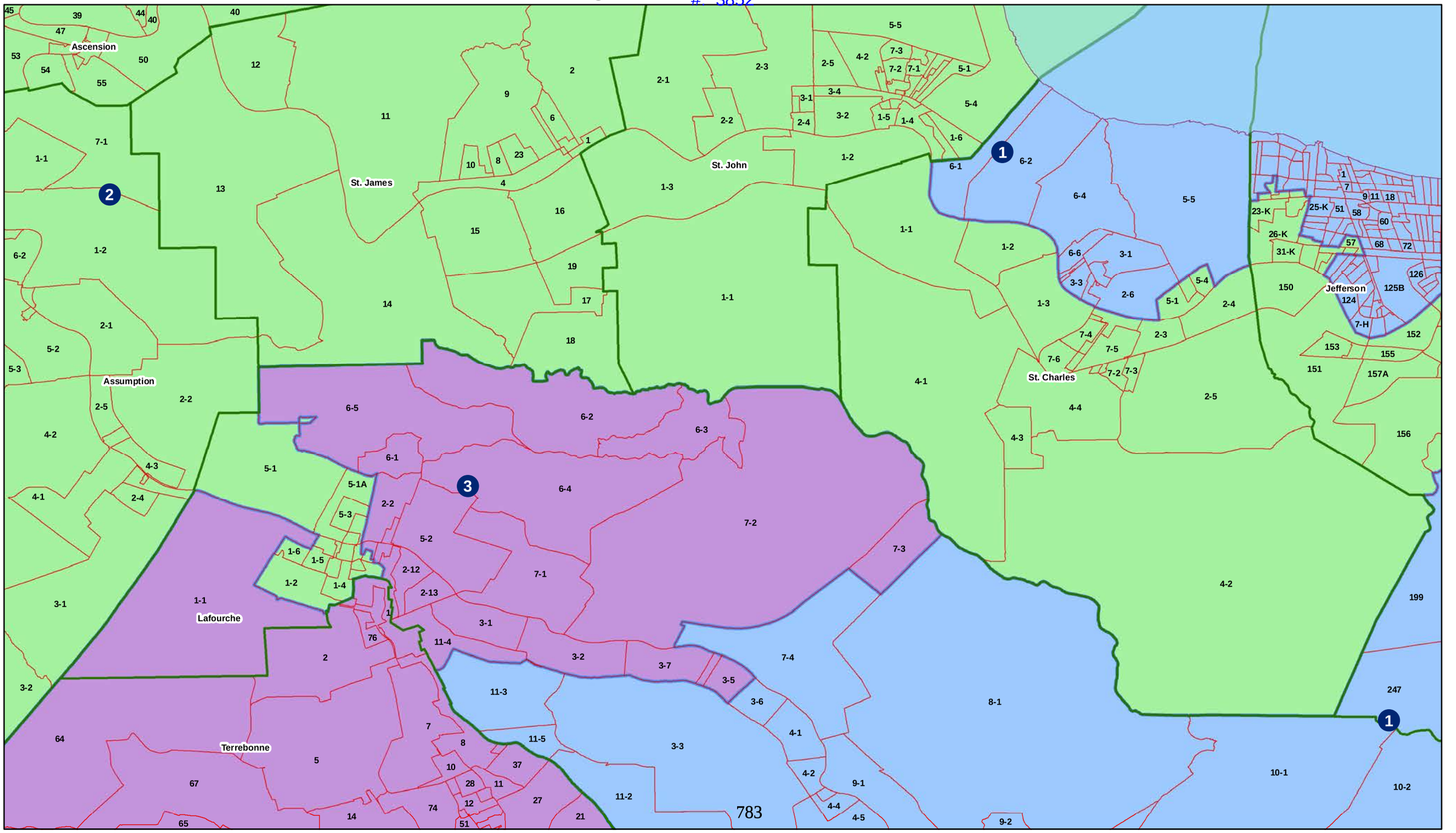

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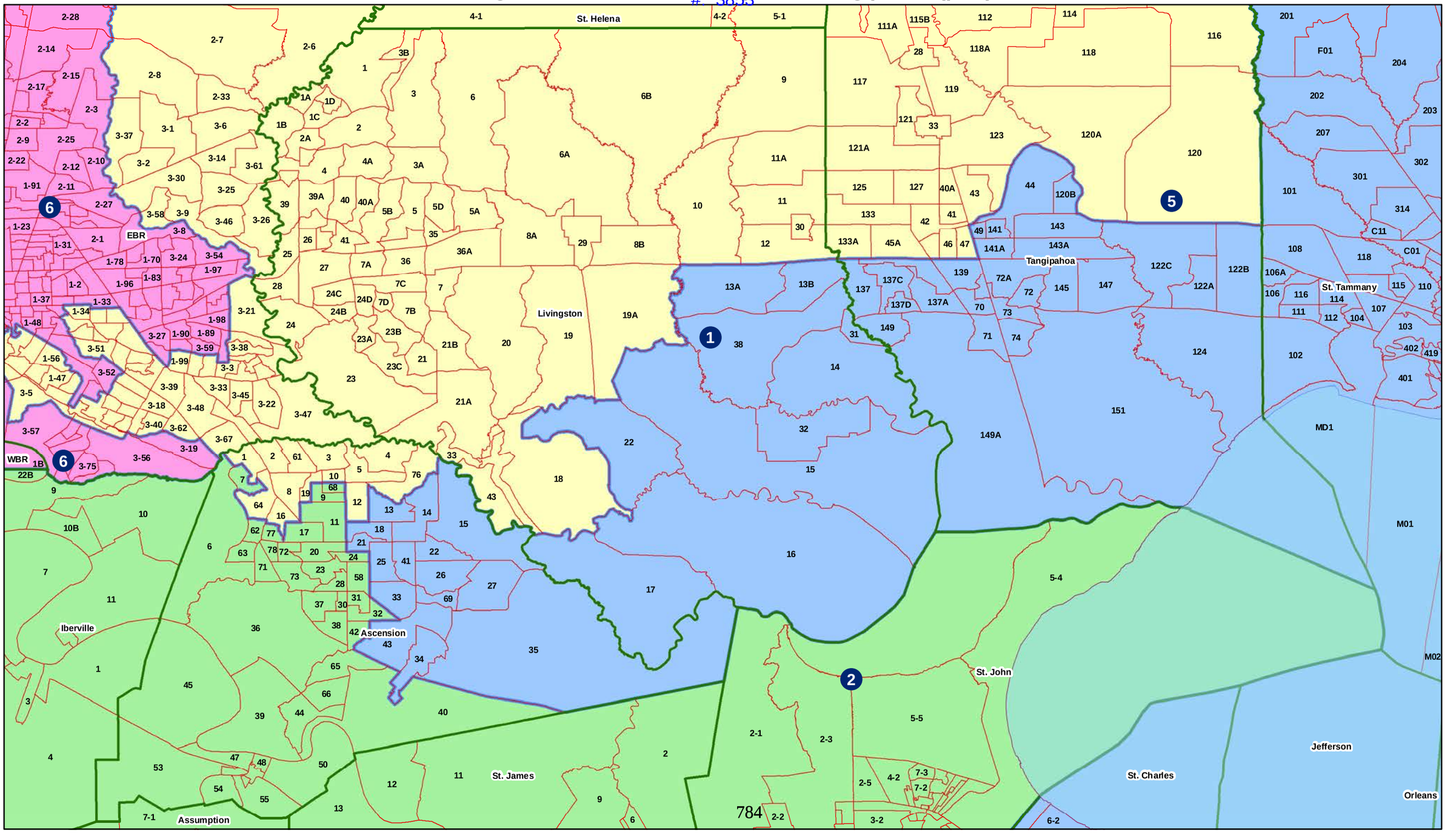

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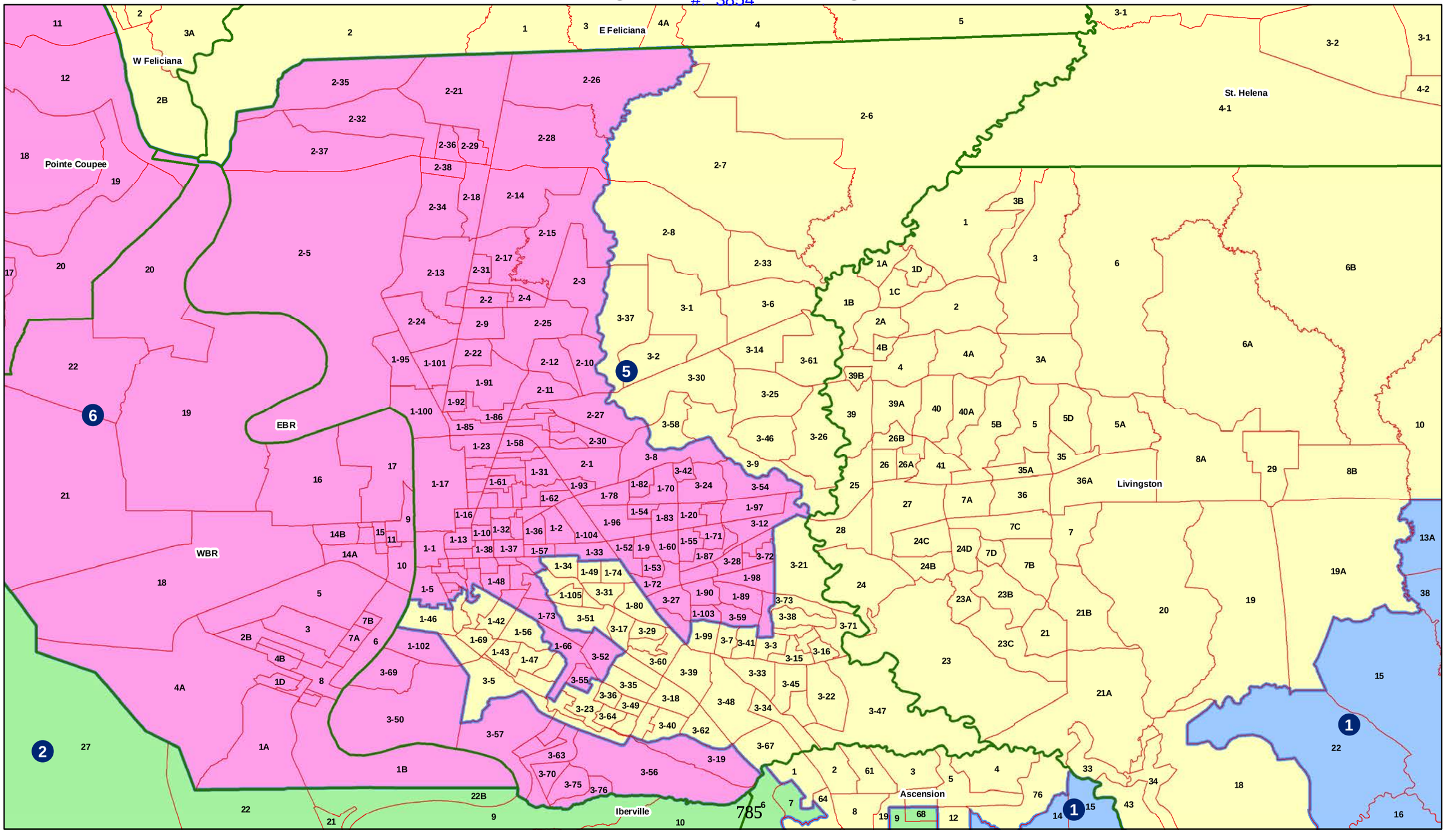

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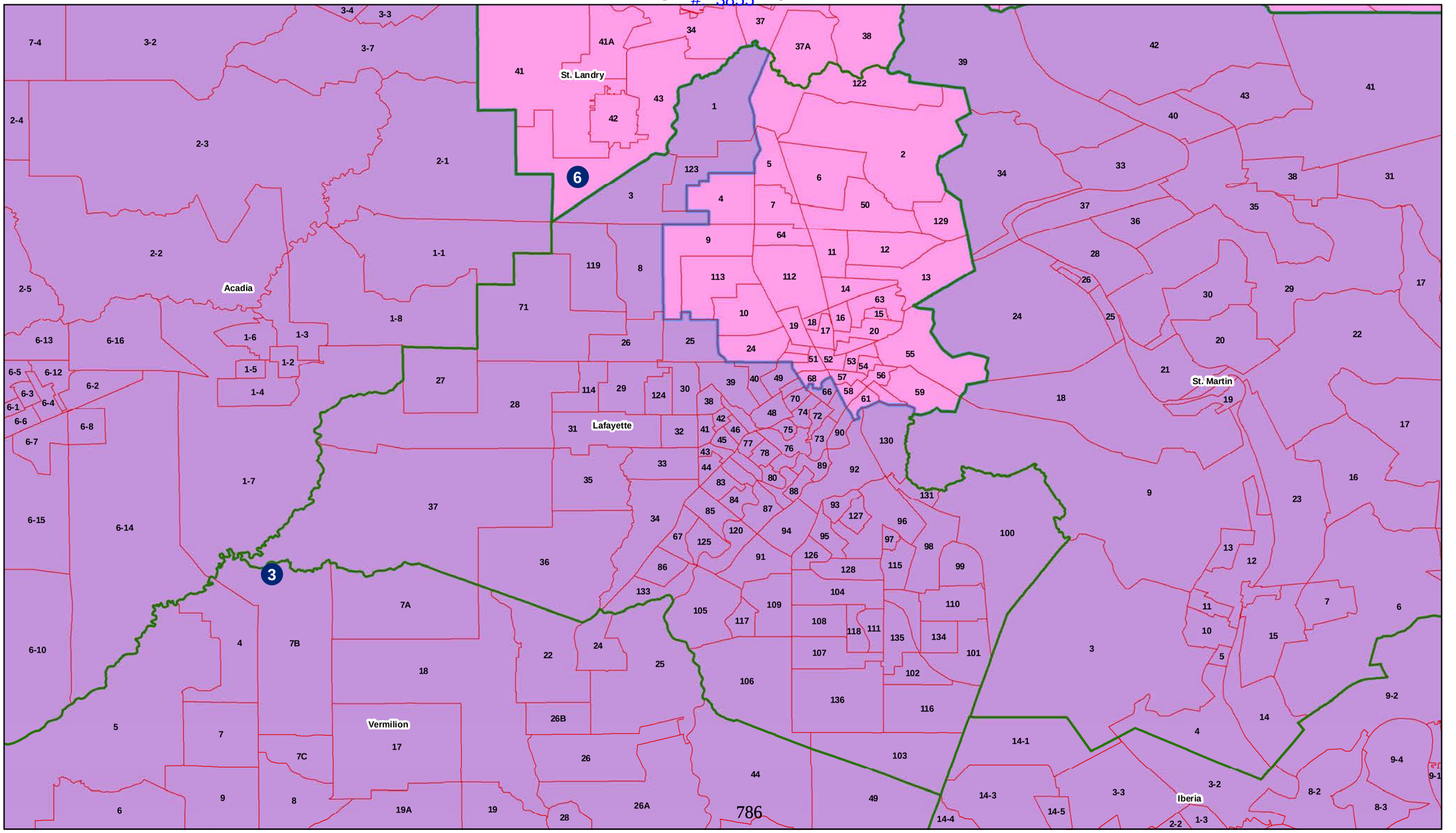

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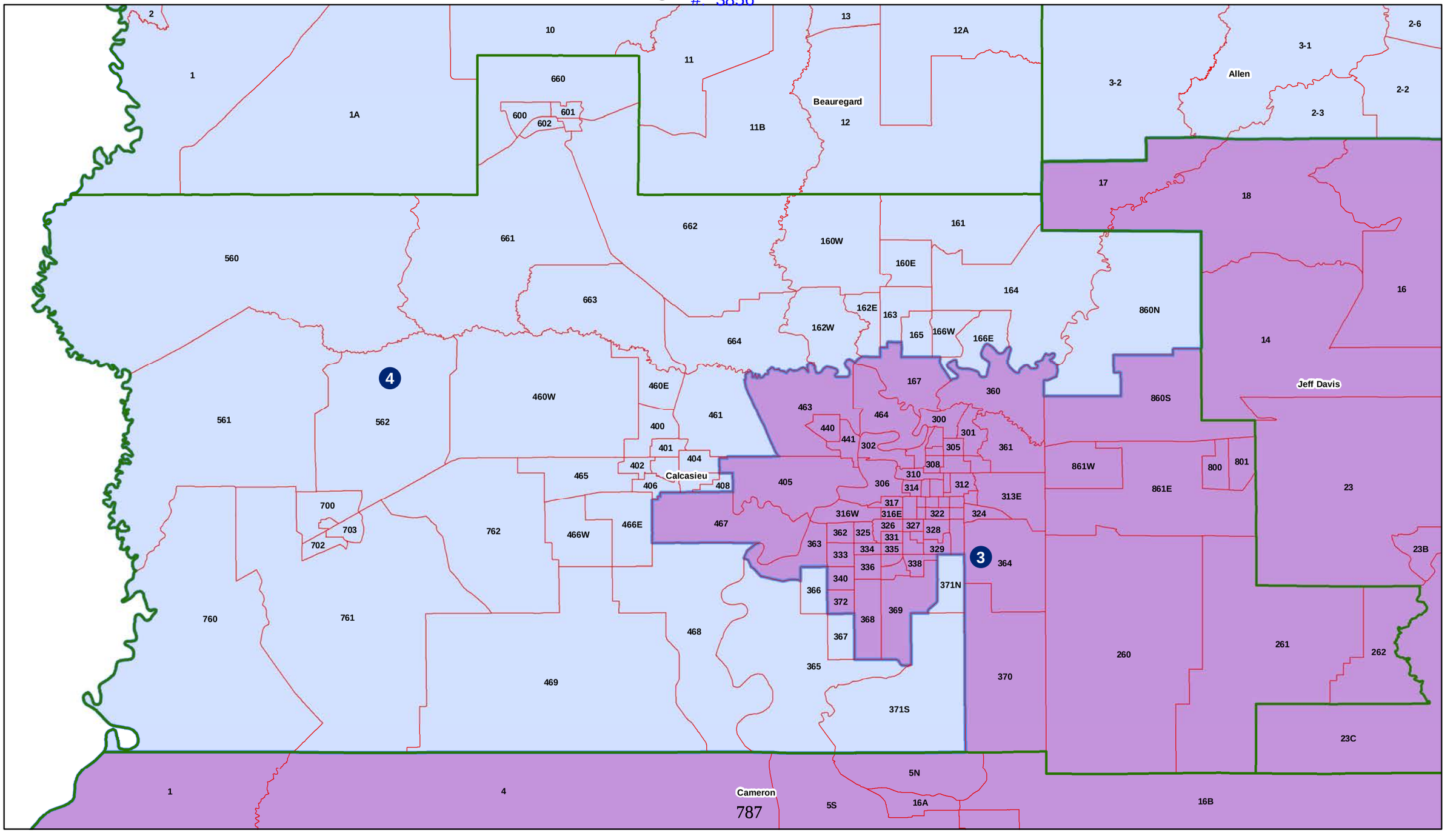
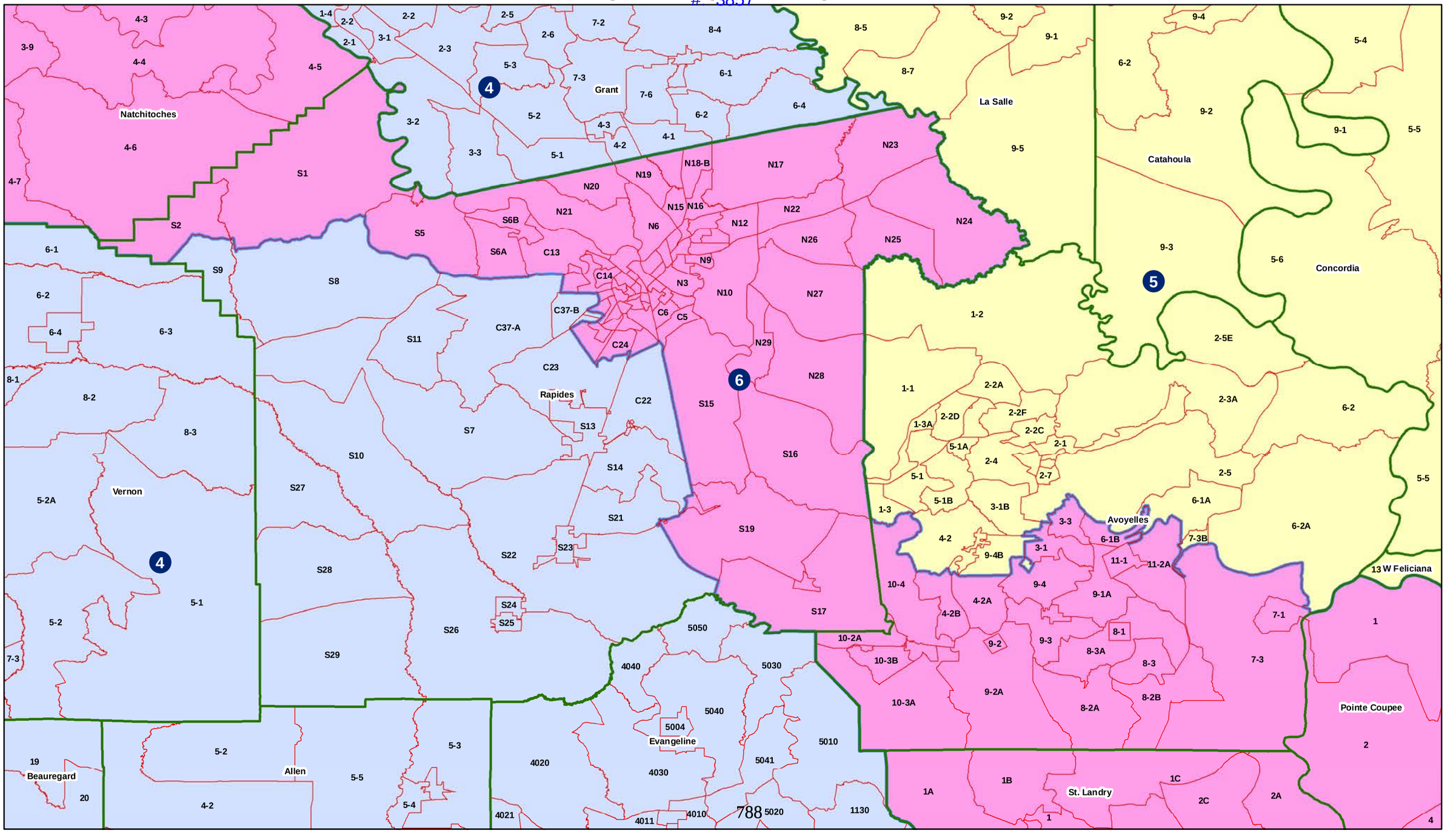


Congress - Rapides / Avoyelles



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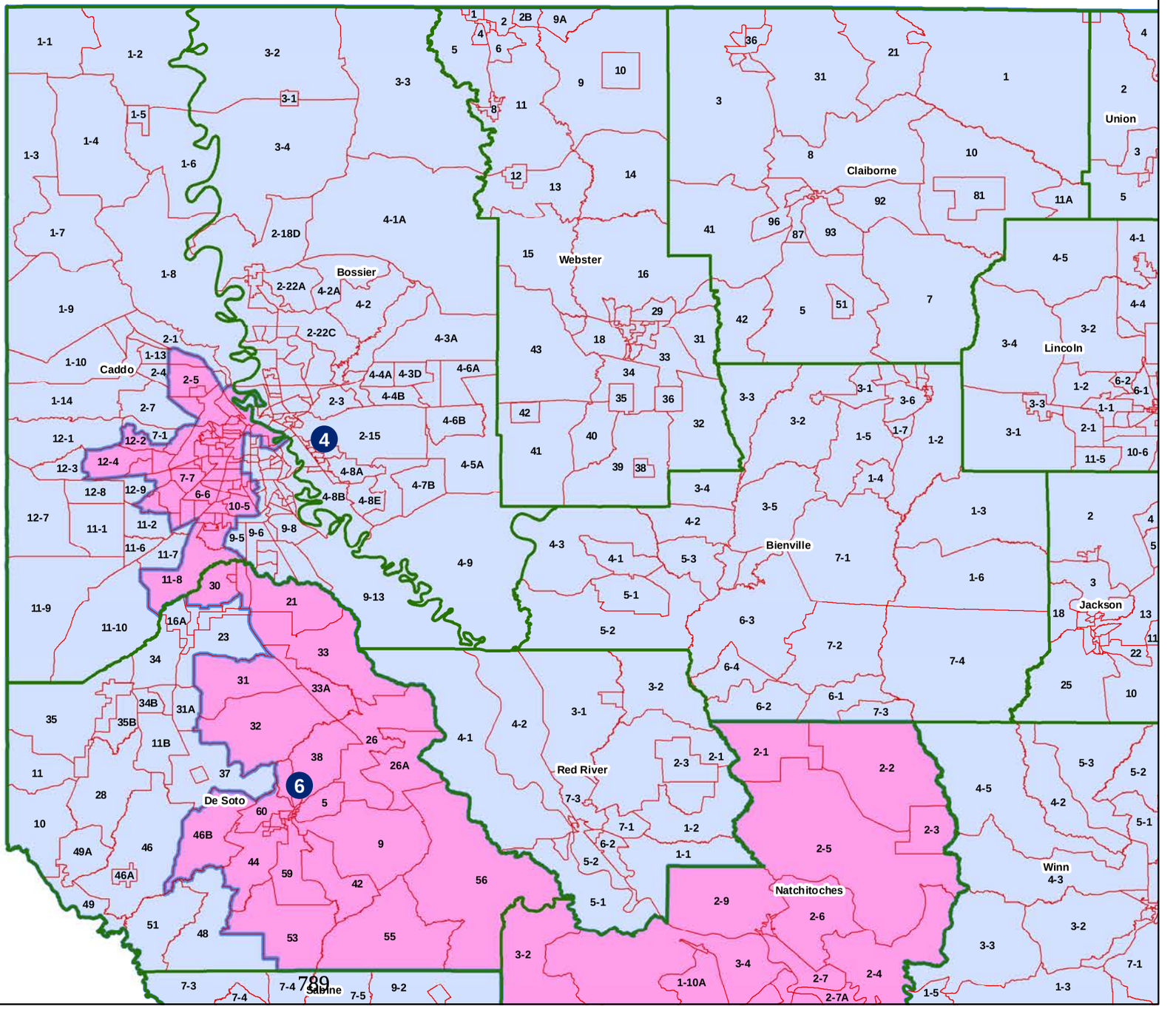

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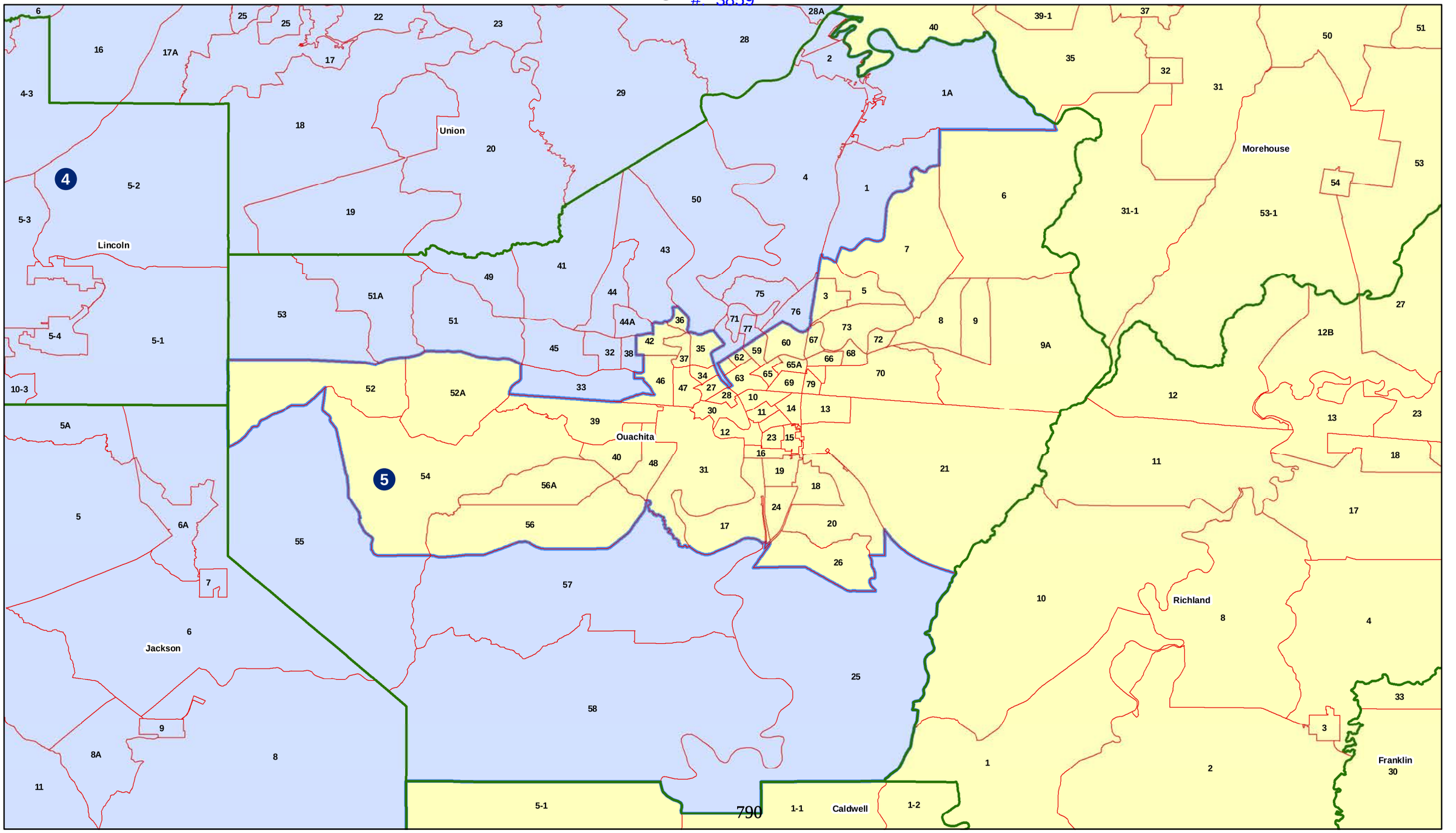

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	
VS.	)	Civil Action No. 3:24-cv-00122
NANCY LANDRY, in her official capacity as Secretary of State,	)	
Defendant.	)	

PRELIMINARY INJUNCTION HEARING
CONSOLIDATED WITH BENCH TRIAL
OFFICIAL TRANSCRIPT OF PROCEEDINGS, VOLUME I
BEFORE THE HONORABLE CIRCUIT JUDGE CARL E. STEWART
THE HONORABLE DISTRICT JUDGE DAVID C. JOSEPH
AND THE HONORABLE DISTRICT JUDGE ROBERT R. SUMMERHAYS
APRIL 8, 2024
SHREVEPORT, LOUISIANA

DIANA CAVENAH, RPR
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* * * * *

(Court called to order with all parties present at 9:10 a.m.)

JUDGE JOSEPH: Good morning. Before we get started today, we had a couple of motions that were filed over the weekend which we need to address.

We're on the record now in 24-cv-122, Callais, et al. versus Nancy Landry, et al.

Counsel, please make your appearances at this time.

MR. GREIM: For the plaintiffs, Eddie Greim, with Graves Garrett Greim.

MS. GRAVES: Katie Graves, Graves Garrett Greim.

MR. TYLER: Jackson Tyler, Graves Garrett Greim.

MR. HURD: Paul Hurd.

MR. BODAMER: Brad Bodamer, Graves Garrett Greim.

JUDGE JOSEPH: Good morning to each of you.

MR. STRACH: Good morning, Your Honor. Phil Strach, with Nelson Mullins; here for the Secretary.

JUDGE JOSEPH: Good morning.

MR. WALSH: Good morning, Your Honor. John Walsh on behalf of Secretary Landry.

MR. NAIFEH: Good morning, Your Honor. Stuart Naifeh, from the Legal Defense Fund on behalf of the Robinson intervenors.

JUDGE JOSEPH: Good morning.

MS. SADASIVAN: Good morning, Your Honors. Kathryn Sadasivan on behalf of the Robinson intervenors.

MR. CHAKRABORTY: Good morning, Your Honor. Amitav Chakraborty from Paul, Weiss, Rifkind, Wharton & Garrison on behalf of the Robinson intervenors.

JUDGE JOSEPH: Good morning.

MR. HURWITZ: Good morning, Your Honors. Jonathan Hurwitz, also from Paul, Weiss, on behalf of the Robinson intervenors.

MS. THOMAS: Good morning, Your Honors. Alora Thomas of Harvard Election Law Clinic, also on behalf of the intervenors.

MR. NAIFEH: And, Your Honors, we have a number

of other lawyers who are currently sitting in the gallery. Some of them will be participating in the --

JUDGE JOSEPH: Okay.

MR. NAIFEH: -- trial case.

JUDGE JOSEPH: They can make their appearances as they come to the podium.

MR. NAIFEH: Thank you.

MS. BRUNGARD: Good morning, Your Honors. Morgan Brungard, Deputy Solicitor General for the State of Louisiana.

MR. TORCHINSKY: Your Honor, Jason Torchinsky of Holtzman Vogel on behalf of the State of Louisiana.

MR. GORDON: Your Honor, Phillip Gordon from Holtzman Vogel on behalf of the State of Louisiana.

MR. JONES: Carey Jones from the Attorney General's Office on behalf of the State.

MR. BOWEN: Good morning, Your Honors. Brennan Bowen from Holtzman Vogel on behalf of the State of Louisiana.

JUDGE JOSEPH: From what firm -- what did you say?

MR. BOWEN: Holtzman Vogel, Your Honor.

MR. ENSIGN: Good morning, Your Honors. Drew Ensign from Holtzman Vogel on behalf of the State of Louisiana.

JUDGE JOSEPH: Good morning.

Okay. Let's go through these motions. We did receive a motion to continue.

And what's the document number on that, the docket number, Lisa?

MS. LACOMBE: It's 161, Judge.

JUDGE JOSEPH: Okay. We received a filing over the weekend to continue the trial we have set for today. And, in the alternative, to separate the preliminary injunction hearing from the trial.

That motion is opposed -- is it opposed by the State as well?

MR. GORDON: No, Your Honor. The State's position was that we oppose it to the extent it would interfere with the election calendar; otherwise, we take no position.

JUDGE JOSEPH: Okay. All right. In ruling on that motion, that motion to continue is denied for the following reasons.

First, the weekend before a trial is not the appropriate time to ask for a trial continuance absent some emergency. We very well may have granted a continuance had the motion to continue been timely filed.

Second, the intervenors' role in this case is limited to the subject matters permitted by the Court in order to

1 supplement the State's defense. But the map of the
2 plaintiffs' challenge is not the Robinson intervenors'
3 map. It's the State's map, duly enacted into law by the
4 Legislature and signed by the Governor through the
5 democratic process. It's primarily the State's duty to
6 defend the map. And both the plaintiffs and the State
7 defendants initially requested an abbreviated time frame
8 in order to ensure that there was certainty in the
9 election map in sufficient time to have the election this
10 fall. There is also substantial public interest of the
11 citizens of Louisiana in ensuring certainty in the
12 election map in sufficient time so that the candidates can
13 decide to run and the voters can do due diligence on their
14 preferred candidates.
15 Third, although the Robinson intervenors came into
16 this case later than the other parties, they've been
17 involved in redistricting litigation in the Middle
18 District for years. They are very familiar with the
19 subject matter of this case.
20 Now, I would like to go to the motion to reconsider
21 striking the plaintiffs' expert, their rebuttal expert.
22 I have read the -- we have read the briefing on that. I
23 think I have a proposal that may be acceptable to both
24 parties, to all three parties.
25 It seems that the plaintiffs' position about the

performance of these districts is not rebuttal to the Robinson intervenors' expert. Okay. The performance of this district, the challenged district, and the performance as majority-minority district of the proposed districts in the Robinson litigation, I can't see a way that's rebuttal.

I think what is rebuttal is the fact that this map is more racial than the other proposed maps. So we will allow your rebuttal expert to testify on that point, that it's more racial, but not on the performance, the validity of these districts as racial districts. And I think Robinson intervenors' main point was that we haven't had a chance to run the stats on that; or if you have, that you don't have an expert designated for that. Right?

MR. NAIFEH: Yes, Your Honor. That is acceptable.

JUDGE JOSEPH: Is that acceptable to you?

MR. NAIFEH: Your Honor, yes. That I think resolves our primary concern that the expert is being offered in rebuttal to testify about something that goes beyond the --

JUDGE JOSEPH: Yeah. I think that's beyond; I think the performance is beyond.

All right. With that being said, the plaintiffs have the burden of proving its case. Please proceed.

JUDGE STEWART: Just one housekeeping note. Even though we're well wired, it will help if you keep your voice up, you know, when you are speaking so we can hear it. For one thing, the mics should transmit well, but with some of you, you know, speak soft, it may be difficult. Not shout, but just so that, you know, it's audible for us to make sure we have it.

MR. GREIM: Your Honor, Judge Joseph, I do have just a question, a clarification. I probably don't need to handle it right this second. But on the expert issue, his analysis to get to the racial performance, or that the racial comparison runs through performance, I wonder if the Court would just simply not take that as part of his opinion. He doesn't really have an opinion about the racial, I guess we could say superiority is in terms of performance. So maybe the -- maybe the point could be, when he testifies, if he is able to say this, that SB8 performs better and we leave out the sort of concrete -- the testimony about whether they actually perform at all, in other words, whether they get a 50 percent.

JUDGE JOSEPH: Well, that was my point.

MR. GREIM: Okay. I just wanted to make sure I understood correctly.

MR. NAIFEH: That was my understanding of your point, Your Honor.

MR. GREIM: Okay.

JUDGE JOSEPH: All right. You'll have to touch on performance to some degree to rebut the fact that it's political, not racial, if he says that it's, you know, actually more of a racially motivated map, okay? That's a proper rebuttal opinion. But anything else about the performance of these districts as majority-minority districts is beyond the scope of the intervenors' case.

MR. GREIM: I understand.

JUDGE JOSEPH: All right.

MR. GREIM: I understand that we are to make our openings from this middle podium.

JUDGE JOSEPH: As long as there is a microphone, I don't think -- I'll have to ask my fellow judges, but I don't have a preference, really. Wherever you are comfortable. Just make sure you stand up and you're near a microphone.

MR. GREIM: This is a case that may turn more on the law than on the facts. On plaintiffs' *Shaw* claim, Count 1, this is not a factually complicated case on either the two prongs that we will be addressing.

On the first prong, the direct evidence that you'll hear from the legislative record proves that race predominated. We're going to be playing the transcripts. The Court will hear the House and Senate sponsors each

1 reading from what sounds like an almost identical script.
2 The script makes clear that the crucial decision was that
3 two majority-minority districts were required with Senate
4 Bill 8.
5 Here's Senator Womack: We had to draw two
6 majority-minority districts. You will hear them say,
7 again, from Senator Womack: Given the State's current
8 demographics, there is not a high enough black population
9 in the southeast portion of Louisiana to create two
10 majority-black districts and to also comply with the
11 U.S. Constitution's one-vote, one-person requirement.
12 That is the reason why District 2 is drawn around Orleans
13 Parish, why District 6 includes the black population of
14 East Baton Rouge Parish and travels up the I-49 corridor
15 and the Red River to include the black population of
16 Shreveport. He is saying that's why. You'll hear more
17 like that.
18 Two majority-minority districts was a fixed mandate
19 for the Legislature. It could not be compromised. Any
20 political trade-offs, you'll hear, were only because the
21 initial racial mandate caused a loss of one Republican
22 seat. The sponsors' questions and answers, you'll hear,
23 with the other legislatures will remove any doubt.
24 Finally, two area senators from -- who represent
25 parts of this parish who voted against SB8 will be here

1 shortly to testify. The legislative record and their
2 direct testimony will remove any doubt and it will carry
3 the day on the question of racial predominance.
4 Now, on the second prong, strict scrutiny, the burden
5 shifts to the State and the intervenors. Just for a
6 moment, we should focus on what is that burden.
7 First, they must show that the senate had a
8 compelling -- I'm sorry -- that the State had a compelling
9 government interest in sorting voters based on race. If
10 the State relies on the VRA itself and not just the
11 judicial strategy as a compelling interest, the State must
12 then show that the remedy it actually drew was narrowly
13 tailored to remedy a violation of the VRA. The fear of
14 violating the VRA somewhere does not allow the State to
15 draw a racially gerrymandered district anywhere. The
16 State must have a strong basis in evidence for concluding
17 that the three *Gingles*' preconditions in the totality of
18 circumstances are satisfied under the VRA. Not just for
19 two majority districts anywhere -- two minority districts
20 anywhere, but for the actual second minority district that
21 it drew that covers this area. This requires a
22 pre-enactment analysis of the particular districts drawn.
23 The State must also show it did not subordinate
24 traditional districting principles more than necessary to
25 avoid Section 2 liability. This is important when we hear

1 the witnesses. The State must believe that the statute
2 required, that the VRA required and "demanded," demanded
3 such steps in a particular area of the State, here in
4 Northwest Louisiana. The remedy must be narrowly tailored
5 to redress the wrong found under the VRA.
6 Now, both the State and intervenors at this point
7 have an identical argument when it comes to strict
8 scrutiny. If it wasn't clear at first, it is now clear
9 from the briefing. It's really a legal argument. We saw
10 this in the intervenors' motion in limine. The State had
11 a strong basis, they say, to believe that the VRA requires
12 a second majority district because of the vacated
13 preliminary injunction, reviewed only for clear error by
14 the Fifth Circuit in the *Robinson* litigation. But that
15 litigation, we'll see, considered an allegedly compact
16 minority population elsewhere in the state, and the State
17 was never able to put on its full case in that litigation.
18 There will be no evidence of any independent analysis by
19 the State before SB8 was enacted. Indeed, the intervenors
20 argue the lack of any state analysis -- this is in their
21 motion in limine -- is one reason to keep out any
22 testimony about whether the VRA requires a second
23 district. They don't actually want that evidence to be in
24 the courtroom here unless it's from the Judge Dick case.
25 Given that position, it is no surprise that none of

1 the intervenors' witnesses are here to testify as to
2 strict scrutiny. This, frankly, could be a one-day trial;
3 however, the plaintiffs have other circumstantial evidence
4 on both prongs of *Shaw*. Intervenors have brought
5 witnesses then to argue on *Shaw*, Prong 1. I am just going
6 to walk through a short summary of that evidence.
7 Mike Hefner, plaintiffs' expert demographer and
8 long-time Louisiana political expert, who has worked with
9 redistricting maps since the early '90s, will provide
10 useful background, starting with the *Hays* case, litigated
11 actually by Mr. Paul Hurd, who is sitting here at counsel
12 table, 30 years ago.
13 The *Hays* case shows we've been here before. In the
14 '90s, the Legislature tried to create a second
15 majority-minority district out of its seven congressional
16 districts. Here's what crucial. It relied on a DOJ
17 letter stating that the VRA required the Legislature to
18 draw a second majority-minority district. This was
19 powerful. The Legislature had to comply with the DOJ
20 letter or else litigate, unlike anything that existed from
21 Judge Dick at the time of the legislation here.
22 Following its obligation under the DOJ letter, the
23 Legislature created a Z-shaped district which was
24 challenged as an unconstitutional gerrymander. The
25 Legislature then repealed that map and created a slash

1 district stretching from Shreveport in Northwest
2 Louisiana, 250 miles to Baton Rouge, while picking up
3 African American population in Lafayette and Alexandria.
4 Before this very court, the Legislature argued that its
5 attempt to comply with the DOJ's requirements rendered the
6 district lawful under the Fourteenth Amendment. Sounds
7 familiar. The Court recognized the DOJ letter, mandatory
8 though it was, was not enough on strict scrutiny. The
9 State had to actually prove its case that the VRA demanded
10 its district and found that this map as well was an
11 unconstitutional racial gerrymander. It bears a striking
12 resemblance to SB8. Indeed, as Mr. Hefner will testify,
13 today's District 6 has 82 percent of the minority
14 population that was in the 1994 map. Hefner will also
15 show that the Legislature drew for CD-2 and CD-6
16 specifically to encircle pockets of black voters
17 throughout the state while pushing white voters into the
18 four remaining congressional districts.
19 And you can see here on this map, which we will show
20 through Mr. Hefner, the red dots are black voters, the
21 white dots are white voters. So you can see how the lines
22 are very careful to bring in pockets of red where they
23 will not take in too much white. That is the racial
24 gerrymander that ultimately happened here.
25 Later today -- Hefner will go tomorrow -- you'll hear

a different kind of testimony from Dr. Stephen Voss, a Louisiana native and political scientist, who's at Kentucky right now. Voss does employ Mr. Hefner's methods, but he also runs a cutting-edge simulation technique that shows that even after trying to focus his algorithm on race, no majority-minority districts emerged. Drawing one, let alone two districts, requires an overwhelming focus on race. That even includes District 2.

The Robinson intervenors' experts will tell you they have no proof of their own; they're simply here to contest the methods and conclusions of the plaintiffs' experts. The one exception possibly is Anthony Fairfax, who will testify that SB8 is less compact and splits more parishes than the other two-minority district plans because he says it must be considering politics. But he won't be able to show he considered racial differences between these competing maps. As we discussed earlier this morning, plaintiffs' expert, Ben Overholt, will come in and show that, in fact, SB8's ugly shape helps it to include more black voters and perform better than the competing two-minority maps.

Now, the Secretary intervenors have a few fact witnesses, which I think you'll hear Tuesday and Wednesday. Listen to what you won't hear from them.

1 Not a single person will testify that the Legislature came
2 into special session specifically because it wanted to
3 rejigger the congressional districts based on political
4 concerns or to oust Congressman Garret Graves. Not a
5 single person will testify that the Republican-dominated
6 legislature wanted to lose a Republican seat in Congress
7 for political reasons. And not a single person will
8 testify that the Legislatures created Districts 2 and 6 to
9 protect incumbents or political districts in Districts 2
10 and -- political interests in Districts 2 and 6. Not a
11 single person will testify that the Legislature conducted
12 any pre-enactment analysis of the *Gingles* factors in the
13 totality of circumstances for the map and SB8, or any map
14 resembling SB8. The intervenors' witnesses are going to
15 lack relevant personal knowledge. Not a single person
16 will testify that the Court in the Robinson litigation,
17 number one, even offered an opinion on a possible VRA
18 violation in Northwest Louisiana. Nothing material has
19 changed since the *Hays* case. At the end of this trial,
20 all evidence will show that SB8 plainly violated the
21 Constitution.
22 JUDGE JOSEPH: Thank you.
23 MR. GORDON: Your Honor, I just want to
24 interject for a brief moment of clarification. I think
25 the parties have gotten slightly lax about the naming

1 conventions used in this case and I note that both the
2 State and the Robinson intervenors are technically
3 intervenors. We certainly didn't have a motion in limine
4 here. I believe that refers to the Robinson intervenors.
5 So to the extent I think we can all agree the parties can
6 just refer, when they want to refer to the State
7 specifically, just refer to "the State." And
8 "intervenors," we can just take to mean, the Robinson
9 intervenors. Is that --
10 JUDGE JOSEPH: Is there any daylight between the
11 State and the Secretary?
12 MR. STRACH: Other than this space right here,
13 not really.
14 JUDGE JOSEPH: Okay. Well, just we'll have
15 "the State" and we'll have "the Robinson intervenors."
16 MR. GORDON: Thank you, Your Honor.
17 MS. BRUNGARD: Good morning, Your Honors.
18 Morgan Brungard on behalf of the State. It's my
19 understanding that the Secretary is not going to give an
20 opening and has given me a couple of minutes of their
21 time.
22 We appreciate the opportunity to address the Court
23 this morning. For the past 30 years, the State has been
24 torn between the Voting Rights Act and the Fourteenth
25 Amendment. In the 1990's the State drew a map with two

1 majority-black districts because the U.S. Attorney General
2 required it under Section 5 of the Voting Rights Act.
3 That map was challenged under the Fourteenth Amendment in
4 the *Hays* litigation from the '90s that my friend on the
5 other side mentioned, and that map was struck down as a
6 racial gerrymander.
7 While the Supreme Court ultimately concluded that the
8 *Hays* plaintiffs lacked standing, the State has followed
9 this Court's merits holding in *Hays* that the Fourteenth
10 Amendment prohibits two majority-black districts. That
11 holding is why the State passed the map with one
12 majority-black district in the 1990's and continued that
13 practice through 2022.
14 In 2022, two sets of plaintiffs sued to enjoin that
15 map under the Voting Rights Act. Those suits,
16 consolidated in *Robinson* in the Middle District of
17 Louisiana, alleged that Section 2 of the VRA required the
18 creation of a second majority-black district. The State
19 vigorously defended that case and lost. The Middle
20 District preliminarily enjoined the 2022 map and held that
21 Section 2 requires a second majority-black district. In
22 the Fifth Circuit, the State strenuously again argued that
23 the VRA did not require two majority-black districts in
24 Louisiana and again lost. The Fifth Circuit expressly
25 agreed with the Middle District that plaintiffs were

1 likely to succeed in proving that the VRA requires two
2 majority-black districts. But the Fifth Circuit vacated
3 the preliminary injunction primarily for timing-related
4 issues and remanded to the Middle District. On remand,
5 the Middle District gave the State two options: Either
6 enact a new map or go to trial in February 2024 on the
7 single majority-black district map, a map that the
8 Middle District had enjoined once already.
9 The State took the first option. Seeing the VRA
10 liability writing on the wall, the Governor called a
11 special session of the Legislature in January 2024.
12 The Legislature convened and took the Middle District and
13 Fifth Circuit at their word when they said the VRA
14 requires a second majority-black district.
15 Senator Womack introduced SB8 that proposed a map
16 with the second majority-black district, and he gave
17 detailed political reasons for the shape of the districts.
18 The Legislature passed the SB8 map, which plaintiffs here
19 now challenge. The State's effort to comply with the
20 decisions from the Middle District and the Fifth Circuit
21 and draw a second majority-black district is the impetus
22 of this Fourteenth Amendment challenge.
23 To prevail here, plaintiffs must show not just that
24 the State was aware of racial demographics, but that race
25 predominated in the drawing of the SB8 map. If they

succeed, the burden switches to the State to satisfy strict scrutiny. Plaintiffs cannot show predominance; and even if they could, the State can satisfy strict scrutiny.

Taking predominance first, plaintiffs cannot meet their burden. The evidence will show that the Legislature's predominant reason for passing the SB8 map was a desire to do two things: First, to comply with the decisions from the Middle District and the Fifth Circuit holding that the VRA requires a second majority-black district. And second, to protect Representative Julia Letlow. The difference between the SB8 map and the remedial map that the Robinson intervenors here presented to the Middle District there, illustrates that political considerations drove the configuration of the SB8 map. The Robinson remedial map and the SB8 map are largely the same in South and Middle Louisiana. Both maps encompass portions of Baton Rouge, Alexandria, and Lafayette in the second black-majority district. But where they diverge is in North Louisiana. The Robinson remedial map included minority areas in Monroe, the delta parishes, and portions of the Florida parishes in its second black-majority district. Drawing the district that way put incumbent Republican Representative Julia Letlow into a majority-black district that favors Democrats, making it nearly impossible for her to win. Essentially, the

1 Robinson remedial map redistricted Representative Letlow,
2 the only woman in the Louisiana congressional delegation,
3 out of Congress. She is one of only two incumbents
4 representing North Louisiana who serve in the majority
5 party of the U.S. House. She also serves on the
6 Appropriations Committee and the Agriculture Subcommittee
7 of Appropriations. These positions are crucial to
8 Louisiana and especially to North Louisiana.
9 Senator Womack, who introduced SB8, is also from
10 North Louisiana. And he stated very clearly that his
11 political objective with SB8 was to protect Representative
12 Letlow. To accomplish that political objective, the SB8
13 map, second majority-black district, includes nearly all
14 of Shreveport and excludes Monroe. Replacing Monroe with
15 Shreveport keeps Representative Letlow in a district she
16 can win, ensures that North Louisiana retains two
17 incumbent congressional members, and guarantees
18 Louisiana's presence on very powerful congressional
19 committees.
20 This political reality, as Senator Womack explained
21 in committee and on the Senate floor, coupled with the
22 need to comply with the orders of the Middle District and
23 the Fifth Circuit, drove the configuration of the SB8 map.
24 To the extent that race played a role in the fact that the
25 SB8 map has a second majority-black district, that

decision was made by the federal courts. The Court's decision to require two such districts cannot be impugned to the State. The only decision the State itself made was where to draw the lines of those districts, and that was a political decision.

Even if this Court finds that Plaintiffs have met their burden, the State can easily satisfy strict scrutiny. Under the first prong of strict scrutiny, the Supreme Court has long assumed without deciding that VRA compliance is a compelling government interest. Here the facts more strongly show a compelling interest because the State was complying with federal court decisions telling the State what the VRA required. And no one seriously disputes that the State enacted the SB8 map to comply with those court decisions. The Governor said as much when he convened the special session.

The inquiry then moves to the second prong: Whether the State's race-conscious redistricting was bolstered by a strong basis in evidence or good reasons to believe that the VRA required race-based redistricting here. And the answer is a resounding yes. The State's decision to redistrict was expressly driven by the Middle District's and the Fifth Circuit's decisions indicating that the VRA requires a second majority-black district. And having not one but two court decisions saying the VRA requires a

1 second majority-black district is the strongest evidence
2 of all that the VRA indeed requires that. To the best of
3 our knowledge, the State's evidence of what the VRA
4 required in this case is stronger than the evidence in all
5 of the Supreme Court cases considering whether a map drawn
6 by the State to comply with the VRA violates the
7 Fourteenth Amendment.
8 Plaintiffs argue that the Legislature did not conduct
9 racial performance analyses or consult experts when
10 debating SB8. That's only half the story and also misses
11 the point. The State was redistricting in response to two
12 court decisions that took into account competing expert
13 analyses. And so the Legislature was not drawing lines in
14 a vacuum; it was working off multiple court decisions
15 informed by the analyses of multiple experts. That is
16 enough here. Indeed, the very reason that legislatures
17 and redistricting bodies across the country hire VRA
18 experts and Ph.D.s to evaluate their proposed map is to
19 predict how federal courts might review the maps under the
20 VRA. Of course, the Louisiana Legislature didn't need to
21 hire experts to predict how the Courts might view the
22 creation of a second majority-black district because the
23 Courts had already spoken for themselves.
24 So although the Legislature did not specifically hire
25 an expert during the special session, its drafting of the

1 SB8 map was informed by the most definitive experts whose
2 opinions matter more than any others, the federal courts
3 that would be adjudicating the maps' VRA compliance based
4 on expert reports filed in that case. There can be no
5 stronger basis in evidence or better reasons to believe
6 that the VRA required a second majority-black district
7 here than a precedential opinion of the Fifth Circuit
8 affirming that a map with a single majority-black district
9 likely violated Section 2. Accordingly, the State's
10 redistricting satisfies strict scrutiny.
11 Before concluding, I want to turn back to the law.
12 Section 2's statutory language, as interpreted by the
13 Supreme Court, demands that states consider race when
14 redistricting. That is difficult to square with the
15 Fourteenth Amendment's command that states act in a
16 race-blind manner. The State's actions here are a good
17 faith effort to comply with those statutory and
18 constitutional commands as well as the decisions of the
19 Middle District and the Fifth Circuit. The State's
20 position in this matter is that the Middle District
21 required the State to have a second majority-black
22 district; and the Fifth Circuit affirmed that decision,
23 which gave the Legislature the best reason of all to
24 believe that such a district was required. It is
25 irrelevant in this case whether the VRA actually requires

a second majority-black district or whether the State agrees with the Middle District or the Fifth Circuit.

In sum, the SB8 map is an attempt to comply with the command of the Middle District, backed by the Fifth Circuit, and the Republican majority's desire to preserve Julia Letlow's district. This attempt satisfies the Fourteenth Amendment, plaintiffs' case fails on the merits, and their requested injunction should be denied. We look forward to presenting our case to this Court.

Thank you.

MR. CHAKRABORTY: Good morning, Your Honors.

Your Honors, Amitav Chakraborty, on behalf of the Robinson intervenors. And similar to the State, I understand that I have a few more minutes, given that the Secretary has ceded, but I'll be brief.

Your Honors, this case presents the question of whether race was the predominant factor in the enactment of Senate Bill 8, a congressional plan with two majority-black districts. It is a question of monumental importance to the present and the future of this state and implicates the fundamental rights of its citizens and particularly its black citizens. The answer to that question is a resounding no. The Legislature properly took race into account in light of the multiple federal court decisions holding that any plan with one

1 majority-black district likely violates Section 2 of the
2 Voting Rights Act. The Legislature balanced that
3 consideration of race with other redistricting criteria,
4 including respecting communities of interest and, most
5 importantly, its own political and policy goals and
6 ultimately deciding on and enacting SB8.
7 The issue with plaintiffs' entire theory is that it
8 hinges on pretending that we are operating off of a blank
9 slate. It requires everyone in this courtroom to forget
10 recent history, to forget the events of the last two and a
11 half years. But, Your Honors, history matters, whether
12 it's the long history in this state of voting-related
13 discrimination, or the events leading up to the enactment
14 of SB8.
15 Now, throughout the redistricting process in fall
16 2021 and spring 2022, voters and voting rights
17 organizations alike provided compelling testimony to the
18 Legislature about the reasons -- moral, political, and
19 personal -- that the Legislature should adopt a plan with
20 two black-majority districts. The Legislature instead
21 adopted HB1, a plan that like its predecessor had only one
22 such district. Now, immediately the Robinson intervenors
23 filed suit challenging HB1 on the ground that it diluted
24 the strength of the State's black voters in contravention
25 of Section 2 of the Voting Rights Act. Then, as now, our

clients or voting rights organizations and individual black voters, some of whom are here today, whose rights were violated by that map.

The district court in *Robinson v. Ardoin* held a five-day evidentiary hearing during which seven fact witnesses and 14 expert witnesses testified on these questions, at the conclusion of which the judge issued a 152-page ruling and an order granting the preliminary injunction. The district court's assessment of the merits of intervenors' claim was upheld not once but twice by unanimous panels of the Fifth Circuit Court of Appeals.

Now, all of those decisions addressed issues that plaintiffs re-raise here, including rejecting the proposition that a map with two majority-black districts is necessarily a racial gerrymander. It is against this backdrop, it is against this history, that SB8 was enacted. Both the Governor and the Legislature made clear through their words and their actions that they were fully aware of the events leading up to the special session. The evidence will show that they intended to pass the VRA-compliant map of their own accord that took into account their own political goals, their own redistricting goals as well, rather than insisting on a trial that the Fifth Circuit had said they were likely to lose and have the Court-drawn map imposed upon them.

Now, as you hear the testimony over the next few days, I would like you to keep in mind, just how high plaintiffs' burden of proof is in this case. Plaintiffs have to prove that race was a predominant factor motivating the Legislature to pass SB8. And the Supreme Court has explained that that standard is a "demanding one."

So what does the standard require? Well, it requires that plaintiffs prove that the Legislature subordinated all other criteria including compactness, communities of interest, political considerations, incumbent criteria, and other criteria set out in Joint Rule 21. Discarded all of that on a single-minded focus on race. Your Honors, that did not happen.

Instead you will hear evidence of the actual considerations that the Legislature took into account when passing SB8. Through transcripts and videos of legislative session, you will first hear about those considerations directly from the bill's sponsor. When introducing SB8, Senator Womack made clear that his foremost consideration was ensuring that Congresswoman Julia Letlow remain in pairing with any other incumbents in a safe Republican seat. This single political factor distinguishes SB8 from numerous other introduced maps during that same session, which also achieved a

1 majority-black district and balanced redistricting
2 criteria.
3 As he stated under questioning in a senate
4 governmental affairs committee hearing, Senator Womack
5 said, quote, "Politics drove this map." You will hear
6 Senator Womack and other legislators further describe the
7 importance of guarding Louisiana's political influence in
8 Washington through protecting the districts of House
9 Speaker Mike Johnson and House Majority Leader Steve
10 Scalise, among the four safe Republican seats.
11 You will also hear that Senator Womack and others
12 spoke candidly about the shared interests protected under
13 SB8 in CD-6.
14 They viewed CD-6 as a commerce district with shared
15 industry across agricultural and timber. They recognized
16 educational and health care connections within CD-6, given
17 that residents of the new district went to the same
18 schools and attended the same hospitals.
19 And yes, you will hear that the Legislature properly
20 considered race, because Joint Rule 21 and federal law
21 requires that districting plans comply with the VRA.
22 Now, I understand that plaintiffs wish that the
23 Legislature would have made different choices. They take
24 issue with the fact that the Legislature considered maps
25 at all that had two majority-black districts. They say

1 that the Legislature could have taken into account
2 different choices with respect to communities of interest.
3 And it's no big secret that SB8 was not the preferred
4 choice of Robinson intervenors either. We preferred other
5 maps that were introduced during the special session.
6 But let me be as clear as I can about this: That is
7 not the test for overcoming the standard for racial
8 gerrymandering. Racial gerrymandering isn't just
9 established whenever a person or persons disagrees with
10 the policy choices that are input and reflected in an
11 enacted map or whenever a state intentionally creates a
12 majority-minority district. And even if plaintiffs were
13 somehow able to establish that race predominated, you will
14 hear that the Legislature clearly had a strong basis in
15 evidence here for believing that the VRA required two
16 majority-black districts. The Legislature was briefed by
17 legislative staff and the Attorney General, who made clear
18 that passing a compliant map was the advisable path
19 forward. They saw both the factual evidence introduced in
20 *Robinson* and the legal results and decisions from those
21 courts and understood that they needed to consider race
22 among other criteria in crafting new districts. That
23 compelling interest is all that the Constitution requires.
24 In fact, it's hard to think of a case in which there could
25 be a stronger basis in evidence than for a legislator to

1 conclude that race should be considered than the one
2 that's before you today.
3 Now, in addition to the legislative session record
4 laying this out, you will hear live testimony from several
5 sets of witnesses. First you will hear from public
6 officials such as State Representative Mandie Landry and
7 State Senator Royce Duplessis. They will explain in
8 detail that politics drove the creation of this map and
9 talk through the specific political goals of the
10 Legislature.
11 Second, you will hear from three expert witnesses:
12 Mr. Tony Fairfax, Dr. Cory McCartan, and Dr. Michael
13 Martin. Now, unlike plaintiffs' experts, Mr. Fairfax is
14 an accomplished mapping expert who has developed almost
15 1,000 plans for every level of government, including in
16 Louisiana. Mr. Fairfax will explain that plaintiffs'
17 experts cannot establish that race was a predominant
18 motive behind the creation of CD-6, and that other
19 redistricting factors better explain the district
20 configurations in the enacted map.
21 Dr. Michael Martin will walk the Court through the
22 complex political dynamics that informed the choices
23 resulting in SB8. He'll discuss the relationship between
24 Governor Landry and Representative Garret Graves and how
25 that, combined with outside political factors, resulted in

Representative Graves being drawn into a majority-black district.

Dr. Cory McCartan will explain all of the reasons that Dr. Voss's use of map simulations to the circumstances at issue here were inappropriate. He is uniquely qualified to do that because he created the simulation and the simulation packages that Dr. Voss relied on and tried to use here.

Dr. McCartan will explain Dr. Voss's failure to incorporate the relevant redistricting criteria used by actual mapmakers and placing undue weight on other criteria in a manner that ultimately skews Dr. Voss's analysis.

You will hear from Pastor Steven Harris and former State Representative and Shreveport Mayor Cedric Glover, both lifelong residents of Louisiana, who will testify to the commonalities between the communities that are now connected in the new Sixth Congressional District. They will speak to their own experiences living, working, and serving in the boundaries of the district and discuss the cultural, geographical, and economic communities of interest that unite Shreveport, DeSoto, Natchitoches, Alexandria, Opelousas, and Baton Rouge.

And finally, you will hear from some of the Robinson intervenors themselves, black voters and civic leaders,

1 who have been litigating for a representative map for over
2 two years.
3 Now, in the papers leading up to trial and just now,
4 you saw that the plaintiffs missed no opportunity to
5 invoke the ghost of a 30-year-old map, the *Hays* map, a
6 vestige of a time when Louisiana had seven districts and
7 hundreds of thousands of fewer black voters. But *Hays* was
8 considered and disregarded by the *Robinson* district court
9 for the simple reason that it doesn't represent or
10 resemble the factual circumstances here. There were
11 decisions by multiple federal courts, as there are here,
12 explaining that Section 2 requires a majority-black
13 district.
14 Your Honors, I would like to end on a note about the
15 4.6 million voters in Louisiana, including the more than
16 1.5 million black voters. They deserve a map that their
17 elected representatives crafted. They deserve a map that
18 takes into account their preferences, regardless of
19 whether everyone agrees with them. They deserve a map
20 that is compliant with Section 2 of the Voting Rights Act
21 that does not subvert federal law and that does not dilute
22 minority voting power. SB8 is that map. It is not a
23 racial gerrymander. SB8 rightly contains two
24 majority-black districts and incorporates traditional
25 redistricting criteria as well as the Legislature's

political considerations.

Plaintiffs' Hail Mary attempt to subvert the will of the people and the government of this state should be rejected. Thank you.

JUDGE JOSEPH: I'm going to ask my colleagues' brief indulgence to ask a question that was kind of danced around by all the parties in their openings. I think each of the parties understands and has acknowledged that the Middle District litigation does come into play somewhat here.

My questions are as follows, and I'll give each party a chance to respond to them: Did the Middle District litigation evaluate whether two majority-minority districts are possible without violating the Equal Protection Clause?

Did the Court in the Middle District litigation have the statutory authority to determine whether two majority-minority districts in Louisiana are possible without violating the Equal Protection Clause?

And accordingly, did the Fifth Circuit panel that reviewed that decision have the statutory authority to determine whether the two majority-minority districts would violate the Equal Protection Clause?

You don't have to respond.

MR. GREIM: I'm sorry. Your Honor, do you want

us to step up and --

JUDGE JOSEPH: Hold on one second.

(Judges confer off the record.)

JUDGE JOSEPH: We're just going to leave it at that, and that will be something for each party to consider during the course of this trial.

Please proceed with your first witness, Mr. Greim.

MR. GREIM: Your Honor, we're bringing him in. While he comes up, I have a few logistical things while he's making his way up, if it's okay. The parties have conferred beforehand, and I just want to make a record on joint exhibits and stipulations. So I thought I would do it while he is walking up.

What we had marked as Plaintiffs' Exhibits 1 through 17 have also been submitted to the Court, I understand, as Joint Exhibits 1 through 17. So I wanted to just move the entry into the record of those 17 joint exhibits. I can represent the parties --

JUDGE STEWART: For my benefit at least, we had a list and then we got an amended list and then we got a later list. So just tie in which of the more recent submissions -- you are saying this is the joint stipulation? Is that --

MR. GREIM: Well, there is a list of joint exhibits that was filed, I understand.

JUDGE STEWART: Right.

MR. GREIM: That is exactly the same as the original list --

JUDGE JOSEPH: It's Document 165, right? Let's refer to it by docket number. That way the record is clear and we can look it up. The joint stipulations document, Docket 165, according to Ms. LaCombe, our courtroom deputy.

MR. GREIM: Yes.

JUDGE STEWART: My point was just clarity because we've had so many filings and so forth. And if you refer to them by numbers, we've got to track them down, and we don't err in not knowing which one you had.

MR. GREIM: Okay. So we move the admission of those exhibits, and I think that's without objection.

MR. GORDON: No objection.

MR. NAIFEH: No objection.

MR. GREIM: Next we have --

JUDGE JOSEPH: Without objection, let them be entered.

MR. GREIM: Next we have Plaintiffs' Exhibits 23 through 29. And those have existed in every exhibit list. Those are excerpts from the legislative record.

And so what's happened here is: Each party has their own designations from that record. Each party has their

own set of exhibits. They have been broken up by day for most parties. We've all agreed no one is going to object to anyone else's transcripts sections, but each person will move for that in their case-in-chief.

So I am now moving for the admission of Exhibits 23 through 29.

JUDGE JOSEPH: Any objection?

MR. GORDON: No objection, Your Honor.

MR. NAIFEH: No objection.

JUDGE JOSEPH: Without objection, let them be entered.

MR. GREIM: You will hear a shorter version of those played in this courtroom after our next two live witnesses.

And then finally, Plaintiffs' Exhibit P39 are the parties' joint stipulations. We included them as a Plaintiffs' exhibit but we now want to move those into evidence, and I don't think I've got any objection there.

MR. NAIFEH: No objection.

MR. GORDON: No objection.

JUDGE JOSEPH: Without objection, let them be entered.

MR. GREIM: The last piece of housekeeping -- I haven't done this yet, but there's an exhibit called P40 which is just simply a list of the admitted facts from the

complaint and the answers. We just combined them together into an exhibit for the record. The other parties want to study those more closely. Before I am done tomorrow, I will move those. I just wanted to flag that for the Court.

JUDGE JOSEPH: Okay. So P40, what document number is that?

MR. GREIM: It isn't a document number.

JUDGE JOSEPH: Okay. What document?

MR. GREIM: It's from Docket Number 139.

JUDGE JOSEPH: Docket Number 139. We'll circle back to that.

MR. GREIM: Yes.

JUDGE JOSEPH: And it may be essentially effectively stipulations based on the complaint and the answer.

MR. GREIM: That's right. And I think it's unlikely, Your Honor, that we'll -- well, we'll see. I don't think we're going to be admitting any other exhibits very likely; however, we will have demonstratives. Everybody will. They have changed because we were taking depositions, even after the bench books. So the parties are exchanging those the day before the hearing, each day at trial; and we are then going to just I think mark them afterwards. We'll make a record, so it's very clear what

they are. Then afterwards, we'll stamp them and just -- we can lodge them with you so that you can see them. They are not going to be evidence; they are just demonstratives. But I thought you would like to have them later to go with the transcript. So we'll make sure you get those in some organized way.

JUDGE JOSEPH: Okay. And thank you, Mr. Greim. And again, please make sure that Counsel is working together to make sure there is no interruptions in the trial, to the extent that there is any objections; those could be queued up appropriately at the right time. And there is nothing to be gained at this point from gamesmanship in providing documents to the parties.

MR. GREIM: Also to be clear, our final exhibit list is Document 141. I just want to make that clear.

JUDGE JOSEPH: 141.

MR. GREIM: 141.

JUDGE JOSEPH: All right. Call your first witness.

MR. GREIM: We call Senator Alan Seabaugh.

(Oath administered to the witness.)

MR. GREIM: Your Honor, is it okay if I conduct the examination from this podium instead of over there?

JUDGE JOSEPH: Yes. As long as you're by a microphone and so the court reporter can hear you, then

I'll leave it to your discretion.

MR. GREIM: I'll watch my speed.

SENATOR ALAN THOMAS SEABAUGH,

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GREIM:

Q. Senator Seabaugh, welcome this morning. Could you please state your full name for the record.

A. Alan Thomas Seabaugh.

Q. What's your profession?

A. I am an attorney in my day job, but I'm also a Louisiana state senator.

Q. What office specifically do you hold?

A. Well, I was a Louisiana state representative for 13 years. I've been in the Louisiana state senate for two or three months now.

Q. And what is your current district?

A. The number is 31. It's basically all of two parishes and parts of eight parishes in Northwest Louisiana.

Q. If we can pull up -- I think we have a demonstrative of the -- of all of the senate districts. While we're doing that, let me ask you: Was your house district in the same general area as your senate district? Is it in a

corner of it?
A. General area, yes; but there wasn't very much overlap at all.
Q. Okay. We have shown you what we are going to -- we will just call this Plaintiffs' Demonstrative 1. This is a map we exchanged with the parties last night.
Do you recognize this as a map of the current senate districts?
A. I do.
Q. And which one is your district? Can you describe it for us?
A. It's the large gray one on the left-hand side toward the top, but not going all the way up to the top.
Q. And you've been representing that area for about three months?
A. Well, yes. I started running about two years ago. So I campaigned for almost -- about a year and a half and then was elected in October; so yes, I got sworn in, in January.
Q. Now, we're going to talk about redistricting this cycle in just a second. But before the most recent congressional redistricting, had you been involved in past cycles of redistricting in Louisiana?
A. Yes. I was there in 2011, when we redistricted after the 2010 Census. And then I was there in 2022, when the

1 districts were drawn following the 2020 census. I was in
2 the House both times.
3 Q. And did you participate in deliberation and debate
4 about each of those districting plans?
5 A. I did.
6 Q. Is there a particular rule or law that controls the
7 legislative review that includes substantive factors for
8 legislative districting?
9 A. Yes. I mean the -- is "yes" good enough or do you
10 want me to keep going?
11 Q. That's fine. That's fine. Does it have a name?
12 What's it called?
13 A. Well, the Constitution and the Voting Rights Act.
14 Q. Does "Joint Rule 21" have any meaning to you?
15 A. I don't know what that is. I'm sure I have at some
16 point or another but...
17 Q. Okay. Generally, what factors is the Legislature
18 looking to when it draws congressional districts?
19 A. Well, first of all, the biggest problem is they have
20 to be very close to equal in size. And then you're
21 looking at communities of interest, traditional voting
22 patterns, traditional -- what they looked like in the past
23 and do the people in the area have anything in common
24 and -- to some extent, they are going to be large, and
25 especially in North Louisiana with the diverse -- not

diverse but spread-out population. They are going to be large. But you have to find communities of interest and keep people that have kind of something that have something to do with each other in the same district.

Q. You said "equal in size." Do you mean land area or population?

A. Population. There's this -- the deviation we use for legislative districts is you take the state, you divide by 105 for House, 39 for Senate. And I believe the deviation was five percent. And for Congress, I think it was less than that. Or plus or minus five percent over the median. And I think for Congress, it was less than that.

Q. Do you consider parish and municipal splits?

A. Do we consider them?

Q. Sure.

A. You had to. You tried to avoid them, but we had to.

Q. Do you try to preserve cores in districts?

A. Yes.

Q. Now, let's talk about the 2011 plan when you were in the House. Do you recall whether the Department of Justice approved that plan?

A. Yes. Back then we were still under the preclearance requirement of Section 5 of the Voting Rights Act, and that was precleared. I believe it's the only time Louisiana ever had a plan precleared on the first attempt.

Q. And how many majority-minority districts did the congressional map have?
A. One.
Q. Let's talk now -- let's move to SB8. You understand that that's the current redistricting law --
A. Yes.
Q. -- that we're challenging here? And when was that passed?
A. January of this year, 2024.
Q. So I guess you were a freshman in the Senate when that was coming through?
A. I think it was my second week.
Q. Who was the sponsor in the Senate of SB8?
A. Senator Glen Womack.
Q. Now, when did you first learn of Senator Womack's map?
A. We knew there was a map that was floating around. I didn't know that Senator Womack was going to be the sponsor and actually bring the bill until maybe session started or a week or so before. It was not known well in advance by me.
Q. And SB8, of course, has a second majority-minority district?
A. Correct.
Q. Once you saw Senate Bill 8, who did you discuss it

with?
A. A lot of people. Mostly colleagues in the Senate. I believe I discussed it with the Governor and the Attorney General.
Q. And there were several -- I take it there were committee hearings but also floor debates on SB8?
A. Yes. And also other meetings, which were like delegation meetings and things like that.
Q. What do you mean by "delegation meetings"?
A. I'm a Republican, so it was discussed in the Republican delegation meetings.
Q. Some might call it like a caucus meeting --
A. Yes.
Q. -- a caucus? Based on your personal observation, was there any consideration that, in your view, was overriding in the approval of SB8?
A. Any particular -- ask me that again.
Q. Was there any consideration that, in your view, was overriding with respect --
A. Yes.
Q. -- to SB8? What was that?
A. Well, the -- really, the only reason we were there was because of the other litigation; and Judge Dick saying that she -- if we didn't draw the second minority district, she was going to. I think that's the only

reason we were there.
Q. Was there any decision that was made at the outset of this -- well, I should back up. You were in special session; is that right?
A. Correct.
Q. And was there any decision that was made at the outset of that special session that was common to all of the proposed maps?
A. I'm not sure. I'm not sure what you're asking. I mean --
Q. Sure. Let me back up. You mentioned the litigation and Judge Dick a second ago.
A. Yes.
Q. So did you have any understanding that there was any particular number of majority-minority districts that had to be drawn in whatever map was drawn?
A. Yes. I mean, that was -- we were there because -- I mean, essentially, we were told we had to draw a second majority-minority district or the judge was going to. So there was really no point in introducing a map that did not include a second majority-minority district.
Q. Now, what was going to be the partisan impact of adding a second majority-minority seat?
A. I mean, theoretically, a second minority seat would switch from five Republicans and one Democrat to four

Republicans and two Democrats, theoretically.
Q. So was there some discussion about which Republican seat would be lost?
A. Yes, there was.
Q. And did anyone, to your knowledge, advocate for losing a Republican seat without drawing a majority-minority district?
A. No.
Q. Now, do you recall any discussion about protecting incumbent -- I'm sorry?
A. Let me qualify that real quick. There's a difference in majority-minority and majority black or majority African American. You can draw -- there was a couple of people who floated maps counting -- minority-minority, counting Native Americans, Hispanics, that sort of thing, trying to float that. And everybody was told no, it's -- if we say "majority-minority," it really has to be majority African American.
So I don't know if any of those actually got filed. I know they were floated around and people discussed it and -- again, I don't know if they were separate maps or amendments to SB8, but it was discussed, but I don't think -- it didn't ever go anywhere.
Q. Is it fair to say that having a second majority-black district was the one thing that couldn't be compromised in

the considered plans?
A. Yes. I mean, that's why we were there.
Q. Now, you've mentioned the Voting Rights Act a couple of times. Do you recall having to apply that in 2011 and in this redistricting cycle?
A. Yes.
Q. What sort of analysis before this redistricting cycle does the Legislature typically consider in trying to draw maps consistent with the Voting Rights Act?
A. Well, again, sticking -- well, obviously personal representation, the number has to be the same, which is surprisingly difficult to get there to get the number, the population the same.
But the other thing you would look at is, what has it always looked like -- communities of interest, traditional voting blocks and traditional voting patterns, relationships of the people, and that sort of thing.
Q. Is one of the factors whether a given district has over 50 percent black voting age population?
A. Yes.
Q. Now, when -- let me ask you this. Is the analysis of black voting age population, in your experience in the Legislature, has that been sufficient to decide whether the Voting Rights Act likely applies to a particular district?

MS. SADASIVAN: Object, Your Honor. This is beyond the scope of the Senator's personal knowledge. It's also calling for a legal conclusion.

JUDGE JOSEPH: You want to rephrase that question?

MR. GREIM: Sure. I'm trying to ask about his own experience, not about what the law requires in having these debates.

Q. (BY MR. GREIM) So let me make this clear, Senator. In your own experience in the Legislature, has the Legislature treated the 50 percent BVAP measure as sufficient by itself to decide whether the VRA likely applies to a particular district?

A. Actually, not really. The numbers used in the '20 and 2022, I specifically remember it was more like 55. The number was above 50. And again, I don't know what the law says, but that we were told that it needed to be 55-plus. And that's for legislative districts and everything else. For it to be considered a true majority-minority district, it needed to be 55.

Q. And do you recall discussion about why that was true?

A. Well, using voting age population, the question came up: Would the district perform? Which was interesting. I never heard that term before 2011 -- and that was because you have voting age population, then you have

1 voter registration numbers, and then you have turnout
2 numbers. And those are three completely different -- you
3 have total population, voting age population, registered
4 voters, and then potential turnout. So if it's 50 or 51,
5 it's less likely to perform. And "perform" means elect an
6 African American, so it needed to be closer to 55.
7 Q. Now, let's talk about SB8 in particular. Do you
8 recall any analysis or discussion in the Legislature about
9 whether the second majority-minority district would
10 actually perform?
11 A. Yes. And there were amendments that were floated and
12 there was discussion -- couldn't go below a certain
13 number. Again, I think that's where the minority versus
14 African American analysis came up in certain -- like
15 around New Orleans, there's a sizable number of Hispanics
16 that could have created a -- it would have made it much
17 easier to draw a second majority-minority district but it
18 would not have been majority black.
19 Q. Now, you voted no ultimately on SB8, correct?
20 A. I did.
21 Q. Why was that?
22 A. I still think the 2022 map was good. I stand by the
23 2022 map. I don't think it violated anything, and I would
24 have preferred to go to court in the other case and try
25 the case rather than give up before going to trial.

Q. Now, you talked about communities of interest a couple of times just now in your testimony. And I think you have also told us earlier that you campaigned for a couple of years for your senate seat throughout your district; is that right?
A. About a year and a half, yes.
Q. Do you believe that your district is in a community of interest?
A. On some things, yes; but by and large, no, not really.
Q. How would you describe the community -- well, would you say your district is in multiple communities of interest?
A. Yes.
Q. Could you just describe them for us.
A. Well, you have -- I have parts of Shreveport and Bossier City, which are very urban, densely populated cities. And the rest of my district is extremely rural. Other than the little bit of Shreveport and Bossier that I have, the two largest municipalities in my district are Many and Mansfield. And then I have a lot of very, very, very small towns. And that's -- there's just not a lot in common in some of the -- in some things there are. I mean, we're all from, roughly, North Central or Northwest Louisiana and, you know, there -- it's not

completely different. I don't go quite to Lafayette and -- you know. There are certainly a lot of things that people in that area have in common, but there's a lot of things that they don't.

Q. Do you believe your district shares a community of interest with Lafayette?

A. Not at all.

Q. Or with Baton Rouge?

A. Not really, no.

MR. GREIM: I don't have any further questions.

CROSS-EXAMINATION

BY MS. SADASIVAN:

Q. Good morning, Your Honors, Senator Seabaugh. Kathryn Sadasivan for the Robinson intervenors.

Senator Seabaugh, you voted against SB8; is that right?

A. I did.

Q. And do you agree that your district, Senate District 31, isn't one community of interest, right?

A. It's closer than the district that was in question in this trial, but yes, it's more --

Q. It's not one community of interest, right?

A. Not particularly, no.

Q. And during the 2024 extraordinary session, you didn't serve on the Senate and Governmental Affairs Committee,

right?
A. Not on the committee. I was in for most of the hearings, but I did not -- I'm not on the committee.
Q. And the bill that became SB8 originated in the Senate and Governmental Affairs Committee, right?
A. It originated with Senator Womack; it was assigned to the Senate and Governmental Affairs Committee.
Q. You didn't draft any congressional redistricting bills during the First Extraordinary Session of 2024, right?
A. I did. I don't know that I ever actually filed them. I worked -- I spent hours trying to draw a second majority-minority district. And I was never convinced that it was possible without violating the Fourteenth Amendment.
Q. And you didn't introduce any --
A. I don't think I did. I honestly don't remember, but I don't think I did. But I know I drafted several. At least I tried.
Q. And you didn't work with Senator Womack on SB8, right?
A. I was involved in a couple of conversations, so I don't know what you mean by "work with."
Q. You didn't help draw SB8, did you?
A. No, I did not. I was involved in some discussions of

some amendments to SB8.
Q. And you didn't offer any amendments to SB8 yourself, right?
A. I did not.
Q. And as a senator, you can attend any meeting of any Senate Committee that you want, right?
A. Correct.
Q. And you didn't participate in any hearings in the Senate and Governmental Affairs Committee, right?
A. By "participate" if you mean testify, then no.
Q. And you didn't speak on the record in the Senate about your opposition to SB8?
A. I don't believe I did.
Q. And you didn't have any other role in drafting SB8, right?
A. Not on the record, no.
Q. So you weren't personally aware of the factors that were considered when SB8 was being drawn?
A. Yes, I was. I mean, again, we had a lot of off-the-record conversations and delegation meetings, and I talked to Senator Womack several times as we were going through the process. So I was aware of the factors that were considered.
Q. But you weren't involved in the drawing of the map that became SB8 at all?

A. Not really, no.
Q. Okay. And you were a member of the Louisiana House during the '22 First Extraordinary Session on redistricting, right?
A. I was.
Q. You didn't serve on the committee responsible for redistricting, right?
A. That is correct.
Q. And you didn't vote in favor of any congressional districting plan that created two majority-black congressional districts in the 2022 Extraordinary Session?
A. Correct.
Q. You opposed SB8 because you believed Louisiana doesn't need a second -- or isn't required to draw a second majority-black congressional district, right?
A. If you could draw one without, in my opinion, violating equal protection of the Fourteenth Amendment, I would consider it. You just can't. I mean, it's literally impossible to get two out of six congressional districts in Louisiana without literally looking at the state, finding the pockets of black population, and playing connect the dots and, in my opinion, that's not allowed.
Q. Are you familiar with Senate Bill 4 introduced in the First Extraordinary Session of 20 --

A. I don't like bill numbers is that. Is that Ed Price's bill?
Q. Yes. It's the Price --
A. Yes.
Q. -- Duplessis bill. So you're familiar with it?
A. I can't quote you anything, but yes, I am aware that it was filed and I remember looking at it.
Q. And you are aware that it included two majority-black districts in Congressional Districts 2 and 5, right?
A. Correct.
Q. And in that map, Congressional District 4 keeps Northwest Louisiana in one congressional district, right?
A. Yes. As far as I recall.
Q. And you didn't support SB4?
A. I would have chosen it over this one.
Q. But you didn't publicly comment on it --
A. I don't think I got a chance to vote on it.
Q. You didn't publicly comment on SB4?
A. I am not telling you I didn't talk to a reporter or anybody about it. I didn't like this map when I saw it. I might have said that to a reporter or somebody. I don't -- I didn't comment on the record, if that's what you're asking.
Q. And speaking of reporters, you said you couldn't see why the Legislature would concede such a huge point,

referring to creating a second majority-black district, one with national implications, without going to trial, right?

A. Correct. That's what I said earlier. I would like to have gone to trial on the 2022 districts because I don't think they were bad.

Q. So you would have voted against any bill that created two majority-black districts without going to trial, right?

A. In 2024, yes, I would have. Because, again, I will stand by the 2022 district. I still think it was good.

Q. So in two decades of redistricting, you have never voted in favor of a map that would create two majority-black districts, right?

A. If somebody could show me one that didn't violate the Fourteenth Amendment, I would.

MS. SADASIVAN: Nothing further.

CROSS-EXAMINATION

BY MR. GORDON:

Q. Good morning, Senator.

A. Good morning.

Q. My name is Phillip Gordon. I represent the State of Louisiana. How are you doing today?

A. I'm good.

Q. Sort of dovetailing on the question of national

1 implications that Counsel just mentioned. Do you know
2 what parish the United States Speaker of the House Mike
3 Johnson lives in?
4 A. He lives in Bossier now.
5 Q. Do you know what parish the Majority Leader Scalise
6 lives in?
7 A. Jefferson, I believe.
8 Q. Would you consider it important to Louisiana that the
9 Speaker and the Majority Leader of the U.S. House of
10 Representatives are from Louisiana?
11 A. Yes.
12 Q. Yeah. In fact, it's beneficial to Louisiana that
13 certain high-ranking members of the majority of the
14 U.S. House of Representatives are from Louisiana.
15 A. Sure.
16 Q. And, you know, to lose either of those members would
17 then, therefore, be bad for Louisiana.
18 A. Well, yes. Whether they're the Speaker or -- I mean
19 Speaker and Majority Leader are kind of a big deal, so
20 yes.
21 Q. Agreed. Do you know what parish Representative
22 Letlow lives in?
23 A. I believe she's in Ouachita.
24 Q. Are you aware that Representative Letlow is on the
25 Appropriations Committee?

A. I am.
Q. Are you aware that the Appropriations Committee is a very important committee of the U.S. House of Representatives?
A. I am.
Q. And, you know, it would be also important to the State of Louisiana that Representative Letlow maintain her seat so she can continue her work on the Appropriations Committee; is that right?
A. Less important than the other two, but yes.
Q. And would you say that protecting the three members I just discussed -- Speaker Johnson, Majority Leader Scalise, and Representative Letlow -- is an important consideration when drawing a congressional map?
A. Yes.
Q. And, in fact, that would be a political consideration; is that true?
A. Yes.
Q. And political considerations are the day-to-day work of a senator such as yourself?
A. We don't do this very often. It's not a big part of being a senator, but when you're discussing redistricting, yes.
Q. Sure. But I mean --
A. In general, political considerations, yes.

Q. Right. I mean, you mentioned a minute ago that you had had a caucus meeting about this regarding the congressional map.
A. Yes.
Q. And I'm sure you have meetings with the caucus about a great many other issues; is that right?
A. Yes.
Q. And I'm sure politics is discussed at those meetings?
A. Yes.
Q. Are you aware of the still-pending litigation in the Middle District of Louisiana over HB1, the map that preceded SB8?
A. Are you talking about the 2022 map?
Q. Yes, sir.
A. Yes, I am aware of it.
Q. What is your understanding of that case?
A. That it has not gone to trial yet, but that Judge Dick has signaled through some preliminary proceedings that they had, that she has kind of told everybody how she was going to rule, and ordered us to draw a second majority-minority district or she was going to do it.
Q. And just on a related point, we saw the map of the current senate districts on there. You're aware that that map has also been enjoined?
A. Yes. I don't agree with her about that either.

Q. And so going back to the Representative Letlow. It was important that Representative Letlow be -- her district be protected in the SB8 map; is that right?
A. It was a consideration that -- it was certainly important to Senator Womack. I don't know how important it was to everybody else, but yes.
Q. But as we covered, it is important that she maintain her work on the Appropriations Committee?
A. Sure.
Q. And you can't very well do that if you're not a member of the U.S. House of Representatives.
A. Well, that's true. But somebody else could be appointed. I mean, it's not -- you know, it's -- the Speaker and Majority Leader are not on the same level as a member of Appropriations.
Q. Was it also important in the creation of SB8, the map we're here about today, that Louisiana maintain two members from Northern Louisiana?
A. That was something that I preferred, yes.
Q. And surfing back really quick to the political point we made earlier. You would say it's part of your job to make certain political decisions when you're deciding to vote for or against certain laws.
A. Of course.
Q. And that's perfectly fine for a sitting senator to

do.
A. It's part of the job, yes.
Q. Do you know if federal judges are supposed to consider politics in making their considerations?
A. I don't believe they are.
Q. Then something like protecting Majority Leader Scalise, Speaker Mike Johnson, or Representative Letlow wouldn't necessarily be a consideration for, say, the Middle District of Louisiana, would it?
A. That's probably true.
MR. GORDON: Thank you. No further questions.
JUDGE JOSEPH: All right. Any redirect?
MR. GREIM: No, Your Honor.
MR. STRACH: No questions.
MR. GREIM: We are ready to call our next -- we have no further questions.
JUDGE JOSEPH: You have no redirect?
MR. GREIM: No.
JUDGE JOSEPH: All right, Senator. You may step down. Thank you for your testimony.
MR. GREIM: Your Honor, our next witness is going to be Tom Pressly.
JUDGE JOSEPH: And I'll just ask, generally speaking, please, please go at a cadence so our court reporter can follow the questions and the answers.

She'll tell us when she can't, but I'm telling you now, okay?

(Oath administered to the witness.)

SENATOR THOMAS PRESSLY,

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GREIM:

Q. Senator Pressly, good morning.

A. Good morning.

Q. My name is Eddie Greim, and I represent the plaintiffs in this case. It's nice to meet you.

A. Nice to meet you.

Q. Senator, what's your profession?

A. I'm an attorney and state senator.

Q. What district do you represent?

A. I represent District 38.

Q. We're going to put up a map here as a demonstrative exhibit, Plaintiffs' Demonstrative 1. That's a statewide map. And I wonder, from where you are sitting, can you see the district that you represent?

A. I can. It's in the green in the northwest corner.

Q. Sort of a triangle with its base to the west?

A. Sure. Yes.

Q. And how long have you represented District 38?
A. I was elected in October, took office in January, and previously held a portion of this district in a state representative capacity.
Q. How long were you in the state house?
A. Four years.
Q. So I take it, then, that before -- well, let me ask you: Were you involved in the passage of House Bill 1, which was the 2022 congressional map?
A. I was.
Q. And in your prior involvement in redistricting, in congressional redistricting, what sort of factors did you consider?
A. Communities of interest. Compactness. The appearance of reasonableness. Keeping the core of prior districts the same.
Q. What about -- would parish or municipality splits be a factor?
A. Absolutely.
Q. What about equal population?
A. Yes.
Q. And the Voting Rights Act?
A. Sure.
Q. Now, are those all factors that you considered back when HB1 was passed?

A. Yes.
Q. Now, let's fast-forward to January of this year. Was a congressional redistricting passed in January of 2024?
A. Did we pass legislation redistricting congressional seats? Yes, we did.
Q. And that was Senate Bill 8?
A. That's correct. Of the First Special Session.
Q. Who called that special session?
A. That was called by the Governor.
Q. And do you recall who the sponsor of Senate Bill 8 was?
A. Senator Womack.
Q. When did you, Senator Pressly, first learn of Senator Womack's proposed map?
A. I don't recall the specific time period. I'm sure it was just before or during the First Extraordinary Session.
Q. And does SB8 have a second majority-minority district?
A. It does.
Q. Let me ask you: Did you discuss Senate Bill 8 with other legislators?
A. I did.
Q. And just generally, who did you discuss it with?
A. Other senators, for the most part. I certainly had

1 some conversations with House members as well, just
2 voicing my concerns about Northwest Louisiana.
3 Q. Did a particular caucus basically draw SB8?
4 A. I don't have specific knowledge of that.
5 Q. You know, in other words, was it put together by the
6 Republican or the Democratic caucus?
7 A. I don't know specifically that the caucus put it
8 together but certainly we were instructed that we needed
9 to have two majority-minority districts, and any other
10 redistricting guidelines were secondary to that.
11 Q. Which hearings and debates did you attend?
12 A. So I watched portions of the Senate and Governmental
13 Affairs Committee, as well as the House and Governmental
14 Affairs Committee. I don't believe I was in person for
15 either of those. I was on the floor for the Senate bill
16 when it first came to the Senate side, and I was also on
17 the floor and participated in the debate during the
18 concurrence discussion as well.
19 Q. You made some remarks on the floor, correct?
20 A. I did.
21 Q. Now, we're going to hear transcripts later, so just
22 to save time, I'm not going to ask you to try to
23 regurgitate your remarks here.
24 A. Sure.
25 Q. But I will ask you if you discussed Senate Bill 8

with Senator Womack.
A. I know I came to the floor and spoke against the bill. I'm not sure that I came to the floor and asked him questions during that discussion. I believe I just spoke personally about my objections to the legislation.
Q. Did you ever speak with him off the record about the bill? Do you recall?
A. I did. I spoke with him about the legislation.
Q. And was there discussion about it within any kind of Republican caucus meeting?
A. Yes.
Q. And based on your own personal observation -- I think you might have just told us this -- was there any consideration that was, in your view, overriding in the Special Session?
A. Certainly the racial component in making sure that we had two performing African American districts was the fundamental tenet that we were looking at. Everything else was secondary to that discussion.
Q. Now, did the Legislature perform any analysis in the Special Session that considered whether any of the districts in SB8, or SB8 as a whole, was required under the Voting Rights Act?
A. We were told that we had to have two performing African American districts. And that we were -- that

that was the main tenet that we needed to look at and ensure that we were able to draw the court -- draw the maps; otherwise, the court was going to draw the maps for us.

Q. And who told the Legislature that? Do you recall?

A. Judge Dick is the one that ultimately told the Legislature. Governor Landry stated that when he opened the committee -- I'm sorry -- the Special Session and we heard it from Attorney General Murrill as well.

Q. Now, different versions of two majority-minority seat maps were considered, right?

A. I believe that's correct. But this was the main bill that was being considered.

Q. What was the partisan impact of all of the different two majority-minority maps, if any? In other words, what was the -- let me rephrase that.

What was the impact on the partisan split of the congressional delegation of all of the two majority-minority maps?

A. So like what would the ultimate impact of partisan Republican/Democrat split be?

Q. Yes.

A. So, ultimately, we'd go from 5-1 Republican/Democrat to 4-2, more than likely with the way that it was drawn.

Q. And so, in other words, a Republican would lose a

seat?
A. That's correct.
Q. Was there --
A. Most likely.
Q. Most likely. Was there a discussion within the caucus about if that was going to happen which Republicans ought to be protected?
A. And when say "caucus," you're talking the Republican delegation, right?
Q. That's right.
A. There were certainly discussions on ensuring -- you know, we've got leadership in Washington. You have the Speaker of the House that's from the Fourth Congressional District and we certainly wanted to protect Speaker Johnson. The House Majority Leader, we wanted to make sure that we protected, Steve Scalise. Julia Letlow is on Appropriations. That was also very important that we tried to keep her seat as well.
Q. I just want to be very clear: Did anybody discuss creating a second majority-minority seat in order to protect any incumbent?
A. I'm sorry. Can you reask the question?
Q. Sure. Did any Republican legislator at any time suggest creating a second majority-minority seat in order to protect any congressional incumbent?

A. No. The conversation was that we would -- that we were being told we had to draw a second majority-minority seat. And the question then was, okay, who -- how do we do this in a way to ensure that we're not getting rid of the Speaker of the House, the Majority Leader, and Senator Womack spoke on the floor about wanting to protect Julia Letlow as well.

Q. Earlier you discussed that one issue that's considered by the Legislature is communities of interest. If we could put the map up again as a demonstrative. I'm going to show you your parish again. I mean, I don't think you need to see it. That's really all for our benefit.

A. Sure.

Q. Let me ask you, which parish do you generally cover?

A. So about 85 percent of my district is in Caddo Parish, the southern portion of Caddo Parish and western portions of Caddo Parish. And then I represent the western side of DeSoto Parish, and the northern portion kind of splits in a 45-degree angle between Senator Seabaugh and my district in DeSoto Parish.

Q. And do you believe your own senate district is in a community of interest?

A. I do.

Q. How would you describe it?

A. So certainly -- you know, it's the northwest corner of the State. So when you're dividing by about 120,000 people, you know, I represent a large portion of the city of Shreveport. I represent folks in DeSoto Parish, the northern portion of DeSoto Parish. A lot of those kids go to school in South Shreveport as well. I represent folks that are -- you know, it's generally the urban area of Shreveport as well as some rural outskirts of the third largest city in our state.

Q. Do you consider any part of your district to share a community of interest, for example, with Lafayette?

A. I don't. I think there is a large divide between North and South Louisiana. You know, when you're looking at natural diasters, for example, we're concerned about tornadoes and ice storms; they are concerned about hurricanes.

When you're looking at educational needs, you know, our community has two satellite public universities being -- actually three -- being LSU-Shreveport, Northwestern State University's Nursing School is up here, as well as having, you know, Southern University at Shreveport; whereas Lafayette has a Tier 1 research institution in University of Louisiana Lafayette.

Q. Same question, but what about Baton Rouge? Do you believe any part of your district shares communities of

interest with Baton Rouge?
A. I can say without any hesitation that Baton Rouge and Shreveport are very different locations. I fight the North Louisiana fight on a regular basis at the State Capitol, and our need for funding, our needs for economic development, and our needs that are unique and different from almost 250 miles from this location.
Q. Senator, I have no further questions. Thank you.
A. Thank you.
MR. KLEIN: Good morning, Your Honors. I'm Robert Klein of Paul Weiss for the Robinson intervenors.

CROSS-EXAMINATION

BY MR. KLEIN:
Q. Senator, did you talk to any colleagues about whether it was possible to draw a map with two majority-black districts that also kept Northwest Louisiana together in one district?
A. I did have some conversations on that and the need for our region to have -- to remain intact.
Q. Right. And were you aware that legislators introduced several alternative redistricting bills?
A. I'm aware that during the course of not only the special but during prior legislation sessions we had those discussions.
Q. And several of those bills contained two

1 majority-black districts, right?
2 A. It's my recall, yes.
3 Q. And some of those also kept all of Northwest
4 Louisiana together in the same congressional district
5 while maintaining two majority-black congressional
6 districts, right?
7 A. I'm sorry. Can you repeat your question?
8 Q. So some of the proposed bills kept all of
9 Northwest Louisiana together in one district while also
10 containing two majority-black districts?
11 A. I don't recall that specifically. I do -- you know,
12 essentially the maps that I recall seeing either split
13 Northeast or Northwest Louisiana and added it with the
14 Baton Rouge area. And I think I could make the same
15 arguments for Northeast Louisiana as I can for Northwest
16 on the uniqueness and individuality of that region
17 compared to our State Capitol.
18 Q. Understood. So if one of the maps that split
19 Northwest Louisiana, Northeast Louisiana were adopted,
20 Representative Letlow would have been in a majority-black
21 congressional district, right?
22 A. I don't recall specifically seeing that map. I know
23 that there were discussions on that issue and, you know,
24 there is no question that we were trying to look at the
25 map that -- there's no question that we were trying to

1 create a map that addressed the underlying basis, which
2 was two majority-minority districts, as we were being told
3 by our leaders -- by the Governor and by the Attorney
4 General -- that we had to do.
5 Q. Okay. So you're not aware of any alternative maps
6 where Representative Letlow would have been in the second
7 majority-black district? You didn't see those maps?
8 A. I don't recall seeing them, as I sit here today.
9 But if you tell me that we had some out there, I have
10 looked at lot of maps on this issue, on the Supreme Court
11 redistricting as well.
12 Q. And if Representative Letlow were in the second
13 black-majority district, would she be likely to lose that
14 district in your view?
15 A. I don't know the answer to that. I certainly think
16 that she would be at a disadvantage compared to her
17 current seat that she ran in two years ago. But I will
18 also say that I think Congresswoman Letlow is in a
19 district that now has the majority of population in the
20 Baton Rouge and the southern portion of her district,
21 which I think puts her at risk as well.
22 Q. But you did testify earlier that a Republican would
23 be likely to lose in a second majority-black district,
24 right?
25 A. Yeah. I think that that is the view of most. I will

say that, you know, the public has the opportunity to vote. That's part of our democracy is allowing people the opportunity to make a decision for themselves.

Q. And you didn't publicly express support for any of the alternative bills to SB8, right?

A. I did not publicly support any of the alternatives. I believe that we should keep the map that was put forth in 2022.

Q. Okay. Thank you.

A. Thank you.

MR. KLEIN: Those are all the questions I have.

CROSS-EXAMINATION

BY MR. GORDON:

Q. Good morning, Senator Pressly.

A. Good morning.

Q. My name is Phillip Gordon. I am counsel for the State of Louisiana. How are you doing?

A. Doing well.

Q. Great. I heard you're a lawyer before; is that accurate?

A. I am.

Q. As a fellow lawyer, I am sorry. So I don't want to re-cover too much ground that you've already covered before, so I'll sort of get right at it.

I think you mentioned something about this earlier.

You consider it important to Louisiana that the current United States Speaker of the House of Representatives and the Majority Leader are from Louisiana?
A. Are what?
Q. Are from Louisiana?
A. Yes. I think that's a huge benefit to our state and our region.
Q. Right. And then losing either of those members would therefore be bad for Louisiana?
A. Absolutely.
Q. And I think you mentioned this earlier as well: Representative Letlow is on the Appropriations Committee.
A. That's correct.
Q. And are you aware that's a very important and influential committee of the U.S. House of Representatives?
A. So I've heard.
Q. And so you would say that keeping Representative Letlow on the Appropriations Committee would be important to the state of Louisiana as well?
A. Absolutely.
Q. And sort of following from that, then, you would say protecting Speaker Johnson, Representatives Scalise and Letlow would be an important consideration when drawing a congressional map?

A. Certainly it would be important to keep our leadership in Washington and our power base for the state in Washington, yes, I would agree with that fundamentally. Yes.

Q. And that's fundamentally a political consideration, isn't it?

A. Yeah. It's a political consideration to ensure that we keep those that are in power up there. But I think that you -- also, again, going back to the fundamental what we were told we had to do was create two minority districts, right? That's issue one that we were asked to do.

Issue two was: Okay, now what? Right? And that's where that secondary decision of okay, how do we draw this in a way that we are keeping Speaker Johnson, Leader Scalise, and Julia -- and Representative Letlow in power.

Q. And to the point you were just making that it was the primary consideration, are you aware of the ongoing litigation right now in the Middle District of Louisiana over House Bill 1, the previous congressional map?

A. I am familiar with that.

Q. What do you understand that litigation to be about?

A. That there were challenges made to the way that we redrew the maps in 2022, and that the plaintiffs asked for a trial on the merits of whether or not the maps were

1 racially gerrymandered in a way that limited the African
2 American ability to draw a map.
3 Q. All right.
4 A. Influence in electing their member of Congress
5 rather.
6 Q. Understood. And are you aware that the Middle
7 District Court preliminarily enjoined HB1?
8 A. Yes. And that's why we were called to the First
9 Special Session. Again, we were told that essentially we
10 were being forced to draw a second majority-minority
11 district prior to any other consideration.
12 Q. And, similarly, you are aware that the same Middle
13 District Court enjoined the current senate map that you
14 sit in; is that right?
15 A. I am familiar with that, yes.
16 Q. And just touching again on the issue of politics,
17 sort of as a sitting state senator, politics is part of
18 your job; is that right?
19 A. It is.
20 Q. It's sort of the day-to-day root and branch thing you
21 do?
22 A. Day to day, when I'm not in session, I try to
23 practice a little bit of law. I'm having a harder and
24 harder time with all of these special sessions, though.
25 Q. Understood. And do know if federal -- I mean, you're

an attorney. Do you know if federal judges are supposed to consider politics when rendering their decisions?
A. They're not.
Q. And then so therefore protecting Representative Scalise, Speaker Johnson, Representative Letlow wouldn't be something the Middle District Court would consider, would it?
A. They're not supposed to get into politics, that is correct. I can't tell you how that would -- as far as the individuality of a case, I can't speak on behalf of a federal judge. Even -- even during my time clerking for a federal judge, I wasn't able to speak on their behalf.
Q. Nor am I trying to do any of that either. I am just really trying to make the point that based on your previous answer, the Middle District Court isn't supposed to?
A. That's correct. I mean, certainly, you know -- and I think that was my understanding of what we were essentially being told to do. I think Senator Stine said the federal judge basically had a gun to our head and we were being forced to draw two majority-minority districts. I wouldn't put it in that -- in that terminology, but I certainly think that this was the one last chance prior to having trial where all indications seemed to be that, again, we would have two majority-minority districts and

it would be drawn as the judge wished to do so.
Q. Thank you, Senator. A couple of additional questions. About how many people are in a state senate district in Louisiana?
A. I believe it's about 120,000.
Q. And about how many people are in a congressional district in the state of Louisiana?
A. You're putting me on the spot, but I want to say it's somewhere in the 770,000 range.
Q. Something like 776 --
THE REPORTER: Can you slow down?
MR. GORDON: Oh, I'm so sorry.
Q. (BY MR. GORDON) I have something like 776?
A. Sure.
Q. So that sounds close enough to me. So by necessity, a congressional district is going to have to cover more geographical area than a state senate seat; is that right?
A. That's correct.
Q. Thank you. No more questions.
JUDGE JOSEPH: All right. Secretary?
MR. STRACH: None from us, Your Honor.
JUDGE JOSEPH: All right. Any redirect?
MR. GREIM: A little bit.
JUDGE JOSEPH: Okay.

REDIRECT EXAMINATION

BY MR. GREIM:
Q. Senator Pressly, you were asked several questions about Judge Dick's proceeding in the Middle District. You never understood that the Legislature was actually under an order from Judge Dick at the time that you were in session, did you?
A. No. We were -- I was told that we were given one last chance to try to cure the defect that was being alleged against us.
Q. And the Attorney General, when she addressed the Legislature, did you ever hear her once state that the State actually believed that the Voting Rights Act required two majority-minority districts?
A. I don't recall her ever saying that.
MR. KLEIN: Objection. It's a leading question.
JUDGE JOSEPH: He's asking his personal knowledge, so he can answer the question. Overruled.
MR. GREIM: No further questions.
JUDGE JOSEPH: All right. May Senator Pressly be released?
MR. GREIM: Yes, he may.
JUDGE JOSEPH: All right.
Senator, you may step down. Thank you for your testimony.
THE WITNESS: Thank you, Judge.

JUDGE JOSEPH: I think it's time for our morning break. We will take a 15-minute break and come back at 10 after 11. I think we'll probably go a little later and maybe take lunch around one or so today, okay?

(Recess.)

JUDGE JOSEPH: Please be seated. Plaintiffs may call their next witness.

MR. GREIM: We call Dr. Stephen Voss.

(Oath administered to the witness.)

MR. CHAKRABORTY: Your Honor, before we get started, when we had the pretrial conference you mentioned that if we have objections in terms of renewing our objections with respect to our motion in limine, to do them now. So we are lodging that objection to Dr. Voss's testimony on the record for the same reasons that are outlined in our --

JUDGE JOSEPH: To all of his testimony?

MR. CHAKRABORTY: Say it one more time.

JUDGE JOSEPH: You're objecting to all of his testimony?

MR. CHAKRABORTY: I'm sorry. We are objecting to the portions of his testimony that are -- that we are objecting to in our motion in limine.

JUDGE JOSEPH: Okay. That motion is overruled. Please proceed, Counsel.

DENNIS GEORGE STEPHEN VOSS, JR.,

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. GREIM:

Q. Dr. Voss, good morning. Could you state for us your full name for the record?

A. Sure. Dennis George Stephen Voss, Jr.

Q. Can you tell us just a little bit about your personal background?

A. Yes. I was born in Louisiana in Orleans Parish. I lived most of my life in Jefferson Parish. I have a family who remain here in several of the parishes nearby, St. Tammany, Livingston, Tangipahoa. I went to high school in Natchitoches Parish, went to college in East Baton Rouge Parish, and I served newspapers based in Caddo, Bossier, and Ouachita Parish, the Shreveport Times and the Monroe News Star.

Q. And before we go much further, Dr. Voss, I am going to make sure we're -- for some reason I am having a little bit of a hard time.

MR. GREIM: I wonder if the court reporter is okay? You're good?

THE REPORTER: Speak up, please.

MR. GREIM: Okay.

THE WITNESS: Sure thing.

Q. (BY MR. GREIM) During your time here, either personally or through past employment, have you had any exposure to Louisiana politics?

A. Sure. I spent -- other than being a college reporter for a while -- we covered political affairs -- I spent two years as an intern with Gannett News Service, covering the State House. That's the service for the Times of Shreveport and the Monroe News Star.

JUDGE STEWART: We're getting some feedback somewhere.

JUDGE JOSEPH: Yeah, I wonder maybe try pushing your microphone a little further away and lowering your seat a little bit.

THE WITNESS: Okay.

JUDGE JOSEPH: Brent, if you have suggestions, please let him know.

Q. (BY MR. GREIM) You don't sound like yourself.

Okay. So let's go back. I think you had indicated you did some reporting. Let's go back to that. Tell us about your reporting experience.

A. Well, the other main connection is after two years with the press corps, I crossed the aisle and I served as an aide to a state senator from Northwest Louisiana, State

Senator Syd Nelson, and I spent the legislative session as a senate aide.

Q. Okay. So let's talk -- anything else from your Louisiana political or personal experience?

A. No, I don't think so.

Q. Let me ask you now about your education, just starting with college.

A. Okay. I went to Louisiana State University. I earned two bachelor's degrees, one in history and one in journalism. I then went to Harvard University where I earned a master's and then a Ph.D.

Q. And where did you earn your master's and Ph.D. in at Harvard?

A. Government, which is what they call political science.

Q. And do you have any kind of education in statistics or quantitative -- the quantitative side of political science?

A. Yes. My focus field in the graduate program was political methodology, which is quantitative analysis, as I have studied it at least. And then my dissertation, my main two advisers were political methodologists: Gary King and James Alt.

Q. What is Gary King known for in the field of political methodology?

A. Well, related to -- I mean, it's so many things. He's the most cited political scientist of his generation. He is known for ecological inference, which is used to study voting behavior by race. He was responsible for the JudgeIt software that was a groundbreaker in terms of simulating districts or estimating the effect of districts using simulation. I co-authored one version of the manual along the way, but it moved well past where it was when I worked on it.

His solution to the ecological inference problem, which also used simulations as part of the methodology, I was involved with that enough that his very first example in that book was a Louisiana precinct analysis using data that I simultaneously had been working on. Anyway, we could spend on Gary King's resume and take the whole session, so...

Q. Let me try to hit few more highlights before we get on with some of your substantive testimony. Have you had any peer-reviewed publications regarding southern elections and voting behavior?

A. Yes. In fact, my most cited piece to this day is an analysis of David Duke's voting support in the early '90s in the Journal of Politics.

Q. And I guess -- was that Louisiana?

A. That was Louisiana. Now, you know, the discipline

1 does not encourage state-specific studies. If you do
2 that, it has to be sort of a hobby. So not everything I
3 have done on Louisiana or Kentucky makes it into a
4 peer-reviewed publication.
5 My most famous piece now, notorious piece now
6 analyzing Louisiana voting, is a conference paper that was
7 never published but that Harvard University President
8 Claudine Gay used almost verbatim. So I got caught in
9 that plagiarism -- Harvard plagiarism scandal. So more
10 people have looked at that unpublished paper now than have
11 looked at most anything I have written.
12 Q. This was the -- understood. What about elections and
13 redistricting?
14 A. Yes. I have peer-reviewed publications related to
15 both voting behavior and redistricting. Maybe the highest
16 ranked one is a piece on southern state legislative
17 districts in the American Journal of Political Science.
18 Q. What about methods of quantitative analysis?
19 A. Yes. I have published on ecological inference in
20 particular, but most of my work uses quantitative analysis
21 along the way. I have very few publications that are
22 purely what we call qualitative.
23 Q. In the past, have you designed simulations or
24 conducted research that applied them?
25 A. Yes. Most -- as I mentioned, most of those methods

Gary King developed used simulations. I didn't mention one that's used for interpreting -- I didn't mention one of his software packages which is used for figuring out the results of a quantitative analysis called Clarify. But that one also uses simulation, Clarify. That one also uses simulation. In these cases, for my work applying his software packages, I have gone into the simulation method and, you know, altered it in order to adapt it to a new research situation.

So I also, at the early end of the design stage, was involved in a simulation of inland waterway vessels, barges moving through rivers, locks and dams, although that was at the design end. I wasn't there by the time of the final execution of that particular simulation.

Q. Now, we're here on a redistricting case, so I've got to ask you: Have you acted as an expert in any redistricting cases before, Dr. Voss?

A. Just a few. I was involved in the '90s, I guess, or maybe early 2000s in a pair of Indiana redistricting cases or voting rights cases that included district shapes. More recently, two years ago, I was involved in Kentucky's redistricting case, which involved a partisan gerrymandering claim. I very briefly was involved recently with Wisconsin's, but I basically talked them out of using me. I didn't want to do that one because I don't

1 know Wisconsin the way I know Kentucky and Louisiana.
2 That's pretty much it.
3 Q. Let's turn to the subject of your testimony here
4 today. Are there questions that you are prepared to
5 address here today as an expert witness?
6 A. Yes.
7 Q. What are those?
8 A. Okay. So the first is whether Senate Bill 8
9 represents an egregious partisan gerrymander -- racial
10 gerrymander, excuse me, egregious racial gerrymander,
11 which is to say that race is a, if not the predominant,
12 influence on numerous features of the districts that
13 resulted.
14 Q. Okay. What else?
15 A. The second is that in drawing the districts in
16 Senate Bill 8, various traditional redistricting criteria
17 were compromised to a fairly severe degree, including
18 compactness, how tidy the district is. We'll talk about
19 that more I think later. The parish lines that were
20 preserved versus split.
21 And then, finally, whether it's even possible to draw
22 two majority black districts in a way that is compact, or
23 if instead there really is not a sufficiently large and
24 compact African American population to allow districts
25 that would conform to traditional redistricting criteria.

Q. So let's just march through, then, Dr. Voss. I want to first ask you, you used the phrase "racial gerrymandering." What do you mean by that? What understanding are you applying today?

A. That term is problematic because there's no one agreed cutoff for what is versus isn't a racial gerrymander, even among social scientists, let alone any differences between how we might argue about it compared to legal definitions, which could be distinct. But, you know, as I said, there are numerous features of Senate Bill 8 that are explicable primarily based on race. Add them up; it's fairly conspicuous.

JUDGE JOSEPH: Mr. Greim, do you want to tender him as an expert? I wasn't sure, when you finished his qualifications, if you were going to do that or not.

MR. GREIM: I will. I will use that method. I'll tender him -- I'll ask him for his first opinion, then I'll tender him as an expert on that opinion.

JUDGE JOSEPH: All right.

Q. (BY MR. GREIM) So back on the very first topic that you mentioned, what opinion are you prepared to give here today?

A. That Senate Bill 8 represents an egregious racial gerrymander.

MR. GREIM: Then I would tender the witness on

that topic.

JUDGE JOSEPH: Do you want to voir dire on the qualifications?

MR. CHAKRABORTY: Objection, Your Honor. I don't -- he's being tendered as to what's an egregious racial gerrymander?

JUDGE JOSEPH: Sir, I asked if you have any voir dire of this witness before we decide qualification.

MR. CHAKRABORTY: No, Your Honor.

JUDGE JOSEPH: State?

MR. TORCHINSKY: No, Your Honor.

JUDGE JOSEPH: Secretary?

MR. STRACH: No.

(Reporter clarification.)

MR. TORCHINSKY: Jason Torchinsky for the State, Your Honor.

(Judges confer off the record.)

JUDGE JOSEPH: All right. Dr. Voss is qualified to render expert opinion on the first factor. Go ahead, Mr. Greim.

Q. (BY MR. GREIM) Dr. Voss, when you look at SB8 as an election scholar, what evidence did you examine to determine whether race was the predominant factor?

A. Okay. Just looking at the districts, what you have is a district that stretches, or I guess the term is

"slashes" across the state of Louisiana to target four metropolitan areas, which is the majority of the larger cities in the state. It then scoops out from each of those predominant -- the majority black and predominantly black precincts from each of those cities.

It also has -- both District 6 and District 2 have various tendrils or scoops or bulges that specifically pull in African American dominated precincts. I'll stop there.

MR. GREIM: Maybe what I can do is, if you don't mind, please put up Plaintiffs' Demonstrative 2.

Q. (BY MR. GREIM) Are you able to see this either on your screen or on --

A. On my screen just fine. Thank you.

Q. So I wonder if you could show us, using this map, the areas that you're talking about. You mentioned four far-flung areas. Which areas are you talking about?

A. Okay. So we have Caddo Parish, Shreveport there. We've got Rapides Parish here. We've got Lafayette here. We've got East Baton Rouge here. In each of the cases, if you look at where the district lines track, it's tracking along the darker gray; those are the precincts with the larger African American population percentage. And you see how it hugs the border in Alexandria, which is the middle one in Rapides Parish, sticking to the darker

colored precincts. You can see how it pushes down into Lafayette just to grab the more African American part of Lafayette.

You also get this bulge here to grab up another town that's heavily black. Meanwhile, if you look at District 2, there is not only lines that are grabbing up places like Thibodaux and parts of Houma that qualify, you also see the district lines -- you know, flip this around, the district lines are often avoiding pockets, heavily-white pockets, large pockets of white voters.

MR. GREIM: I wonder if we could pull up Rapides. This will be Plaintiffs' Demonstrative 3. It should be the very next -- this is Report Figure 13.

Q. (BY MR. GREIM) Now, looks to me like this is actually, may have been rotated. And I wonder if this is a way to remove those markings. Looks like they stick to the screen.

A. I won't do that again.

MR. GREIM: Your Honor?

JUDGE JOSEPH: I think you tap in the corner of it, right?

MS. LACOMBE: It's done.

MR. GREIM: Oh, it's done. Wonderful. Thank you.

Q. (BY MR. GREIM) So do you recognize this as Rapides

Parish? Maybe just tilted at 90 degrees.
A. Yes, I do.
Q. Okay. And can you show us where -- what does this demonstrative represent?
A. Right. So this time we switch to the colors, which I used, but people felt wasn't, you know, that wasn't as clear. The blue areas represent the majority black precincts, the darker blue ones. As you move through yellow, those are the ones that have a lower black population. Red is predominantly white.
So to illustrate the point I just made, what you can see is how the line -- I'm assuming this can be deleted again -- the line tracks along specifically in a way that's unmistakable to pull into one district the central city and to leave in the other district the much heavily -- much whiter areas.
Q. All right. I'll take you -- We won't run through all the examples in your report, but maybe let's look at Caddo, Shreveport.
MR. GREIM: And I'll just have my team flip over -- keep going. Let's go ahead and put this one up. This is also from Plaintiffs' -- from Voss's Report Figure 13. We will call this Plaintiffs' Demonstrative 4.
Q. (BY MR. GREIM) Do you recognize this geography, Dr. Voss?

A. Yes. That one is a little clearer in zoom. And once again, what you can see is the district line just hugging the precincts based on race in a fairly jagged way.

I actually walked to my hotel and then here from the Greyhound bus station, and I like to know where the places I am walking through and visiting appear on the map. So I tracked my route, and it turns out that just that two-part walk, I crossed congressional district borders four times. I walked from one district to another, then into another, then --

Q. Four districts?

A. The four times I crossed just from the walk from the station to the hotel to here.

MR. GREIM: Thank you. We can remove that map.

Q. (BY MR. GREIM) Now, let me ask you -- so we looked at the shape and some of the individual splitting. You talked about twists and tendrils. Let me ask you, did you consider parish splits?

A. Yes. If you -- if you compare how many parishes were split and how many parishes were split more than once by Senate Bill 8, compared to either past plans or compared to the other proposals that were considered in the Special Session where Senate Bill 8 was adopted, it split more parishes than most. It also multi-split, split into three at two parishes. Put those together. It's

crossing parish lines and breaking up parishes more than anything else that I was able to look at it or consider.

Q. I'm going to show you what we have previously marked as Report Table 4. We'll call this Plaintiffs' Demonstrative 5. And is this a table you prepared, Dr. Voss?

A. Yes, it is.

Q. What have you analyzed here?

A. Okay. So partly, it illustrated what you just asked me. The "2024 enacted," that's Senate Bill 8. As you can see, it splits 16 parishes. Only one of the other maps at which I looked split 16 parishes. And while it's true there was one that split 17, that particular plan, the Echols Plan, didn't split any parishes into three. Senate Bill 8 fractures, two parishes -- that's yet another time -- for a total of 18 splits. That's the most of any.

Now, the next column, "population affected," is just a way for the Court, for you to see whether these tended to be smaller parishes and which might be towns that don't have a lot to do with each other, other than they're under the same parish government. Or is it hitting the more populous areas and taking communities of interest, large cities, and dividing them up, divvying them up across congressional districts. So percent population affected,

it's how many people live in those parishes that got split. And Senate Bill 8 especially was cracking fairly populous places, especially was breaking apart fairly populous parishes. So it has the largest number on that metric.

And then the others just -- the other metrics only added to it, but they're telling you how many counties are split by districts, how many districts are split by counties. It's another metric that showed Senate Bill 8 doesn't perform very well, but not metrics on which I relied as much.

Q. So far we have covered then the actual lines, the tendrils and twists in the district. We've talked about parish splits. I think you've also mentioned compactness. Did you consider the compactness of SB8 compared to other real life maps?

A. Yes. So are we going to have the demonstrative up there?

Q. Yes. I mean, if -- I think there is a demonstrative that might help you here. Let's put up Report Table 1, which will be Plaintiffs' Demonstrative 5.

A. Anyway, I'll start answering the question, though, while that comes up.

Compactness, like racial gerrymandering, is a highly conflicted concept. The quantitative analysis on

compactness have dozens of measures that can be used to judge this thing. Each one capturing something slightly different, some refinement or the other in terms of what is compactness.

Furthermore, as I understand it, there's no nice, scientifically precise definition of "compactness" from the legal community that I can look for. What we can use compactness measures to determine is how one set of maps differ from another. If you're comparing it relatively -- the same way there is no border between hot and cold, but we can talk about something getting hotter or colder. Compactness is like that.

Q. So let me ask you, then, I see you have chosen three criteria. Can you just briefly tell us what each criterion is and why you chose it?

A. All right. So one consensus within the quantitative community, I think I can say -- there are very few -- but one is that you should not only look at a single compactness measure, because they are capturing different things, and you can gain one while performing poorly on the others.

Now, two of the most frequently used are the one that's in the middle there -- I'll start with that because it's the oldest, the Reock score. And what it's asking is: How close to a circle is the district? So a really

oblong one, to draw a circle around it, you're going to have a whole lot of the area of that circle outside the district. That would look not very good. Something that's closer to a circle, if you put the circle that can encompass that, most of the district is in the circle. Okay. So that's what that one gets.

Q. And before we move on, then, what's the scale on the Reock score?

A. Well, as I said, it's a relative measure.

Q. Well, in terms of the actual figures that you've calculated, though, for example, 2022 enacted is .35. What's the scale?

A. I see. So let's take the perfect case, although it wouldn't be perfect in real life, of a district that's exactly a circle. If you drew a circle around that, the entire circle would be the district and vice versa. That would be a one.

And as you go down from there, you're getting worse. That means more and more of the circle needed to capture the whole district is outside the district. So you could have a very smooth in an otherwise compact district, but that circle would be very large and, therefore, that number would be low.

Q. Tell us about the Polsby-Popper Score.

A. Okay. Polsby-Popper is intended to capture a

1 different type of non-compactness. When you get all
2 these jagged edges and stabs in and out of places in order
3 to try to fine-tune and control who's in and who's out of
4 the district, it's similar to the circle measure in that
5 you then draw a circle around that district that's meant
6 to have a perimeter equal to the perimeter of the district
7 you drew. So the more of these little segments and the
8 more of the jagged edges you have, the wider that circle
9 would have to be to have the same perimeter; otherwise,
10 though, it's giving you the same basic thing. Once you
11 have drawn that circle, the one that has the same size as
12 the district lines, in terms of perimeter, how much of the
13 circle is the district, how much of the circle is not the
14 district? Big scores are very good. You know, if you
15 have a circle that is entirely the district, it would be a
16 one because 100 percent of the circle is the district.
17 But the more you have those jagged lines that the circle
18 expands, expands, expands and leaves the little farming
19 district behind, the smaller that number gets.
20 Q. Now, you've also got a third one up there. It's an
21 abbreviation. It's -- I believe it stands for "know it
22 when you see it." Am I right?
23 A. That's right. That phrase was taken from obscenity
24 law: I don't know what obscenity is, but I know it when I
25 see it. And the developers of that method said that lack

of compactness was similar, that people have fairly complex ways they judge this, that just the Reock, just the Polsby-Popper, even both of them cannot capture.

So that method was derived through showing different sets of people. I was a little hazy on this during the deposition, so I went back and looked. I wasn't sure whether it was a representative sample of people, to see what they thought a compact versus a non-compact district was, or a group of people with more specialized knowledge. The reason I was confused is because they can be both. They took people, from your judges and attorneys, who study redistricting or focus on redistricting, but they also used Mechanical Turk in an attempt at a representative sample of people.

What they then did is they showed them a series of shapes. They said: Do you consider this a compact district or not? And as people gave them those answers and they looked at the patterns, they trained the statistical model to capture numerically the features that real people exhibited in judging these shapes as being good or ugly. And so it used to be subjective. It was built from people's "I know it when I see it" impressions. But it is now objective. You feed a district into the software, it gives you a number, where somebody would look at that and say, yeah, that's gerrymander, you know,

that's a non-compact district -- I know it when I see it -- versus not.

Q. Now, I see that you've -- rather than measuring individual districts, you've measured entire plans here. Why did you do it that way?

A. So you get a bit of a debate over whether you should look at these scores that summarize over a plan versus look at them individually per district. I did both. I didn't think that there were enough differences to need to report both, so I went with what would keep the report shorter and keep the exhibits smaller. But, you know, I can talk about the district scores if you would like, especially the ones in question in Senate Bill 8.

So -- and a second reason is that if you draw one district that's compact, that might actually force another district to be less compact. But not necessarily. If you draw one district with very jagged edges and tendrils, that might create jagged edges and tendrils in another district. So if you only look at one district and ignore what impact the rest of the plan might have had or what impact it had on the rest of the plan, I don't think you get the full picture.

Q. So what did you conclude from your plan level analysis?

A. What this particular table illustrates is that

Senate Bill 8 performed worse than either the map that was active in 2022, or the map that it replaced from the previous decade across all three of these distinct measures of compactness. It is worse on the Polsby-Popper that gets the jagged edges and the tendrils. It was worse on the Reock that gets how roughly circular is it. It was worse on the "know it when you see it," which is to say the sort of people who developed that measure, who we used to develop that measure, would look at these districts and say "huh" or say something to that; they would scoff at it.

MR. GREIM: Let's, if we could, put up Plaintiffs' Demonstrative 6, which is Voss Report Table 7.

Q. (BY MR. GREIM) Now, Dr. Voss, do you recognize this as a table you prepared?

A. Yes, I do.

Q. What analysis were you performing here?

A. Okay. So, once again, it's using those measures relatively to compare them to other options. This time, though, I am comparing the enacted plan to the other ones that had been considered at some point. Most of them represent proposals that were considered during the legislative session, the Special Session, that generated the 2024 map. The exception is the one called "Robinson." That's the map that was offered as a possible substitute

in the Robinson case.
Q. So as we look at this table, it looks like your first three columns are the overall plan scores, which we have already talked about, right?
A. Correct.
Q. And the second three columns are entitled "Second Black." What were you trying to designate there?
A. So all of these plans created two majority black districts; therefore, this table is not helping you judge in any sense the cost or the effect on traditional redistricting criteria of a decision to do that. It's evaluating the way Senate Bill 8 met that goal and the cost in terms of compactness compared to what the other proposals would have cost in terms of compactness.
Q. So, Dr. Voss, what did you determine from this analysis?
A. So the slash district, as it's come to be called -- I'm looking at the rightmost three columns -- is worse on the Polsby-Popper Score than the second majority black district in the other plans. It is worse on the Reock score than the other plans that created a second majority black district. And it is -- it's a very low score. It is worse on the "know it when you see it" than the other plans and the majority black districts they proposed.
Q. In fact, Dr. Voss, in your analysis, did you find any

district in any plan that scored worse on Polsby-Popper than District 6 in the 2024 plan in SB8? I know you don't have all your numbers up here, but can you find --

A. Would you ask it again? I'm sorry.

Q. Sure. Did you find any individual congressional district that scored worse on Polsby-Popper than did the second black district, District 6, in Senate Bill 8?

A. I see. No, no. It -- Senate Bill 6 is the worst in its plan and it has a worse score than any of the districts in the plan it replaced or the one that that one replaced.

Q. Okay. So before we move on to your next opinion, then what conclusion did you draw from looking at all of these different factors with respect to Senate Bill 8 in District 6?

A. That Senate Bill 8 did not produce compact maps when judged in comparison to everything else that I had available in the record. That, in particular, the way it chose to draw its majority black districts were especially non-compact compared to even other plans that would have accomplished that same goal.

Q. Let's move on to your second opinion, and I am just going to ask you: Under that opinion, you considered whether political motives could be the primary explanation for Senate Bill 8's lack of compactness.

And so let me just ask you: Why do you dismiss political motives as the primary explanation of SB8's lack of compactness?

A. As we'll probably discuss again later, disprove -- proving that something is impossible is not something that you really can do with quantitative analysis. You can prove that something is possible. You can make it -- you can provide lots of evidence that something is probably not possible, but you can't pin that down.

What I can speak about, using both the analysis we have talked about so far -- and we can get to it again if you would like later when we introduce my other analysis -- is whether the political goals I knew about that people had been discussing, whether those could explain Senate Bill 8.

So, for example, one thing we heard earlier today was protecting Representative Julia Letlow, okay? If you're not trying to draw a second black majority district, it is very easy to protect Representative Julia Letlow. Even if you are, it's not super difficult to protect Representative Julia Letlow. Do you want to show the --

Q. Sure.

MR. GREIM: If we could put up Rebuttal Report Figure 3, and we'll call this Plaintiffs' Demonstrative 8 -- I'm sorry, 7.

COURTROOM DEPUTY: It's 8.

MR. GREIM: Oh, it is 8.

THE WITNESS: Now, understand, I do not know where these people live and, therefore, I was given from counsel information as to which precincts contain the residences of each of Louisiana's members of Congress. I take that on faith. My analysis contingent on those data being true.

MR. CHAKRABORTY: Your Honor, we would object because these figures, you know, this line of questioning has not come up in Dr. Voss's initial report, his rebuttal report, his deposition. There has not -- there has been no foundation laid as to his ability to talk about this, and also no sort of record of why this is coming in at this stage.

JUDGE JOSEPH: Okay. If you'll lay a foundation and then allow time for voir dire if he wants to challenge Dr. Voss's qualifications and his opinion.

Q. (BY MR. GREIM) Let me back up. So in preparing your rebuttal report, did we ask you to determine whether a map could be drawn that protected Julia Letlow?

A. Yes, you did. You also asked me -- well, I don't want to talk about the simulations yet.

Yes, you did.

Q. And did you actually prepare such a map?

Or I'm sorry. Did you perform an analysis to answer that question?
A. I need you to ask that again. I'm sorry.
Q. Sure. Let me back up. So did we ask you, for purposes of your rebuttal report, to determine whether it was possible to protect Representative Letlow without Senate Bill 8?
A. Yes, you did.
Q. And did you proffer an opinion on that in your rebuttal report?
A. Yes, I did.
Q. And did you prepare the demonstrative on the left as evidence of your opinion?
A. That was part of that written material, yes.
Q. And what did you consider in preparing this map? What analysis did you perform?
A. It was merely to illustrate for the reader why I could assert that the political goal of protecting Representative Letlow, or if you wanted to target Representative Graves, why neither of those was a special challenge that should have had much effect on the compactness of the districts.
MR. GREIM: Your Honor, this was disclosed in the rebuttal report. These are straight from the rebuttal report.

JUDGE JOSEPH: Okay. Well, then I am going to ask the Robinson intervenors: Do you have any voir dire about this expert's qualifications to testify as to the subject matter?

MR. CHAKRABORTY: Not at this time.

JUDGE JOSEPH: Please proceed, Mr. Greim. Dr. Voss is qualified to testify.

Q. (BY MR. GREIM) Dr. Voss, what did you determine with respect to Representative Letlow?

A. Yeah. These amounts were supposed to illustrate very simple points. One, Letlow's precinct, as it was expressed to me, was Richland 12. That's the yellow one on the right-hand side. And what it's supposed to show is that she is on the other side of Richland Parish, from the Delta parishes. She is in what historically is called the Macon Ridge, which is those -- that strip of parishes that include Richland. And given where she is located, it is not hard to get her into a heavily Republican, heavily white district.

Q. And was it your opinion that could be done, even with drawing two majority-minority districts?

A. Yes, it could be done and draw two majority-minority districts.

Q. And let me ask you about Garret Graves. What is the map on the left with the red circle on the bottom? What

1 does that indicate?
2 A. So like the state as a whole, Baton Rouge has
3 something of a north-south divide in terms of the race of
4 its population. All of the majority black districts, the
5 second ones, the one outside of the Greater New Orleans
6 area, all of them had Baton Rouge as its main starting
7 point or seed or heavy black population. The precinct
8 that I was told represents Garret Graves' home is right on
9 the border of that heavily-black East Baton Rouge
10 community, pulling him into that and therefore pulling him
11 into the second majority black district. If you drew one,
12 it was not hard.
13 Q. And I take it, it did not require Senate Bill 8? The
14 purpose was to target Graves. Is that your analysis?
15 A. That is correct. You do not need Senate Bill 8 to
16 put Representative Graves in a majority black district.
17 Q. Let's turn to your third opinion.
18 Dr. Voss, how did you determine whether the black
19 population was sufficiently large and sufficiently compact
20 to form two black majority districts consistent with
21 traditional redistricting principles?
22 A. I simulated a handful of possible sets of districts,
23 using various rules for how districts might have been
24 constructed.
25 Q. And what did you try to test with the simulation?

A. Okay. So one of the best practices when simulating --

MR. CHAKRABORTY: Objection, Your Honor. Counsel hasn't laid the foundation for Dr. Voss to be an expert in talking about simulations.

JUDGE JOSEPH: Why don't you lay a foundation. Sustained.

Q. (BY MR. GREIM) So, Dr. Voss, have you used the simulation method that you are about to talk about here before as an expert in a case?

A. I just used it two years ago in the Kentucky case.

Q. And how did you use the simulation method in that case?

A. There I was a rebuttal witness. Professor Kosuke Imai of Harvard had come in using the redist package to analyze the districts drawn both for Congress and also for the state house in Kentucky. The bulk of his testimony was related to analysis he had done using redist. I was asked to evaluate his work as someone from outside that particular community, applying his software first as he did, and then later to incorporate important features of Kentucky's political geography. And also to implement it using rival interpretation of the law to see what the effect the interpretation of the law had on the resulting districts.

(Reporter clarification.)
Q. (BY MR. GREIM) That's right where I going to go, actually, Dr. Voss. What is this "redist" simulation package?
A. It's a method that uses sequential Monte Carlo simulation in order to put together what hopes to be, what you hope will be, a representative sample of districts that could have been drawn or that could emerge from a smaller number of considerations than take place in the real world. Not because you pretend that legislators operate from a completely blank slate, but because being able to compare their handiwork to what you would get from people drawing districts or from, in this case a machine drawing districts, from a completely blank slate what it would produce. And you can look at the real thing, compare it to these lab-grown, sort of theoretically pure versions, and try to get a sense of the effect of decisions that were made during the redistricting process. It's a way not to know what was in the heads of the people who drew the district or, you know, what they might have been told by another court, but to infer what motivated them based on their work, based on the actual maps they produced. It's a method of -- it sets up an inference.
Q. Well, I am just going to explore that for a second. You say it sets up an inference. But why are you

comparing the results of the simulation with the real live enacted map? What are you trying to determine?

A. Right. So as you move across the different simulations I created, you can judge two things: One is are there naturally occurring, sort of organic majority black districts --

Q. But, now, my question -- we are qualifying you, okay? So I want you to limit your testimony, if you could, Dr. Voss, to how the process works in general.

A. Oh, okay. Okay. I understand. So how this works broadly. If you look at the map of all precincts in Louisiana and look at their borders, imagine putting a dot in the middle of each of these precincts, okay? And then within each parish you can connect a precinct to all the precincts around it, connecting their dots.

Now, when you stop there, there are all these different routes you can take to move from precinct to precinct. But then the method comes behind and starts knocking out, ignoring those non -- those redundant connectors until what's left is like a maze that you get in a newspaper. Indeed, the algorithm used to produce the simulations is like the algorithm used to create mazes for people to do in maze books.

When you get to the point that now there is only one route to get to each precinct, like a maze -- call this a

spanning tree -- the simulation then can go crack some of those -- now they're not redundant, some of those necessary connectors that hold the whole thing together to look at the branches that break off.

Q. Let me stop you right there. Just so the record is clear, you are describing for us now the way the algorithm actually works in the sequential Monte Carlo simulation, right?

A. I am describing the sorts of simulations I ran, correct.

Q. Okay. So let's just -- we won't go too much further; we're just laying the foundation. But let me ask you: What is the purpose of the algorithm cracking? What is it doing when that happens?

A. So when it starts cracking off those first branches, the goal is to generate a sample of possible first districts into which the state could have been cut up, okay? So we are -- depending on how many simulations you requested, that's going to determine how many versions of a first district eventually you will get. In my first report, I did 10,000. But in reacting to the criticism, I upped the number of simulated map plans of each type to 20,000.

Q. Let me ask you just a couple of other foundational questions. So you used this same redist software, which

uses the same algorithm in the Kentucky case, right?
A. Yes and no. The first analysis I did in my initial report was the same version of the software, the same redist package version that Professor Imai had used in his testimony, because the point was to see how his analysis changed. Now, when I started out here, I also used the same version of the software because I had used it before. It was less demanding on the computers, given the time frame, than the other option. I produced with my initial report the simulations using the exact same software I had previously used.
Q. And was your testimony in the Kentucky case accepted by the Court?
A. Yes, it was.
Q. Now, one difference -- I want to make sure the record is clear -- the Kentucky case was partisan gerrymandering; in this case it's racial gerrymandering, right?
A. That is correct.
Q. Now, in your opinion, is the simulation software, or the SMC, sequential Monte Carlo algorithm, any less useful in a racial gerrymandering case than a partisan gerrymandering case?
A. Exactly how you would use a method like this will depend on the question you're asking; it should depend on the question you're asking. But insofar as the goal is to

have a purer set of maps generated under simpler rules against which to compare the real thing, you can compare the simulated maps to what has been called, alleged to be a partisan gerrymander. You can compare the simulated set of maps against what has been called or alleged to be a racial gerrymander, and people have done both.

Q. Okay. I want to now skip ahead -- this is my last question on laying the foundation, but I am going to skip ahead to the point where simulations have been run. You have a body of simulations, you've got diagnostics and data on those, and you are now comparing it to the enacted map. Okay. What sort of opinion are you able to render when you compare those two things?

A. You need to ask that again.

Q. Sure. I'm asking you: At the end of the day, after you have run the simulations and you've got the output from the redist software, what sorts of opinions are you able to render about the enacted map based on those simulations?

A. You can judge whether the parameters or constraints under which you created the simulations explain the deviations that you see in a real map compared to what you saw in the simulations. I can give examples, but I --

Q. Well, let's keep it general. How then does that help inform an opinion about whether racial gerrymandering may

have occurred with the enacted map?

A. You can compare the racial makeup of the districts that are formed under rules we know, under constraints, limitations that we know because there were posited in advance, and compare what you got under those known instructions to what you got from the hazier political process where you may not know all the considerations that went into the drawing of those maps.

MR. GREIM: All right. I think with that, I would ask that the witness be qualified to testify in the simulation matter.

JUDGE JOSEPH: Any voir dire of this witness --

MR. CHAKRABORTY: No voir dire, Your Honor.

JUDGE JOSEPH: -- as to qualifications?

Dr. Voss, I do have one question. Is this redist software widely used by demographers?

THE WITNESS: By the --

JUDGE JOSEPH: -- demographers. By demographers.

THE WITNESS: Oh.

JUDGE JOSEPH: Where did the software come from? Who made it, et cetera? How often is it used?

THE WITNESS: It comes from people in -- I mean, you're asking me other people's qualifications, but mathematics --

JUDGE JOSEPH: No, I'm not. I'm asking you --

THE WITNESS: -- statistics --

JUDGE JOSEPH: You are using the software. I'm asking you what the basis of the validity of the software is. So answer the question.

THE WITNESS: Right. Sorry, Your Honor.

The people I know -- okay, it's a large team -- come from statistics and political science. That's the main two fields that I believe are represented by that team. It draws on insights from mathematics though. So if you expand how you define the people whose work led to it, you would include mathematicians. I don't know of any demographers involved, but there may be. There may be.

JUDGE JOSEPH: How widely is it used other than the Kentucky case that you mentioned?

THE WITNESS: It's fairly new software, especially in its -- in its sophisticated form. It won a software award in just 2022, and the version that intervenors said I should have been using is -- emerged right around that year. So it's only a few years old. It has been used in multiple legal cases related to redistricting, including racial redistricting in those years, in those recent years.

JUDGE STEWART: I've got two questions. One, is the redist software, is that a commercial product? And

the question is who's the maker, if you will, of the soft -- you know, whoever makes it. That's the first question.

Then, secondly, am I understanding you to say in the Kentucky case -- I know you said you were a rebuttal witness, so my question is -- I don't know if I have his name right, Professor Imai --

THE WITNESS: Imai, I-M-A-I.

JUDGE STEWART: My only question is: Was his testimony in direct, did he use the software in direct and then you used the software in your rebuttal? Or in his direct, did he have some other kind of methodology and then you used or introduced the redist in the rebuttal? Do you follow what I'm saying?

I'm not asking the answers to whatever was said, but I'm just trying to understand if the software was used first in the rebuttal, as opposed to he used it in his direct and then you used it to counter what he said. You following?

THE WITNESS: Yes, Your Honor. One of the virtues -- I'm answering your first question. One of the virtues of this redist package is the algorithm itself. What I used is freely available to the public. It is also what's called "open source." So that's what allowed me to learn what I learned about exactly what it did. You

1 know, usually you cannot tell such things just from a
2 description of software. But if you can actually see the
3 steps they went through, then you really understand what
4 they're doing.
5 JUDGE JOSEPH: And you did that, Dr. Voss?
6 You're saying you did that?
7 THE WITNESS: I did do that, yes. I walked
8 through it. Now, I should be clear. Certain portions of
9 it rely on other people's algorithms; it becomes sort of a
10 tree in and of itself, and I did not follow every trail.
11 JUDGE JOSEPH: But using your expertise in this
12 area, you looked at it to check and make sure you thought
13 it was good software?
14 THE WITNESS: Yes, that is correct. Now, it
15 runs as part of what I'll call a "statistical software
16 package," although that's not a great way to describe it,
17 called "R," just the capital letter "R." The reason R has
18 become increasingly common in what we do, but also in
19 statistics, economics and demography, lots of fields, is
20 because it also is free and easily available to students,
21 to graduate students, and analysts. So this is a use
22 of R, which is free, building on R, which is free.
23 As to the other question, the bulk of Professor
24 Imai's direct involved the simulations he ran. And what I
25 was asked to do was to evaluate whether he was either

using it in a way that did not fit the Kentucky context, or was describing what he had done in a way likely to mislead laypeople or to mislead the Court. You know, what did he miss that might not have been obvious if all the Court had heard was his testimony and not a rebuttal.

JUDGE STEWART: Thank you.

JUDGE JOSEPH: All right. Dr. Voss is qualified to testify as to the redist software and its application in this case.

Q. (BY MR. GREIM) Dr. Voss, let's move in to the actual test simulations that you ran in this case. What are your inputs into the redist software?

A. Okay. So before you start telling redist the rules under which you want it to make the sims, you need to feed it certain data. If those data are no good, nothing else that follows will be any good; garbage in, garbage out.

One thing it needs are the shapefiles that the mapping data -- that would have been available or that comes as close as possible to being what was available to the district drawers. These shapefiles, if you open them up, they would make no sense to people, that they're in machine language, I guess it is. They're able to be read by Geographic Information System software and R has some GIS-related compatibility that allows those shapefiles to be worked on in R as well. You can make maps with R.

And in terms of those maps, I trusted that what was available to me -- for the most part from the State, from the State's redistricting web page -- were the right shapefiles, both for districts that had previously been drawn and also for the precincts. The only exception is the Robinson map, which was not available to me that I could see, or it was not available from the State. And that was provided to me by counsel.

Q. So we talked about data. What about -- I mean, I guess we should ask about the simulations themselves.

A. Oh, I'm sorry. I didn't talk about the rest of the data.

Q. Go ahead. I'm sorry.

A. That was just the map shapes. We also have available the voting behavior and the demographics of those low-level units of those precincts. They are embedded within -- some of that data is embedded within the shapefiles; it comes with it. But others came to me in the form of spreadsheets reporting how people had voted or information about each of those precincts that, again, were provided to me by counsel.

However, that's -- those data are so critical, that I didn't basically trust that the data I had received were a sufficient basis or foundation for analysis. So I then separately downloaded from the State Secretary of State

page the similar election data, broken down by parish, that I was supposed to have been given and compared parish returns, according to the Secretary of State, to what was in the data and made sure that these numbers were adequate.

Q. Okay. I didn't mean to interrupt your data discussion. But let me ask you now, Dr. Voss: How did you design the simulations themselves? What principles did you use?

A. Okay. So the first choice I made is not just to try to pick what I thought was the perfect dream simulation and offer, you know, would be a one-trick pony, offer one and only one sort of package of simulations to the Court and to the contending sides. One of the best practices for conducting simulations is to move around some of the constraints, the parameters you're putting on it, to make sure that the main conclusion you are drawing is fairly stable. Stability is considered a virtue in simulation.

So one decision I made was to give a host of different types of simulations with different rules just to make sure that the main conclusions weren't going away or weren't, you know, a quirky result of one set of choices.

In choosing what that span or spectrum of simulations would do, though, I chose them with a purpose

in mind. Each one is supposed to allow you to test a particular hypothesis, either about why majority black districts were failing to form on their own, because if there is a naturally occurring, organic majority black district out there, you ought to be able to find it through simulation.

And the second one was to see whether some of the other redistricting criteria that Louisiana had set aside as important to it could explain the loss of compactness. So did protecting parishes cause very non-compact districts? Did protecting metropolitan statistical areas as community of interest and economic community of interest cause a problem with the compactness that explains the numbers I'm seeing? So do I get majority black districts? Do I get non-compact districts?

Q. Now, did you -- when you considered your constraints, did you also take a look at the constraints or at least -- I shouldn't use this phrase -- at the criteria that Louisiana uses in drawing congressional districts?

A. I did. I had Joint Rule 21 available to me.

Q. And we'll see in a moment -- I know some of your criteria involved compactness. Is compactness actually in Joint Rule 21?

A. No, it is not.

Q. But is there a reason that you used compactness

anyway as one of your constraints?
A. Leaving aside the district compactness has long been a federal priority for the drawing of congressional districts, I knew that one of the questions that the Court needed to settle was whether the black population is large and sufficiently compact.
Now, there may be other ways to judge the compactness of a population, separate from the compactness of the districts drawn to encompass that population, but that latter question, you know, how much does it mess with compactness in order to draw a majority black district, is the one that this sort of analysis could inform.
Q. Now, are you aware of any reason that the simulations of the kinds that you ran would be appropriate for judging partisan but not racial gerrymandering?
A. No. There is -- as I said earlier, there is no reason why this method is solely useful for judging partisan gerrymandering. People have written at length about specifically why it's good for judging racial gerrymandering. And as I said, I know -- although I don't know the details of those cases, I know it has been used in prior litigation successfully.
Q. Before concluding your opinion and presenting your results, did you review the work of anyone else who has used this same software on Louisiana congressional

1 districting?
2 A. I, in particular, along the way of producing the
3 rebuttal report especially, consulted the work of Dr. Cory
4 McCartan and his team, the ALARM team -- all capitals,
5 A-L-A-R-M, the ALARM team. They ran a Louisiana
6 simulation as part of their hopping across the country
7 simulating districts in multiple states.
8 Q. And so they used the same software that you did in
9 your rebuttal report?
10 A. They used the same version, I guess, or -- well, it
11 was not the same version. Correction. They used a
12 version closer to the one I used in the rebuttal report,
13 as I understand it, than the one I used in my initial
14 report.
15 Q. And did you look at the constraints that
16 Mr. McCartan's team, the team that he led, ran in
17 Louisiana?
18 A. So to be clear, we haven't talked about constraints
19 yet; but in shorthand, that's the rules, either hard or
20 soft, given to the simulation to shape the hypothetical
21 maps that it's going to draw. One of them that came up as
22 a matter of contention is how much to encourage
23 compactness? How much to encourage performing well on
24 those scores we previously discussed? I used -- and this
25 is just going to be a number floating out there -- I used

a compactness constraint of one. Dr. McCartan and his team used a compactness constraint of one. I did not actively try to protect municipalities because, in my judgment, that would not have helped with the purpose at hand. They did not actively restrict it not to break apart Louisiana's municipalities.

Now, that analysis used something that they called a VRA constraint. I mostly did not use that, but I did try the VRA constraint, so I had a version and I used it. It made very little difference so I did not report it.

There was really only one major difference between, to my mind, what I had done and what the ALARM team had done, a difference that I addressed in the rebuttal report.

Q. All right. We'll come to that later.

MR. GREIM: But I think without further ado, if we could put up Rebuttal Table 1. This will be Plaintiffs' Demonstrative 9.

I wonder if we can blow that up just a little bit. Thank you.

Q. (BY MR. GREIM) Now, is this a report that you prepared, Dr. Voss, of the results of your simulations?

A. That is the table at the end of the rebuttal report. It reports -- it does not report the simulations done in the original report because by this point I had done them

all better.
Q. Ask me about -- I'm sorry. Don't ask me. Let me ask you about the two major groups here. You've got one category called race-neutral, another one called race-conscious. Just generally speaking, what were you trying to accomplish with each set?
A. Okay. So the race-neutral simulations are to give you an idea of what would emerge from this process, as a random sample of possible congressional district plans if, in a direct way, the information of each precinct's racial mix is used. So in that sense, it's race-neutral. The simulation package hasn't even told the racial breakdown and the places to take it into account in any way, shape, or form. Now, that doesn't mean, to be clear, that it's 100 percent race neutral because some of the things that on the surface are race neutral aren't necessarily in practice. They may be correlated with race. But, if so, the software is working indirectly. It does not have direct information about race.
Q. And then what about the race-conscious? What were you trying to accomplish there?
A. Okay. So in some way, shape, or form information that clearly was directly or indirectly racial was used in the simulation. Either the simulation package was encouraged to try not to break apart certain black

populations, or it was instructed to try to avoid breaking apart the districts that were drawn and that I knew were drawn with the intention of being majority black.

Q. Just on that last point, which of those race-conscious simulations is the simulation that tried to avoid breaking up Senate Bill 8, the Senate Bill 8 districts?

A. Okay. So that is the very last of the simulations. So the final row -- and it's called 7-1 -- protect enacted cores. What we did with that simulation, in addition to other things we haven't discussed yet, is we used the method the ALARM team had used, that Professor McCartan's team had used to try to protect Louisiana's old districts, the 2022 ones, I guess that would be.

Q. I see. It's not Senate Bill 8. 2022. I'm sorry, Dr. Voss. I think I misunderstand you. You used the method that Dr. McCartan's team used to protect the 2022 map on the 2024 map?

A. We used it on the 2024 map, on Senate Bill 8. And so the idea is, if those districts, if the center, the biggest portions of those districts are the foundation of the majority black nature of the districts or the majority white nature of the districts -- we're talking about the other four -- and we're telling the simulation: Do everything not to break into the core of those districts,

1 but you can simulate around the edges, you can move around
2 the edges, change the edges, and see what you get. Okay?
3 If we've told it, try to protect the core of
4 Congressional District 2, the majority black district in
5 the New Orleans area; and try to protect the core of
6 District 6, which is the one that grows out of East Baton
7 Rouge; and also try to protect Julia Letlow's, you know,
8 faded district in the northeast; and the Speaker's faded
9 district in the northwest; and Scalise's district and, you
10 know, your Cajun Triangle, what happens to the racial
11 makeup of the districts?
12 Now, one of two things could be true. If they are
13 really kind of centered around a majority black
14 population, then the one around the edges should make very
15 little difference and we should keep simulating majority
16 black districts. If, instead, the perimeters of those
17 districts were heavily shaped by race and that tendril was
18 shaped by race and that bulge was shaped by race, if the
19 edges -- race is what's defining where the edges are --
20 then allowing the software as it simulates and tries to
21 draw compact districts to nibble around the edges could
22 change the racial makeup of the districts fundamentally.
23 Q. Let me ask you now -- now you've kind of outlined
24 your test, and I won't take you through each simulation
25 here on direct -- but let me ask you: Did your

diagnostics, after you run these, show that each of these simulations had run properly?

A. How high or low a diagnostic score ought to get is another thing that tends to shift around. But I compared my diagnostic scores -- and there are four of them. It's the middle -- the big column in the middle. I compared them both to what had been recommended by the software developers as targets, and I also compared them to the scores that were returned when we replicated Dr. McCartan's Louisiana analysis. And across the board, my simulations met the standards that they indicated in this neutral setting proper simulations ought to meet.

Q. And then the next two columns to the right, what do those indicate?

A. Okay. So that's the average splits column. So it's looking at, for each of these sets of districts simulated under the different sets of rules, how many parishes were split in the formation of the districting plans.

Now, you may notice that with only two exceptions, either those numbers are low, they're bouncing around the number five, or they're very high, they're splitting around 30 parishes.

Q. Why is that, Dr. Voss?

A. With a baseline use of the software, if you -- you have a choice. You either break five parishes, more or

less, or you tell it: Don't worry about where the parishes are. Those are the choices. And it's a setting you toggle on or off. So all the ones that have the very low number, it was toggled on. All the ones that have the very high number, it was toggled off.

Now, the reason why it's not exactly five is a quirk of Louisiana geography. Louisiana has a parish, St. Martin, that's not contiguous. And the nature of the method is that if you split St. Martin only by breaking off the not-contiguous part, the simulation doesn't count that against its budget of five. So it's either a very strict or a very loose; you know, like loose to nonexistent frame.

Q. Are there other methods you can use with the software that even though you've got the five-parish split toggled on, you can still basically encourage additional parish splits?

A. Yes. You can allow the simulation package to fall in between, but that always involves some degree of choice. In other words, specifying ahead of time: Break these parishes, or don't break those parishes. So you can freeze things, you can specifically set out areas that cross parish lines to protect.

Dr. McCartan and his ALARM team did that in Louisiana when they said "try to protect the core of the 2022

1 districts," right? So since those 2022 districts crossed
2 parish lines, that opened up more possibilities to break
3 some parishes apart.
4 The two of mine that fell between the extremes --
5 the protect MSA cores and the protect enacted cores --
6 once again, I'm choosing which parishes are on the
7 chopping block versus which ones aren't. In the first
8 case, I am saying you can nibble around the edges of a
9 metropolitan statistical area, but try to hold the main
10 city together. In the protect enacted core one, I am
11 saying you can nibble around the edges of the Senate Bill
12 8 districts but try to keep the core areas of the Senate
13 Bill 8 districts together. So I've chosen some -- I have
14 put on the chopping blocks some parishes.
15 Q. Dr. Voss, as you add additional constraints to your
16 model, what does that do to the universe of possible
17 plans, generally speaking?
18 A. The more constraints you add, the harder it becomes
19 for the simulation to generate legitimate maps that are
20 contiguous and that have equal population, and also that
21 meet whatever compactness parameter you have given it. As
22 you additional constraints, it just gets harder and harder
23 for it to find its way to legitimate maps. It squeezes it
24 more and more into repetition of the same sorts of
25 patterns, like you see with the real plans. I mean,

there's only a couple of ways to get those two majority black precincts, and most of the plans that I analyzed looked fairly similar to one or the other of the solutions here.

Q. Dr. Voss, at the end of this, what did you conclude regarding number of average districts that the simulations yielded that were majority black?

A. Yes. If you do any of these race-neutral sorts of simulations that I ran, you're not getting two majority black districts. Not even once, okay, for most of these methods did I get two majority black districts through these more clean-slate simulation methods. And it was actually quite rare to get even one. Even the one based around Orleans Parish gets pretty hard these days because of the changes in the population, the growth in Hispanic population, the growth in the Asian population. Often I would get zero majority black districts.

Q. And I see the same thing happened even with race-conscious simulations; is that right?

A. Yes. Now, there -- one of the rebuttals to my sims was that I was not pushing race --

(Reporter clarification.)

THE WITNESS: Simulations, S-I-M-S. I'll try not to do that again. One of the complaints with my simulations was that I was not pushing race hard enough.

1 You know, given that just today, we've heard some very
2 different definitions of racial gerrymandering, trying to
3 decide the right amount of race consciousness in a way the
4 Court would want was not possible to me as a nonlawyer.
5 So what I was instead trying to do is offer forms of
6 race consciousness that might have been mild, might have
7 been modest, but that I could describe in a way that would
8 make sense to laypeople. So they at least knew what I had
9 told it and what I had not told it, in terms of trying to
10 draw majority black districts.
11 Q. Let me ask you about the final column. You flipped
12 over, it looks like, to a partisan criterion. Why did you
13 do that and what did you find?
14 A. My understanding, that I was trying to produce
15 results that would help the Court deciding, is that while
16 we talk about forming majority black congressional
17 districts, often what people want to know is: Are you
18 forming districts in which black voters would get their
19 representative of choice. And, therefore, since in
20 Louisiana that tends overwhelmingly to be a democratic
21 candidate, showing you how democratic the district was
22 might have been a metric of interest to people trying to
23 understand the lay of the land, the political geography of
24 the state.
25 Secondly, insofar as one of the goals, as I

1 understood it, was to protect Representative Julia Letlow,
2 who is a Republican -- whether she was put in a
3 Republican district or a Democratic district seemed
4 directly relevant to that political explanation for what's
5 going on in this map.
6 Q. Did you have any understanding, Dr. Voss, as to
7 whether a second black voting age population majority
8 district would have to be a Democrat-electing district?
9 A. In no way did I run these race-conscious simulations
10 with party or such political factors as a direct influence
11 on what resulted.
12 Q. Did you find any plans that randomly yielded two
13 Democratic seats?
14 A. No, I don't believe I did.
15 Q. Yet that's what Senate Bill 8 does; is that right?
16 A. That is correct.
17 Q. In conclusion, Dr. Voss, if you could point to maybe
18 just one of these simulations that best encapsulates your
19 conclusions, what would that be?
20 A. I think it's that last one that we already talked
21 about. I think it's that simulation 7-1 where I used
22 basically the same trick as Dr. McCartan and his ALARM
23 team to try to protect the cores of the Senate Bill 8
24 districts. Because, you know, the question that you folks
25 seem want answered is, you know: Are the tendrils

1 predominantly influenced by race? Are the bulges
2 predominantly influenced by race? Is the stretched,
3 non-compact nature of the district reflective of the fact
4 that race was the overriding priority in the shaping of
5 the districts?
6 So what it allows you to assess is if we simply ask:
7 Within the population of districts that could have been
8 formed around each of these cores, okay, do you
9 continually get, in these simulations, two majority black
10 districts? If so, then the tendrils are about something
11 else, the bulges are about something else. Or do you no
12 longer get majority black districts if it's able to take
13 away the tendrils and the bulges. And what the results
14 clearly showed is that when you simulate districts that
15 are going to mess around the edges of these majority black
16 districts, they stop being majority black districts.
17 Q. So at the end of the day, as a result of this
18 simulation analysis, Dr. Voss, what did you conclude about
19 your question regarding the compactness of the black
20 population in Louisiana?
21 A. That the non-compact features of Senate Bill 8 are
22 predominantly explicable by the racial considerations that
23 shape the district.
24 Now, there is one thing you did not ask me about that
25 relates to that conclusion, though, that I would like to

make sure I add. You know, protecting incumbents has been offered multiple times as an explanation as well. And so for me to say that race is predominant, I only need to show that, when you stop thinking about race, those two districts go away. There is also the question of: Do the incumbents go away? Do you lose the incumbency protection feature of Senate Bill 8 when you do that as well? And the answer is no. My simulations, pretty much across the board, were leaving Julia Letlow in a safely Republican district. Now, not all of them kept her away from the Speaker of the House, but a substantial number did. And if you have 20,000 choices, you can pick. They kept her away from the Speaker of the House. Garret Graves was never as safe, never in such a nice position as Julia Letlow was across these simulations. Maybe the hardest part is keeping Steve Scalise away from Congressional District 2, but there were simulations that kept him safe as well. So while I wouldn't say the average not necessarily protected Steve Scalise, options were there.

In sum, pursuing the political goals ascribed to Senate Bill 8, my simulations could meet. Pursuing the racial goal that apparently the Court handed down and that the maps were supposed to accommodate, my simulations could not meet.

MR. GREIM: No further questions.

MR. CHAKRABORTY: Your Honor, I would like to move to strike that last bit of testimony there because nothing in his original reports or his rebuttal reports touch on whether the simulations could be used for these political considerations such, you know, as Dr. Voss was saying, about how they treated, you know, Steve Scalise's district or Julia Letlow's district or anything else. That's not in his report.

JUDGE JOSEPH: Response, Mr. Greim?

MR. GREIM: Well, it is in the rebuttal report. It was not a key feature, but it is -- I guess I could do this with the witness to show you, but pages 17 and through 19 -- actually, pages 18 through 19 consider the question of, in the simulations how often, you know, what Letlow's district often encompasses and what Graves' district often encompasses. We are using up a lot of time so I am wanting to move --

JUDGE JOSEPH: Right. Okay. Are you satisfied with that answer or not?

MR. CHAKRABORTY: I'm not, Your Honor.

JUDGE JOSEPH: You're not satisfied with the answer.

Dr. Voss, can you please explain whether your testimony was reflected in your report?

THE WITNESS: Insofar as I did not give them

breakdowns of how often the Speaker and Letlow were together in the same district and the like, that is true. I did have a map that showed the most -- if you look at the second-to-last column, there is a single district, single majority black district that resulted, and I did provide that actual map so that anybody who knew where they lived would know where they fell in that particular simulation. But no, I did not give a breakdown percentage of districts that has Letlow in a Republican location or the like.

JUDGE JOSEPH: Okay. Thank you, Dr. Voss. You can address those issues in your cross-examination.

MR. CHAKRABORTY: Thanks, Your Honor.

JUDGE JOSEPH: I think I told you 1:00, but I think we're going to go ahead and take our lunch break. It is 12:45 approximately now. How about we come back at 2:00 and start back then with cross-examination of Dr. Voss.

Dr. Voss, we're taking a lunch break. You are still under oath, so I would ask that you not consult with Counsel during the break. Come back prepared for your cross-examination.

(Lunch recess.)

JUDGE JOSEPH: All right. We're back on the

record now. Anything we need to discuss before we start back into evidence?

Mr. Greim, please proceed.

MR. GREIM: Nothing, Your Honor.

MR. NAIFEH: Nothing from us, Your Honor.

MR. JONES: Nothing, Your Honor. Thank you.

JUDGE JOSEPH: All right. Mr. Greim, you're up. Go ahead. Oh, wait. I'm sorry. Dr. Voss needs to come back to the witness stand.

MR. GREIM: We ended our questioning of Dr. Voss so we --

JUDGE JOSEPH: You tender him into --

MR. GREIM: Tender him, yes.

JUDGE JOSEPH: Dr. Voss, as I mentioned before the lunch break, you are still under oath, so we don't have to swear you in, and you may answer counsel's questions.

MR. CHAKRABORTY: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. CHAKRABORTY:

Q. Good afternoon, Dr. Voss.

A. Good afternoon.

Q. Good to see you again. Can you hear me all right?

A. Yes, I can.

Q. Great. So let me dive right into it. Dr. Voss,

you're not trained as a mapmaker, are you?
A. No. I'm not a cartographer.
Q. You haven't published articles discussing mapmaking software?
A. No, I have not.
Q. You haven't been hired by a legislature before to draw maps?
A. No, I have not.
Q. You haven't been hired as an expert before to draw maps?
A. No, I have not.
Q. In fact, you haven't been hired as a mapmaker in any professional capacity, correct?
A. I have never worked as a cartographer.
Q. So actual mapmakers need to balance a number of redistricting criteria in creating their maps, right?
A. That is correct.
Q. And the act of balancing those criteria might require trade-offs between one criteria on another, right?
A. Absolutely.
Q. For example, ensuring that communities of interest are protected may require making a map less compact, right?
A. Yes, that is correct.
Q. You didn't speak to any actual mapmakers as part of

preparing for this report, did you?
A. No. I did not consult with people who did this job, no.
Q. You didn't speak to, for example, the person who drew SB8?
A. No, I did not.
JUDGE JOSEPH: And, Dr. Voss, make sure you're speaking up. The Court can't hear you that well.
JUDGE STEWART: You took the words out of my -- even though counsel is close to you and you are looking at him, but do just like you did before that --
JUDGE JOSEPH: Because there's a larger audience.
JUDGE STEWART: Your back is kind of turned.
THE WITNESS: Okay. Sorry.
Q. (BY MR. CHAKRABORTY) So we were just saying -- you know, you didn't speak to the person who drew SB8, right?
A. I did not.
Q. And so you aren't -- you didn't speak to the person or persons who drew the other maps submitted in the special redistricting session, right?
THE REPORTER: Wait. Slow down.
Q. (BY MR. CHAKRABORTY) -- in the legislative session, right?
A. I did not.

Q. So you aren't aware, for example, of which redistricting criteria he or she or they used in creating these maps, are you?
A. Only judging that by inference.
Q. Is that a "yes" to my question?
A. So, yes, I did not speak to them. No, I did not speak to them.
Q. Thank you, Dr. Voss. You didn't speak to any of the legislators who sponsor SB8?
A. No, I did not.
Q. You didn't speak to any of the legislators who were just here today, did you?
A. No, I did not.
Q. And so you -- when they were considering -- when they got the maps and they were considering what to pass and what not to pass, you aren't aware of which redistricting criteria they chose or did not choose to prioritize, are you?
A. Aside from having Joint Rule 21 available, no, I did not.
Q. So we'll get to Joint Rule 21 in a second. But I just want to wrap up here. So you didn't review any videos -- I just want to get a sense of everything you looked at. You didn't review any videos of the most recent legislative session in preparing your report, did

you?
A. No, I did not.
Q. And you wouldn't know, let's say, in a committee hearing on that video if they discussed specific redistricting criteria or priorities in crafting the maps, would you?
A. I did not review that legislative record.
Q. Thank you. If there were -- one last question on this. If there were amendments that were submitted, let's say to SB8, you wouldn't have seen those, would you?
A. I did not view that legislative record either.
Q. So it's possible, based on the record you didn't review, that an amendment, for example, could make a map more compact?
A. Yes. Amendments could have been submitted that would have made more compact maps.
Q. And less compact, right?
A. That is correct.
Q. And so you haven't looked at any of that?
A. I have not.
Q. All right. Turning to your simulations, we were just discussing before lunch the redist package, right?
A. Correct.
Q. So you were saying the redist package uses an algorithm to simulate maps, right?

A. Yes.
Q. You didn't create that package, right?
A. No, I did not.
Q. You're aware that Dr. McCartan, who you mentioned during your direct, helped create that package, right?
A. I am aware of that.
Q. And you used his package for your analysis, right?
A. That is correct.
Q. You've never worked before with Dr. Imai or Dr. McCartan, have you?
A. No, I have not.
Q. They didn't run through their redist package with you?
A. No, I did not run through it with them.
Q. The simulations that you have proposed here or that are in your report, they haven't -- they didn't help you put those together or put that design together, did they?
A. Only in the sense that the very first sim I ran was directly from Dr. Imai's code, and in that sense he helped me. I was standing on his shoulders when I did it. I did not vet what I did by either of them.
Q. Yeah. So the latter is my question. Thank you for answering that.
And you haven't published articles about the use of simulations -- of map simulations, have you?

A. No, I did not do anything that specific.
Q. You were saying on direct you first used the simulation algorithm yourself, I believe it was in the Kentucky case?
A. That's right.
Q. And in that case, you were called in to Dr. Imai on the simulations?
A. Correct.
Q. And you were called in to look at the simulations he ran and check his code, or something along those lines, right?
A. Well, no. I ended up running a lot more variants of the simulations than he did. I ultimately was asked to run simulations.
Q. So this will be the second case in which you've run map simulations; is that right?
A. That is correct.
Q. And that first case, as you were saying, is a case of partisan gerrymandering, right?
A. That is correct.
Q. You've never applied these redist simulations that you were talking about in a racial gerrymandering context, have you?
A. No, I have not.
Q. You're not familiar with any peer-reviewed research

about whether it's appropriate to apply map simulation techniques to a racial gerrymandering context, are you?
A. I am certainly aware of articles on the use of simulation with regard to racial redistricting. The question of which ones were peer-reviewed, I cannot do off top of my head.
Q. So sitting here today, though, you are not currently aware of any peer-reviewed articles or literature about whether it's appropriate to use map simulation techniques in the racial gerrymandering context, are you?
A. Oh, I'm sorry. In the general sense, I know. Not this redistricting package. There are general articles that deal with simulation and racial redistricting, yes.
Q. With respect to the redist package?
A. No, I am not.
Q. Thank you.
A. Thank you.
Q. And you're not familiar with any other expert applying these map simulation techniques in the racial gerrymandering context, are you?
A. Well, I know that Dr. Imai has done --
Q. Sorry. You're not familiar with their work in a -- I think you just said Dr. Imai did it in a partisan gerrymandering context, right?
A. No. My understanding is he has used it in racial

gerrymandering cases.
Q. And you're saying you've looked at that work?
A. No. I know it exists. I've read about it. I did not go probe specifically what he did in those cases.
Q. Got it. Thank you.
So turning to the algorithm itself, or the package itself, the number of possible simulations that the algorithm can generate for a map like Louisiana are close to infinite, right?
A. With no constraints, yes.
Q. With no constraints. And your analysis consisted of generating several thousand of them for your report, right?
A. Yes. The rebuttal report, it was 20,000 per set of conditions.
Q. And as you were saying on direct, in designing your simulations, you've put into place a number of simulation constraints, right?
A. That is correct.
Q. And these simulation constraints, they're effectively inputs affecting the kinds of maps that the simulation will produce, right?
A. That is right. They set the boundaries under which the simulations take place.
Q. And so naturally if you change the simulation

constraints that you apply, the maps that will be generated by the simulation will necessarily be different, right?

A. That is correct. They are a reflection of the parameters under which the simulated maps were drawn.

Q. Similarly, if you change the degree to which you apply your constraints -- so turning up or down a compactness measure, the maps generated by the simulation can be different, right?

A. That is right. You're not only decide what the constraints are, you decide their strength.

Q. But you recognize that one of the limitations of simulated maps is they may not take into account all of the many unique features of a time and a place that a mapmaker would want to incorporate, right?

A. That is correct. Things will be left out for sure.

Q. So, for example, what seems possible -- well, not "for example," but what seems possible in a computer simulation might not have been feasible or even desirable in real life, right?

A. I am choking a little bit on the word "feasible." If you mean politically feasible, then, yes, I agree.

Q. Well, I'm actually just quoting from your report, Dr. Voss. Would you agree that what seems possible in a computer simulation might not have been feasible or even

desirable in real life?
A. Okay. I know what I was referencing there. The population tolerances required from real maps without splitting precincts may not be achievable with a simulation method. So if you stopped with these simulations, you may not meet the population goals. You may have to split -- you probably do in many cases, have to split some precincts to get the right population tolerances. In that sense, these may not be feasible maps, yeah.
Q. Got it. So I'm just building off that, but going broader than population, to the extent that simulations are helpful, it would be when the simulation constraints mirror as closely as possible, or the choices that actual mapmakers would use in creating maps in a state, right?
A. I don't think I fully agree with that. Comparing the real map to a sample that you know to be artificial, to represent a sort of purer version that is not realistic and does not incorporate politics, is informative nonetheless because it gives you a baseline against which to compare the real thing, to know how far the real thing is from that pure circumstance.
Q. But it's a baseline untethered to real choices made by actual mapmakers, right?
A. That is correct. And for sure, if you have created

1 those simulations under a fairly simple sort of lab-grown
2 situation, the laypeople who are asked to, you know,
3 interpret that comparison should understand those
4 limitations, yes.
5 Q. Got it. So you were just mentioning a second ago
6 Joint Rule 21. That's the statute outlining the criteria
7 that the Legislature must use when creating maps, right?
8 A. I believe that is an actual legal characterization of
9 it, yes.
10 Q. To your understanding, that's what that is?
11 A. To my understanding, yes.
12 Q. And so you reviewed Joint Rule 21 before you created
13 the initial report and the rebuttal report, right?
14 A. Yes, I did.
15 Q. Your simulations don't include all of the
16 considerations referenced in Joint Rule 21, do they?
17 A. No. Not every one.
18 Q. So, for example, Joint Rule 21 mentions respect for
19 the natural geography of the state, right?
20 A. That is correct.
21 Q. And you didn't actively impose any geographical
22 features of the state in your simulations, did you?
23 A. I didn't actively impose them, no.
24 Q. Joint Rule 21 mentions respect for the established
25 boundaries of municipalities, right?

A. That is correct.
Q. You didn't take into account municipality boundary protection in your simulations, did you?
A. I did not actively impose that, no.
Q. Joint Rule 21 mentions that plans must comply with the Constitution and Section 2 of the Voting Rights Act. So to the extent that compliance with Section 2 requires consideration of race, your simulations don't include that, do they?
A. Some of them clearly do not. We talked earlier about the VRA constraint that I ran on one of them. You would be better able to tell me whether that answers your question.
And then, of course, one of the maps protected Senate Bill 8's cores. Again, whether you would say that that's a yes or a no to your question, I am not sure myself.
Q. Put it another way, when you designed the simulation, you didn't have in mind -- when you looked at Joint Rule 1 (sic) and you were designing your simulations, you weren't thinking: How do I incorporate this redistricting criteria that's in Joint Rule 21 in my simulations, were you?
A. With the Joint Rule 21, the actual rules set out there, yes. But you're talking about the one where it is

drawing on constitutional federal laws and rules. And no, precisely because of my impression that what those mean for this case is under contest, is in contest, is being decided, I was trying to provide useful simulations so that others could apply their interpretations of what the Equal Protection Clause, for example, requires in this, rather than imposing my nonlawyer's interpretation of the Equal Protection Clause.

Q. Okay. Joint Rule 21 mentions maintaining communities of interest, right?

A. Yes, it does.

Q. You don't know which communities of interest that the Legislature intended to maintain when they drew SB8, do you?

A. No, I do not. I do know that it mentioned it crossed parish borders, so I understood that they were talking about communities of interest bigger than just within a single parish.

Q. So, for example, if a legislature considered areas served by the same health care centers to be a community of interest worth protecting, your simulations would not have taken that into account, right?

A. That is right. I did not look at other jurisdictions or other maps.

Q. If the Legislature considered shared industries like

agriculture or timber in a particular area to be a community of interest, your simulations wouldn't have captured that criteria within it, right?

A. None of the ones I reported, aside from the metropolitan statistical area.

Q. Well, we'll get to the MSA's in a second. But the ones that are in your reports.

A. That is correct.

Q. Right. So actually turning to the metropolitan statistical areas, your initial report includes a count of the -- across different maps how many times they are split, right?

A. That is correct.

Q. And it also includes an account of how many times parishes are split, right?

A. That is correct.

Q. With respect to -- I'm going to take them one by one, but with respect to MSA's --

With respect to metropolitan statistical areas, which I'll call MSA's for short, it's possible that they contain within them multiple communities of interest, right?

A. Depending on what type of community of interest you mean, yes, it is certainly possible.

Q. That's a "yes" to my question, Dr. Voss?

A. Some would be contained within; some would span

MSA's. Yes, some of them are within.
Q. So let's take that one by one. So there would be also some communities of interest that span multiple MSA's. Let's say two neighboring MSA's, right?
A. That is possible as well.
Q. And so to the extent that there are similar communities of interest across MSA's, uniting those communities of interest may sometimes require splitting those MSA's, right?
A. If you're trying to unite across MSA's, you may have to split MSA's.
Q. And that's the same with parishes. If there is a community of interest in one parish and a similar one in another, sometimes you have to split the parish to unite them, right?
A. That -- that is true, yes.
Q. You don't know whether the Legislature actually made decisions to split MSA's or certain parishes to unite communities of interest, do you?
A. I do not know what they specifically said they were doing.
Q. So to the extent that they did do those things, the information as to why or how, all that stuff, that's not reflected in your simulations, is it?
A. None of that inside -- inside knowledge is reflected

in my simulations.
Q. Joint Rule 21 only contains the minimally acceptable criteria for consideration in a plan, right?
A. I'm unwilling to agree to that because I am not sure that ultimately the maps in place meet all the Joint Rule 21 criteria. That's why I won't say yes to what you said.
Q. So let me ask that a different way. You don't believe that Joint Rule 21 constitutes only the minimally acceptable criteria that a legislature may consider?
A. I don't know that all the Joint 21 rules actually were met. So it can't be a minimum if they --
(Reporter clarification.)
A. It cannot -- I am balking at agreeing that it's a minimum if they did not meet that minimum.
Q. Right. But you just testified a second ago that you have no knowledge of what they consider or and what they didn't consider?
A. No. But I do know how many times the map actually split parish lines. I do know that the actual map created two multi-splits.
Q. I understand that. But you're not -- if you're not familiar with what -- if you're not familiar with how they balanced the criteria that are in Joint Rule 21, you are not in a position right now -- you were just attempting to

say they incorporated all of them, they incorporated none of them. Right?

A. Okay. I cannot say with precision how much weight they gave to each of those criteria in the Joint Rule 21. I cannot say which criteria outside the joint rule they also did use.

Q. Okay. Do you know whether -- setting aside your reservations about whether they used it or not, used all of the criteria that were in there or not, do you know whether Joint Rule 21 allows for the Legislature to use additional criteria?

A. My recollection is that it did say something like that, but I don't have it in front of me.

Q. I'm going to pull it up.

MR. CHAKRABORTY: Can we pull up Joint Exhibit 2? Can we go down to Joint Rule 21(F). Not (F), (E).

Q. (BY MR. CHAKRABORTY) So do you see there where it says in addition to the criteria specified -- I'll paraphrase a little bit of this Joint Rule -- the minimally acceptable criteria for consideration in a redistricting plan shall be as follows?

A. Yes.

Q. So that contemplates that the Legislature can take into account additional criteria as well, right?

A. Yes.
Q. So your simulations, if they did take into account additional criteria when they were making their maps, that wouldn't account for -- your simulations wouldn't account for that criteria, would it?
A. Not unless it's one that I did include. I mean, I have things that were not in Joint Rule 21. But probably not.
Q. Great. So things like educational differences, socioeconomic differences wouldn't be included, right?
A. Not in any direct way.
Q. Right. And legislatures -- well, actually I'll move on.
Now, you mentioned on direct and just now actually, that your simulations did take into account parish splits, right?
A. Yes, it did, or most of them did.
Q. And almost all of your simulations resulted in parish splits above 29 or below 5, right?
A. That is correct.
Q. Specifically, I think 11 out of the 13 fall into one of those two categories, right?
A. I am willing to accept that.
Q. And your review of the actual plans -- and I think we were, again, running through it a second ago -- both the

enacted ones, like SB8 and the ones that were introduced, they indicated that they had -- these real-life maps had parish splits between 13 and 17, right?

A. That is correct.

Q. So the number of parish splits resulting from your simulations, or reflected in them, was not representative of the number of parish splits that actual map-drawers split, actual map-drawers split when creating real-life maps, right?

A. In all but two of the cases, yes.

Q. For the 11 out of the 13, I'm talking about, yeah.

(Reporter clarification.)

Q. For the 11 out of the 13, I just mentioned, yes.

A. That is correct.

Q. Great. Your simulations also take into account a compactness measure, right?

A. That is correct.

Q. And as we were just saying a second ago, if you modulate that up or down, the sample of simulated maps would be different, right?

A. Yes, that is true.

Q. And so you said -- I believe you said on direct, you set the default value of one, right?

A. Yes. All the ones I reported but one used one.

Q. And you didn't update that between your original map

and your rebuttal report, did you?
A. I'm sorry. Would you repeat that?
Q. You didn't update that between your initial report and rebuttal report, did you, the one compactness measure?
A. One unites the simulations in both reports almost entirely.
Q. Great. And so if you change that one to let's say .5 or 1.5, I mean, these numbers may not mean anything to us, but --
JUDGE JOSEPH: Mr. Chakraborty, you have to slow down. You're about to get in trouble again. Speak as fast as you think you need to speak and then slow it down by one and a half times. Okay?
MR. CHAKRABORTY: Okay. Great.
JUDGE JOSEPH: All right.
MR. CHAKRABORTY: Thank you, Your Honor.
Q. (BY MR. CHAKRABORTY) So if you adjusted the number one to .5 or 1.5 for compactness, that would affect or alter the level of compactness seen in the results in your simulations, right?
A. Yes, that's right. One is the baseline. Going up to 1.5 would be even stricter without smoothing and having more compact all the districts. And a .5, at least in theory, would allow the districts to be less compact. It doesn't always actually work that way, so it's not so

simple that you just adjust the number and the resulting districts come out either more or less compact.

If you lower the number -- I didn't actually get to develop the method very far during direct, but it does it one district at a time, okay? And after you have 10,000 or 20,000 of District 1, it goes on to 2, you can actually result in a package that's less compact after having told it to try, to worry less -- I'm sorry. You can tell it to worry less about compactness and nonetheless result in maps that are more similar and ultimately more compact, because once you've got the one district, how the other ones form around it are impacted.

Q. Thank you, Dr. Voss.

So you ran -- you put in the one measure. It comes back. The map -- the simulations come back. And the numbers that came back, the compactness scores, let's say the Polsby-Popper scores, were much higher than those of the enacted maps, right?

A. Yes. The simulations almost always are drawing more compact maps than the real-life ones.

Q. And once you saw that disparity, you didn't try to -- or as reflected in your report, change the compactness measure to more closely resemble historical measures of compactness seen in real-life maps, right?

A. Okay. If you're talking about just the initial

report, all I did there was experiment with lowering the compactness parameter. It did not actually work, it didn't actually change much; and, therefore, it's probably never even put that one in the report. Now, in the rebuttal, there were other routes to allowing less compact districts, which was the MSA protection and the core protection.

Q. Sure. But you didn't change -- again, once you got the initial results, you didn't change the one default value to go: Well, let me adjust this to see if I can replicate what real-life maps -- how compact real-life maps actually are. Right?

A. I think the answer is yes, that's right. As I said, I tried lowering the compactness parameter. It didn't perform. The results were less efficient. The maps were not actually notably less compact. I gave up that route. And only later, which meant "later" being the rebuttal report, did I have time to experiment with those other less direct ways of adjusting the compactness.

Q. So is that a "yes" to my question, Dr. Voss?

A. I said that I think it was a "yes" to your question.

Q. Right. And when you looked at the actual enacted plans, the ones that were up a second ago, I believe the 2020 and the 2022 maps have Polsby-Popper scores of .14, right?

A. Well, again, if you don't show it to me, I can't agree to .14 but --
Q. I'm going to show it to you. So this is P-32 at 6.
A. There's a .14 on the Polsby-Popper, yes.
Q. Great. And SB8 had a score of .11?
A. SB8's the 2024 enacted and it had a score of .11, yes.
Q. So the difference between those -- to ask an obvious question -- is .3, right?
A. .03.
Q. .03. Excuse me. Yes.
A. Yes.
Q. So you have no basis to evaluate, though, whether an actual mapmaker would find a .03 difference in compactness to be problematic, would you?
A. No. I have no way to judge whether a real mapmaker would care about that difference.
Q. You have no basis to evaluate whether a court would find that level of difference to be problematic, would you?
A. No. They have the choice because I presented it.
Q. Is that a "yes" to my question, Dr. Voss?
A. I did not try to choose for the core.
Q. Right. And as we just discussed actually, when we were talking about trade-offs, you aren't aware of whether

the difference in compactness between SB8 and these prior maps could be a result of different choices made by the Legislature in balancing compactness against other criteria, right?

A. No, no. I actually sharply disagree with that. The whole point of having a series of simulations where different rules were adjusted was, in part, so that you and the Court could observe whether those parts of Joint Rule 21, whether those rules are the reason the compactness difference is so great.

So you go from a baseline that has no parish split protection to a simulation that has a parish split protection, and you then can look, how much did the Polsby-Popper range change as a result of that additional protection? What you will see is that adding a parish protection, even a strict one, with a multi-split constraint so you can't split them more than once any easier than you can split them once, as I fold in those additional parameters that we know about, the compactness is not getting dramatically worse. So you can look and say, okay, these poor compactness scores they're not caused by the parish protection. These poor compactness scores, they're not caused by the multi-split protection, and so on.

Q. But you have just said in response to a number of

1 questions that your simulations didn't take into account a
2 number of criteria that actual mapmakers may have taken
3 into account when creating SB8, right?
4 A. So the ones I did not use, I did not give you that
5 information on, but I should stress some of the ones that
6 you asked me whether I used that I did not use should have
7 made the map performance -- the simulations worse -- in
8 other words, I was trying to see if I could simulate
9 majority black districts -- would have made it harder,
10 not easier, to simulate majority black districts. So once
11 the more rural free wasn't doing it, adding additional
12 barriers to creating majority black districts would not
13 have helped us at all.
14 Q. Well, I understand that point. But if you are -- put
15 another way, if you do not know what choices were made by
16 legislators that created these three maps for the criteria
17 that you did not analyze, because they weren't in your
18 simulations, you don't know whether the .3 difference
19 could be accounted by those, right?
20 A. Well, that's right. I was not given, you know,
21 testable hypotheses beyond Joint Rule 21 by Counsel and
22 said would you see what sims would look like if you froze
23 Julia Letlow's old district or things like that. It can
24 do that. The method can do that, but I was not asked to,
25 and my report did not do so.

Q. Got it. Just one less set of questioning, Dr. Voss. You created four sets of simulations that you classified as race-conscious, right?
A. Yes.
Q. These metrics are -- and correct me if I'm wrong -- your attempt to measure race in the creation of a map in simulations, right?
A. It was an attempt to introduce some degree of race-consciousness in a way that laypeople could understand. I am not claiming that it's a heavy-handed introduction of race, race super consciousness. But since I did not know the border between when race had to be taken into account to satisfy one court versus when race was being too much taken into account, such that it might violate the Equal Protection Clause, I was sort of inching my way along, trying to give different examples of race-consciousness so that it would be available in evidence.
Q. But by "examples," you're talking about different simulation constraints as a way -- as a proxy to measure how race would be introduced into a map, right?
A. Some level of race-consciousness.
Q. And you used these particular metrics because they, as you were saying on direct, are easy to explain to laypeople, right?

A. Yes. And I would add, though, that at least one of them represented a hypothesis that seemed worth testing. I knew that there had been accusations that the 2022 map resulted in part from splitting the black -- cracking is the -- you know, the sort of jargon term -- cracking the black vote. So one of them specifically imposed an additional constraint to protect the majority black portions of each parish. The idea being if the problem with the old map, if the problem with the simulations, the reason they are not generating majority black districts is because the black communities are getting cracked. Maybe not on purpose. Again, I don't -- I'm not judging motives; I'm inferring outcomes. Maybe for accidental reasons, even, if that black vote, that black community in each parish is getting divided and, therefore, cracked, I wanted a set of sims where the method was told: Leave those groups together. They go in one district or they go in the other. You don't get to split them apart.

So it had a second purpose, which was to test the hypothesis: Is this cracking of the black communities within parishes part of what's going on, part of what's causing the lack of majority black districts to form.

Q. But directing you back to my question, Dr. Voss, as you explained on direct, the way in which you picked the metrics were so that -- you used these because they were

easy to explain to laypeople, right?
A. That was a virtue that I thought all of them had, yes.
Q. And so these particular metrics that you used, they haven't been peer-reviewed by other academics, right?
A. No, they have not been peer-reviewed.
Q. You didn't run these techniques by Dr. Imai or Dr. McCartan?
A. No, I did not.
Q. You haven't seen any other legislators -- excuse me -- any other experts use these metrics, right?
A. No, I have not.
Q. And you haven't seen any Legislature use them before, right?
A. Other than these communities that I told it not to crack often were near municipalities, no.
Q. So you don't know whether actual mapmakers who drafted SB8 or just generally rely on these kinds of metrics to actually consider race when they're drafting a map, right?
A. I'm mostly willing to agree with that, although, once again, if you look at maps, they tend to group those communities. The SB8 maps tend to group the communities that I told the sims not to crack, for example. There are signs they're used, but I can't put a weight on how

important those things were compared to the Joint Rule 21. I can't give you the weights of all of these different criteria that they thought they were using, chose to use. When something emerges out of a legislature, you know, a legislature doesn't have one mind. It doesn't have one goal. The legislative record usually is in conflict all by itself.

Q. Right. So that's a "yes" to my question, you don't know if the mapmakers who drafted SB8 relied on your specific metrics to take into account race when drafting maps?

A. And my maybe too-lengthy answer is: I know what I can infer from what I see, but I have no inside knowledge.

Q. Great. Thank you.

MR. CHAKRABORTY: No further questions.

JUDGE JOSEPH: Dr. Voss, a quick point of clarification. You testified that you did not include municipal lines in your simulations. What would have been the effect on the outcome of your simulations had you included those lines?

THE WITNESS: Okay. First, insofar as I am using the simulations to see if I can get majority black districts to form in some kind of organic sense, it would have only made it harder, okay, only made it harder.

Second, you know, I looked at that Louisiana ALARM

simulation that Dr. McCartan's team did to see how they handled municipalities. And they only dealt with those when cities were very large, okay, very large metropolitan areas. And none of Louisiana's cities were big enough to kick in that municipality constraint.

Q. Is there any city in Louisiana large enough to be a its own congressional district?

A. Now, if you're talking about the central county/parish, no. If you're talking the greater metropolitan area, yes. In fact, just Orleans Parish and Jefferson Parish by themselves are too big for a congressional district.

Q. But other than that, none?

A. Baton Rouge -- I forget if I checked to see if you could get a single congressional district for Baton Rouge. I am doubting it, but I did not check that, Your Honor.

CROSS-EXAMINATION

BY MR. TORCHINSKY:

Q. Dr. Voss, Jason Torchinsky on behalf of the State. I have just a couple of questions for you.

You mentioned Joint Legislative Rule 21 in your report. Do you know which session of the Louisiana Legislature adopted that rule?

A. I saw the date on it. I believe it preceded Senate Bill 8.

Q. Did it precede House Bill 1?
A. I can't recall right now.
Q. Are you familiar with whether legislative rules are binding on future legislatures?
A. I would assume no. And, in fact, one of my answers previously was hedging for precisely that reason.
Q. When you evaluated SB8, did you review the call for the Special Session?
A. I did look at that. I don't have good recall of it, though.
Q. Did you review the Governor's statement upon the opening of the Special Session?
A. Again, I looked at that a while ago, but I would not say it was directly incorporated in my analysis.
Q. Did you have any understanding that the Governor called the Special Session to respect the decision of the *Robinson* court?
A. I understood that the *Robinson* court was the catalyst for the whole process, yes.
Q. And what is your understanding of what the *Robinson* court required?
A. I'm not a lawyer; I can't judge. I had been told that the perception was the State was being forced to draw two majority black districts.
Q. Okay.

A. And let me say, so all of my analysis was contingent on that having been the target.
Q. Okay. The redist algorithm, does it allow you to include other constraints beyond the compactness and the splits that you imposed? In other words, are there pieces of that algorithm that you could have chosen to add in that you didn't?
A. Yes, indeed. One of them is to protect double bunking, as it's called, of incumbents, to prevent two incumbents from appearing in the same district.
Q. Okay. And does it allow you to specify which incumbents not to pair?
A. Perhaps. I did not explore it to that level. And the reason is, in thinking about whether to use that parameter, I decided it would be inappropriate. Louisiana has only one Democrat right now. The rest are Republicans. So instructing the algorithm to protect incumbents would for sure have made it harder, not easier, to produce two majority-black districts. And since that was the primary question, once again, as with the municipalities, I didn't add additional burdens to the simulation method that would have made it even harder to come up with the target, which was two majority-black districts.
Q. Got it. So the simulation wasn't able to, for

example, incorporate political constraints that legislators might see, which is, say, not pairing Speaker Johnson and Julia Letlow, and protecting a district for Julia Letlow, the simulation can't incorporate a command like that?

A. Well, at some level, I think it could. I don't know how much I would have needed to change, but I was -- you know, the goal of this method is it try to come up with representative districts. When you start imposing something like that, I want representative districts that are unrepresentative because I want to chop out all of the ones that combine -- it's not obvious that the better way to get a representative sample is to stick that into the algorithm, into the process, as opposed to just generate the maps and then only focus on the ones that meet some additional hard criterion like make sure Julia Letlow's precinct is not in the second majority-black district.

Q. So let me ask you this. When you say "representative districts," are you drawing representative districts that are representative of what an actual legislature might consider, or are you drawing basically representative criteria that come up with the range of maps that meet with the constraints that you have programmed into the simulation?

A. The latter. It is maps representative of the rules

everybody has been told were shaping the process by the algorithm.

Q. So given your background as sort of a political scientist and then your background in studying government and, frankly, your background in legislature, is it your understanding that the political bodies like legislatures consider political concerns when making redistricting decisions?

A. No. I know they do. I mean, down to the point of -- I've heard cases, I think in Louisiana, where legislators wanted a precinct in their district because their grandmother lived there.

Q. Would the Legislative consider something like the parish in which the Speaker of the House lives when drawing districts?

A. Absolutely.

Q. How about the home address of the House majority leader?

A. Absolutely.

Q. How about the home address of the member serving on the Appropriations Committee?

A. Absolutely.

Q. So would a legislature consider the regional representation? In other words, could the legislature have said, or the legislator who introduced the bill said:

I want to make sure that I protect the two incumbents in North Louisiana?

A. Yes, you can do that.

Q. And were any of those considerations programmed into the simulations?

A. No. Once again, the simulations may have met those criteria; you've got 20,000 of them. But I did not restrict the simulation method to only try to pick among the ones that always had those criteria met.

Q. Great. Thank you.

MR. TORCHINSKY: I don't have any further questions, Your Honor.

JUDGE JOSEPH: Does the Secretary have any questions?

MR. STRACH: No, Your Honor.

JUDGE JOSEPH: Any redirect of Dr. Voss?

MR. GREIM: I do have one question.

REDIRECT EXAMINATION

BY MR. GREIM:

Q. Dr. Voss, you were asked many, many questions about whether you knew what was in the head of the legislators when they were drafting SB8. I think you said you didn't know.

I guess my question to you is: Does the effectiveness of your simulation for answering the

1 questions that you've been asked depend on knowing what
2 was in the legislators' heads when they were drafting SB8?
3 A. No. The main use of simulation in a racial
4 redistricting case is so you don't have to fully rely on
5 insider knowledge. I mean, especially when it comes to
6 race, often the problem is that you can't observe all the
7 motives that are at play.
8 The benefit of simulation in a racial redistricting
9 case is because you need to infer what was going on from
10 the data, from the map. And having those lab-grown, if
11 you will, relatively pure simulations lets you compare the
12 real world, the outcome to the ones that clearly could not
13 have had those considerations because the algorithm wasn't
14 allowed to take them into account.
15 Q. Okay. Well, now I have a second question. You were
16 asked by the State about some of these political factors,
17 the double bunking, I think as you said. I have never
18 heard that before, but I kind of enjoy that statement.
19 Do you have any concern that failing to run
20 simulations on those political factors might have missed a
21 nudge that, something that would have nudged these plans
22 toward a two black majority-minority district plan?
23 A. Yes. Trying to run the simulations with that
24 additional criteria of split apart, you know, protect
25 five Republicans, would have made it only harder to come

1 up with two majority black districts, given that I wasn't
2 finding any anyway in much simpler, much purer
3 simulations, making it even harder by adding an incumbency
4 protection simulation made no sense.
5 But it's not as though the simulations were always
6 throwing Julia Letlow either in with the Speaker of the
7 House or into the majority black district. There clearly
8 were many, many versions where that did not happen. And a
9 legislature doesn't need to adopt 10,000 or 5,000 maps,
10 you know, it only needs one. And the districts that met
11 those political criteria were there in every batch of
12 simulations.
13 There's a different way to put this. You could meet
14 the political goals without needing to draw two majority
15 black districts. Now, once you are trying to draw two
16 majority black districts, it then became very difficult to
17 meet the political goals.
18 MR. GREIM: No further questions.
19 JUDGE JOSEPH: All right, Dr. Voss. Thank you
20 for your testimony. You may step down.
21 MR. GREIM: Your Honor, the next thing that we
22 are going to do here, I think, is play the transcript
23 sections. We intended to do those earlier but I wanted to
24 try to use the lunch hour appropriately, so I think we
25 will do it now.

Just so everyone knows, I think these total about 35 minutes long. When these end, this is this -- we're back to this issue with not having a witness to cover ourselves. But Dr. McCartan, who has already been mentioned a lot, he'll go. And so I think that will close out our day, and then we'll do Hefner tomorrow. So that's just a roadmap.

JUDGE JOSEPH: Is Hefner the only witness you have left?

MR. GREIM: Other than Overholt, whose testimony depends on Fairfax.

JUDGE JOSEPH: Right. Overholt is the one that we ruled on this morning?

MR. GREIM: That's right.

JUDGE JOSEPH: Very good. We will listen to this transcript and then we'll take our afternoon break, and then we'll proceed with the Robinson intervenors' witnesses.

(Audio of transcript sections played.)

MR. GREIM: That concludes the transcript sections.

JUDGE JOSEPH: Thank you, Mr. Greim. How about we take a 15-minute break. Then we will pause the plaintiffs' case and call a defense witness.

(Recess.)

JUDGE JOSEPH: Let's address the administrative matter we had real quick before the break. We had talked about the audio transcript that was played by plaintiffs' counsel prior to the break, whether that was going to be entered into evidence or as a demonstrative exhibit.

I think the larger point here is that we need to make sure -- for example, the things that the expert, the summary charge the expert prepared, if you want it to be in the record, it needs to be entered into evidence. The demonstrative is just for our benefit, for us to see. So I'll give you a chance to do that and clean that up later. But I was -- I think we are all a little bit surprised that that wasn't entered into evidence for the record. And so the same for the audio clip. You can attach -- maybe attach that as an appendage to the previously entered transcript. That's what Judge Stewart I think recommended.

MR. GREIM: So we discussed -- first of all, thank you, Your Honor. That same thought occurred to me about the file as I was sitting here. And I appreciate that. I mean I think we would like to -- I think we would like to make sure the record is clear on, not every demonstrative, but a couple of the charts.

The other thing I would say is: We conferred and we're back to the plan we started with a couple of weeks

ago, which is, you will be getting a joint exhibit that has the video and audio with basically everything.

JUDGE JOSEPH: Okay.

MR. GREIM: We wanted to try to piece it all together. Now what I will do is I will offer what we played. If for some reason you're curious what we just designated, we will just call that Plaintiffs' Demonstrative 10. But we don't -- there doesn't have to be a record of that moving up. You will have a record -- everyone will have a record of the video and audio.

JUDGE JOSEPH: And that will be video/audio of all the legislative history behind this bill?

MR. GREIM: Well, it will -- yes, it will -- that's right.

JUDGE JOSEPH: It will be what the parties wish to enter from that?

MR. GREIM: That's right.

JUDGE JOSEPH: Okay.

MR. TORCHINSKY: Your Honor, let me add, I think what we agreed to do was submit individual designations of where on the audio and video files that the intervenors were going to submit, that each of us can then submit a document that says these are the audio clips we played in the courtroom. You know, for example, Senator Womack's statement on the floor of the house, we were going to play

that. They've already played that. We will designate that on our end. We have a clip from the Governor from the legislative session from his opening speech that we want to add. So play it in the courtroom and then we'll submit a designation that tells you kind of where in the audio/video file that the intervenors are submitting it's going to be.

JUDGE JOSEPH: Sounds perfect.

MR. TORCHINKSKY: That's my understanding of what we agreed to.

JUDGE JOSEPH: That will make things much more clear for us.

MR. TORCHINSKY: Thank you, Your Honor.

MR. NAIFEH: And I have nothing to add. We already have the video on our exhibit list, so we'll just move it in at some point when we start our case-in-chief.

JUDGE JOSEPH: Secretary, anything to say?

MR. STRACH: I'm going to exhaust you with "We have nothing to add."

MS. ROHANI: Good afternoon, Your Honors. Sara Rohani, counsel for the Robinson intervenors. And the intervenors call Dr. Cory McCartan to the stand.

(Oath administered to the witness.)

CORY McCARTAN,

having been first duly sworn to testify the truth, the

whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MS. ROHANI:

Q. Good afternoon, Dr. McCartan. Can you please state and spell your name for the record.

A. Cory McCartan. C-O-R-Y, M-c-C-A-R-T-A-N.

JUDGE STEWART: Raise your mic up or use your theatre voice, one.

THE WITNESS: Yes, Your Honor.

Q. (BY MS. ROHANI) Thank you for joining us, Dr. McCartan. Dr. McCartan, what is your educational background?

A. I have a bachelor's degree in math from Grinnell College and a master's and Ph.D. in statistics from Harvard University.

Q. And can you very briefly walk us through your academic positions?

A. Sure. I am currently a faculty fellow, data science assistant professor at the Center for Data Science at New York University. In July, I will start on the tenure track as an assistant professor of statistics at Penn State.

Q. Thank you. And what do you consider your areas of expertise and specialization?

A. Sure. Broadly I study statistics applied to the social sciences, but most of my dissertation work and work since graduating has focused on redistricting specifically, a lot of work in redistricting simulation.
Q. And have you relied on these areas of expertise and specialization for the analyses that you conducted in this case?
A. I have.
Q. And have you written any peer-reviewed articles?
A. Yes. A dozen or so.
Q. And what topics have those peer-reviewed articles generally covered?
A. Many of them have covered redistricting simulations, studies that use those simulations to answer questions in political science or demography or privacy.
Q. Have you ever actually previously provided expert opinions in federal voting and redistricting cases?
A. I have.
Q. And in how many of those cases have you testified at trial?
A. Two.
Q. And in what areas have you testified in before?
A. One of them involving redistricting and simulations. The other, just computing various numbers about redistricting plans, including compactness.

Q. And for this case, did you rely on the same methods and procedures in those cases and consistent with experts in the field?
A. I did.
MS. ROHANI: Your Honors, the Robinson intervenors tender Dr. McCartan as an expert witness in the field of redistricting and the use of simulations.
JUDGE JOSEPH: Voir dire?
MR. GREIM: No objection.
JUDGE JOSEPH: Any objection to his qualifications?
MR. GREIM: None.
JUDGE JOSEPH: Without objection, the expert is so qualified.
Q. (BY MS. ROHANI) Dr. McCartan, I'd like turn to your role in this case. Who were you retained by?
A. I was retained by the NAACP Legal Defense Fund.
Q. And what is the Legal Defense Fund's role in this case?
A. I understand that they are counsel for the intervenors.
Q. Can you describe to the Court what you were asked to opine on?
A. Sure. I was provided with a copy of Dr. Voss's reports and asked to study the evidence there including

the simulations that he did, to what extent those simulations have supported his conclusions.

Q. And what software did Dr. Voss use to conduct the analysis in his report?

A. He used the redist software.

Q. And what is the redist software?

A. This is software that I developed, along with some of my collaborators to do redistricting simulations and analyze redistricting plans.

Q. And are there peer-reviewed articles about the work you have done in creating this software?

A. Yes. So one of the main algorithms that is part of this redist software is the Sequential Monte Carlo or SMC algorithm that I developed in a paper with Kosuke Imai. And that's peer reviewed and published at the "Annals of Applied Statistics."

Q. Thank you. And are you aware of any map that has been drawn using simulations?

A. I am not. I think when you're drawing a map, you're really trying to take a number of criteria and draw the best map possible according to those criteria.

Redistricting simulations are more of an analytical tool to help understand maybe the range of certain features of plans or things of that nature. And so even though I believe obviously a lot in the value of

redistricting simulations broadly, they haven't really played a role in map drawing specifically. And that's, appropriate.

Q. Thank you. So, Dr. McCartan, I'd like to begin by discussing simulation analyses generally. Can you tell me what do simulations attempt to do?

A. Sure. So what simulations do is -- well, it's right there in the name really. They're trying to simulate what might have happened or what would have come out of a map drawing process that followed certain criteria or constraints provided by the analyst. And so they generate a large number of random redistricting plans that are supposed to be representative of all the plans that meet those criteria or constraints.

Q. And when applied properly, what kinds of questions or simulations best suited to answer?

A. Yeah. So the way that they've mostly been used and I think that they were sort of designed primarily to answer as questions from measuring maybe the impact or the presence of a certain factor. And the way that works is by taking a plan in the real world that you want to study and if you want to see whether or not a certain factor is present, creating simulations that use all the same considerations used to draw that real world map except for the one factor you're trying to measure. And by just

removing that one piece and creating a whole bunch of examples of what plans would look like without that piece and then comparing, you can determine whether or not that factor and to what extent it's present.

Q. And are there some questions that are more difficult to answer using simulations than others?

A. Sure. So the simulation tools excel in making -- following certain criteria and prioritizing certain considerations, for instance, compactness. So if you're trying to ask them to produce examples of plans that involve more complicated constraints, that might be harder to use using simulations. The big thing, as I mentioned, is that simulations really sort of provide a representative sample like a poll. It really is telling you sort of what's -- sorry. They provide a representative sample, like a poll, trying to tell you what's typical, what's average in the population. And so because of that, they're really less well suited to answer questions about what's possible, what's the best we can do, what's the most we could push something in one direction. They're not trying to explore the very edges, if you will, on the very extremes of all the different plan configurations but really sort of give you what's typical.

Q. Thank you. And did you hear Dr. Voss say that

1 including a constraint like incumbent protection that
2 legislatures do consider would make the simulation
3 analyses less representative?
4 A. I did hear that.
5 Q. And do you agree with that statement?
6 A. No. I think in trying to measure, for instance, what
7 role, if any, race played or the size of the effect that
8 race played, as I said, it's very important to make an
9 apples to apples comparison where the only thing you're
10 changing is whether or not a certain factor enters the
11 picture. So all the other factors -- in this case that
12 are not race -- should be included. And so for example,
13 the legislature considered incumbent protection and you
14 did not, then your simulations are no longer
15 representative of what the Legislature might have drawn
16 with or without race because they did include incumbent
17 protection.
18 Q. Thank you. So just at the base level, what in your
19 opinion are the value of simulation analyses when used
20 properly?
21 A. When used properly, they can provide evidence that a
22 factor has been used in the drawing of particular plans.
23 Q. Thank you. So can you describe an academic project
24 where you used these techniques to answer a redistricting
25 question like the ones that you just described,

redistricting questions that the simulations are well suited for?

A. Sure. So one project that I helped lead is with a research group involved looking at to what extent partisanship played a role in the drawing of congressional districts following the 2020 census, and if so, how big were those effects. So that involved us going to all 50 states or the 40-odd that have more than one district. Collecting the actual enacted congressional maps and then also collecting the criteria that they used to draw those maps and performing simulations that used all those criteria except partisan or political considerations. And then by comparing those simulations to the enacted maps, we can measure those partisan effects.

Q. In that project, were you trying to examine whether more than one majority black district could be created in Louisiana consistent with traditional redistricting principles?

A. No. So as I say, we were really focused on the partisan question. Obviously the Voting Rights Act is something that impacts how you draw districts in Louisiana. Our goal was to actually follow the legislature's at the time interpretation of what that meant. So if a legislature drew, for example, one majority-minority district, then we were going to try to

1 create simulations that also created exactly sort of one
2 majority-minority district. We didn't spend time or do
3 specific research on whether or not more or fewer would
4 have been possible or if those would have changed, for
5 example, the partisan mentioned. That just wasn't our
6 focus.
7 Q. Would the simulation you ran -- would the simulation
8 that you used look like the ones in ALARM if you were
9 trying to answering that previous question?
10 A. It's hard for me to be sure. One thing you learn
11 when you do these simulations is just how much can change
12 and how many possibilities are out there. So I strongly
13 suspect that if I had done a project that specifically
14 looked at the range of possible black majority districts,
15 that the approach would look different and therefore the
16 simulations would have also looked different.
17 Q. And you included a parameter for compliance with the
18 Voting Rights Act. What was that intended to do in the
19 ALARM simulations?
20 A. Yeah. So specifically we told the algorithm as it's
21 drawing these districts to keep an eye on the black voting
22 age percentage -- or sorry -- the overall minority
23 percentage in the districts and to try to keep that
24 minority percentage higher in the top two minority
25 districts. So there was no specific threshold; there was

nothing you have to cross, a certain percentage. And that was again I'd say just put in place and calibrated to recreate one majority-minority district on average like we saw in the enacted plan from the legislature.

Q. And earlier today you heard Dr. Voss say that he tried to use the VRA constraint and it didn't make a difference. Do you agree with that statement?

A. Well, I can't fully agree or disagree. When I got the reports from Dr. Voss, they didn't really mention this. The data and code that he turned over didn't include specific uses of this same approach that we did. As we may talk about, there were a couple of other cases where he turned over data and code where what he said in the report didn't match the data and code. So without sort of going over it myself, I can't really know if that's what he did or that's what he tried. What I can tell you is in our project, which did have a different purpose, you know, putting in this VRA, you know, these VRA constraints, did have an effect on the black shares in the various districts. So it would surprise me if there were no such effect here.

Q. Thank you. So now moving on to some general questions about the opinions Dr. Voss gave in his testimony today. Did you listen to Dr. Voss's testimony earlier?

A. I did.
Q. Did you review Dr. Voss's reports as well?
A. Yes.
Q. And what parts of Dr. Voss's reports did you review specifically?
A. I focused on reviewing the parts about his simulation analyses.
Q. And again what makes you qualified to assess this part of Dr. Voss's report?
A. Well, as we talked about, Dr. Voss used the software that I wrote, implementing the algorithm that I designed. And not only did I study his reports but also the specific computer code and the data that went into those. And so I could cross-check and fully examine his simulations and their quality without having to do any additional sort of analysis.
Q. And prior to testifying today, you have reviewed the data and the code that he relied on?
A. Yes.
Q. Did you hear Dr. Voss explain the questions he was trying to answer and can you summarize what you understood that he was trying to do?
A. Sure. So I saw two main conclusions in Dr. Voss's report and his testimony today. The first, primarily based on a set of race-neutral simulations, was that

Louisiana's African American population is dispersed enough so as not to dominate a compactly drawn congressional district.

And then the second conclusion, based more on a set of race-conscious, as he calls it, simulations was that in order to create two black majority districts, that would require extreme racial gerrymandering in Louisiana.

Q. And based on that review, do you believe that his simulations were set up to answer either of those questions?

A. I don't.

Q. And why not?

A. So as to the first question, Dr. Voss is asking a question about could a certain population dominate a compactly drawn congressional district. That's fundamentally a question about possibility. As I think Dr. Voss himself said, simulations can't prove that something is impossible or isn't. I mean, I agree with that. As we talked about, simulations tell you sort of what's typical or what's average. And so whether or not it's possible to draw a compact district with a certain, you know, demographic feature is not what simulations are designed to do.

As for whether extreme racial gerrymandering is required to produce two black district, as we may talk

about, the so-called race-conscious simulations didn't incorporate racial information very much and/or at all in some cases. And so there's a very big difference between saying that a simulation that uses a tiny bit of racial information doesn't produce black districts, and then extrapolating from there to say that if you produce two black districts, it must be extreme racial gerrymandering. There's a whole range in between and that he didn't explore with simulations but maybe could have. And so neither of his race-conscious or his race-neutral simulations really got at the questions that he was trying to answer.

Q. So now I would like to discuss some more specifics about Dr. Voss' report. You mentioned earlier that the value of a simulation analysis is to provide a useful comparison to what a map-drawer would create. Is that a fair characterization?

A. That's right.

Q. Is that also what Dr. Voss refers to as a benchmark?

A. I believe so, yes.

Q. And to clarify, did you do any independent simulations for this case?

A. I did not. As we talked about, based on both the report and all the code and the data, that was enough for me to evaluate sort of the quality of his simulations.

Moreover, as we just talked about, I actually don't think simulations are useful at all for some of these questions, so it wouldn't have been appropriate for me to run my own and for those cases.

Q. Thank you. And did you reach any ultimate conclusion about whether Dr. Voss's simulations form a useful benchmark in SB8? I know we just touched on that. Apologies. For assessing the rule of race in SB8?

A. Yeah. So among all the simulations he ran -- well let me put it this way. As we discussed, the simulations are useful for answering a question like the role of race only to the extent that the difference between the enacted map and the simulated plans only involves race. If other factors are also changing, then you can't be sure whether the differences are because of the racial differences or whether they're because of these other factors. And it turns out there are a number of differences between Dr. Voss's simulations and the enacted plan in terms of both what criteria are considered and also among the criteria that were considered, what weight was placed on them. So it's, end of the day, not an apples-to-apples comparison, and that muddies the waters in terms of understanding the role that race played or could play or things of that nature.

Q. Thank you, Dr. McCartan.

So let's turn to the criteria that Dr. Voss did not incorporate in his analyses.

MS. ROHANI: Can you please pull up the first slide, which we will mark as -- it's Robinson Intervenors' Demonstrative Number 1 -- No. 2. My apologies. The next slide. Thank you.

Q. (BY MS. ROHANI) So, Dr. McCartan, can you quickly walk us through what this table represents.

A. Sure. So this is a table from my report. In Dr. Voss's first report, he did seven different simulation analyses for what he called race-neutral, three race-conscious. So those are listed in that first column simulation analysis. And then I've marked in the additional columns various facts about these simulation analyses. So as we just touched on, none of these analyses uses exactly the same set of criteria, including those specifically listed in Joint Rule 21. And moreover, among the criteria that were applied, they were not applied in the same manner that the legislature does. The same weight was not placed on the various criteria. So that's the first two columns there.

Q. Thank you. And turning to the column with Joint Rule 21. For example, did Dr. Voss incorporate any considerations of municipal splits in his analyses?

A. He did not.

Q. And did Dr. Voss incorporate any considerations of natural geography in his simulation analyses?
A. He did not.
Q. And do criteria like municipal splits and following natural geographic boundaries affect compactness?
A. Generally, yes.
Q. And was compactness one of the key objectives of Dr. Voss's report?
A. Yes. A lot of his conclusions were based specifically around the compactness of districts.
Q. And how did that affect the usefulness of the simulations that he ran?
A. Well, if you're missing certain factors that we know are likely to affect compactness and you're also basing a judgment about the role of race on, for example, differences in compactness or plans that are very compact, so on, then once again you can't tease out how much of that is race and how much of that is failing to include these other considerations. So it would tend to make the simulations a much less useful benchmark or comparator against SB8.
Q. And did you hear Dr. Voss testify that including various additional criteria from Joint Rule 21 would make it harder to draw majority black districts?
A. I did.

Q. And do you agree with that statement?
A. I don't. Specifically I don't think he is in the position to know that. So one of the things you learn when you're designing these algorithms is actually just how many possible plans exist. Very easy to sort of get locked in to what, you know, a specific enacted plan looks like. But in a state like Louisiana with, even if you say let's look at all the plans that are exactly equal populations of certain compactness, the number of plans that meet all those criteria is probably bigger than the number of atoms in the entire universe. So the space is just so unimaginably huge, you really can't know if there is one out there that does or doesn't do something. And I think Dr. Voss agrees in that he's admitted that you can't prove impossibility, you know, with simulations. And so I don't think it's -- certainly I wouldn't want to make a conclusion about what effect incorporating additional criteria would or wouldn't have without running that and seeing myself. That's why we do simulations, is to answer those questions rather than just speculate. And a number of those considerations may well have influenced things in one direction or another. So to say categorically that the effect was to make it harder to draw black majority districts I don't think is accurate.
Q. Thank you.

MS. ROHANI: Can you please turn to slide 3, which will be Robinson Intervenors' Demonstrative 3. Great. Thank you.

Q. (BY MS. ROHANI) Dr. McCartan, I would like to turn to the few traditional redistricting principles Dr. Voss did consider in his analyses. So can you walk us through what this figure demonstrates?

A. Sure. So, overall this figure is visualizing the compactness of both various plans the legislature has enacted as well as the compactness of all the plans that Dr. Voss simulated. So there are sort of seven rows, each corresponding to one of the analyses that he ran. And these are sort of, they're called box and whisker plots. The horizontal line reflects the range of compactness scores that we see across all of his 10,000 simulations. So this is the Polsby-Popper compactness that he testified about earlier. And that middle colored box overlaps sort of the middle 50 percent of those scores. Then the vertical lines are labeled with the compactness scores of the last three plans the legislature has enacted, including SB8. So looking at this you can see that the range of compactness in all of the simulated plans is more compact than any of these three plans that the legislature has enacted in the past.

Q. And what does that demonstrate to you?

A. Well, certainly that the weight the legislature placed on compactness in drawing those three plans was less than the weight that Dr. Voss placed on compactness in generating his simulations to the extent that the simulations don't resemble those plans at all in terms of compactness.

Q. Thank you. So let's move on to discussing parish splits.

MS. ROHANI: Can you go to next side, please, which would be Robinson Intervenor's Demonstrative 4, I believe. Thank you.

Q. (BY MS. ROHANI) Did you hear Dr. Voss discuss what he calls a baseline?

A. A baseline simulation, I think so, yes.

Q. And do you know how he described that?

A. Well, I think he ran two baseline simulations, one the original, and then one in the rebuttal report. In the original report, the baseline simulation was described as districts that met the bare bones criteria, so population equality, contiguity, and a like compactness pressure.

Q. And in Dr. Voss's second baseline -- actually first, would you mind walking us through the table very quickly or the chart figure?

A. Sure. So this is kind of analogous to the last one. There is seven rows, one for each of the analyses. And

here we are drawing boxes that correspond to what fraction of Dr. Voss's simulated plans have a certain number of parish splits. So, for instance, looking at the biggest box in the first row, 54.2 percent of the baseline simulations split five parishes.

Q. In Dr. Voss's second baseline, he didn't include any split constraints?

A. Well, so that's correct. And actually so when we were talking about what Dr. Voss included in the baseline simulation, what I described there, as I said, was what was reported in his first report. What you can see here, though, in this figure summarizing his simulations is that, in fact, the baseline simulations are actually constrained to have no more than six parish splits. And that isn't just random chance that this happened this way. When I looked at Dr. Voss's code, he had actually turned on a switch to limit the number of parish splits in the baseline simulation even though that was not a criteria that was disclosed or described in the report.

Q. And with the second baseline when he turned off the parish split constraint, what was the effect of that?

A. He has a table, and if I remember, basically the typical number of parish splits in his second baseline actually didn't have the switch flipped, was around 30 parish splits. So that would be off, that would be off

this chart.

MS. ROHANI: We can go to the next slide, which I believe is the table that you are talking about from Dr. Voss's rebuttal report. One more. Perfect. Thank you very much.

Q. (BY MS. ROHANI) Is this the table you were referring to?

A. Yes.

Q. Great. So does it surprise you that the effect of turning off the parish split constraint resulted in the median of 30 splits?

A. No. If you are not including any information about parishes, then you're likely to split a lot of them.

Q. So if you're not including a criteria, if you are ignoring a constraint, what would happen -- well, actually rather -- what would happen if Dr. Voss had put in criteria that he did not include such as race?

A. Like I say, I don't like to speculate about this stuff because you really don't know. But certainly it's my experience that changing the criteria can change the simulations, sometimes unpredictably. So certainly here, turning off this parish constraint went from, you know, no more than 6 on the one hand to an average of 30. And that would maybe affect not just parish splits but also other measures. Maybe compactness, maybe BVAP shares. And so

1 including or not including other consideration, political
2 considerations, geographic considerations, could likewise
3 have big effects on the simulated plans.
4 Q. Thank you. And so we will continue with this table
5 and move on to Dr. Voss's race -- what Dr. Voss calls
6 race-conscious simulations. And I believe -- I'm not sure
7 if I stated, but I believe this is Robinson Intervenors'
8 Demonstrative 5.
9 So, Dr. McCartan, did Dr. Voss perform any
10 race-conscious simulations?
11 A. He had some simulations that he describes as
12 race-conscious.
13 Q. And do you agree with that?
14 A. It's true that some of them include some racial
15 information directly, but I think it's a bit far to call
16 them, you know, really race conscious. On some cases the
17 amount of racial information provided is basically zero.
18 Q. And can you describe to the Court the four approaches
19 that Dr. Voss used in his, what he calls race-conscious
20 analyses?
21 A. Sure. So looking at Dr. Voss's table, under
22 race-conscious, the analyses are numbered 4, 5, 6, 7.
23 Some of them have multiple versions. But the 4, 5, 6, 7
24 correspond to the four different approaches. 4, 5, and 6
25 all use the same overall strategy. The strategy there is

to sort of at the beginning of the analysis define a set of precincts in the state that are sort of special and grouped together and then instruct the algorithm to avoid splitting those more than once or twice. So, for example, in Simulations 5-1 and 5-2, Dr. Voss said take all of the majority black precincts in the state and try to assign them to the same district because a majority black precinct in Shreveport and one in New Orleans should be in the same district. And if you can do that, great, and if not we're going to discourage plans that don't do that. The way that Dr. Voss actually put that instruction into the algorithm meant that if you couldn't satisfy that constraint, that is, if you were to take the black precincts, the majority black precincts in Louisiana and assign them to two or more -- I'm sorry -- three or more districts, once you've done that, now the constraint gets turned off. There is no additional discouragement of this. Obviously it's impossible to put all majority black precincts of Louisiana in the same district. So, for example, that set of statewide black "pop" simulations functionally had very little, if any, racial information. And a similar thing could be said to maybe a slightly less extreme degree about 4 and 6. These are all various ways of lightly discouraging certain groups of parishes from being split. But the only way racial information possibly

enters is in how these groupings are defined. And once the groupings are violated more than twice, that encouragement or preference is turned off.

Q. And did this have any effect on the simulated districts?

A. Yeah. So one thing you can actually do is look at the simulations and say, okay, what -- maybe they didn't produce black majority districts, but what was the black fraction of the population in the district that got the closest. And you can look at that for, not just the race-conscious simulations, but also the race-neutral. And if these simulations were generally race-conscious, you would hope or expect that the race-conscious simulations would have a higher black share and these districts would have actually been successful at encouraging districts that lump more black voters together. In fact, the range of black voting age population demographics of these districts was basically the same in all the race-neutral and the race-conscious.

So there is really no evidence, at least from his own simulations, that these encouragements in the so-called race-conscious simulations had any actual effect on the demographics of the district.

Q. Thank you. So let's turn to Dr. Voss's discussion of core areas. Can you tell us what Dr. Voss -- well,

Dr. Voss described the simulations as protecting core areas. Can you tell us what he did in these simulation analyses?

A. Sure. So I understand you're referring to this last line?

Q. Correct. 7-1.

A. 7-1, protecting enacted cores. Sure. So as Dr. Voss mentioned, he used a strategy or an approach that I've used myself in situations where you are trying to incorporate information about the cores of districts into your analysis. The reason I say approach and not like a specific code or constraint is that there is some analyst leeway in deciding how to set up these cores. I think the way Dr. Voss described it was: You have the core and then the simulations are allowed to nibble around the edges. Well, the analyst has choices in how far that nibbling is allowed to happen. So, when setting up the cores, it's important not to just set them up and press go, but to actually look at a picture, see the cores that were generated and understand if those make substantive sense. Do you think that these cores actually reflect the real live cores of the districts as the legislature, you know, might consider.

MS. ROHANI: Can we go to the slide immediately before this. And this will be Robinson Intervenors'

Demonstrative 6.

Q. (BY MS. ROHANI) So can you explain to me what this map is showing?

A. Sure. So this is a map I kind of printed off electronically from Dr. Voss's data that he turned over. Specifically this is showing the cores that were used in that simulation that we just talked about, 7-1, the cores that were defined by Dr. Voss and then used in the simulation.

So the way this works is the yellow areas are the cores that he defined. All the precincts there have been glued together. So once you define them this way, all the simulations he draws will never ever split these yellow areas. In the blue areas, anything can happen.

So what you see when you look at this is CD-2, around New Orleans, and CD-6 stretching across the state there, unlike some of the other districts, there is no big core. There's a couple scattered yellow areas, but there is no sort of central core that defines either of those districts. That means is, when it comes time to run the simulations, there is no encouragement or cores being protected in that part of the state where those districts are being drawn. In fact, the cores that are only being protected are the ones there at the edges that I think tend to be whiter than the rest of the state. And so as

1 far as racial information or race-consciousness that's
2 being applied, there really isn't much being applied at
3 all as far as the cores of CD-2 and CD-6.
4 Q. And just to confirm, did you hear earlier today
5 Dr. Voss testified that this method in 7-1 of his table
6 protected the cores of CD-2 and CD-6?
7 A. I did.
8 Q. And do you agree with that?
9 A. I don't. For that sentence to make sense, you'd have
10 to have a core that you defined. And you can just see
11 here in the picture, there is no core. There is a couple
12 scattered, you know, conglomerations of precincts that are
13 held together, but no single core for either of those
14 districts.
15 Q. And did you hear Dr. Voss state earlier today that
16 this --
17 MS. ROHANI: We can go to the next slide.
18 Apologies.
19 Q. -- 7-1 at the bottom best encapsulates his
20 conclusions?
21 A. I did.
22 Q. And can you tell us what that means about how useful
23 his analyses are?
24 A. Well, as I say, these protect enacted cores really
25 use hardly any, if at all, racial information especially

when it comes to the areas around the challenged CD-2 and CD-6. So that best encapsulates, you know, his conclusions -- that reinforces for me that none of these race-conscious simulations use that much racial information at all and sort of then go from looking at those to extrapolating all the way out and saying you have to go to extreme racial gerrymandering to generate two black districts. That's just not supported. There was no attempt to use simulations in a way that use race in a more conscious way if you would that could have explored anywhere in between a small amount of racial information and extreme racial gerrymandering.

Q. And if Dr. Voss had successfully designed a race-conscious simulation, would that have answered his ultimate question of whether two majority black districts are typical under any race-conscious simulation?

A. It could have possibly. Of course, that depends on to what extent he incorporated the other criteria and factors, to what extent the benchmark, as we talked about it, is appropriate. But since he didn't do either of those things, his simulations don't get at that question.

MS. ROHANI: Your Honors, could I have one moment to confer with counsel?

JUDGE JOSEPH: Sure.

Q. (BY MS. ROHANI) Dr. McCartan, could you just

summarize the significance of your ultimate conclusions regarding Dr. Voss's testimony?

A. Sure. So to kind of go back to what I said. There's, to my understanding, two main conclusions he draws. The first about the compactness of the black population and whether you can draw a compact congressional district that's black majority. Because the race-neutral simulations don't follow the legislature in applying the various criteria and because they're really measuring what's typical in a race-neutral setting versus what's possible, none of those simulations can answer that first conclusion.

As far as the second conclusion, as I said, to make a claim that extreme racial gerrymandering is required to draw two black districts can't really be supported by two sets of simulations that use race zero and a very small amount.

Q. Thank you, Dr. McCartan. No further questions.

MR. GREIM: Before I start, I have deposition transcripts here. They're not in the bench book because we didn't designate them. But I've got eight copies. I may use them for impeachment so I don't interrupt the flow later. Shall I distribute these now and I wondered if you might want them?

JUDGE JOSEPH: If you need a copy, grab a copy

and give the rest of them to Lisa.

MR. TORCHINSKY: Your Honor, I think, because we're taking this witness out of order, I'm fine if Mr. Greim wants to go before me but I'd like a few minutes to question the witness perhaps after Mr. Greim as long as that's okay with the Court. It's out of order traditionally because we're on the same side of the V as the intervenors, but I'd like to -- I'm happy to let Mr. Greim go first.

JUDGE JOSEPH: You can go first. In the meantime, do you have a copy of the deposition transcript of Dr. McCartan?

MS. ROHANI: No, I do not.

JUDGE JOSEPH: You don't have one?

MS. ROHANI: I do not have a printed one. Sorry, Your Honor.

JUDGE JOSEPH: I think he has enough for everybody so we'll hand you one. And we'll let the State go ahead and --

MR. TORCHINSKY: I just have a few questions.

CROSS-EXAMINATION

BY MR. TORCHINSKY:

Q. Dr. McCartan, I'm Jason Torchinsky. I represent the State. Are you a demographer?

A. No.

Q. Have you ever been hired by a legislature?
A. No.
Q. Have you ever drawn a map that's been enacted by any legislative body anywhere?
A. No.
Q. How much have you studied Louisiana's political geography?
A. Could you be more specific about "political geography."
Q. Have you examined where white and black population live in the state of Louisiana?
A. Some, yes.
Q. Do you know if there is enough black population in Southeast Louisiana to draw two black districts that are concentrated there?
A. I haven't drawn such a map. I think -- so I couldn't answer definitively one way or another.
Q. Okay. So other than the ALARM project -- I want to be clear -- you didn't run your own simulations in Louisiana for this case at all?
A. That's right.
Q. And the ALARM simulation had -- I want to understand: When you ran the ALARM simulation and you said you included a Voting Rights Act constraint, what exactly did that require the simulations to do?

A. Sure. There was no hard requirement. It was a pressure or a preference, if you will, for a higher minority share of the top two most minority districts. You can choose how strong to impose that preference, and we adjusted strength such that most of the plans -- almost all the plans -- produced, created one minority-majority district following what we saw as the legislature's choices immediately post census.

Q. So on the ALARM website, when your report presents Louisiana and it shows -- am I correct that it shows an average of one democratic district out of the six of the simulations that you produced?

A. I would have to go look at that again to be sure.

Q. And is it true that on the ALARM website, where you presented your exemplars, there was only democratic district and they were always concentrated in southeastern Louisiana?

A. Once again, I would have to go check the underlying simulations there.

Q. In preparing for your testimony today, you didn't go back and look at what your own simulation project produced for Louisiana?

A. Right. Because as we talked about, that project was looking at partisan effects, and that's just not a question that I was sure was up for today at trial, so it

wouldn't have been relevant for me as far as what I was retained to testify and study on.

Q. But to be clear, you did -- when you testified or when you prepared your report, you said that Joint Legislative Rule 21 sort of underlined what you were doing in the ALARM project; is that right?

MS. ROHANI: Objection, Your Honor. I would just like to state the questions are leading, and we did not understand this to be a cross-examination of the witness.

JUDGE JOSEPH: Overruled.

THE WITNESS: I'm sorry. Could you repeat the question?

Q. (BY MR. TORCHINSKY) Yeah. You discussed Joint Legislative Rule 21 in your report, and I believe in your deposition you said that the ALARM project incorporated the Joint Legislative Rule criteria into the ALARM project; is that right?

A. I don't recall my exact words. As far as the project, we did our best to incorporate those criteria into the simulations.

Q. Do you have any idea which session of the Louisiana Legislature adopted Joint Legislative Rule 21?

A. After today's earlier testimony, I believe it was the session immediately following the census.

Q. And are you familiar with whether Joint Legislative Rule 21 would have been binding on future legislative sessions in Louisiana?
A. No.
Q. When you were evaluating Dr. Voss's analysis of SB8, did you review the call for the Special Session?
A. Sorry. What was that?
Q. Did you review the call for the Special Session that produced SB8, the Governor's call?
A. No.
Q. Did you understand that the Governor called the Special Session to respect the decision of the Robinson court?
A. That is my understanding of why SB8 was drawn at a high level, but I don't know anything about how that relates to the Governor's call specifically.
Q. What is your understanding of what the Robinson court required?
A. To be honest, I wasn't involved in that case and don't know the procedural details, but I understand that there was something about the Voting Rights Act was either had been decided or was shortly to be decided.
Q. Does the redistricting algorithm that you helped procure or the redist software package, does it allow you to consider home addresses of incumbents?

A. Yes, you could. You could do that.
Q. Does it allow you to minimize incumbent pairings?
A. Yes.
Q. Does it allow you to specify avoiding certain incumbent pairings?
A. Sure.
Q. Does it allow you to respect existing districts?
A. There's various ways you could go about doing that with the software.
Q. Does it allow you to specify the number of majority-minority districts it produces in its simulations?
A. No, not directly.
Q. So you didn't incorporate any of that in your evaluation of what Dr. Voss presented, did you?
A. Sorry. What do you mean by "incorporate in my analysis"?
Q. In other words, I just discussed some of the things that you can do with the redist package. You didn't apply any of those or try to run any simulations, including any of those factors, when you were evaluating what Dr. Voss did; is that correct?
A. Right. So for some of Dr. Voss's questions, it would not have been appropriate for me to do simulations. The others, I was able to evaluate them without running my

own. And note that he also did not incorporate those various political factors in his simulations.

Q. Would you agree that political bodies like legislatures consider political issues and concerns when making decisions like where to actually draw lines?

A. Yes.

Q. And do you think it's appropriate for a legislature to consider, say, the home address of the Speaker of the House when drawing a congressional district?

A. I have not given much thought to my personal views about appropriateness there.

Q. As a political scientist, is it is reasonable to believe that legislatures would consider the address of the Speaker of the House regardless of what your personal views on the issue are?

A. Yes.

Q. And how about respecting the home address of, say, the House Majority Leader when drawing a congressional map?

A. Yes.

Q. And how about a member of Congress from a particular region of the state?

A. Yes.

Q. Or how about a member of Congress who serves on the Appropriations Committee?

A. Yes.
Q. And would a legislature also consider regional representation in a state that, let's say, is a couple of hundred miles from north to south. Is that an appropriate consideration for legislatures or at least something that you would expect legislatures to consider?
A. Sure.
MR. TORCHINSKY: Thank you, Your Honor. I have no further questions.
THE REPORTER: I'm confused. Was that cross that we just had?
JUDGE JOSEPH: You can call it cross.
Go ahead, Mr. Greim.
JUDGE STEWART: Well, let's be clear. From the State, was that cross? I mean, you're leading, so I mean, what's the --
MR. TORCHINSKY: Yes, Your Honor, I think it was --
JUDGE STEWART: Because when you started, you said: We're on the same side of the v.
MR. TORCHINSKY: That is correct.
JUDGE STEWART: When Mr. Greim was up. And then when you got over, your line went that way. So let's be clear so we know it's the posture that you're going forward.

MR. TORCHINSKY: Yes, Your Honor. I think our position, the State, is that the simulations and the discussion of simulations from both sides really doesn't reflect the real world reality of what the Legislature, i.e. the State, did --

JUDGE STEWART: I'm not trying to get you to --

MR. TORCHINSKY: Right.

JUDGE STEWART: -- the hand. It was just more procedural kind of --

MR. TORCHINSKY: Yes, Your Honor.

JUDGE STEWART: When you come up and you say: Well, we're on the same side of the V, so then you do cross. So the case is not going to turn on this?

MR. TORCHINSKY: Okay.

JUDGE STEWART: We're trying to get the nomenclature correct.

MR. TORCHINSKY: Yes, Your Honor. I think --

JUDGE STEWART: So it was a hybrid; is that right?

MR. TORCHINSKY: I think that's correct, Your Honor.

JUDGE JOSEPH: It's not your witness. You are testing the witness by cross-examining?

MR. TORCHINSKY: That is correct. Both of these witnesses have criticisms of the State and the actions of

the Legislature and the Governor of the State. So we were kind of testing and pressing both.

JUDGE JOSEPH: Very well. Thank you.

JUDGE STEWART: Gotcha. We know what Mr. Greim is.

MR. GREIM: Before I began, I sort of forgot where we were with the transcripts. Should I just deposit them --

JUDGE JOSEPH: You handed them to who needed them among counsel, correct? And then if you hand a couple of copies to Lisa that you don't need in case we want to look at it. I don't know that we'll really look at it. We'll rely on you to do that.

MR. GREIM: I'll just hand them up to Your Honor. I will give one to the witness.

CROSS-EXAMINATION

BY MR. GREIM:

Q. Dr. McCartan, good afternoon. You might remember me, Eddie Greim. I took your deposition last week.

Dr. McCartan, you've admitted you don't know what racial gerrymandering is, correct?

A. I don't have a -- I'm not a lawyer. I don't have a legal understanding of that term, correct.

Q. And you have never devised a test to detect racial gerrymandering on a given map, right?

A. Not in a legal context.
Q. You haven't done academic work on racial gerrymandering?
A. Nothing published.
Q. And you haven't given any thought about the extent to how simulations can test for the presence of racial gerrymandering in any particular state, right?
A. I have not focused on what simulations can do as far as legal conclusions about racial gerrymandering.
Q. And I just want to make sure I understand. I'm not sure I got an answer, but I'm not sure I actually heard everything. Just for the record, you haven't given any thought about the extent to which simulations can test for the presence of racial gerrymandering in any particular state, right?
A. So by "racial gerrymandering," if we're still talking in a legal context, then that statement is right. The reason I pause is because we are currently working on a project that's not published that thinks about race and redistricting in an academic context. But as I said, I'm not a lawyer. I don't have a test of racial gerrymandering from a legal perspective, and so I haven't given thought as to the role of simulations as far as that legal question in any particular state.
Q. What is the project you're working on right now?

A. Well --

MS. ROHANI: Objection.

THE WITNESS: Oh, I'm sorry.

MS. ROHANI: Apologies. That's beyond the scope of Dr. McCartan's testimony.

JUDGE JOSEPH: He referenced it. He can answer the question.

THE WITNESS: Well, it's early stages. But we're looking at the topic of representation and how legislators and congressmen with different attributes do or don't represent minority populations and to what extent that may vary across different configurations in districts. We anticipate maybe simulation techniques of some sort will be used in that project. But like I say, it's in early stages.

Q. (BY MR. GREIM) You haven't designed any simulations, right?

A. Sorry. Design simulations for?

Q. As part of your project you just mentioned.

A. Oh. Not yet, no.

Q. And you have given no opinion here on the criteria for determining racial gerrymandering, right?

A. No.

Q. Now, you talked about the ALARM team that you led that created the 50-state survey. We already heard

testimony on direct, right?
A. That's right.
Q. And you led the 50-state simulation project, right?
A. Yes.
Q. And in each state of that project, including Louisiana, you primarily had in mind preparing a baseline to detect the presence of partisan gerrymandering, right?
A. To the extent to which partisanship played a role in drawing the maps, and then, if so, what those effects were.
Q. And you wouldn't deny here today that your simulations can also be useful for detecting maps that are extreme racial outliers, would you?
A. Sorry. Could you be more specific about what you mean by "racial outliers." That's an outlier compared to what specifically?
Q. Let's just do this.
MR. GREIM: If we could put up McCartan Exhibit 3. And if we could -- well, let's start here.
Q. (BY MR. GREIM) Do you recall I showed you this 50-state simulations FAQ from your ALARM project website, Dr. McCartan?
A. I think we looked at this in my deposition, yes.
Q. Yes, we did.
MR. GREIM: And if we could, let's go to page 2,

top of page 2.
Q. (BY MR. GREIM) And you see at the bottom of the first paragraph your project website states: The comparison of an enacted plan with these sampled alternative plans can reveal the extent to which the enacted plan is likely to yield extreme partisan, racial, or other outcomes. I read that correctly, didn't I?
A. Yes, you did.
Q. And, in fact, you wrote a research paper, you were the lead author on a research paper that reported the results of the 50-state simulations project, didn't you?
A. Yes.
Q. And in that paper also, you state that the 50-state simulations are well suited to assess what types of partisan or racial outcomes could have happened under alternative plans in a given state. You said that, right?
A. I'll take your word for it, yeah.
Q. I mean, do you agree with that?
A. With that statement?
Q. Uh-huh.
A. Yeah. I think when those statements refer to outliers or extreme, that's in reference to the distribution or the representative set that we're trying to recreate with simulations. How you design that set, what counts as representative for a particular study,

depends on, like I say, what the goals of that study are and what questions you are trying to answer.

So I think in the context of the specific sort of representative set in the criteria that we were going for in generating the simulations for this project, then I would absolutely stand by that statement.

Q. There is neither an academic nor a legal consensus on the best practices for simulating maps which are VRA compliant, right?

A. I suppose that's fair.

Q. Let's go back to your ALARM simulation. When you prepared the baseline for comparison with the enacted plan, that meant imposing certain constraints through the redistricting software, right?

A. That's right.

Q. And you attempted to approximate the redistricting rules in each state that you analyzed, right?

A. Yes.

Q. And we can actually get on your website and we can find the criteria that your ALARM project used for Louisiana, can't we?

A. Yes.

MR. GREIM: So let's pull that up, if we could. If we could get McCartan Exhibit 4. Now, we've got unfortunately -- why don't we just scroll down so the

witness can see the whole thing. Then it goes into a second page.

Q. (BY MR. GREIM) Dr. McCartan, do you recall this as the criteria that we explored at your deposition last week?

A. Yeah. We discussed this document.

Q. And here in the first paragraph, you say Louisiana follows Joint Rule Number 21 and you list five criteria, right?

A. Yes.

Q. Now, Joint Rule 21 doesn't actually say that districts must be geographically compact, does it?

A. Does not.

Q. But you list it on your website, right?

A. It's listed on the website, yes.

Q. And Joint Rule 21 did not say congressional districts need to preserve the course of traditional district alignments, right?

A. I believe that's right.

Q. But again, it's listed as part of Joint Rule 21 on your ALARM website, right?

A. Yeah. So I think one thing we talked about in the deposition was that this document is built from a --

Q. Now I will say I haven't asked you a question about what goes beyond that. Your counsel may want to come in

and bring that up but I --

A. Oh, I'm sorry.

Q. We don't have time to have you to give an explanation. You'll have a chance. You'll have a chance.

MS. ROHANI: Your Honor, he asked a question. I think to permit the witness to answer would be appropriate.

JUDGE JOSEPH: You can answer, but try to be brief.

THE WITNESS: I will try to be brief.

A. So when you're doing 50 states' worth of simulations, we have a template that helps our team produce this. We have a whole team that ran the simulations, not just me. So that team -- the template basically says: Paste here the link to, you know, the PDF that you can find that explains the criteria.

And so, yes, it is a mismatch between the criteria that we have inferred are relevant to designing our simulations and what's listed there in English. And I'll take ownership over that, that misstatement. But to be clear, those five bullet points reflect our understanding of what criteria we were going to follow in our simulations for this academic project.

Q. (BY MR. GREIM) And you did not impose any kind of requirement for natural or geographic boundaries, correct?

A. Correct.
Q. That you just criticized Dr. Voss for that, right?
A. I don't think that -- I think that Dr. Voss's failure to include that is a limitation of his analysis, yes.
Q. And you criticize Dr. Voss for imposing too high of a compactness restraint, correct?
A. That's not how I'd characterize my criticism.
Q. You criticize him for using a 1.0 on his compactness measure on the software, right?
A. That's not how I'd characterize my criticism.
Q. Not today? Well, let me just ask you: Is 1.0 the compactness requirement that your team used in your ALARM simulation?
A. Louisiana, I believe so. I believe so in Louisiana.
Q. And that's what you used in most states, right?
A. Yes.
Q. And that constraint is a nudge towards compactness, correct?
A. It represents a fairly strong preference for compact districts.
MR. GREIM: Can we pull up McCartan Exhibit 3, please. And if we could go to page 3 under -- one moment. I think I've got a mistake in my outline here.
Q. (BY MR. GREIM) Dr. McCartan, do you recall that at your deposition, I asked you about a description, your own

description of your method, which stated that: Unless otherwise noted, the algorithm nudges towards compactness by an adjacency graph base measure of compactness, the fraction of edges kept.

Do you remember I asked you about that?

A. I don't remember that question specifically, but I believe that, yeah, that question was asked to me.

Q. Do you recall that I asked you if that was true and your quibble with that statement was the second part of the statement, about the fact that fraction of edges was the method you were using. Right?

A. I don't remember that exchange, but I believe that that's what I said.

MR. GREIM: Well, I'm sorry. I need to have a better reference here to do this properly with the witness. I am going to move on and circle back before we're done.

Q. (BY MR. GREIM) Now, in Louisiana, the purpose of your constraints was to try to mimic the Louisiana legal constraints, right?

A. Yeah. We attempted to incorporate the criteria that we saw the Legislature using and in Joint Rule 21 to the extent possible to help us answer that question about partisan effects.

Q. Now, your team did not include a communities of

interest constraint either, did they?
A. Lacking a definition from the legislature specifically about which communities of interest are important to protect, we did not incorporate that information specifically.
Q. Now, you did testify you included the Voting Rights Act constraint. And I think we heard today for the first time what that constraint was. You said that you tried to maximize BVAP in two districts; is that correct?
A. Not exactly. "Maximize" suggests that we're taking steps to make that higher, basically if the algorithm happened to draw randomly a district that had a higher BVAP score that fell in that sort of range, near 50 percent, then that plan was sort of given preferential treatment, if you will, but there was no maximization, per se.
Q. And your analysis, like Dr. Voss's, also generated plans that were more compact than the enacted plan, right?
A. I believe so.
Q. In fact, the enacted plan was far off on the end, the noncompact end of the distribution of your Polsby-Popper scores for your ALARM run, right?
A. I have to double-check the exact position, but I believe that's true.
Q. And your analysis did not report your measure on the

number of black majority-minority districts you created, but you did report some partisan metrics, didn't you?
A. Sorry. When you say our analysis, sorry, what are you referring to there?
Q. The 50-state simulation analysis.
A. The reason I ask is, for example, the number of typical seats a Democrat would win, or the typical demographics of a district were all included in the data we produced as far as that analysis, and that's available publicly at the website that sort of summarize some of the key parts of these. Simulations may or may not have included one of those particular, but there is an extensive collection of numerical summaries that were produced as part of the analysis and are available publicly.
MR. GREIM: Can we pull up McCartan Exhibit 9.
Q. (BY MR. GREIM) And we'll kind of scroll through here. Do you recognize this as your Projects Louisiana Redistricting Analysis?
A. This is an automated summary that gets sent to the website from part of the analysis.
MR. GREIM: Let's move back up, if we could, just right there. Let's try to keep the -- let's try to go to the top of the third page. Scroll on down. That's fine. Let's stop right there.

Q. (BY MR. GREIM) We discussed this at your deposition, didn't we?
A. This top paragraph, yes.
Q. Now, you report your partisan results as: We expect the enacted plan to yield 1.0 Democratic seats on average, which is more than 100 percent of all simulated plans.
That's what the website says, correct?
A. You read that correctly.
MR. GREIM: And then let's scroll down a little bit further so we can see the map.
Q (BY MR. GREIM) Now, each bar on this map represents the -- for each simulated district, the partisan split of that district for one of the simulated maps, right?
A. Each dot -- yeah.
Q. Right. And there should be 5,000 dots in each little bar?
A. That's right.
Q. And then the black square is the enacted plan. The enacted plan's partisan split, right?
A. That's right.
Q. And so it looks -- and a correct interpretation of this chart is that the 6th District almost always comes out to be heavily Democratic, right?
A. For this set of simulations and that set of constraints, yes.

Q. And then the 5th District tends to be Republican, but it starts to shift up towards even, right, a few dots?
A. That's right.
Q. And I think we counted -- I'm sure it's not clear on the screen, but I think we counted that there were actually 10 blue dots above the even line, right?
A. I remember counting, yes.
Q. Right. We sat and we looked closely. So those 10 blue dots represent that 10 out of these 5,000 randomly generated plans, using your criteria, yielded a second Democratic seat, right?
A. That's right.
Q. Now, I do have a question for you. Do you see a red dot on six that's below even?
A. So, to be honest, I'm actually -- I'm actually color-blind, so I see a dot there, but I couldn't tell you the color.
Q. Okay. Well, if it's red, what does that represent?
A. Well, that would represent a plan that even in the most Democratic district had less than a 50 percent predicted, you know, Democratic vote margin.
Q. Now, these 10 randomly generated out of 5,000 second Democratic seats that we just talked about, you don't know if any of those were a second black majority-minority district, do you?

A. Of those 10, no, I haven't checked.
Q. And, in fact, you don't know if any of your plans generated a second black majority-minority district, do you?
A. I know that a number of them produced a second minority-majority district. We did not separately calculate any part black number, so I don't know about that.
Q. Now, you testified I think -- I think you've told us you did not review your team's Louisiana constraints or simulation design before you critiqued Dr. Voss, right?
A. Beyond what I recollected myself, that's right.
Q. And you didn't review your team's Louisiana sim diagnostics before criticizing Dr. Voss, correct?
A. Are you referring to the software's diagnostic measures?
Q. (Nods head.)
A. No, I did not.
Q. I want to ask you a couple of other questions here. I think very early in your cross, you testified that a simulation that did not include the incumbent protection was no longer representative and could therefore not be relied upon to determine the presence of racial gerrymandering. Did I understand that correctly?
A. Not quite.

Q. What did I get wrong?
A. I think we were talking about a hypothetical, which, say, we knew that a legislature did consider a criterion like incumbent protection. And if you knew that and then ran simulations, how it didn't include that, what would the role of those simulations be as far as providing a comparator. I don't recall specifically if that was referring to establishing, you know, racial gerrymandering specifically. I think that was more about the overall usefulness of simulations as a comparator.
Q. And so you're not here to tell us that adding incumbent protection would tend to trigger a black majority-minority district to be drawn, correct?
A. Correct.
Q. You haven't done that analysis?
A. Correct.
MR. GREIM: You know, I don't think we have it, but I wonder if I could prevail upon my friends, the Robinson intervenors, to put up the -- I think it was the second or third demonstrative exhibit with the core protection. Are you able to do that? I'm sorry to --
JUDGE JOSEPH: Which one?
MR. GREIM: It's the blue and yellow one. There it is. Okay.
JUDGE JOSEPH: Just for the record, the witness

is being shown -- what did you call this map?

MS. ROHANI: I believe this was Robinson Intervenor's Demonstrative 6. My apologies, Your Honor.

JUDGE JOSEPH: No, you're fine.

MS. ROHANI: I believe this was Robinson Intervenor's Demonstrative 6.

JUDGE JOSEPH: Okay. Thank you.

Q. (BY MS. ROHANI) And so in the middle of Robinson Demonstrative 6, you see sort of a blue section. And those basically represent the border regions of all of the SB8 districts. Do you understand that to be true?

A. I guess I don't have an opinion about whether something or isn't in the border region. The blue precincts are those that were not sort of frozen and glued together by Dr. Voss in conducting this set of simulations.

Q. Let me ask you -- I'm not trying to ask you to qualify what counts as border or what doesn't. But I mean -- maybe I can ask this. You agree with me that the actual lines for all of the districts run through the blue-shaded area on the map, correct?

A. Yes.

Q. And did you do any analysis -- you'll see in the middle of the blue regions there are some yellow spots that are coded true. In other words, those were supposed

to be protected, right?
A. They were protected in that it was impossible to draw a district that split those regions.
Q. And as you look, those yellow spots are -- there are yellow spots that are within District 6 and 2. I know it may be hard on the big screen to see the black lines, but I can actually see pretty well in front of me. Can you see it too?
A. I can. There's a number of distinct, quite separated cores or BVAP regions in both CD-2 and CD-6.
Q. And did you do any analysis to determine whether those yellow areas within District 6 are high BVAP regions?
A. I didn't do any specific analysis. This is just visualizing the data that I received from Dr. Voss.
Q. And so Dr. Voss's software had nothing that would keep the district lines that you see here on the map from being drawn, did it?
A. Well, Dr. Voss continued to use the defaults high compactness preference, which as we saw in other simulations tend to produce districts that were where the of compactness was completely not overlapping with the enacted map. So since that continued to be the case in these simulations, while not technically impossible, as I mention, there is trillions upon trillions of ways to draw

maps, I think it's safe to say that it was unlikely that the way he set up these simulations would have ever produced -- recreated SB8.

Q. And, of course, you didn't run the simulation yourself, did you?

A. Sorry. What do you mean by that?

Q. You didn't actually run the simulation and observe the universe of plans that were created by Dr. Voss?

A. Dr. Voss turned over the plans that he created, the universe of plans, if you will, and I did, you know, take a look at that.

Q. And you're not able to tell us whether it's impossible to pull together the yellow spots if they are in fact high BVAP spots in Senate District 6 under the 1.0 compactness constraint, are you?

A. I can tell you, actually, it's definitely possible the way this constraint or the strategy, this approach, that we talked about with cores is designed, is to make it possible to recreate the district -- the plan on which those cores were based. When we talk about that compactness preference, that's kind of cumulative. Every additional sort of deviation of compactness gets progressively discouraged. So it's not uncommon, for example, for the range of Polsby-Popper differences that were seen for a plan at one end to be preferred over a

plan at the other end by a factor of something like a billion or 10 billion. So when we're talking about quadrillions, quintillions, you know, numbers bigger than that of redistricting plans, practically, there may be very little difference between just one of those plans is the enacted and you can sit around for the entire time you've been in the universe and never see that plan come up. I think that latter situation more accurately describes the way these set of simulations were set up by Dr. Voss.

Q. Dr. McCartan, you yourself don't know what sort of race-consciousness it would take to come up with two majority-minority districts, do you?

A. Are you referring to simulations specifically or --

Q. Let me just ask you this.

A. Sure.

Q. You have done no theoretical work to make that determination, have you?

A. No.

MR. GREIM: No further questions.

MS. ROHANI: Very brief, Your Honor.

REDIRECT EXAMINATION

BY MS. ROHANI:

Q. Dr. McCartan, so was the context of the ALARM project -- was the ALARM project done in the context of a

1 court case?
2 A. No.
3 Q. And in what context was it developed?
4 A. We designed these simulations primarily for use in a
5 follow-up paper about these partisan effects, so we talked
6 about that. And what that means is that when there were
7 tradeoffs, whether that was tradeoffs in our time,
8 computational resources or whatever, whether it was a
9 tradeoff between those resources and how faithfully we
10 could exactly match, you know, certain aspects of real
11 world plans, those tradeoffs were made thinking about the
12 bigger picture. And so when you have 50 states and we're
13 trying to draw a conclusion to the national level, we
14 wouldn't have, for instance, had the resources to go in
15 and conduct surveys of Louisiana voters to determine which
16 communities of interest to protect and things of that
17 nature.
18 Because what we were looking at was partisanship, we
19 were also able to judge which of those other factors were
20 more or less likely to impact partisanship. Whereas, for
21 example, with compactness, we know that if you're going to
22 follow a winding river versus a straight parish line,
23 that's going to have a big influence on compactness.
24 And so if you're designing a simulation that's answering
25 questions or asking questions about compactness and

whether you can draw compact districts, getting the constraints right that we know are strongly tied to compactness, like parish splits, like natural geography, getting those right is especially important in that case and perhaps less important in a partisan case.

Q. And to clarify, was the ALARM project intended to study the effect on race in Louisiana's congressional map?

A. No. So as I mentioned, we specifically just sort of did what we could minimally to sort of recreate what we saw as the Legislature's choices post-census as regard to the number of majority-minority districts. And we did not try to look at race in any other way. It was just as little as possible to sort of calibrate the constraint to match the enacted plan's choices.

Q. Thank you. And has the discussion you just had with Mr. Greim regarding the ALARM project changed your conclusions in this case in any way?

A. No. Definitely not.

Q. Thank you.

MS. ROHANI: Could we again pull up Robinson Intervenor's Demonstrative 6, which I believe is -- yes. Thank you.

Q. (BY MS. ROHANI) So do you remember, Dr. McCartan, Mr. Greim was walking you through this map, he asked if there was nothing to prevent these -- nothing to prevent

from drawing the existing district lines; is that correct? The simulations from drawing the existing district lines?
A. I remember talking about that with him.
Q. Yes. But was there anything to encourage drawing these lines based on those cores?
A. No. So the enacted lines are drawn on here, but each of these yellow regions is held together independently, so the fact that some of these yellow regions are inside the boundaries of CD-6, the algorithm doesn't know that fact, and it does not have any particular instructions to try to keep those regions together in a new version of CD-6. And so, like I say, put that all together, there's really no sort of racial or other information about the shape of CD-2 or CD-6 that was really provided to the set of simulations.
Q. So, again, I know Mr. Greim was discussing whether there was nothing to prevent the drawing of the lines, but is the purpose of the core protection simulation to encourage the districts to be drawn the way they were as if they were in SB8?
A. Yeah. That's generally why we do something like this. And as regards to CD-2 and CD-6 specifically, because the cores that Dr. Voss defined don't really exist as a single core, no such encouragement could be provided.
Q. So just to sum up, what they were supposed to do was

to encourage drawing these lines similar to SB8; is that correct?

A. Yes.

Q. And were they designed to do that?

A. No. Because the design involved defining these cores and they don't -- there's no core to speak of with those districts.

MS. ROHANI: Thank you, Your Honor.

JUDGE JOSEPH: Thank you for your testimony, Dr. McCartan. You may step down.

THE WITNESS: Thank you, Your Honor.

JUDGE JOSEPH: All right. So it's getting close to 5:30 which I think was our agreed endpoint for the day. Anything we need to talk about before we recess for today?

MR. GREIM: Your Honor, I'm sorry to do this at the end of the day, but we do have the few Voss, what we called demonstratives that we would like to offer.

JUDGE JOSEPH: Okay. Yeah, great. Let's get that over with.

MR. GREIM: Okay. And so we would like to offer them -- okay. So we would offer them as Plaintiffs' 2 through 9. And I think the best way to do it quickly here is maybe just to pop them up so people can remember what they were.

So P2 is the gray scale map. I think these

actually -- these match with -- this is P2. It looks like it's been labeled. So we'd move the admission of P2.

JUDGE JOSEPH: Is there any objection?

MR. NAIFEH: Your Honor, I think we would need to study these demonstratives again before we can take a position. So I think, you know, it would be best to do this tomorrow, if we can, so that we can have a chance --

JUDGE JOSEPH: We'll do it first thing tomorrow morning. We'll circle back, Mr. Greim.

MR. GREIM: Very good.

JUDGE JOSEPH: Court will be in recess until 9:00 tomorrow morning.

(Proceedings adjourned at 5:24 p.m.)

CERTIFICATE OF OFFICIAL REPORTER

I, DIANA CAVENAH, RPR, Federal Official Court Reporter, in and for the United States District Court for the Western District of Louisiana, DO HEREBY CERTIFY that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically-reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

/s/ Diana Cavenah
DIANA CAVENAH, RPR
Federal Official Court Reporter

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	
VS.	)	Civil Action No. 3:24-cv-00122
NANCY LANDRY, in her official capacity as Secretary of State,	)	
Defendant.	)	

PRELIMINARY INJUNCTION HEARING
CONSOLIDATED WITH BENCH TRIAL
OFFICIAL TRANSCRIPT OF PROCEEDINGS, VOLUME II
BEFORE THE HONORABLE CIRCUIT JUDGE CARL E. STEWART
THE HONORABLE DISTRICT JUDGE DAVID C. JOSEPH
AND THE HONORABLE DISTRICT JUDGE ROBERT R. SUMMERHAYS
APRIL 9, 2024
SHREVEPORT, LOUISIANA

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* * * * *

(Court called to order with all parties present at 9:08 a.m.)

JUDGE SUMMERHAYS: Today is a continuation of our proceeding in the case of Callais, et al. versus Landry, et al., case number 24-CV-122.

A couple of housekeeping matters. Where we left off yesterday, there was discussion about the parties about the demonstratives that were shown on the screen and

discussed during the expert testimony. Have those admissibility issues been resolved?

MR. GREIM: Your Honor, I believe they have. The one thing I would say is, to my dismay, I saw one exhibit in our brand-new exhibit list that we changed was wrong, and so I think they've been resolved. But if we could, maybe at the end of Hefner, so that they've got time to look at that, we could return to that. I'm sorry to break up the day in that way, but --

JUDGE SUMMERHAYS: Any objection to proceeding in that way?

MR. NAIFEH: No objection.

JUDGE SUMMERHAYS: Very good. As far as our first witness, we have got Hefner up, and then you are going to present Overholt in your case-in-chief?

MR. GREIM: No. He is a rebuttal witness, Your Honor. So he would follow Fairfax, depending on what Fairfax says, candidly.

JUDGE SUMMERHAYS: So you expect -- is Hefner going to be your last witness before you rest your case?

MR. GREIM: He would be. There are a couple of things we wanted to move in that we mentioned yesterday, but otherwise that will be it for us.

The other thing I'd say, Your Honor, is we -- I'm going to forget, but counsel has agreed to observe the

Rule keeping fact witnesses out of the courtroom. We observed it yesterday. I think we never mentioned it on the record. But today we've got more potential fact witnesses around, so I just wanted to make a record that we've all asked that the Court, you know, invoke that order here.

JUDGE SUMMERHAYS: And the Court will invoke it and you -- obviously they're not present in the courtroom now.

You've informed them? Are they present?

MR. GREIM: We have no -- we have got two experts here but no fact witness.

JUDGE SUMMERHAYS: Yeah, the experts are fine. But you've informed your fact witnesses of their obligations under the Rule?

MR. GREIM: We have. Yeah, we did.

JUDGE SUMMERHAYS: And I'm going to leave it to counsel to police that, you know, make sure that they are complying with the Rule.

As far as Mr. Hefner or Dr. Hefner, how long do you anticipate with him? Is he going to be most of the morning? I won't hold you to the estimate. But do you anticipate he'll be the morning?

MR. GREIM: Mr. Bodamer is going to be putting him on direct. And what do we think? Maybe --

MR. BODAMER: I don't think it will exceed an hour.

JUDGE SUMMERHAYS: Okay. Very good.

Just a couple of reminders. Please talk slowly. Try to take the speed down one notch just to help with the record in the case. And I know, you know, you're dealing with witnesses you can't all control the speed in which an expert will testify. But if we could try to, you know, to keep it down, and to speak into the microphone and be sure that, you know, that they're speaking up and we can hear them. Okay?

All right, Counsel, you may proceed, you may call your next witness.

MR. GREIM: Thank you.

MR. NAIFEH: Your Honor, may I address one matter before they start?

JUDGE SUMMERHAYS: Yes, sir.

MR. NAIFEH: We have one of our witnesses that requires an accommodation, he has his own chair. It's an extra large chair.

JUDGE SUMMERHAYS: This is Representative Glover?

MR. NAIFEH: Yes. Yes, sir.

JUDGE SUMMERHAYS: Okay. And we will -- you anticipate that'll be in your case-in-chief? That'll

probably be after noon or when --

MR. NAIFEH: I would suspect it will be after noon, yes, sir.

JUDGE SUMMERHAYS: We'll make sure that we make the right accommodations for that.

MR. NAIFEH: Thank you.

JUDGE JOSEPH: What order is he in the lineup?

MR. NAIFEH: I don't remember exactly what order he is.

JUDGE JOSEPH: Fourth maybe is what Ms. LaCombe says. Fourth or fifth?

MR. NAIFEH: Yeah, something like that.

MR. HURWITZ: He is the fifth witness.

JUDGE SUMMERHAYS: Counsel, you may present. You may call your next witness.

MR. BODAMER: Good morning, Your Honors. On behalf of the plaintiffs, we call Mr. Michael Hefner.

JUDGE SUMMERHAYS: Okay. If Mr. Hefner will approach and be sworn in.

(Oath administered to the witness.)

JUDGE SUMMERHAYS: Counsel, you may proceed when ready.

MR. BODAMER: Thank you, Your Honor. May it please the Court.

MICHAEL CHARLES HEFNER,

1 having been first duly sworn to testify the truth, the
2 whole truth, and nothing but the truth, testified as
3 follows:
4 DIRECT EXAMINATION
5 BY MR. BODAMER:
6 Q. Please state your full name for the record.
7 A. Michael Charles Hefner, H-E-F-N-E-R.
8 Q. Mr. Hefner, what do you do for a living?
9 A. I am a demographer. I do private and also
10 governmental work, along those lines.
11 Q. Can you give the Court some examples of the projects
12 and governmental work that you do?
13 A. For private work, many times it's marketing studies,
14 site location analysis, things along those lines. Most of
15 my work, though, is now governmental dealing in the areas
16 of redistricting after each decennial census. And in
17 between that, I do a lot of precinct management work for
18 various parish governments.
19 Q. I was going to say, who do you do that work for?
20 A. I do -- for redistricting, it's at the municipal,
21 school board and parish levels. And then for precinct
22 management, that's done at the parish level.
23 Q. How long have you been a demographer?
24 A. I've been actually in this particular field since
25 1990, doing some work prior to that as part of my

1 marketing studies when I was a graduate at U.S.L. or
2 University of Louisiana Lafayette.
3 Q. Where do you live?
4 A. I live just outside of Lafayette, Louisiana.
5 Q. How long have you lived in Louisiana?
6 A. Born and raised.
7 Q. Would you briefly tell the Court your educational
8 background.
9 A. I received my Bachelor of Science in -- bachelor of
10 business administration actually in 1978 from, at that
11 time, it was U.S.L., the University of Southwestern
12 Louisiana, which is now University of Louisiana at
13 Lafayette. And from there I later received my juris
14 doctorate in 2008. I went through Concord, which is part
15 of Purdue Global Law University now.
16 Q. So you're a licensed lawyer?
17 A. Yes.
18 Q. Do you practice law?
19 A. Very rarely. It's mostly to support my work that I
20 do in redistricting.
21 Q. It sounds like you went to law school sometime after
22 you had gotten into the world of demography. Is that
23 right?
24 A. Yes. After the 2000 census cycle and finishing up
25 redistricting, I realized that between school

1 desegregation cases, which I've been involved in a number
2 of them in Louisiana, and the redistricting cases that
3 probably 98 percent of my work was being reviewed by
4 attorneys and the Courts, so I figured I might as well
5 learn to think like them. So at 48 years old, I went to
6 law school.
7 Q. Do you intend to offer any legal opinions in this
8 matter today?
9 A. No.
10 MR. BODAMER: If I might, Your Honor, I would
11 like to offer into evidence Mr. Hefner's CV, which is
12 Plaintiffs' Exhibit 13. It was an exhibit to his report,
13 his initial report. And just for the record, we'd like
14 for that to be part of the information you have before
15 you, without wasting any more time here.
16 JUDGE SUMMERHAYS: Any objection?
17 MR. NAIFEH: No objection, Your Honor.
18 JUDGE SUMMERHAYS: It's admitted.
19 MR. BODAMER: Thank you.
20 Q. (BY MR. BODAMER) So, Mr. Hefner, how can a
21 demographer help the Court and us in a matter such as
22 this?
23 A. Demography is generally a -- it's the study of the
24 people and the characteristics that define them. So when
25 you're looking at redistricting, I like to say that it's

the numbers and the geography that tell you the story. It tells you what you need to do and it defines how those various plans come out. So demographers can assist by not only looking at the total population, which is a very important part of redistricting because it's a one-man, one-vote issue, but also the characteristics that underlie those total populations. So that's where demography can help out.

Q. As a demographer, have you testified in other cases?

A. Yes.

Q. Can you give me some idea how many?

A. Probably three dealing with redistricting. And then some involving -- several years ago -- with some population projections for some municipalities.

Q. The three redistricting cases you've testified in, were you testifying as an expert witness?

A. Yes.

Q. Has any court ever told you that you weren't qualified to testify as an expert in matters involving demography?

A. No.

Q. In this particular case, what were you asked to do by the plaintiffs or plaintiffs' counsel?

A. I was asked to evaluate the recently enacted Senate Bill 8 plan and also to evaluate a plan that was submitted

by the plaintiffs, which I refer to in my reports as Illustrative Plan 1. And also the previously enacted plan, which was House Bill 1, which was used in the last congressional election.

Q. In doing that, did you prepare several reports?

A. Yes.

Q. How many reports did you prepare?

A. I did an initial report February 7th and then a more robust report on March 22nd and then a rebuttal report on April 1st.

Q. That's all done in a relatively short period of time, correct?

A. Yes. It -- you know, we really had to shoehorn it into my workflow because I had a very, very packed spring schedule, so yes.

Q. Are you working on any other matters other than this one at this time?

A. I have several precinct matters and projects going on. I have six active school desegregation cases going on, plus two private client marketing studies and site location analysis projects going on.

Q. Busy man. With respect to this case, can you please summarize your methodology and the technical specifications you used in considering the issues you were asked to address.

A. Well, the first thing was to examine the district boundaries which were provided to me in what we call shapefiles. They're electronic map files that you load into a geographic information system software that will then display those boundaries. And then my calculations were based off these 2020 Census P.L. 94-171 census file, which is a file that we're required to use for redistricting.

Q. Did you use any particular redistricting software to assist you in creating maps?

A. Yes. I typically use Maptitude for redistricting. I've been using that since the late '90s when they first came out with it. That's what I do my heavy lifting with. And then I do some final map preparations publishing through ArcMap, which is put out by ESRI.

MR. BODAMER: Your Honor, at this time I would ask that you allow Mr. Hefner to testify as an expert witness in this case.

JUDGE SUMMERHAYS: Counsel, any voir dire or objections to this witness?

MR. NAIFEH: Yes, sir, I have some voir dire.

JUDGE SUMMERHAYS: You may proceed.

VOIR DIRE EXAMINATION

BY MR. NAIFEH:

Q. Good morning, Mr. Hefner. I am Stuart Naifeh. I am

with the Legal Defense Fund. I'm counsel for the Robinson intervenors.

So, Mr. Hefner, most of your map-drawing work in Louisiana has been for local governments; is that right?

A. That is correct.

Q. So you've never drawn congressional districts for the state of Louisiana in any professional capacity, correct?

A. Not in an official capacity.

Q. Okay. I'd like to turn to some of your local work. In around 2018 you drew maps for the Lafayette Parish government; is that right?

A. Correct.

Q. And then when those maps were adopted by the parish through a charter amendment there was a discrepancy between the adopted maps and the written description of the districts for the charter; is that right?

A. That's correct.

Q. And the parish government was sued as a result of those discrepancies and the way the government attempted to remedy them; is that right?

A. That is correct.

Q. And that case is listed in the biography that was just admitted into evidence; is that right?

A. Correct.

MR. NAIFEH: Can we pull up the biography?

1 That's the Hefner report. It's at page 41. Well, let's
2 turn to page 40 first.
3 Q. (BY MR. NAIFEH) This is the biography that we just
4 admitted into evidence?
5 A. That is correct.
6 MR. NAIFEH: And can we turn to the next page.
7 Q. (BY MR. NAIFEH) So the case that we were just
8 discussing concerning the Lafayette Parish districting,
9 that's the *Kishbaugh* case that's listed on your biography;
10 is that right?
11 A. That is correct.
12 Q. And in your biography you describe that case as one
13 in which you were reaffirmed as an expert in
14 reapportionment and demography; is that right?
15 A. That was my recollection, yes.
16 Q. Now, when I asked you about the discrepancy that we
17 were just discussing in the maps and the written
18 descriptions, at your deposition you told me that the
19 wording of that -- the wording that was part of the
20 charter amendment was prepared by counsel for the
21 Lafayette consolidated government, not by you; is that
22 right?
23 A. That is correct.
24 Q. But the Court in that litigation stated, based on
25 your testimony, that the discrepancy was "solely due to

Mr. Hefner's admitted error in failing to use the correct maps when drafting the textual descriptions." Is that right?

A. The counsel for the consolidated government used the file that I sent to them on the written descriptions, so that is where that is related to. That is correct. I did not do the final draft, though, on the charter.

Q. But you sent them the wrong map or the wrong descriptions?

A. They had a change right before the plan was adopted, and I was contacted while I was on my way to another meeting and they needed the written descriptions. I told them I would get to them as soon as I got to my destination and they said they needed it now. So I had to pull off Interstate 10 on the shoulder and send them the file. The file that I sent them was the one immediately previous to that and it omitted that change.

Q. And as a result of that error -- let me ask you this. Do you agree with district court that the discrepancy was solely due to your error in failing to use the correct maps?

A. In that particular part of the written descriptions, but between the time that the written descriptions were prepared by me in June of 2017, the precincts that were in effect at the time of that written descriptions, as

1 reflected in the file that I sent. However, between then
2 and when the charter was adopted in December of that year,
3 the parish went through some precinct consolidations and
4 mergers and several of the -- there were like 49 precinct
5 corrections that needed to be made to those written
6 descriptions at that time, so it was the omission that I
7 had plus we had to do 49 -- approximately 49 precinct
8 corrections or references to precincts in order for those
9 written descriptions to align with the adopted map.
10 Q. And as a result of that, the parish government was
11 sued and had to defend itself in litigation?
12 A. The way that we correct written descriptions are
13 through technical correction ordinances, and they were
14 taking issue that that was the way to do it. They wanted
15 to have a new election on the charter amendments.
16 Q. Because some voters in the parish had not been
17 assigned to a district; is that right?
18 A. The omission that I had left an area that had some
19 population out, but the maps all reflected which district
20 they were in.
21 Q. And, Mr. Hefner, I understand you're not here
22 testifying as a lawyer, correct?
23 A. That is correct.
24 Q. But as a map-drawer, you have an understanding of the
25 basic redistricting requirements like one-person,

one-vote, correct?
A. Yes.
Q. And you mentioned one-person, one-vote earlier today?
A. Yes.
Q. And although you don't provide legal advice to local governments, you provide demographic services, and those governments count on your expertise and experience complying with one-person, one-vote, correct?
A. Yes.
Q. And you understand that the one-person, one-vote -- under the one-person, one-vote requirement, legislative districts must be within a total deviation of no more than 10 percent from the most populated to the least populated?
A. That is the preferred range. That was set based on statewide redistricting. It's like congressional districts, and whatnot. That's where that original plus or minus 5 percent standard came from.
Q. And earlier in this redistricting cycle, maybe last year, you drew maps for the DeSoto Parish Police Jury; is that right?
A. That's correct.
Q. And the first of your redistricting plans that the parish adopted had a deviation of 16 or 17 percent, correct?
A. That is approximately correct.

Q. And that issue, among others, resulted in the parish being threatened with litigation?
A. That was one of the reasons that the litigation was threatened, yes.
Q. And the parish had to then enact a new map that corrected the deviation to be within the allowable range, correct?
A. Yes. That was my recommendation to them.
MR. NAIFEH: Your Honors, we object to the admission of Mr. Hefner. He has a record of errors, legal errors and technical errors, in his districting work. I believe that he is not qualified to provide the opinions he is offered for.
JUDGE SUMMERHAYS: You are addressing the technical defects in the present report or are you arguing that the experience in the prior cases that you addressed with him disqualify him as an expert under 702?
MR. NAIFEH: The latter. We believe his history of errors and his applications of legal requirements that he is familiar with indicate that he is not qualified to offer expert opinions on demography and redistricting.
MR. GORDON: And, Your Honor, I'm sorry. I don't mean to interrupt. We have a couple of questions on voir dire as well in this case, and I think we will be joining that.

JUDGE SUMMERHAYS: So you are joining? Are you going to ask additional questions?

MR. GORDON: Yes, Your Honor, briefly.

JUDGE SUMMERHAYS: Why don't we do this together. Why don't you ask your questions and then you can join if you wish. And then I'll hear from the plaintiffs.

MR. GORDON: Thank, Your Honor.

JUDGE SUMMERHAYS: Proceed.

VOIR DIRE EXAMINATION

BY MR. BOWEN:

Q. Brennan Bowen from Holtzman Vogel on behalf of the State.

Mr. Hefner, I'm just going to follow up on the DeSoto case you were just discussing with Mr. Naifeh.

Do you recall in that case that the Court had said: I would also note that there is evidence that the police jury received what I believe is properly characterized as constitutionally suspect legal advice from its redistricting adviser, Mr. Hefner, in the process of making its decision?

A. I do recall that, yes.

MR. BOWEN: That's it from the State, Your Honors.

JUDGE SUMMERHAYS: Now, are you joining in the

1 objection?
2 MR. GORDON: We are, Your Honor.
3 JUDGE SUMMERHAYS: Counsel, you are up.
4 MR. BODAMER: Your Honor, I respectfully submit
5 that what you have just witnessed there may have some
6 impact on the weight to be given to his testimony, but
7 certainly does not impugn his qualifications in any
8 respect. In fact, if anything, I think he buttressed his
9 qualifications in terms of the work that he's done and the
10 manner in which he conducts it. So I would ask that you
11 accept him as an expert witness in this case.
12 JUDGE SUMMERHAYS: What about the argument about
13 the other errors that were made, the mathematical errors
14 in the one-vote calculus?
15 MR. BODAMER: I think he addressed what that was
16 about. I don't think that disqualifies him as an expert
17 witness.
18 JUDGE SUMMERHAYS: The argument is it goes to
19 the weight?
20 MR. BODAMER: Correct.
21 JUDGE SUMMERHAYS: Let me confer.
22 (Judges confer off the record.)
23 JUDGE SUMMERHAYS: We are going to overrule the
24 objection to Mr. Hefner's testimony. We find that based
25 on his testimony, he meets the qualifications and the

1 requirements to opine under Rule 702. As far as the
2 matters in the other cases that were raised on voir dire,
3 those matters go to the weight of his testimony and not
4 the admissibility. The panel will weigh that testimony
5 according. You may proceed.
6 CONTINUED DIRECT EXAMINATION
7 BY MR. BODAMER:
8 Q. Mr. Hefner, you intend to offer several opinions in
9 this case, correct?
10 A. Yes.
11 Q. Do you intend to offer an opinion as to whether the
12 African-American population is compact enough to create a
13 second majority-minority district without sacrificing
14 traditional criteria?
15 A. Yes.
16 Q. And what is your opinion?
17 A. Based on the analysis that I've looked at with the
18 geographic distribution and concentration of the
19 African-American population of the state of Louisiana,
20 it's -- you can't create a second majority-minority
21 district and still adhere to traditional redistricting
22 criteria.
23 Q. Number two, in reviewing Senate Bill 8, that map, do
24 you have an opinion as to what impact, if any, race had in
25 taking that in consideration versus the other more

traditional criteria?
A. Yes, I offered an opinion on that.
Q. And what's your opinion?
A. My opinion is that race predominated in the drafting of Senate Bill 8 plan. That's evidenced by the lack of compactness, that the plan had the excessive dividing of communities of interest, the deviation of -- radical deviation from the traditional core districts within the state. I did not review incumbency but the fact that those redistricting criteria were not followed led me to the conclusion that the only reason that the districts were drawn the way they were in Senate Bill 8 was because race was a predominant factor or criteria in drawing the plan.
Q. And we're going to get into more detail. Then the third opinion I am going to ask you about: Do you have an opinion as to whether there is a -- whether a reasonable plan can be drawn in a race-neutral manner that adheres to use of traditional redistricting principles and preserves more communities of interest, provide more compact election districts, and preserves the core election districts, and balance the population within each district?
A. Yes.
Q. And what plan is that?

A. The plan that the plaintiffs provided, which was Illustrative Plan 1, met all of that criteria.

MR. BODAMER: So can we pull up Joint Exhibit 14, please?

Q. (BY MR. BODAMER) Mr. Hefner, are you familiar with Joint Exhibit 14?

A. Yes.

Q. We lost it.

Map of Louisiana. What is this? What does this show?

A. The map that's before me is the 2024 congressional districts that were -- looks like it's following Senate Bill 8 plan.

MR. BODAMER: Are the colors better on your screen than they are shown up at the top?

JUDGE JOSEPH: We see it very clearly on our screen.

JUDGE SUMMERHAYS: Yeah, the colors are clear.

MR. BODAMER: They're better, okay. I had trouble yesterday, too. I thought I was color-blind on some of it.

Q. (BY MR. BODAMER) So this is the enacted map, correct?

A. Yes.

MR. BODAMER: And then can we also pull up Plaintiffs' Illustrative Plan 1, which is Plaintiffs'

Exhibit 14.
Q. (BY MR. BODAMER) This is a map of the illustrative plan that you were referring to just a minute ago?
A. Yes. This is a map that I created from the shapefiles that were sent to me.
Q. And, again, I notice there is no second majority-minority district reflected on this map; is that right?
A. That is correct.
Q. And again, why is that?
MR. NAIFEH: Objection. There is no foundation that he knows why this plan doesn't contain the second majority-minority district.
MR. BODAMER: That's a good point. That's a good point. Let me withdraw that.
JUDGE SUMMERHAYS: I will sustain the objection and, Counsel, you can lay your foundation.
MR. BODAMER: Thank you.
Q. (BY MR. BODAMER) Have you tried to draw a map in which you could create a second majority-minority district in the state of Louisiana?
A. I've done --
MR. NAIFEH: Objection. He has no opinions in his report on himself trying to draw a map that contains a second majority black district.

JUDGE SUMMERHAYS: Counsel?

MR. BODAMER: I think it's inherent in that what we've been doing here. But that's okay. I'll withdraw.

JUDGE SUMMERHAYS: You offered testimony that he was going to testify as to the ability to create a second district, correct?

MR. BODAMER: That's true. And the Illustrative Map Plan 1 has been admitted -- or, you know, it's been present in, throughout the preparation for the trial and through the trial itself.

JUDGE SUMMERHAYS: You know, I'm inclined to overrule the objection as long as we lay a foundation on the preparation of the map that's on the screen there.

MR. BODAMER: All right.

JUDGE SUMMERHAYS: The objection is overruled.

JUDGE STEWART: Why don't you back up and sort of reformulate exactly the question you are asking.

MR. BODAMER: Sure.

JUDGE STEWART: It's not clear to me exactly what you were asking.

MR. BODAMER: Thank you.

Q. (BY MR. BODAMER) Let me just ask it this way. What does Plaintiffs' Illustrative Plan Number 1, Exhibit PE-14, what does that represent?

A. That plan is a congressional plan that preserves

1 District 2 as a traditional majority-minority district.
2 It generally follows what has been in place for the past
3 couple of census cycles. And the division of the rest of
4 the state into districts largely follows. It's somewhat
5 similar to the traditional boundaries that have been used
6 in the past. Some deviations, but generally overall it
7 follows that general configuration.
8 Q. Based on your review of this map, does it adhere to
9 traditional redistricting principles?
10 A. In my opinion it does.
11 Q. And what about, does it preserve more communities of
12 interest than the Joint Exhibit 14, the 2022 map?
13 A. Yes. It splits fewer parishes and municipalities.
14 Q. Does Plaintiffs' Illustrative Map Number 1,
15 Exhibit 14, what impact, if any, does it have on compact
16 election districts compared to SB8?
17 A. The two most popular compact analysis are the
18 Polsby-Popper and Reock scores. Polsby-Popper measures
19 the perimeters of the districts and comes out with a
20 score, a score of 1 being perfect. Reock measures the
21 area of the districts. And again ideal would be a 1 on
22 that. So under -- running both of those compact score
23 analysis for Illustrative Plan 1, it comes in with a
24 higher score, the mean score getting closer to 1 than the
25 enacted Senate Bill 8 plan.

Q. What is compactness?
A. Compactness is basically a unity of representation. The more compact a district is made, the more the people within that area will share the same ideas, values, and legislative needs.
Q. So do you want -- with respect to those interests you just described there, do you want a district that's more compact rather than less?
A. Yes.
Q. And the higher the score means what?
A. The higher the score means it's more compact.
Q. So you want higher scores rather than lower scores?
A. Correct.
Q. And I'm going to get into that a little bit more in a minute, but let me ask you, the basis for your conclusion that race was the primary criterion or the predominant reason for the creation of SB8. Okay?
MR. BODAMER: Can we pull map -- let's see it will be Exhibits 15 and 16, but let's do 15 first.
Q. (BY MR. BODAMER) What does map -- again, this would be Exhibit 15. I know it says Map 14. That's from your report, correct?
A. That is correct.
Q. Okay. But it's Exhibit 15.
MR. NAIFEH: May I just correct? I think this

is a demonstrative. I don't think this is an exhibit in evidence yet, Your Honor.

JUDGE SUMMERHAYS: This is one of the exhibits that's going to -- that y'all are conferring and introducing?

MR. NAIFEH: I think it may be. I just want the record to be clear about what we're looking at. I'm not objecting to the use of the map.

JUDGE SUMMERHAYS: It's not an exhibit; it's a demonstrative until the parties can review it and come to an agreement on admitting it as an exhibit. But, you know, I think I speak for all three of us: We need a complete record in this case for the reviewing court. And the preference is to admit these documents that are being used and testified to by the expert as well as subject to cross-examination.

JUDGE JOSEPH: So if you can admit it through this witness, do that.

MR. BODAMER: Well, thank you. That's what I actually intended to do. Whether to do it one at a time or to do it at the end, and I'll handle it however you want, but, yeah, it is our intent to offer this as an exhibit.

JUDGE SUMMERHAYS: Well, let's do it now.

MR. BODAMER: Okay.

JUDGE STEWART: Yeah. It not only changes it -- even though it's going to come in, you still need for the record that you lay the foundation. I mean, you touch first, second, and third, you know, so at least the record is clear that he knows something about the piece, where it came from and so on. It doesn't take a whole lot of questions to do that. That just keeps it sequential. You know what I'm saying?

MR. BODAMER: Yes, sir, I do.

JUDGE SUMMERHAYS: That helps.

Q. (BY MR. BODAMER) Can you tell us what Map 14 from your report, Exhibit 15, for purposes of this hearing --

A. It's a form of a heat map. Heat, H-E-A-T. What it does is it demonstrates concentrations --

Q. Excuse me, to interrupt you, but before you do that. Did you prepare this map?

A. Yes.

Q. And again, tell us what it does.

A. It shows a concentration of the African-American voting age population across the state and based on the 2020 census.

MR. BODAMER: Your Honor, I would move for the admission of Exhibit 14 -- excuse me -- Exhibit 15.

JUDGE SUMMERHAYS: Any objection to 15?

MR. NAIFEH: No objection, Your Honors. I just

want to be clear what exhibit number we're talking about because I think they've already admitted an exhibit with the number 15, although I may be wrong.

MR. GREIM: We have not admitted an Exhibit 15. Our original 1 through 17 became joint exhibits, so that opened up all those numbers and there will be a new list that are going to replace those.

JUDGE SUMMERHAYS: Very good. So this is 15 that you are offering?

MR. BODAMER: That's my understanding.

JUDGE SUMMERHAYS: There is no objection to that?

MR. NAIFEH: No objection.

MR. GORDON: No objection from the state, Your Honor.

JUDGE JOSEPH: Ms. LaCombe, are you tracking the --

MS. LACOMBE: Yes, sir.

JUDGE SUMMERHAYS: Lisa was on top of it. It's admitted.

MR. BODAMER: Thank you, Your Honor.

Q. (BY MR. BODAMER) So again, you started to get into this. But I'm seeing hot spots or whatever on the map. Can you explain to the Court again what this map reflects.

A. Yes. It ranges on a high end of red being a very

high concentration of African-American voting age population to, into blue and the shades of purple. Purple representing the lower end of the concentration.

What's useful about using this type of analysis is it shows a concentration of a -- actually here it shows a concentration of African-American voting age population across the state. You'll see that in Orleans Parish, New Orleans area, it's -- it's very dense. It goes into red, to yellow, to blues. And then the next largest area of concentration is the East Baton Rouge area, which is indicated by the light to medium blue colors. After that, it gets somewhat dispersed across the state until you get to the next largest concentration, which is up in Caddo Parish, or in the Shreveport area. And that's indicated by the light to darker blues.

Q. Could you create a second majority-minority district without conducting those areas of concentration of Orleans up to Baton Rouge?

MR. NAIFEH: Objection. There is no foundation for him to know if it's possible.

MR. BODAMER: I'm sorry?

MR. NAIFEH: There's no foundation for Mr. Hefner to know if it's possible to draw a majority-minority district without connecting those areas.

JUDGE SUMMERHAYS: Counsel, do you want to

reformulate your question and lay a foundation?

MR. BODAMER: Sure.

JUDGE SUMMERHAYS: All right. Sustained.

Q. (BY MR. BODAMER) Have you attempted to form or create a second -- a map that would include two majority-minority districts?

MR. NAIFEH: Objection. He hasn't laid a foundation that he has attempted to draw any such map.

JUDGE SUMMERHAYS: I think he is trying to lay a foundation.

MR. BODAMER: That's what I asked him.

MR. NAIFEH: He's trying to lay the foundation but there was no opinion, so it's beyond the scope of the opinions that were disclosed in the Rule 26(a)(2) disclosures. The report included no maps that Mr. Hefner drew.

JUDGE SUMMERHAYS: I think we've covered this. I think we addressed the ability to form a second majority-minority district. Unless my colleagues dissent, I am going to overrule the objection.

THE WITNESS: As part of my review, I always like to, for my own edification, I like to see what's possible because I need to let my clients know there are some issues that may be possible. I did try to create a second majority-minority district and follow traditional

redistricting criteria, and I was unable to do so.

There were different ways of trying to connect those areas of concentration, but in doing so, it violated at least one, or if not more of the traditional redistricting criteria and therefore I was unable to come up with one that had a second majority-minority district.

MR. BODAMER: We've looked at Exhibit 15. Can we now pull up Exhibit 16.

Q. (BY MR. BODAMER) Can you tell us what Exhibit 16 is?

A. Yes. I'm sorry. Yes. This is Map 15 from my report. This takes that heat map and it overlays the Senate Bill 8 districts on the -- over that heat map to show where those concentrations lie within the Senate Bill 8 plan.

From a demographer standpoint, it was very clear to me what the mapmaker did in creating Senate Bill 8, in that once you took the minority population in District 2 from Orleans to East Baton Rouge, he then had to try and build that second district. And the way that they did that was to come across the state toward Caddo, toward the Shreveport area, where that next largest concentration is outside of East Baton Rouge. In doing so, particularly like in Lafayette Parish -- that's a real good example -- you'll notice that they dip down and they carved out the northeast part of Lafayette Parish. They picked up those

precincts that are predominantly African American and then it popped back up and took in St. Landry Parish where Opelousas has a relatively large population of African-American populations. And then it narrowed itself down until it got to the African-American population concentration in Alexandria, which is there in the center of the Rapides Parish area. Carved right around that and then worked its way up, picked up Natchitoches, which is the population center for Natchitoches Parish or where most of the people live. It has a relatively large African-American population. And then it picked up Mansfield, which has a large population in DeSoto Parish and then went further north. Went around Stonewall in the north part of DeSoto. That's where it turns in there just as it comes into Caddo, and it picks up that bright blue spot up in Caddo Parish, which is where that concentration of African-American populations they were trying to pick up.

So they tried to connect the two largest populations between East Baton Rouge and Caddo with the African-American voting age population. And in doing so, they tried to pick up as much African-American population as possible without picking up too much total population, because they needed room in the total population in order to be able to get there so they didn't exceed a plus or

minus 5 percent deviation.

MR. BODAMER: Can we look at or pull Exhibit 17?

JUDGE SUMMERHAYS: Are you going to introduce --

MR. BODAMER: I am.

JUDGE SUMMERHAYS: But after 17?

MR. BODAMER: Yeah, that was my plan.

JUDGE SUMMERHAYS: You may proceed.

MR. BODAMER: And again, this was Map 16 in his report, but it's marked as Exhibit 17 for purpose of this trial.

Q. (BY MR. BODAMER) What are we looking at here with Exhibit 17?

A. This is the Map 16 from my report. It's another way of analyzing the distribution and concentration of the population. Each one of those dots represents 100 voting age population people from the 2020 census. The white dots represent white voting age population. The red dots represent black or African-American voting age population. And the green dots represent those of all the other races combined. So this shows the distribution of the voting age population throughout the state and it overlays the Senate Bill 8 plan on there, because, from a demographer standpoint, it's very demonstrative to me to see how the concentration of red dots fell within particularly CD-6, which was the second majority-minority district and how

the sparse population in those populations -- in those parishes between those concentrations allowed them to take in the whole parish but not affect the total population much on that district.

So you'll see a lot of those red clusters that generally align with that heat map, but you'll also, with this, you'll be able to see that it encompasses sparsely populated parishes. But when it got to more concentrated, you'll see that district narrowing down to carve it out. One area is it's only like 1.3 miles that connect -- the width, that connects different parts of the district. So it indicates to me that they are very careful on how they selected the populations.

MR. BODAMER: Your Honor, at this time I would offer into evidence Exhibits 15, 16, and 17.

JUDGE SUMMERHAYS: I think we've already admitted 15.

MR. BODAMER: I'm sorry. Thank you.

JUDGE SUMMERHAYS: 16 and 17.

MR. NAIFEH: No objection from the Robinson plaintiffs.

MR. BOWEN: No objection from the State.

JUDGE SUMMERHAYS: 16 and 17 are admitted.

MR. NAIFEH: I misspoke. We're Robinson intervenors, not the Robinson plaintiffs.

JUDGE SUMMERHAYS: Very good. 16 and 17 are admitted.

Q. (BY MR. BODAMER) Look at Exhibit 18, please. Can you tell us, Mr. Hefner, what Exhibit 18 is.

A. Exhibit 18 --

Q. Map 21 of your earlier report?

A. Yes, Map 21 from my original report. This shows the Shreveport area in Caddo Parish. The colorations are the voting age population, the black voting age population by precinct. The black outline is the CD-6 district under Senate Bill 8, and this concentrates up in that Shreveport area. So we --

Q. Was this the very northern portion of CD-6?

A. Yes.

Q. And so what's this tell us?

A. If you take a look at the populations that have a high black voting age population, which is represented in red, that's 61 to 100 percent, and then the yellow, which is 50 to 60 percent, you'll see that this CD-6 boundaries, they follow -- it follows the exact perimeter that you needed in order to pull those precincts into CD-6 in order to get the high black voting age population.

Q. So this is the northwestern tip and then it extends all the way down to Baton Rouge?

A. Yes. This is the north -- this would be the

northwest end of that long district. East Baton Rouge would be on the southeast end.

Q. So how far is it from East Baton Rouge to this northwest point?

A. About 251 miles.

Q. Is that consistent with traditional redistricting criteria?

A. No, it's not -- it's not compact. If it was compact, it would be far less distance from one side of the district to the other.

MR. BODAMER: I apologize, sir, on the phone.

JUDGE SUMMERHAYS: Make sure all electronics are off. It disrupts the hearing, but also it can interfere with electronics.

MR. BODAMER: I understand. I warned everybody yesterday and then didn't mind my own --

JUDGE JOSEPH: We're used to it.

MR. BODAMER: Can we pull up Exhibit 19, which I believe is Table 5 from your report. I'm sorry, I didn't offer, I don't think, Exhibit 18 into evidence.

JUDGE SUMMERHAYS: You are offering Exhibit 18? Any objection?

MR. NAIFEH: No objection from the Robinson intervenors.

MR. BOWEN: No objection from the State.

JUDGE SUMMERHAYS: It's admitted.

Q. (BY MR. BODAMER) Now, let's look at Exhibit 19. What is Exhibit -- this is Table 5 from your report. A lot of information, a lot of detail here. Can you explain to the Court what this indicates?

A. I take a look at the parish-level precincts and identified those that had a 40 percent or higher voting age population for blacks and I took a look at what they had parishwide and also which of those were assigned to CD-6. The area in particular interest to me was the area that's shaded in yellow. For example, if we look at Avoyelles Parish, in CD-6 they had, out of the total parish with 40 percent any part black voting age population, they had twelve precincts. Out of those twelve, eight were assigned to CD-6. Or 67 percent of the 40 percent or higher black voting age population were assigned to CD-6 in Avoyelles Parish.

Another example would be East Baton Rouge. Following that same methodology, there were 115 precincts that had a 40 percent or higher any part black voting age population. Of that 115 in that parish, 112 were assigned to CD-6. Or 97 percent of those that had a high black voting age population were carved into CD-6.

The area in the purple on the right just showed an indication of the total number of precincts that were in

each parish. And then the total that were assigned to CD-6 and then what that percentages were. But what was illustrative to me was that in the majority of these parishes, as indicated in the gold area on the table, the mapmaker was very deliberate in picking up as many of those 40 percent or higher any part black voting age populations into CD-6 in order to help get those numbers up to a higher black VAP.

JUDGE SUMMERHAYS: Let me stop you there. Counsel.

MR. NAIFEH: I would like to move to strike the testimony about what the mapmaker deliberately did. He hasn't laid a foundation that he knows what the mapmaker deliberately did or what the mapmaker's state of mind was.

JUDGE SUMMERHAYS: Counsel?

Q. (BY MR. BODAMER) Can I just the question: What does this chart state or show to a demographer?

A. From a demographer standpoint, in my opinion, it shows that it was very carefully crafted to bring in as many black voting age population precincts into CD-6 as you could.

JUDGE SUMMERHAYS: I'm reading and you're objecting to the testimony that the mapmaker was very deliberate in picking up as many of those 40 percent or higher? Is that what your --

MR. NAIFEH: That is exactly the question.

JUDGE SUMMERHAYS: You know, as long as we clarify that that is, from his point of vantage as a demographer, it doesn't seem to be going into the state of mind of the mapmaker. It seems to be his opinion based on reviewing the map. With that limitation, I am going to allow it. I am going to overrule the motion to strike.

MR. BODAMER: Which is why I asked that follow-up question. Yeah, no one is saying that he talked to the mapmaker here.

Q. (BY MR. BODAMER) You're basing your testimony on your review of what another mapmaker did based on redistricting criteria; is that right?

A. Yes. Based on my past work as a demographer doing redistricting plans.

MR. BODAMER: Oh, I'm sorry. Let me move for the admission of Exhibit 19, so I do that.

JUDGE SUMMERHAYS: 19, any objection?

MR. NAIFEH: No objection from the Robinson intervenors.

MR. BOWEN: No objection from the state.

JUDGE SUMMERHAYS: 19 is admitted.

Q. (BY MR. BODAMER) Mr. Fairfax I think is -- has also issued a report. You've reviewed that report and you've issued a rebuttal report, correct?

A. Correct.
Q. Do you recall that Mr. Fairfax analyzed the distribution of black voters at the parish level? How did you analyze the distribution of black voters?
A. As far as my opinion of using Mr. Fairfax's methodology?
Q. Yeah.
A. I did not find it very useful because it doesn't give you a complete picture on the -- on where the black voting age population is located within a parish.
Q. Is that why you used the dot density maps and the heat maps?
A. Yes. If you use Mr. Fairfax's approach, what you're looking at is just on a parish level, you're looking at the percentage of the black voting age population as a percentage of the total voting age population. You can have a very -- you can have a parish with a very low population and it would show up red if you had the majority of those were black voting age population, but numerically it would be very low. Percentage-wise it would like impressive. But when you're drawing a plan, you've got to go for numbers. And so it's not a matter of what that ratio is or that percentage is in a parish; it's where it's located in the parish that you have to look at. And that's one reason if you lay those heat maps on, you

can see where they actually divided some parishes in order to carve where the black population was and didn't take the parish as a whole.

Q. Let me move on into traditional redistricting criteria. I think you mentioned earlier that you looked at communities of interest, compactness, and preservation of core districts; is that right?

A. Yes.

Q. Are there additional criteria that can be considered?

A. Yes. Incumbency can be considered as to not putting incumbents against each other. Preservation of political entities. It's similar to communities of interest but some specified as political entries, which would be parishes, precincts, municipalities, those that have political boundaries. Also, too, race plays a factor as well, because that's part of what the Voting Rights Act calls attention to for consideration. So those are some of the other criteria that we generally take a look at as we're drafting redistricting plans.

Q. Why did you focus on communities of interest, compactness, and preservation of core districts?

A. Well, contiguity is one of them. The district needs to be contiguous. It needs to all be in one piece. While this plan is contiguous, it's rather tenuous. As I testified a moment ago, in some parts that district is

only 1.3 miles across. Other areas it's 54 miles across. So it's using very small connectors to piece together some of the district. It's contiguous, but it's barely contiguous. But I didn't evaluate that as one of the criteria necessarily because it is contiguous. It meets that criteria.

I didn't look at the incumbency. I don't even have them located on my map. What I was looking at were the districts themselves and not the incumbency.

The political boundaries generally are rolled into the communities of interest. And then also you have your traditional core districts.

So the ones that I saw the issues with were the ones that I evaluated with, which was compactness, core districts, and communities of interest.

Q. Maybe you addressed this earlier, but why are communities of interest an important criterion or consideration?

A. From a representation standpoint, communities of interest are generally, at whatever level, are going to share some shared issues, concerns, history, culture, things that may drive with their legislative interests, maybe, with their representatives. From a representative standpoint, having a district that's a bit more homogenous in its needs, in its -- and its population makes it a

1 little easier to be able to represent them. You don't
2 have as much opposition, opposing sides tugging at you as
3 a representative. It's generally more homogeneous so you
4 can generally represent them better.
5 Q. So how does SB8's redistricting map impact
6 communities of interest? Can you give us some examples?
7 A. Well, my concern was the number of parishes that the
8 plan split.
9 Q. Why does that matter?
10 A. Because when you start dividing up parishes, if
11 you're looking at them as communities of interest, which
12 they are, then when you start dividing them up between two
13 or more congressional districts, then you tend to weaken
14 that split part of the parish, their voice, the strength
15 of their voice, with those that may be in that district or
16 that may be whole parishes or more populated areas, so
17 they don't have quite the voice of representation that a
18 whole parish would, that can speak as one voice.
19 Q. Did the SB8 also split municipalities?
20 A. Yes, it split a number of municipalities.
21 Q. What's the problem with that?
22 A. The problem with that is a municipality is a
23 community of interest. In fact, they have generally been
24 formed from a community of interest as part of their
25 history. Citizens in that area get together, they have

shared ideas, and they form a municipality.

It's the same thing but at a little bit different is that now a municipality, some of the residents having to go to one congressional member for help issues and the rest of them go to a different one, instead of speaking as a unified voice.

Q. You just talked about splitting of municipalities and parishes, but SB8 also brought together some disparate communities, did it not?

A. Yes, it did.

Q. What's that tell you?

A. That, when you bring in different communities of interest, you're bringing in perhaps maybe some conflicting ideas, issues, cultural approaches, histories. It makes it be more difficult for that district to speak as one voice to its representative and for its representative to be able to represent the interests of those people. East Baton Rouge, for example, may have different issues and ideas than, say, Shreveport does. They're both municipalities. They're both large municipalities, but also different parts of the State. They have different issues and different cultures and different backgrounds, and sometimes those can conflict. And when you have that conflict within a single congressional district, it's difficult for the people to

compete for the attention of their representative and also for their representative to serve their communities.

Q. Let's look at CD-6, the second majority-minority district, from a community of interest perspective. What about culturally? You kind of hit on this I think. But culturally, is there a community of interest in CD-6?

A. You have a diversity of cultures in CD-6.

Q. Did it make sense from a demographer's perspective to remove Shreveport from traditional CD-4 and join it with Baton Rouge?

A. No.

Q. What about economically? Did you look at the economic aspect as a community of interest in this matter?

A. Yes.

MR. BODAMER: Can we look at Exhibit 20 which was your Map 10.

Q. (BY MR. BODAMER) Why did you include Exhibit 20 in your report? What's this tell us?

A. In looking at the SB8 plan, what I'm trying to find is: Was there any pattern or anything that might guide the creation of the districts in SB8. Since, particularly CD-6, but also the others, 4 and 5, somewhat of 3, those congressional districts, they are largely rural. Agriculture is generally going to be one of the main economic activities in those rural parishes. So I took a

1 look at what the gross domestic product was in Louisiana
2 based on parish level.
3 Q. Did you find any homogeneous economic activity as a
4 reason to combine Baton Rouge and Shreveport?
5 A. No.
6 Q. From an agricultural perspective, did the central
7 part of CD-6 have more dependence on agriculture than
8 either urban Shreveport or urban Baton Rouge?
9 A. Yes.
10 Q. What about education? Is there a common educational
11 attainment justification for CD-6?
12 A. In the maps that I -- the analysis that I ran, I did
13 not see any.
14 Q. What about socioeconomically? Did you look at that
15 and, if so, what factors did you look at?
16 A. We took a look at, of course, the gross domestic
17 product on agriculture. We took a look at education,
18 those that had attained a high school degree and didn't go
19 any further, and then those that had a high school and
20 some form of post-secondary education. Those were the
21 main ones that I took a look at from socioeconomic.
22 I did provide some other analysis, though, on poverty
23 rates, renters, those that -- I'd have to probably go look
24 back through my maps. But some of the -- there were about
25 two or three other factors that I looked that Mr. Fairfax

took a look at. Said, well, let me see what they look like statewide, because he kind of focused on the East Baton Rouge area.

And so I took a look at each of those from a statewide standpoint because I was more interested in seeing what patterns developed that might have guided the development of these SB8 districts.

Q. Did you see any patterns that might have guided the mapmaker from a community of interest perspective?

A. From demographer standpoint --

Q. Yes, sir.

A. -- in my opinion, no.

MR. BODAMER: Your Honor, I would move for the admission of Exhibit 20.

JUDGE SUMMERHAYS: Any objection?

MR. NAIFEH: No objection from the Robinson intervenors.

MR. BOWEN: No objection from the State.

JUDGE SUMMERHAYS: Exhibit 20 is admitted.

Q. (BY MR. BODAMER) You mentioned just a second ago there about Mr. Fairfax. As you said, he specifically looked at socioeconomic criteria, preservation of municipalities, landmarks preserved. Again, how did those impact your opinion, if at all, in your analysis?

A. In his report he specifically was citing the fact

that the SB8 plan, particularly CD-6, was following municipal boundaries and wasn't splitting any there. And he named several of them and -- Shenandoah and Central and as far as landmarks, the LSU campus area.

Yes, they were following the boundaries of Central, which is the second largest city in East Baton Rouge. But they were following it to exclude it from East Baton Rouge. And if you look at the demographics of the Central, it was probably in the 80 percentile regarding majority white voting age population. So you had a large total population, being the second largest city in East Baton Rouge, but you also had a very large population of white and not black voting age population. If you look at Shenandoah and some of the other census-designated places, they're not official municipalities but the Census Bureau recognizes them as a community of interest. Those also too had a high white population.

Q. What's that say to a demographer?

A. From a demographer's standpoint, it's doing two things. Because when we're drawing a plan, we're trying to accomplish two things. Here, we're trying to balance out the total population for the one-man, one-vote, so we only have a certain number that we can work within. So we're not trying to overload that. But when you're looking at what the characteristics of the population

are -- and here with CD-6 they're trying to get the African-American voting age population above 50 percent, so you have to be careful which population you put in as part of that total. So if you add in a large total population and you're not paying attention to the characteristics of it, then you're going to run out of total population before you get to that concentration in Caddo Parish in this particular case. So it was real important to keep your total population as low as you can on the East Baton Rouge end and try to keep it as favorable toward building that second majority-minority district so you had enough room with the total population to be able to work your way across the State and reach that total population of African-American voters in Caddo Parish in the Shreveport area. So they were trying to balance two things. So they were very careful on how they did that in East Baton Rouge.

Q. Let me move to compactness. We talked a little bit about this. You mentioned Polsby-Popper a minute ago. And yesterday there's been some testimony about this. But looking at compactness from a score perspective, you used Polsby-Popper; is that right?

A. Yes.

Q. And just briefly, because the Court's heard some of this, but what is Polsby-Popper's purpose and why did you

use that?
A. I used Polsby-Popper because I was looking at the configuration of the districts with SB8 and the rather awkward, strung out CD-6 district boundaries. Polsby-Popper is a measurement of the perimeter of a district. And with that shape of 6 in particular, I wanted to see how that scored based on shape. So that's why I initially went with Polsby-Popper. I wanted to see how did the SB8 score when you're measuring the perimeter of the various districts.
Q. Well, how did CD-6 score under a Polsby-Popper analysis?
A. Very, very low.
Q. Was it the lowest of all six districts?
A. Yes.
Q. And that indicates what?
A. That it's not compact at all.
Q. Now, Mr. Fairfax criticized you for not using the Reock compactness score. How is Reock different than Polsby-Popper?
A. Reock measures the area of a district, not the perimeter but the area. Say a circle being ideal. That would be a 1. The area of a circle equals a 1 under Reock. If you look at the -- if you scored it on area under Reock, SB8 didn't do any better. It had very low

scores under Reock as it did under Polsby-Popper. It offered no advantage doing a Reock analysis.

Q. And you looked at Reock as well as Polsby-Popper in your rebuttal report; is that right?

A. Yes.

MR. BODAMER: Can we pull up table 9 which is Exhibit 21?

Q. (BY MR. BODAMER) Is this from your report?

A. Yes.

Q. And does this -- can you just point out here -- I don't want to take much time on this. Does this basically substantiate the testimony that you just gave?

A. Yes. You can look at -- if you want to look at what the plan scored on average, that would be the end at the plan mean. I prepared the one that -- the plan HB1 that was used in the last congressional election, it came out to a .14. Remember that .1 -- 1.0 is ideal. SB8 was a .11, and the illustrative plan was a .23. But in particular, SB8 under CD-6 had a .05 score on that. Very, very low. Very strung out.

Q. So whether you look or use Polsby-Popper or Reock compactness scores, it looks to me that SB8 enacted plan 2024 is the lowest under either or both, correct?

A. Whether you use Polsby-Popper or Reock, it was the lowest scoring plan.

MR. BODAMER: Can we pull up Joint Exhibit 14 again?

Your Honor, I would move for the admission -- thank you -- of Exhibit 21.

JUDGE SUMMERHAYS: And that's table 9. Any objection?

MR. NAIFEH: No objection from the Robinson intervenors.

MR. BOWEN: No objection from the State.

JUDGE SUMMERHAYS: Exhibit 21 is admitted.

Q. (BY MR. BODAMER) The bottom line on this, Mr. Hefner, is Senate Bill 8 Congressional District 6 reasonably compact?

A. No.

Q. Again, what does that indicate to a demographer?

A. The first question I would ask as a demographer is: Why would you be drawing a district like this in the first place that would be connecting two parts of the State 250 miles apart from each other? For what purpose would that be, that would drive such a configuration?

MR. BODAMER: Can we pull up Joint Exhibit 14 again?

Q. (BY MR. BODAMER) What's your reaction to the shape of CD-6?

A. Under this map here?

Q. Yeah.
A. It's very -- it's very elongated. It's rather contorted. Actually, to be quite honest with you, it's somewhat bizarre when you compare it to some of the other districts. It's a rather awkward and bizarre shape of a district. It's not compact whatsoever. And it splits a number of parishes as you can see with the parish boundary overlays.
Q. Is a picture worth a thousand words here?
A. From a demographer's standpoint, this tells me a lot.
Q. And what's it tell you?
A. It tells me that there was something that was driving the creation of this plan other than traditional redistricting criteria.
Q. The last item I want to ask you about is preservation of core districts. How does Senate Bill 8 impact core district?
A. It turns several of the districts on its head. 6 traditionally comes down around the St. Mary, Lafourche, Terrebonne area, south of the East Baton Rouge area. Now you turn around and you're running it across the state. And in doing so, you're coming up and almost bisecting CD-4. CD-5 doesn't have a whole lot of change, but it does have some effect on it as it comes into that little narrow gap where the north part of the state turns to come

in on the Felicianas at -- Feliciana Parishes at Pointe Coupee. A very little narrow gap right there.

Because of the way 6 was drawn, it affected how 3 had to change from a traditional -- its traditional area that it covered. It changed how District 2 was because it gave up some of its minority population to 6. But 5, 4, 3 and 6 are the ones that were changed the most from be it traditional configuration based on our previous congressional plans.

Q. Has the configuration of CD-6 ever reached this far into the northwest part of the state of Louisiana?

A. Not on any enacted congressional plan that I'm aware of.

Q. You said any enacted plan. Was there a previous proposed plan that was struck?

A. After the 1990 census was released, there was a congressional plan that was enacted by the Legislature that created a second majority-minority district that looked very, very close to what I see here in District 6 under the SB8 plan.

MR. BODAMER: Let's pull up Exhibit 22.

Q. (BY MR. BODAMER) Are you familiar with Exhibit 22?

A. Yes.

Q. What does this represent?

A. This is the post-1990 congressional plan that was

adopted by the Legislature in -- around the 1992 time frame which created a second majority-minority district which was represented by the black district here on the map that is labeled as 4, District 4.

Q. What happened to this particular scheme?

A. I'm sorry?

Q. What happened to this particular scheme? You said it was passed by the Legislature.

A. As I was looking through some history on this as part of my review of the case, this was challenged in the *Hays* litigation and the Court found this to be a racial gerrymander and struck it down.

MR. BODAMER: Let's look at Exhibit 30, please.

Q. (BY MR. BODAMER) Can you tell us what Exhibit 30 is, map 23? Yeah, what is this?

A. Map 23 is from my report. What I wanted to look at was the comparison between the plan that was struck down in '94 in the *Hays* litigation and how did the Senate Bill 8 plan, particularly CD-6, how closely aligned was that to -- between each other. And it was, from a demographer standpoint, it was rather illuminating. It was a very, very close parallel between those two districts.

Q. So, again, illuminating in what way?

A. In not only the geographical boundaries but also from the population boundary -- from their population numbers.

The -- I calculated the *Hays* plan, the 1994 plan, I calculated it with the 2020 census population so I could compare it to the SB8, CD-6 2020 population so I have an apples-to-apples comparison.

Between the *Hays* plan and the Senate Bill 8 Plan, CD-6 under the SB8 plan share 70 percent of the total population of the old *Hays* plan District 4 and 82 percent of the black population between the senate bill CD-6 and the District 4 under the *Hays* plan.

Q. What does that say to the demographer?

A. From a demographic standpoint, it's almost parallel, too parallel not only geographically but population-wise. Those two districts are very closely aligned with each other.

Q. So SB8 basically replicates, from a mapmaker's perspective, the plan that was stricken in the *Hays* case in '94; is that right?

A. Yes.

MR. BODAMER: Your Honor, I think that's all I have. But I would like to offer, if it isn't already in, Plaintiffs' Exhibit 14, which was the Plaintiffs' Illustrative Plan 1.

JUDGE SUMMERHAYS: Any objection?

MR. NAIFEH: No objection.

MR. BODAMER: I would like to also offer

Exhibit --

JUDGE SUMMERHAYS: State?

MR. BOWEN: No objection from the State, Your Honor.

JUDGE SUMMERHAYS: 14 is admitted.

MR. BODAMER: I'd also like to offer Exhibit 22, which is the 1994 scheme.

JUDGE SUMMERHAYS: Any objection?

MR. NAIFEH: No objection.

MR. BOWEN: No objection.

MR. BODAMER: And then I would like to offer Exhibit 30, which is the SB8 comparison between CD-6 and the 1994 plan.

MR. NAIFEH: No objection.

MR. BOWEN: No objection.

JUDGE SUMMERHAYS: It's admitted.

MR. BODAMER: That's all I have. Thank you.

JUDGE JOSEPH: Mr. Hefner, I have a couple of questions, then I think it's time for our morning break, follow-up questions to what you testified.

You mentioned the different cultures in CD-6 of SB8. Now, of course, the judges on this panel all live in Louisiana and we're all aware of the cultural differences in our very unique culturally and otherwise State. But for the record -- I want to make a record -- what are

1 those different cultural differences in SB8?
2 THE WITNESS: For that, I relied on my report on
3 the Louisiana folklife criteria because that was done in
4 collaboration with the State and the various universities
5 around the State. And they established several areas,
6 five areas, and identified some cultural and historical
7 areas that those areas represented. I use that because
8 that's probably about as quantitative a definition of
9 those areas that I think would be useful here. And so I
10 took a look at how each of those districts bisected those
11 regional areas and offered some opinion as to whether I
12 felt, from a demographer standpoint, whether they were
13 appropriate or not. So that was the criteria that I used.
14 JUDGE JOSEPH: And just, your report is not into
15 evidence, so that's why I am asking my question. Can you
16 explain what the different cultures are that are
17 encompassed in SB8, Congressional District 6?
18 THE WITNESS: Yeah, for the detail I really
19 would like to be able to refer to my report. But
20 generally District 1 is the --
21 JUDGE JOSEPH: Any objection to him having a
22 copy of his report up there to refresh his recollection?
23 MR. NAIFEH: No objection.
24 MR. BOWEN: (Shakes head.)
25 THE WITNESS: And just for accuracy purposes.

JUDGE JOSEPH: We're going to give you one. We're going to give you a copy.

Go ahead and give him a copy.

THE WITNESS: This would be in my rebuttal report for April 1st of 2024. The Louisiana Regional Folklife Program, five areas that they identify: Region 1 is in like in the Quachita area, Monroe area, northeast corner of the state. And generally they define that as mostly British and African American and what they call upland and lowland south culture. Basically North Louisiana culture and South Louisiana culture.

Region 2 is this area here, in the Shreveport, Natchitoches area, and coming down the Sabine River. They kind of call it the "no-man strip" because that was historically an area in dispute between the French and the Spanish and the United States. So that area takes in the Red River from basically Shreveport all the way down to where it meets up with the Mississippi River at the Old River Lock's there by Pointe Coupee Parish and Avoyelles, near that intersection. But a large part of that comes in, over and includes Shreveport, Natchitoches, and Alexandria, all the way over to the Sabine River. And then that comes down to Region 3, which is the Calcasieu Parish, Lake Charles area, and into the Acadiana area of Louisiana. That's the heart of the Cajun culture, a large

1 French heritage in that area. A very unique culture. It
2 historically has been, together and aligned, maybe some
3 with St. Mary Parish and down into Lafourche area. That's
4 where that general pathway for those people were.
5 Then you have Region 4, which is the Feliciana area,
6 Baton Rouge, that area. That one is really a rather
7 interesting area because it's a rather -- it's a --
8 JUDGE JOSEPH: Florida parishes, right?
9 THE WITNESS: Florida parishes, yes. I mean, it
10 was its own republic for a short period of time. So it
11 had a lot of different cultures there: Italian,
12 Hungarian, British, American, and Indian, as well as
13 French and Spanish. So it's kind of melting pot in that
14 area.
15 And then Region 5 is the New Orleans area. And
16 that's a very complex one because that was the main port
17 of entry for centuries. So they had a lot of French,
18 African, Spanish, Caribbean influences into those areas.
19 So each of those areas has its unique history and its
20 culture as identified with the Louisiana Folklife.
21 JUDGE JOSEPH: CD-6 of SB8 pulls in how many of
22 those areas into one district?
23 THE WITNESS: It splits three of them in CD-6.
24 It splits -- it splits part of 4, 3, and Region 2.
25 JUDGE JOSEPH: You mentioned a thing that might

be important in figuring out communities of interest would be agriculture, rural versus urban, and agriculture based.

Also, we are aware of this here on this panel, but for the record, are there big differences between what type of crops are grown in North Louisiana versus South Louisiana?

THE WITNESS: From an agricultural stand --

JUDGE JOSEPH: Hold on one second.

(Off the record.)

JUDGE JOSEPH: Okay.

THE WITNESS: From an agricultural standpoint, it's really just what crop you're growing, whether you're growing pine trees or you're growing rice. They aggregate that all together as far as the activity goes. That's what the gross domestic product indicated that was generated by the Bureau of Economic Analysis.

But, generally speaking, as you're moving north above say where the 31st parallel is, which is basically the border with the Florida parishes, a lot of that becomes timber because that's higher ground. Trees grow better there. South of that and then along the River Delta, Mississippi River Delta, a lot of those are row crops because they're generally lower line, they're great for rice, sugar cane, those types of things. Not as productive for timber. So you will normally see timber

more in the north part of the state, western part of the state, grow crops more on the eastern and then on the southern end. As you get down toward the -- from Baton Rouge, going down toward New Orleans along the river there, there's a lot of sugar cane production in that area, so -- and you're getting more of that in South Louisiana now. Sugar cane's become a really big crop in that area. But generally north of Evangeline Parish and that area, moving north, it's more timber.

JUDGE JOSEPH: Timber, soybeans, cotton, those type crops, correct?

THE WITNESS: Yes.

JUDGE JOSEPH: South Louisiana is more sugar cane crops?

THE WITNESS: (Nods head.)

JUDGE JOSEPH: Do each of these agricultural industries have their own lobbies in congress?

THE WITNESS: Yes, they do.

JUDGE JOSEPH: All right. You mentioned the split parishes and municipalities in CD-6 of SB8. Look at the map. It appears that the four biggest parishes of CD-6 are split. And that would be Caddo here, where we are now, Rapides, Lafayette, and East Baton Rouge. Correct?

THE WITNESS: That is correct.

JUDGE JOSEPH: Are any of those parishes so big that they would have to be in two congressional districts from a population standpoint?

THE WITNESS: Not in my opinion. That they would have to be split?

JUDGE JOSEPH: In other words, are they so big that they would have to be in two districts --

THE WITNESS: That they would have to be in two districts?

JUDGE JOSEPH: -- from a population standpoint?

THE WITNESS: Probably not. I don't see a reason why you would split them the way you split them.

JUDGE JOSEPH: Not for -- I'm asking from population. In other words, is Caddo so big that it has to be in two congressional districts in order for it to maintain the one-man, one-vote principle?

THE WITNESS: I think Illustrative Plan 1 probably would answer that question in that you have that whole corner of the parish, including Caddo, in its entirety, is in that -- is in that District 4. It's not having to be split there.

So, to answer your question, I don't believe that you would have to split Caddo for population purposes alone, just like you wouldn't have to split Lafayette Parish for population purposes alone or Rapides Parish for population

purposes. East Baton Rouge, if you threw that in with those others, you would probably have -- you would probably hit your limit on your total population, ideal population. You would hit that long before you got to Caddo Parish if you included East Baton Rouge in one district because of its numerosity.

JUDGE JOSEPH: All right. We want to take a break. Do y'all have any other questions?

JUDGE SUMMERHAYS: I don't have any questions. We are going to go ahead and take our morning break. We'll come back in 15 minutes. Thank you.

(Recess.)

JUDGE SUMMERHAYS: We are going to go back on the record. Let me ask you, as far as cross, what we were planning on doing was just after 11:00 is going to about 12:30 and then breaking for lunch. I'd like to time it so we can get it in, as much or all of your cross. Are you going to need that much time, or do you think you can wrap it up by 12:30?

MR. NAIFEH: I am almost certain I can wrap it up by 12:30. I think we may even some extra time. I don't plan to go an hour and a half. It may be long, but it's not going to be an hour and a half.

JUDGE SUMMERHAYS: Well then we'll play it be ear and we may break early for lunch. We'll go no later

than 12:30.

MR. NAIFEH: Then I think my colleagues from the State may have some questions too.

JUDGE SUMMERHAYS: That's a goal. All right. You may proceed.

MR. NAIFEH: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. NAIFEH:

Q. Good morning again, Mr. Hefner.

A. Good morning.

Q. So in formulating your opinions for this case, you reviewed three congressional plans, correct?

A. Yes.

Q. And just for the record, those were the HB1 plan?

A. Yes.

Q. And that's the plan the Legislature enacted in 2022?

A. Yes.

Q. And then you reviewed the enacted SB8; is that right?

A. Yes.

Q. And then you reviewed Plaintiffs' Illustrative Plan 1; is that right?

A. That's correct.

Q. So those are the three that you reviewed. And you didn't review any other plans in forming your opinions for this?

A. Other than the comparative with the *Hays* plan.
Q. You didn't review any of the other plans with two majority black districts that were considered by the Legislature in the 2024 redistricting session, correct?
A. Not in the 2024 redistricting session.
Q. And you did not review any of the amendments that were offered on SB8 in the 2024 redistricting session?
A. I did not.
Q. And other than HB1, you did not review any map with two majority black districts that was considered by the Legislature in 2022; is that right?
A. I did an analysis of plaintiffs' plans for 2022, but not --
Q. For purposes of this case I'm asking.
A. No.
Q. So your opinion that you expressed earlier that it's impossible to draw a congressional plan with two majority black districts consistent with traditional redistricting principles is based on SB8's failure to do so?
A. Not just SB8's failure to do so.
Q. And HB1's lack of a second majority black district?
A. Well HB1 didn't have a second majority-minority district, so it was mostly through my own edification in exploring that I came to that conclusion.

Q. And because you haven't looked at all of the maps that the Legislature has considered that have two majority black districts, you can't rule out that some of them may have created two majority black districts without violating traditional redistricting principles, correct?
A. Limited only to the 2024 legislative session. Would not agree with that with the 2022 session.
Q. Let's say with respect to the 2024 session, you agree that you -- I just want to restate the question just so the record is clear.
So because you have not looked at other maps the Legislature considered in the 2024 redistricting session that have two majority black districts, you can't rule out that it is possible to create a plan with two majority black districts that satisfies traditional redistricting?
A. I can't offer an opinion on any of those plans.
JUDGE SUMMERHAYS: Rephrase the question, please.
Q. (BY MR. BODAMER) So because you haven't reviewed other plans considered by the Legislature in 2024 that have two majority black districts, you can't rule out that it is possible to create a congressional plan with two majority black districts that satisfies traditional redistricting principles?
A. I can't offer an opinion on those.

Q. So just to clarify, you don't actually know that it's impossible to create a congressional plan with two majority black districts that perform well on traditional redistricting principles?
A. I can't offer an opinion on that.
Q. So your opinions in this case concern SB8 as it was finally enacted by the Legislature, correct?
A. That is correct.
Q. And at the time you formulated those opinions, you were not aware that SB8, as originally introduced, was configured differently than SB8 as it was ultimately enacted, correct?
A. That is correct.
Q. And you were not aware that as introduced SB8 split 15 parishes?
A. That is correct.
Q. And you would agree that 15 parishes is the same number of split parishes as in the HB1 plan; is that correct?
A. From my calculations, that would be correct.
Q. And in particular, you were not aware that Avoyelles Parish was not split in the original SB8?
A. That is correct.
Q. And do you recall that Avoyelles Parish is one of the specific parishes that you mention in your report as one

that you think was split for racial reasons?
A. Yes.
Q. And you didn't review any of the legislative debates or testimony concerning the amendment to SB8 that introduced the split to Avoyelles Parish, correct?
A. Correct.
Q. And you don't know what the sponsor of that amendment said was the reason for the amendment?
A. I do not.
Q. And you don't know that if the amendment that split Avoyelles Parish had any significant effect on the black voting age population of CD6, correct?
A. I do not.
Q. And just stepping back. Beyond your high level understanding that the map was intended to satisfy the court order from the Middle District of Louisiana, you don't have any knowledge of the reasons any legislature had for drawing or supporting the placement of specific district lines in SB8, correct?
A. Not based on legislative debate.
Q. And do you have any other basis for knowing what any particular legislator thought about the district lines in SB8 or why they supported them?
A. I did see some interviews of some legislators after SB8 was approved.

Q. So interviews like on television?
A. Yes.
Q. And those are not basis for any of your opinions in this case?
A. No.
Q. Earlier you discussed Plaintiffs' Illustrative Plan 1, correct?
A. Correct.
Q. And you don't know who created Plaintiffs' Illustrative Plan 1, correct?
A. I do not.
Q. And you don't know how it was drawn?
A. I do not.
Q. At your deposition you testified that Plaintiffs' Illustrative Plan 1 appeared to have been created in Maptitude, correct?
A. It appeared to be, yes.
Q. And Maptitude is the application that you use to create redistricting plans?
A. That is my primary software.
Q. And Maptitude allows the map-drawer to view racial demographic information along with other data when drawing a plan, correct?
A. That is correct.
Q. And you don't know what information the unknown

person who drew Plaintiffs' Illustrative Plan 1 was viewing as they drew the plan, correct?
A. That is correct.
Q. And just to be clear, you don't know whether they considered race in drawing Illustrative Plan 1, that map-drawer?
A. Yeah, I do not know that.
MR. NAIFEH: Can we pull up slide 3 from the demonstratives. And I believe this map was previously introduced as Exhibit 20, Plaintiffs' Exhibit 20.
Q. (BY MR. NAIFEH) Mr. Hefner, can you see the map on your screen?
A. Yes.
Q. And you discussed this map a little earlier in your testimony?
A. Yes.
Q. And you said that it shows 2021 GDP for forestry, agriculture and fishing and hunting?
A. Yes. That's the general category, yes.
Q. And that's at the parish level, correct?
A. That is correct.
Q. So we can't tell from this map whether it's only one part of a parish or which parts of the parish that are heavily dependent on agriculture; is that right?
A. That is correct.

Q. And because you present this information at the parish level, we can't tell whether there are particular communities within the parish that are more dependent on agriculture than other communities; is that right?
A. This data is collected by the Bureau of Economic Analysis and they only provide that data at the parish level or the county level and other areas or the metropolitan statistical area. Those are the only two geographies they provide, so I cannot go any deeper than that using their data.
Q. And so just to be clear, you can't tell from this map whether it's only -- whether there are particular communities within the parish that are more dependent on agriculture than other communities?
A. That's correct, because that data wasn't available.
Q. And in this figure, fishing, agriculture, forestry, and hunting are combined into a single figure, right?
A. That is correct.
Q. And so you can't tell whether the parishes in this map are dependent on forestry versus agriculture, for example, correct?
A. That's correct.
Q. And you can't tell, for example, whether it would be cattle versus row crops?
A. That is correct.

Q. And the map we have been discussing shows GDP -- total GDP for each parish, correct?
A. That is correct.
Q. For these particular industries?
A. Yes.
Q. It's not a percent of GDP for that parish, correct?
A. No. It's actual GDP.
Q. And for a small parish that may have a small GDP overall, this map wouldn't tell us if the low GDP from fishing, agriculture and forestry is nevertheless a significant percentage of that parish's GDP, correct?
A. Yeah, it wouldn't show the percentages. It shows just the aggregate value.
Q. So it wouldn't tell you how significant that GDP is for a particular parish?
A. Correct.
Q. So it's very difficult to tell -- wouldn't you agree -- from this map whether the particular parishes in the particular agriculture, forestry, or fishing industries that they depend on are drawn together in a district or not, correct?
A. Could you rephrase the question or reask it?
Q. So just looking at this map that you've got in front of you -- it's map 10; it's Exhibit 20 -- it's difficult to tell, just looking at this map, whether the particular

parishes and the particular industries they depend on are drawn together in a district or not; is that correct?

A. I guess I am hesitating, because the purpose of the map was to analyze what the GDP is at the parish level, which is the smallest level that I could get statewide, and how it pertains to that individual parish and seeing if there was a pattern. I can't break it down any lower than that. But in looking at it, it wasn't indicating that a particular district was drawn for any particular industry or for any particular activity. So I don't know if that's answering your question.

Q. I think it sort of answers the question. So just to be clear, at the parish level, you can't tell if these lines were drawn to accommodate a particular industry or a --

A. No.

Q. -- particular community that depended on that industry?

A. No, because we couldn't get the breakouts.

Q. Pull up Slide 4 in the illustrative.

Mr. Hefner, do you recognize this map that's in front of you?

A. Yes.

Q. And is this a map from your report?

A. Yes.

Q. And this map shows the percent of the population 25 years and older by precinct -- or by census tract, correct?
A. By census tract.
Q. Who have a high school -- who have graduated from high school but it doesn't -- and that does not include people who have gone on to higher education and it does not include people who never graduated from high school, correct?
A. That is correct. Only those who graduated from high school only.
Q. And so from looking at this map, it says that in the southern part of -- and we're looking at, I believe, just for the record, we're looking here at East Baton Rouge primarily?
A. Yes.
Q. And so the southern part of East Baton Rouge has a very low concentration of people who graduated from high school 25 years and older?
A. Yes.
Q. And from looking at this map, from the shading on this map, you don't know if that's because there are so many people in those areas who have a higher education -- let me rephrase that question.
So from looking at this map, do you know if the

1 remainder of the population in those census tracts have a
2 higher education of beyond high school?
3 A. Yes. If you looked at the ones that had graduated
4 from high school and got additional, went post-secondary
5 additional education, that map will reflect that the area
6 that's shaded in red here, that this is a low percentage
7 of those that had a high school only because a majority of
8 those went on for some type of post-secondary education.
9 Q. So that's a different map, though, correct?
10 A. That is correct. But that's why this is showing up
11 as red in here, because the majority of those went on
12 beyond high school.
13 Q. What I'm asking you about here is: From looking at
14 this map, you can't tell if the low rate of high school
15 graduation is because most of the people in that area have
16 a higher education or whether it's because most of the
17 people in that area never even graduated from high school,
18 correct?
19 A. This is telling me there's a low percentage of people
20 who graduated from high school and who did not go yet, go
21 on for post secondary. If you bring in the post-secondary
22 analysis, then you will see that those are high school
23 graduates that went on to post secondary, and this is low
24 because you have a low percentage of people that just have
25 a high school diploma in that area.

Q. So I guess -- maybe let me try to rephrase the question again.

Is the percentage of people with a high school graduation shown in this map the result of there being a larger number of people who never graduated from high school at all?

A. No.

Q. How do you know that?

A. Well, because I did -- I ran those numbers and that's in a different map.

Q. Well, we'll look at that map in a minute, but I'm asking you: From this map, can you tell that?

A. You can tell it only because that's a category that I used, 25 plus that have a high school diploma. So that doesn't include anybody that didn't graduate. Those numbers are excluded.

Q. Correct. So if it's a low number of people in the category that's included, it could be -- tell me if you disagree -- that there are a lot of people who never graduated from high school?

A. You could probably draw that analogy, but I don't think it would be an accurate analysis because you have a category that's available to you to find out which of those fit that category which went through high school and never graduated. So you wouldn't rely just on this; you

would look at the two bookend categories: Those that didn't graduate; those that went on post secondary.

Q. And in your initial report, you only provided this map, correct?

A. Yes, for the -- well, actually I think I had -- on the initial one, I had the population. I didn't have the percentages.

Q. But you only looked at people with a high school degree, no more, no less, correct?

A. That's correct. Economic development, that's our baseline for workforce education.

Q. So from looking just -- looking at this map, you don't know if the red areas are because there is a low level of educational attainment or a high level of educational attainment, correct?

A. On its own, no. That's why I would look at the two bookend categories.

MR. NAIFEH: Can we pull up slide 2? Can we go to the one before or slide 1?

Q. (BY MR. NAIFEH) So I think these are the two maps that you were just referencing. I don't know, from that screen, the big screen, it's very difficult to tell because the colors are kind of all mushed into one. But I think on your screen it may be better.

These are the maps -- one of them, the one on the

left shows individuals who graduated from high school or higher, statewide, correct?
A. Right.
Q. And we're limiting this to people 25 years and older, correct?
A. Yes.
Q. And on the right, it's the people who have no high school diploma. So that's basically everybody else, correct?
A. That attended school through grades nine through twelve but didn't complete high school.
Q. Yeah. So just looking at these two maps together, they make -- they would count everybody who had -- who is 25 years and older in each of those census tracts, correct?
A. That would generally be the two bookends.
Q. Yeah. And so that's the total population of those two -- of the census tracts depicted here?
A. I don't know how it totals up. But for those two categories those would be the two bookends.
Q. Are there any other categories?
A. There could be those that didn't even go to high school, that have only gone to less than. But I don't -- I just included those that went to high school and got no diploma.

Q. So the map on the right you're saying -- it's your testimony that the map on right doesn't include people who never went to high school at all?
A. Yeah. That would be nine through twelve. Those are those that went -- the accurate depiction of that is those that went through nine through twelve and did not get a high school diploma.
Q. That makes sense. I understand.
Mr. Hefner, in this case you don't offer an opinion that every majority black district is a racial gerrymander by definition, correct?
A. I would agree with that. Not every one of them; that's correct.
Q. And you would also agree that every majority black district has a majority of its population who are black, correct?
A. That's what makes it majority.
Q. Yeah. And that means that a majority of the population that the map-drawer put in that district are black, correct?
A. Yeah. Generally when you're looking at majority, you're looking at the voting age population.
Q. Let's agree we'll be talking about voting age population.
A. Okay.

Q. Let me just rephrase the question just to make sure we're clear. In every district, every majority black district required that the map-drawer -- that a majority of the voting age population that the map-drawer placed within the district is black, correct?
A. Yes.
Q. And that's true for every majority black district that has ever been drawn, correct?
A. To my knowledge.
Q. I mean, if you couldn't -- would you have a majority black district if you didn't put the majority of the voters in the district?
A. That, I think would be a safe conclusion, yes.
Q. So you would agree then that the mere fact that the map-drawer drew in black voters and drew out white voters doesn't show that race predominated?
A. In the context of other criteria, I wouldn't agree with that.
Q. Well, I'm just talking about that fact alone, not in the context of other criteria.
A. From a demographer standpoint, it depends on how that district was configured and the reason for the configuration. That's a question you ask yourself as a demographer: Why was this drawn this way? And --
Q. That's looking at all the other criteria, right, not

just at the population alone?
A. Other things could influence why the line was drawn where it was.
Q. But any district that's majority black is going to -- is going to have -- at some point require the map-drawer to put a majority of the -- make the majority of the population in that district black, correct?
A. Yeah. Has to reach that threshold.
Q. Yeah. And so that, just knowing that that's what they did doesn't tell you anything about whether it's a racial gerrymander or whether race dominated, correct, if that's all you know?
A. Not on that alone but within the context of the totality of the circumstances.
Q. So earlier you mentioned that the distance from one end of CD-6 to the other in SB8 is about 250 miles, I think you said?
A. Yes.
Q. And are you aware that in HB1, in CD-4, there are parts of Caddo Parish that are about 220 miles from parts of St. Landry Parish?
A. I didn't run the comparisons on HB1 with regards to --
Q. So you can't say whether a district that spans 250 miles is unusual?

A. No, because I didn't run those numbers for HB1.
Q. So in your experience as a demographer, legislatures commonly take account of political goals in redistricting, correct?
A. Yes. That's what makes our job so interesting.
Q. Pardon?
A. That's what makes our job so interesting.
Q. Yeah. And one of the political goals that's quite common that legislatures take into account is protecting incumbents, correct?
A. Yes.
Q. And in your experience drawing districts for local governments, have you ever been asked to protect incumbents in the maps that you draw?
A. We generally -- I generally as a rule try to avoid putting incumbents against each other.
Q. And is that often because that's what the people who hired you want you to do?
A. Well, generally it's -- there's a couple of reasons for it. One is if you deliberately draw in incumbents against each other, you are going to have a very contentious board or jury or council as they try to outmaneuver each other leading up to the elections. So it doesn't always serve the needs of the people.
Q. And sometimes there are circumstances where you can't

avoid pairing incumbents, correct?
A. That is true.
Q. Then you may have to favor -- you may have to draw a plan that favors one or the other of those incumbents, correct?
A. Generally, I'll get guidance from my client body on that, yes. Or the numbers and the geography tell you which way you got to go.
Q. So sometimes the client will give you guidance about which incumbent they want you to protect and which one they don't in that circumstance?
A. Oftentimes that decision comes as to whether either one of those are looking to run for reelection. Sometimes it's like "I'm not planning on running for reelection," so the problem resolves itself. Other times, it may be the numbers and the geography tell you which way it's got to be because that's the only way the numbers fit. And so it's like the decision is already made. Rarely has it ever been, in my experience, where two incumbents are having to get coalitions on their respective body to push one plan that favors one over another.
Q. But it's rare but it happens?
A. It can, yes.
Q. And sometimes when you're drawing a map to try to protect incumbents, you might have to draw districts that

are less compact than you otherwise would, correct?
A. Yes.
Q. So earlier you testified a little bit about a Louisiana Folklife map that had appeared in your report, correct?
A. Yes.
Q. You would agree that the Louisiana Folklife map you were discussing was not created for redistricting purposes, correct?
A. That is correct.
Q. And in your report you offer no opinions concerning how many of these folklife regions were split in HB1, correct?
A. That is correct.
Q. So compared to SB8, you don't know if HB1 split more of them or fewer of them?
A. No. I just looked at SB8.
Q. So you wouldn't be aware then that in HB1, CD-4, which is in northwest Louisiana where we are now, splits three of those folklife regions?
A. I did not take a look at that. Not for the 2024 legislative session.
Q. Well, I'm talking HB1 now. So we're talking about the map drawn in the 2022 legislative session, correct?
A. Yes. But I did have some analysis on that when I was

an expert for the State during the 2022 litigation.
Q. So you don't have -- I mean, sitting here today, you don't recall whether it splits three -- "it" meaning CD-4 in the HB 1 plan, you don't recall whether it splits three of those?
A. I would have to refer back to my report from back then.
Q. You have no reason to disagree with me that it does?
A. No.
Q. And do you have any reason to disagree with me that in that HB1 Plan, CD-5, which is the north district that covers Northeast Louisiana also splits three of those folklife regions?
A. I have no reason to, but I would prefer to confirm it.
Q. And earlier you testified that SB8 -- that CD-6 and SB8 also splits three of those Louisiana Folklife regions, correct?
A. Yes.
MR. NAIFEH: May I have just a moment to confer with my colleagues?
JUDGE SUMMERHAYS: You may.
MR. NAIFEH: No further questions, Your Honor.
JUDGE SUMMERHAYS: Okay. Counsel, begin with your cross when ready.

MR. BOWEN: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. BOWEN:

Q. Mr. Hefner, I'm going to keep this short because I'm the least popular man in this courtroom standing between everybody and lunch.

In your earlier testimony, you said that SB8 is very, very close to the *Hays* map that was struck down; is that right?

A. Yes. From a demographer standpoint, yes.

Q. And I think I recall correctly from your expert report that part of the reason you say that is that the census population for Louisiana has remained fairly constant since the '90s; is that right?

A. Yes. The distribution changed a little bit, the overall population relatively.

Q. And by "distribution changed," do you mean that certain population areas have spread out to other parts of the State?

A. Actually become more integrated over time. You don't have the larger concentrations of African-American populations that you did several years back because society has gotten more integrated with a wide variety of programs: Fair Housing Act, Community Reinvestment Act. Those types of things encourage society's integration.

So -- and school desegregation cases, that drives a lot of that as well. So overall, the population hasn't changed a whole lot, but the degree of concentration of some African-American populations has.

Q. And in addition to those wonderful advancements in integration, there has also been some events such as Hurricane Katrina, correct?

A. Yes.

Q. And has that contributed to the spreading of black population say from the New Orleans area to Baton Rouge and other areas?

A. It's been an accelerant. Some of those changes have been taking place for -- I know since the '90s, 1990 census, because that's when I've been kind of tracking some of that. But Katrina definitely was an accelerant.

Q. And it wasn't until after Hurricane Katrina that we saw the first majority-minority district that spanned from New Orleans to Baton Rouge; is that right?

A. My recollection of CD-2 is mostly taking in that black population along that river corridor between Baton Rouge and New Orleans. If you look at the old numbers for the CD-2, the African-American percentages have been dropping over each census. Each decennial census has been dropping in its concentration because of that distribution. I don't know if I'm answering your

question, but --
Q. No. That helps. I appreciate it.
A. Okay.
MR. BOWEN: And Robinson intervenors' counsel has graciously agreed to pull up Plaintiffs' Exhibit 14. If I could impose upon you guys. It should be Plaintiffs' Exhibit 14, Illustrative Plan 1, or Plaintiffs' Illustrative Plan 1. Not number 4. Thank you so much.
Q. (BY MR. BOWEN) Now do you see the -- I know it's a little hard to see on this screen, but do you see the orange district, District 5, in this illustrative plan?
A. Yes.
Q. Now, this district stretches all the way from Washington Parish up to Monroe; is that right?
A. Yes.
Q. And do you know how far it is between those two places?
A. No, I did not run the mileage on it.
Q. Does say 230 miles sound right?
A. Eyeballing it, probably fairly close.
Q. And in your reports you mentioned or cite to Joint Legislative Rule 21. Do you know which legislative session that was adopted in?
A. I believe they had one in 2011. And I'm not sure if

it was amended in '20 or '21. I don't have -- I'd have to go back and look.

Q. And are you familiar with whether legislative rules are binding on future legislative sessions?

A. Generally they're guidance and this is what they -- they generally specify as to what they consider to be the minimum requirements for a plan to be adopted.

Q. Certainly guidance, there's a number of things that might be guidance, but are they binding on future sessions? Do you know?

A. I do not know.

Q. When evaluating SB8, did you review the call for the special session from this 2020 special session?

A. No.

Q. Sorry. 2024 special session.

A. No. Not specifically no.

Q. So it didn't serve as a basis for any part of your report then?

A. No.

Q. Did you review the Governor's statements on the opening of a special session in 2024?

A. I didn't review them for this report, but I was aware of them just through the news media.

Q. But did they serve as a basis for anything in your report?

A. No.
Q. Did you review the statements of SB8's sponsor Senator Womack?
A. No.
Q. So they also did not serve as a basis for anything in your report?
A. They did not.
Q. Do you understand that the Governor called a special session to respect the decisions of the *Robinson* court from the Middle District?
A. That was my understanding through news accounts, yes.
Q. And what is your understanding of what the Robinson court required?
A. A second majority-minority district be drawn.
Q. And in looking at your reports, was that something that you took into consideration in coming up with your conclusions?
A. What I was looking at was the plan that was adopted and its compliance with traditional redistricting criteria. And also looking at Illustrative Plan 1.
Q. You did not consider then the guidance of the Middle District from the *Robinson* litigation that there be majority-minority districts, correct?
A. Not in my report. It didn't guide an opinion in my report.

Q. When you were drawing your maps, I think you said earlier that you weren't considering where any incumbent member of congress lives; is that right?
A. I didn't draw any maps.
Q. Apologies. When you were -- in your report, do you consider where any incumbent member of congress lives?
A. No.
Q. Did you consider avoiding incumbent pairings then?
A. Could you repeat the --
Q. Strike that. Did you the consider the political objective of avoiding incumbent pairings?
A. No.
MR. BOWEN: May I confer with counsel, Your Honor?
No further questions from the State, Your Honor. Thank you.
MR. STRACH: Nothing from the Secretary.
JUDGE SUMMERHAYS: Redirect?
MR. BODAMER: No.
JUDGE SUMMERHAYS: You can step down.
THE WITNESS: Thank you.
JUDGE SUMMERHAYS: I think that the plaintiffs had indicated that they wanted to move in some exhibits when they were finished with this witness.
MR. GREIM: We did, Your Honor.

JUDGE SUMMERHAYS: You may proceed.

MR. GREIM: Okay. We would move the admission of Plaintiffs' Exhibits 2 through 12, which were shared with opposing counsel yesterday.

MR. NAIFEH: And just for clarity, those are the demonstratives from yesterday?

MR. GREIM: Yes. They are -- 2 through 9 were used with Voss and 10 through 12 were used with McCartan.

MR. NAIFEH: No objection from the Robinson intervenors.

MR. GORDON: No objection, Your Honor.

MR. GREIM: And then plaintiffs also move --

JUDGE SUMMERHAYS: Hold on a minute.

MR. GREIM: I'm sorry.

(Off the record.)

MR. GREIM: That's right. It's Document 169.

COURTROOM DEPUTY: Thank you.

JUDGE SUMMERHAYS: Very good. No objection. Those exhibits are admitted.

MR. GREIM: Plaintiffs next move the admission of Exhibit 40 which was a statement of additional admitted facts purely from the answer -- the complaint and the answer in the case.

JUDGE SUMMERHAYS: Any objection?

MR. NAIFEH: Your Honors, I had wanted to take

an opportunity to review that document. I have not had the opportunity to do that yet. I don't anticipate that there will be an objection but if we could take that one up perhaps after lunch.

JUDGE SUMMERHAYS: We'll take that one up after lunch.

MR. GREIM: And then finally, the exhibits -- or the designations that we played yesterday, we designated Plaintiffs' Exhibit 41 as the actual written designations and 42 as the audio designations.

JUDGE SUMMERHAYS: And that is a combination of both sides?

MR. GREIM: That's right -- oh, I'm sorry. They're not both sides. These are just --

JUDGE SUMMERHAYS: Just the plaintiff?

MR. GREIM: -- plaintiffs'. So we would move the admission of those.

JUDGE SUMMERHAYS: Any objection?

MR. NAIFEH: No objection.

MR. GORDON: No objection, Your Honor. Just a point of clarity on the audio transcript issue. I was wondering if -- that we had any agreement on making the audio or video transcript a joint exhibit in toto?

MR. GREIM: We do have that agreement.

JUDGE SUMMERHAYS: That's why I was asking

because there was some discussion of that whether we were going to do it together.

MR. GREIM: We are. I just wanted to get this in so that the Court can access it right away and see what we played. But I mean I would assume that we will have a joint exhibit. I think we just need to add to what we've done.

JUDGE SUMMERHAYS: Well, I'll defer to my colleagues, but I would prefer instead of admitting this piecemeal if we could admit one exhibit that is the joint exhibit from all the parties.

JUDGE JOSEPH: I guess you want to make sure you admit it before rest your case. I think that's part of it.

MR. GREIM: I do. And just because we don't have -- we've been trying to get feedback on what needs to be added to it. Just days are passing. I just kind of want to get in.

JUDGE SUMMERHAYS: How about subject to keeping the record open to admit the joint exhibit once that has been agreed to, and we will admit what you have, what you have designated as 41 and 42?

JUDGE JOSEPH: To be possibly replaced with a joint.

JUDGE SUMMERHAYS: With the joint exhibit.

Exactly.

MR. GREIM: That's right. Yes. Thank you, Your Honor. I would adopt that.

JUDGE SUMMERHAYS: All right.

MR. NAIFEH: No objection.

MR. GORDON: No objection from us, Your Honor.

MR. STRACH: No objection.

JUDGE SUMMERHAYS: Very good. We're at 10 till. Why don't we go ahead and take our break now and we'll come back at 1:00.

(Lunch recess.)

JUDGE SUMMERHAYS: I just want to make a note to start off. The Court greatly appreciates the efforts by counsel to slow down as far as speaking and answering questions. So that has been noted and it is appreciated.

Counsel, you had an exhibit that you needed to review with the other side and to admit before you close.

MR. GREIM: Yes. That would be Plaintiffs' 40 and I think I'm just waiting on a response.

MR. NAIFEH: No objection from the Robinson intervenors.

MR. GORDON: No objection.

JUDGE SUMMERHAYS: No objection. 40 is admitted. And with that, you're going to close?

MR. GREIM: Yes. Yes, Your Honor.

JUDGE SUMMERHAYS: And as far as the defendants' and the intervenors' case, how are you going to proceed?

MR. NAIFEH: Well, we've got some exhibits we'd like to move in.

JUDGE SUMMERHAYS: Okay. Well, we can start with the exhibits.

JUDGE JOSEPH: I guess, who's going to go first? The State or the intervenors?

JUDGE SUMMERHAYS: I take it the intervenors are going to go first?

MR. GORDON: Yes, Your Honors. The State has no witnesses. The Secretary may, but we do not.

MR. STRACH: We may, but we were waiting to see what the intervenors put on.

THE COURT: Okay. So the intervenors are going to be first. And so you're going to move some exhibits in. Who do you expect to call for first witness?

MR. NAIFEH: Representative Mandie Landry from the State's House of Representatives.

JUDGE SUMMERHAYS: All right. Let's proceed with the witness.

MR. NAIFEH: So first I would like to move in Robinson Exhibits 24 to 46. 24 to 30 have an objection from the Plaintiffs.

(Reporter clarification.)

JUDGE SUMMERHAYS: Yeah, you're going -- yeah, why don't you come on up to the front and that may be easier. Can you repeat those again and slow down between each group?

MR. NAIFEH: Yes. Robinson Exhibits 24 to 30, which are bills introduced in the 2024 legislative session for various redistricting plans for congress. Those have been objected to by the plaintiffs on relevance grounds.

JUDGE SUMMERHAYS: Let's start with that group. Counsel?

MR. GREIM: We'll withdraw our relevance objection. This is only on Exhibits 24 to 30, the other bills that were proposed.

JUDGE SUMMERHAYS: So you don't have any objections to 24 through 30?

MR. GREIM: Correct.

JUDGE SUMMERHAYS: All right. Anybody else?

MR. GORDON: No, Your Honor.

JUDGE SUMMERHAYS: All right. Those are admitted.

MR. NAIFEH: All right. And then exhibits -- Robinson Exhibits 31 to 46, those are mostly vote tally -- amendments to some of those same bills.

JUDGE SUMMERHAYS: Counsel?

MR. NAIFEH: Those are not objected to at least

on the exhibit list.

JUDGE SUMMERHAYS: Counsel?

MR. GREIM: Yes, Your Honor, we don't have any objection to those either, to the amendments.

JUDGE SUMMERHAYS: They're admitted. Those are 31 through 46.

MR. NAIFEH: All right. And then we have Robinson Exhibits 114 to 124. Those are expert reports that were admitted into evidence in the Robinson litigation. And they have been -- they have objected to them on hearsay, relevance and prejudice. We are not offering them for the truth of the matter, so I don't think the hearsay objection applies. We were offering them as information that was part of the court record that the Legislature had before them when they adopted SB8.

MR. GREIM: Well, Your Honor, we do object. I mean I think there has to be a foundation laid that the Legislature actually believed the VRA, you know, required these districts and that they relied on these. That they're in the court record is one thing. It might get us past judicial notice on the fact of these, but I don't think the contents all just come into this case.

JUDGE SUMMERHAYS: So your argument is that there is no foundation that they relied on these specific expert reports that saying to introduce?

MR. GREIM: That's right. And I mean I take it that the contents are not going to come in as substantive evidence of what they're testifying to. But I don't think we even have the other ground either, so...

JUDGE SUMMERHAYS: Counsel?

MR. NAIFEH: There were -- legislative leadership were intervenors in that case. They were aware -- leadership were aware of these documents. I think -- I don't have the transcript from yesterday in front of me, but I believe that some of the legislators who testified here yesterday were aware of those documents -- testified that they were aware of those documents in the court record --

JUDGE SUMMERHAYS: That they reviewed the expert reports?

JUDGE JOSEPH: No one testified to that.

JUDGE SUMMERHAYS: I don't recall that either.

MR. NAIFEH: Okay. Then we can potentially move these in through one of our other witnesses.

JUDGE SUMMERHAYS: I'll leave it open if you wish to, if you wish to try to -- again, it would be admissible if you were to do that. Only first you would have to establish foundation that it was relied upon by those witnesses, that the Legislature relied upon it in connection with the passage of Senate Bill 8. But it

would only be admissible for the limited purpose that this was something that they reviewed and relied on.

Any dissents from --

JUDGE JOSEPH: No. That's correct.

JUDGE SUMMERHAYS: All right. You may proceed. At this point I am going to reserve --

JUDGE STEWART: The only question I have with respect to that, not putting cart before the horse because of the order going, but just sort of one allowed given the State's answer to the lawsuit and some other aspect that it's adverted to about the Robinson case. Just sort of a little curious as to whether this piece was something the State was going to be -- you follow my -- based on the answers in the State's answer, i.e., Robinson lawsuit, et cetera, et cetera, there are some other things coming out. I guess I am circling back to where we were earlier about pieces of this coming in for one person and pieces for something else, and we're kind of doing it on the front end before anybody's testified.

So it's a little awkward trying to get a real grasp on where it fits in. You know what I'm saying? I mean, we're just starting this case and then we have got documents, they're not joint, we've got objections. The other stuff they did, they were all agreed to.

So I am just wondering. But anyway, this is your

offer; it's not a joint with the State, correct?

MR. GORDON: Your Honor, I mean, we have slightly different take on some of these documents and I was going to raise that after Mr. Naifeh finished.

JUDGE STEWART: Okay. Got you. But I don't have any dissent with what the Court has said. I merely was trying to get clarity simply because looking at the answers filed, there's a lot in there in the State's answer about the Robinson case, et cetera, et cetera. And so given that, and there being other testimony, whether this -- was this prepared, something the State was putting in? So we need all that foundation. That was just a clarification, not a suggestion about what should or shouldn't. But basically just leaving it open subject to foundation.

JUDGE SUMMERHAYS: Did the State want to make a statement or take a position at this point?

MR. GORDON: So I think the State's position -- and we can refer to the State's exhibit list if you'd like. But we believe these -- the separate list of what we have labeled as exhibits that are in reference to certain expert reports and the Robinson preliminary injunction decision, as well as the Fifth Circuit's decision upholding that in part, are material to which the Court can take judicial notice of and should take judicial

notice of because it's not offered for its truth or really for any of the content or fact-finding therein, just for its mere existence.

JUDGE SUMMERHAYS: Counsel?

MR. GREIM: Sure. And they cited a case on judicial notice but that only gets us past one hurdle.

I think the problem is this. The State -- just going to the evidence we've heard so far, the State -- we've heard nobody from the State saying that we have a belief that the VRA requires it. Here is where it came from, these materials in this other case, but we reviewed them and we think that they made a pretty good case. Instead, testimony has been something different.

And so I don't think it can come in even for that limited purpose unless there is somebody who can say that. And we have -- not to go too far now, but in discovery we asked the State for, you know, the purposes behind the bill, et cetera, et cetera, and the State said, well, that's something that the Legislature has. We don't have access to that. I don't think the State can take that position in discovery but then come in here and say, well, we offer this. It's something the Legislature considered. I mean, there has to be a person who can say that.

JUDGE SUMMERHAYS: Yeah. And again, I think this goes to foundation. I'm going to reserve, subject to

dissent from my colleagues, reserve ruling on the admissibility of those documents until a foundation has been laid. And that includes consideration of judicial notice, which is the State's alternative approach.

MR. GORDON: If I could be heard just one more moment, Your Honor --

JUDGE SUMMERHAYS: Yes.

MR. GORDON: -- on this issue and then we can certainly take it up later. Is that the rules state that the Court must take judicial notice if it's properly offered. And I will refer to a case from the Fifth Circuit: That a court may take judicial of a document filed in another court, not for the truth of the matter as asserted in the other litigation, but rather to establish the fact that such litigation and related filings.

And that's merely what we wish to do here, Your Honor.

JUDGE JOSEPH: Is there an objection to just to -- to admitting it for the purpose of saying it exists?

MR. GREIM: Well, the problem is, you know, saying it exists has to be relevant in this case.

JUDGE JOSEPH: Okay.

JUDGE SUMMERHAYS: It's not relevant without a foundation.

MR. GREIM: That's right. I mean, judicial

1 notice, that's the Hornbook law. No one's going to fight
2 that you can take judicial notice of the records of
3 another court or this court. That's not at issue. It's
4 what Judge Joseph said, that basically there's a relevance
5 objection and that's really foundational here.
6 JUDGE SUMMERHAYS: And again, I'll rule on the
7 judicial notice as well as foundation once a foundation
8 has been laid. You can reassert your request for judicial
9 notice. You can reassert your request that the documents
10 be admitted.
11 Unless there is dissent, I am going to reserve ruling
12 on the objection until a foundation has been laid.
13 MR. GREIM: Your Honor --
14 JUDGE SUMMERHAYS: Yes, sir.
15 MR. GREIM: -- if I could add one more thing, I
16 would just say that in the Rule 26 disclosures in the
17 discovery, no witness has been identified who can come in
18 and actually do that thing, who has been proffered as
19 someone who can do it. But I don't want to get ahead of
20 myself. I just -- I'll leave it there.
21 JUDGE SUMMERHAYS: Very good. So that's 31
22 through -- that's 114 through 124. The Court will
23 reserve ruling on those documents that you may try to lay
24 a foundation. What else do you have?
25 MR. NAIFEH: All right. We have Robinson 125

and 126, which are hearing transcripts from the Robinson preliminary injunction hearing. I gather the objection is going to be the same, although there is no hearsy objection to those for obvious reasons. There is a relevance objection.

JUDGE JOSEPH: There is no hearsay objection for what reason?

MR. NAIFEH: Well, I think because it's a court record. It's a --

JUDGE JOSEPH: The plaintiffs were in that case.

MR. NAIFEH: They were not in that case.

JUDGE JOSEPH: So that matters.

MR. NAIFEH: They didn't raise a hearsay objection.

JUDGE SUMMERHAYS: Counsel?

MR. GREIM: My notes show that we did raise a hearsay objection and there would be hearsay within hearsay as well. But unless I -- my notes say that we've raised hearsay, relevance, and prejudice.

JUDGE STEWART: Yeah. I mean, I think the comfort level is reserving the ruling on it despite you've worked well, but, you know, with all trials obviously you're not agree on everything. So we're not pointing to that. Although we have the threshold on this. You fleshed out sort of where you're coming from and

you've alerted to that. You know, my preference would be: Whatever we can get started doing, turn to testimony and so on and so forth, that would do that and not bog down here on evidentiary stuff without anybody being prejudiced to your position. It may well be that you'll need to burn some midnight oil in terms of providing a basis for whatever your proposed offer is for us to do something different. Now that you've been alerted to it, weave it in. If you've got some case or cases that support what you want to do, you or somebody may have to burn some oil in terms of that so we're not just dealing with argument of counsel. We got the rule books up here, but this is a nuanced case and everybody realizes that. So just know that that's an issue there. We can proceed with some testimony. We get to the end of the day and that's an issue. Since we know we're going to be here tomorrow, you'll know what you got to do or whenever, we can get around to it. Then, you know, we can rule on it.

JUDGE SUMMERHAYS: We will reserve judgment on 125 to 126.

MR. NAIFEH: Shall I proceed or is it Your Honor's suggestion that we go ahead with witnesses and take that --

JUDGE STEWART: No. I was only suggesting if you continue down, you know, testimony, transcript, that

kind of thing. I don't know what else...

MR. NAIFEH: Well, we definitely got some other --

JUDGE JOSEPH: Let's go ahead and admit the ones that are going to be agreed to and then save argument for when a witness is on the testimony and the exhibits have been offered into evidence for those that just not agreed to.

JUDGE SUMMERHAYS: Because I think our concerns are going to be the same on all of the documents that are related to the Robinson Middle District case.

MR. NAIFEH: That's all I have for that category of documents, so...

JUDGE SUMMERHAYS: Okay.

MR. NAIFEH: Next I have 127 through 150, and 194 and 195. Those are bills and amendments containing congressional maps with two majority black districts that were introduced and considered in the 2022 First Extraordinary Session, which is when HB1 was adopted. That's the prior congressional map that SB8 replaced. The plaintiffs have objected to those on relevance and prejudice grounds.

Our position -- well, shall I --

JUDGE SUMMERHAYS: You can finish. You can finish.

MR. NAIFEH: Our position is one of the issues in this case is that whether it's possible to create a congressional map with two majority black districts that complies with traditional redistricting principles. There are numerous examples from the legislative record that are maps that contain two majority black districts, and so our position is that those are relevant to that issue in the case.

JUDGE SUMMERHAYS: Counsel?

MR. GREIM: A couple of things, Your Honor. First of all, at this -- at the liability phase, we're asking whether Senate Bill 8 is a racial gerrymander. We're not asking whether some other district exists that's not Senate Bill 8 that would not have been a racial gerrymander. And so that might be relevant if there is a remedial phase, but that doesn't seem relevant today.

The other problem is that this is a different legislature. In the 2022, that's not the same legislature that enacted these districts. And we've already heard insinuations about, you know, Joint Rule 21 may not bind future legislatures.

So it's just that's 60 exhibits, like just 60 exhibits. We don't know anything about how any of it's going to be used. And it just seems like *en masse* it is not relevant, it's a lot of evidence that is not really

1 targeted to what we're here about today. And so we don't
2 think it's -- we think it's cumulative and irrelevant.
3 JUDGE SUMMERHAYS: Let me ask you, Counsel: Is
4 this going to be the subject of the testimony of any of
5 the witnesses in your case?
6 MR. NAIFEH: Yes, Your Honor.
7 JUDGE JOSEPH: Then offer them at that time.
8 MR. NAIFEH: Okay.
9 JUDGE SUMMERHAYS: We'll reserve ruling on the
10 objection to 127 to -- the admissibility of 127 to 150,
11 and 194 and 195.
12 MR. NAIFEH: And then the remaining -- well, not
13 all of the remaining, but we have several more categories
14 that are similar that are bills introduced in other
15 sessions. And then the final category -- and I think I
16 have an issue with the numbers. Maybe I could raise those
17 letter on.
18 JUDGE SUMMERHAYS: So are these all exhibits
19 that are going to be the subject of testimony with
20 witnesses?
21 MR. NAIFEH: I believe so, Your Honor.
22 JUDGE SUMMERHAYS: Then let's raise it with
23 those witnesses so that we have some context so that we
24 know that you're going to be able to lay a foundation and
25 we can more readily judge relevancy at that point.

MR. NAIFEH: Thank you, Your Honor.

JUDGE SUMMERHAYS: Okay. Are you prepared to call your first witness?

MR. HESSEL: Good afternoon, Your Honors. My name is Daniel Hessel. I represent the Robinson intervenors in the matter. And intervenors call Representative Mandie Landry.

JUDGE SUMMERHAYS: If you'll approach and be sworn in.

MR. GREIM: I'm sorry to interrupt, Your Honor It's Mr. Greim. But I'm informed that the witness was in the room during the discussion just now about what was going to be brought in through witnesses and the relevance of legislative drafts.

JUDGE SUMMERHAYS: I left it up to Counsel to instruct witnesses about the Rule. Why was that not followed?

MR. HESSEL: Inadvertent error, Your Honors. My apologies.

JUDGE JOSEPH: Well, the problem is, we're talking about -- directly about evidence which may or may not be admissible based on what -- this being one of the witness's testimony. That's a problem. That's why we have the Rule of Sequestration.

MR. HESSEL: I understand, Your Honor. It was

my error, of course. I thought it was about live witnesses. If I could confer with my co-counsel about this briefly, I'd appreciate it.

JUDGE SUMMERHAYS: Yes.

MR. HESSEL: Your Honor, we don't intend to move any of these exhibits in through Representative Landry, if that makes things better. And again, my apologies.

JUDGE SUMMERHAYS: What about any -- even if you're going to move -- not move them in with her, are you going to ask questions that would lay a foundation for those documents in her testimony?

MR. HESSEL: We will eliminate those questions, Your Honor.

JUDGE SUMMERHAYS: Okay. Counsel?

MR. GREIM: Well, that may resolve the issue, but I think if there is a question -- we'll just have to listen to the questions and if we hear something we'll object.

JUDGE SUMMERHAYS: I mean, obviously if something comes up that you believe would prejudice you as a result of the violation of the Rule, then you can object timely.

MR. GREIM: Thank you, Your Honor.

JUDGE SUMMERHAYS: With that, we'll have the witness re-approach and we will swear you in.

JUDGE JOSEPH: And, Counsel, if you would just reconfirm that no other fact witnesses for plaintiff intervenors or the State are present in the courtroom during this testimony.

JUDGE SUMMERHAYS: Counsel, you may proceed when ready.

REPRESENTATIVE MANDIE LANDRY,

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. HESSEL:

Q. Good afternoon, Representative Landry. Thank you for joining us.

Please state your name, and spell your name for the benefit of the court reporter, please.

A. Mandie Landry. M-A-N-D-I-E, L-A-N-D-R-Y.

Q. Where do you live, Representative Landry?

A. New Orleans.

Q. What do you do for a living?

A. I am a lawyer and a state legislator.

Q. What district do you represent?

A. House District 91 in New Orleans.

Q. Do you belong to a political party?

A. Yes, I'm a Democrat.

Q. When were you first elected to the State House?
A. I was elected in November 2019 and sworn in January of 2020.
Q. Have you faced reelection since then?
A. Yes. I was reelected in October and sworn in this January.
Q. Are you familiar with the case that was filed in 2022 challenging HB1?
A. Yes.
Q. What is your understanding of the nature of that case?
MR. TYLER: Objection, Your Honor. This is exactly what we were referring to with the evidence.
JUDGE SUMMERHAYS: Sustained.
Q. (BY MR. HESSEL) Representative, when were you sworn in for your second term?
A. January 8th.
Q. Of which year?
A. This year.
Q. What was the first legislative item of your second term?
A. We had a special session on redistricting about a week later.
Q. Are you familiar with Senate Bill 8?
A. Yes.

Q. When did you first see Senate Bill 8?
A. Either the first day of session or the day before.
Q. Was that the day that Governor Landry addressed chambers?
A. The first day of session, yes, was the day he addressed chambers.
Q. Did you attend that address?
A. Yes.
Q. What did you understand the Governor's goals to be for the special session?
A. To make sure we passed a new congressional bill that would be accepted by the courts.
Q. Did you ever have an impression of why the Governor wanted to pass this bill?
A. A few reasons --
MR. TYLER: Objection. Foundation.
JUDGE SUMMERHAYS: Overruled.
Q. (BY MR. HESSEL) Did you form an impression of why the Governor had this call?
A. Yes. So after two years, it was time to put this to rest after so much litigation. There was fear among Republicans that if they didn't do this the Court --
MR. TYLER: Objection. Foundation.
JUDGE SUMMERHAYS: Overruled.
MR. TYLER: And hearsay. Sorry.

MR. HESSEL: The witness is testifying her impression that she had that led her to cast her vote on Senate Bill 8 and not for the truth of the matter asserted.

JUDGE SUMMERHAYS: All right. Overruled.

Q. (BY MR. HESSEL) Did you have an impression of why the Governor wanted to pass the map?

A. Yeah. So as I said, Republicans were afraid that if they didn't, that the Court would draw one that wouldn't be as politically advantageous for them. They kind of wanted to put this to rest and the Governor wanted Congressman Graves out.

Q. At some point during the special session, did you have a sense of which bill the Governor preferred?

A. We all knew from the beginning that the bill that was going to be passed was Senate Bill 8.

Q. And do you know how many majority black districts there are in Senate Bill 8?

A. Two.

Q. And did you think that Senate Bill 8 would bring an end to the litigation?

A. Most likely. It's impossible to predict, but all of our understanding was that it was very likely to meet the requirements of the Voting Rights Act.

Q. Do you have an understanding if one of the

incumbents -- current congressional incumbents was drawn out of his or her seat, so to speak, in Senate Bill 8?

A. Yes. Congressman Graves.

MR. TYLER: Object to foundation.

JUDGE SUMMERHAYS: Overruled.

Q. (BY MR. HESSEL) Let me ask that again. Do you have an understanding if one of the current congressional incumbents was drawn out of his or her seat, so to speak, in Senate Bill 8?

A. Congressman Graves was targeted in the map, correct.

Q. And were you surprised that Congressman Graves was targeted in the map?

A. No. Everyone -- everyone knew that. All the legislators, the media reported it. They have had a long-standing contentious relationship.

Q. And when you say "they," who are you referring to?

A. The Governor and Congressman Graves.

Q. Did you support Senate Bill 8?

A. Yes, I voted for it.

Q. Why did you support Senate Bill 8?

A. As I said, the understanding was that it was very likely to be approved under the Voting Rights Act.

Q. And did you think that Senate Bill 8 could pass the Legislature?

A. Yes.

Q. Why did you conclude that Senate Bill 8 could pass the Legislature?
A. It was the Governor's bill. All of leadership was behind it. It was the one bill that we all understood was going to go through. No other bill even made it out of committee regarding the congressional districts.
Q. You testified earlier that you formed an impression that Governor Landry supported the bill because of his relationship with Congressman Graves; is that right?
A. Yes.
Q. What formed that impression for you?
A. I mean, there's a 144 of us constantly talking and meeting --
MR. TYLER: Objection. Hearsay.
MR. HESSEL: Your Honor, again, it's not for the truth of the matter asserted, but the --
JUDGE SUMMERHAYS: Overruled.
MR. HESSEL: Thank you.
Q. (BY MR. HESSEL) So let me just ask that again. What formed your impression that SB8 was viable because of the relationship between Governor Landry and Congressman Graves?
A. Yeah. So this had been -- this discussion of the new districts had been going on since the Governor was elected among us and the media. It increased as we got closer to

1 inauguration. The chatter got bigger. The media was
2 reporting constantly on it. There were lots of meetings
3 on it. Of course, I didn't hear from Republican
4 leadership but we eventually all knew what bill it was
5 going to be. And there were actually a couple dozen bills
6 and other issues that we understood were the Governor's
7 bills.
8 Q. Can you try to quantify for the Court how many of
9 these conversations were going on?
10 A. Constantly. The Legislature is a semicircle.
11 Because we wanted to know what was going on, when it was
12 going to end, which bills were being presented, what
13 amendments might be presented. We were also discussing
14 the Supreme Court maps. There was closed primaries. I
15 mean, we were barely -- there was a lot going on.
16 Q. Try to quantify how many of those conversations
17 revolved around this political dynamic that drove SB8.
18 A. Since October, hundreds, if not more, that week. I
19 mean the same, maybe it was constant.
20 Q. And did you at some point form an impression that
21 your view on why SB8 was viable was shared by many in the
22 Legislature?
23 A. I mean, the whole time, before we went in, there was
24 going to be a map that the Court was likely to accept
25 under the Voting Rights Act, and that this would be done

that week.
Q. What impression have you gotten from constituents in communities in the state about having a map with two majority black districts?
A. So over the last couple of years, it's been heartening to see the public has come to understand better gerrymandering, redistricting, what that means, what that -- you know, the effects of that, packing. And it's been interesting to see, since I've been elected, the more people who understand that and they might not know the details but my constituents in New Orleans generally understands that we are probably going to get the second district. And, you know, in a time of negative politics, it's actually a good thing.
Q. And as a public leader, what's your impression of the impact on the communities you serve and people across the state if SB8 were struck down?
A. I mean, this is the South. There is a long history of oppression here. To have a second district means a lot of minority communities, not just racial minority, but rural areas, poor areas, will have better representation in congress. More money will flow to infrastructure projects. They'll just have someone who better understands and has to represent them in particular.
Q. Thank you very much. I have no further questions.

A. Thank you.

JUDGE STEWART: Before you go further, would you clarify, because your name is Landry, if you are related at all to either the Secretary of State or the Governor, just so the record is clear if you are or you aren't.

THE WITNESS: I am not related to anyone who was elected with the last name Landry. I have heard this before.

JUDGE STEWART: Thank you, ma'am.

JUDGE SUMMERHAYS: Counsel?

MR. GORDON: No questions from the State, Your Honor.

JUDGE SUMMERHAYS: Plaintiffs, cross?

MR. TYLER: Cross, Your Honor.

CROSS-EXAMINATION

BY MR. TYLER:

Q. Ms. Landry, you testified that you did not talk to Republican leadership; is that correct?

A. Directly, no.

Q. And so your information regarding that did not come from them?

A. No.

Q. Were you a fan of SB8?

A. I agreed and was satisfied that it would meet the requirements of the Voting Rights Act. It had two

majority-minority districts, which is what we've been hoping for the whole time. I was kind of indifferent to other the political issues because they didn't really involve my party. But I thought the map was sufficient.

Q. But you believe that it could have been drawn better?

A. There were other maps in 2022 that as Democrats we liked better, but this one was the one that was going to pass.

Q. And it's true, isn't it, that the Democrats did not have much say in this map?

A. We did not.

Q. And that is your party, correct?

A. Correct.

MR. TYLER: Let me confer with counsel, if that's okay. We have no further questions.

JUDGE SUMMERHAYS: Any redirect?

MR. HESSEL: I have one question, Your Honor.

JUDGE SUMMERHAYS: You may proceed.

REDIRECT EXAMINATION

BY MR. HESSEL:

Q. Representative Landry, during this process they were describing, did you talk to any Republicans about what was going on?

A. You mean during the January session? Yes, through my colleagues. I mean this a very --

MR. TYLER: Objection, Your Honor. This is not redirect. This was not covered on direct.

JUDGE SUMMERHAYS: Overruled.

Q. (BY MR. HESSEL) Did you talk to any Republicans during the special session?

A. Yes. We were all in the chamber. Where I sit, I'm surrounded by Republicans. We talk about all bills, what's going on and what's going to fail and what's going to pass.

Q. Thank you very much.

A. Thank you.

JUDGE SUMMERHAYS: Can we release Representative Landry?

MR. HESSEL: Yes.

JUDGE SUMMERHAYS: You are free to step down. You can go.

Counsel, you may call your next witness.

MS. SANDASIVAN: Your Honors, Kathryn Sadasivan for the Robinson intervenors. The Robinson intervenors call Anthony Fairfax by remote testimony.

JUDGE SUMMERHAYS: The witness will approach.

MS. SADASIVAN: By remote testimony, Your Honor. I apologize.

JUDGE JOSEPH: This is a housekeeping matter. What measures have you taken to make sure that the

1 situation -- obviously that witness is not in the
2 courtroom. We don't know who is in the room with him,
3 what materials he has. Have you told him he needs to be
4 by himself without any access to materials other than what
5 you show him?
6 MS. SANDASIVAN: Yes, Your Honor. And he was
7 given the exhibits from the plaintiffs they asked for him
8 to have.
9 JUDGE JOSEPH: Sure. And that's fine as long as
10 it's all disclosed what's being shown to him and what he
11 has.
12 MS. SANDASIVAN: Yes, Your Honor.
13 Good afternoon, Mr. Fairfax. Can you hear me?
14 THE WITNESS: Yes, I can. Good afternoon.
15 JUDGE SUMMERHAYS: We'll go ahead and swear the
16 witness in.
17 (Oath administered to the witness.)
18 JUDGE SUMMERHAYS: You may proceed.
19 MS. SANDASIVAN: Thank you, Your Honor.
20 ANTHONY EDWARD FAIRFAX,
21 having been first duly sworn to testify the truth, the
22 whole truth, and nothing but the truth, testified as
23 follows via Zoom:
24 DIRECT EXAMINATION
25 BY MS. SADASIVAN:

Q. Mr. Fairfax, can you please state and spell your full name for the record?
A. Yes. Anthony, A-N-T-H-O-N-Y. Edward, E-D-W-A-R-D. Fairfax, F-A-I-R-F-A-X.
Q. And what is your educational background, Mr. Fairfax?
A. I have a master in geospatial information science and technology from NC State, and I have a bachelor's of science degree from Virginia Tech, in electrical engineering from Virginia Tech.
Q. And what do you do for a living?
A. I am demographic and mapping consultant.
Q. What professional experience have you had?
A. I began my career as an electrical engineer. I worked for two companies, Teledyne, Inc., a Fortune 500 company at that time. I then moved on to work for EVR Systems, an engineering and economics research systems, as an electrical engineer as well. I then started a business with another individual as a silent partner, a computer training business. The first one on what we call the peninsula here. We had to close that business because of the 1990 recession and people cutting back on things like training or the precursor to the recession. I wanted to stay out and continue to be an entrepreneur so I began computer consulting. I landed a contract with Norfolk State University, first working as a manager of their

1 computer training facility in computers and IT managing
2 the computers. But then someone talked to me about a
3 project in political science. I went over and met with
4 the directors or the co-directors. They hired me as a
5 GIS consultant. The project was a redistricting project
6 funded by Ford and Rockefeller Foundation. It changed the
7 course and direction of my life completely because over
8 the next 30-some years, I worked in redistricting,
9 provided services for a variety of organizations, some
10 small organizations, to nationally recognized
11 organizations. I developed plans in approximately I'd
12 say 22, 23 different states. And over the course of that
13 time, probably have developed several hundred to maybe
14 close to a thousand, maybe even more than a thousand at
15 this particular moment. And I have reached -- fortunately
16 I'm blessed in let's say as a -- I have been able to
17 testify in federal and state court as a redistricting
18 expert, which leads me to today.
19 Q. Thank you, Mr. Fairfax. In how many court cases have
20 you served as a redistricting expert?
21 A. Approximately nine or ten.
22 Q. And you were qualified as an expert. Do you know on
23 what basis you were qualified and what field you were
24 qualified?
25 A. I believe mostly in demography, demographics, census

data, and those realms.
Q. And did you submit a report in this case?
A. Yes, I did.
Q. How many reports did you submit?
A. I submitted one report.
MS. SANDASIVAN: Your Honors, pursuant to Federal Rule 702, I'd like to qualify or proffer Mr. Fairfax as an expert witness in redistricting and demography.
JUDGE SUMMERHAYS: Any voir dire?
MR. GREIM: Your Honor, we have no objection to his qualification in demography and demographics in the area of redistricting.
MR. BOWEN: Nothing from the State, Your Honor.
JUDGE SUMMERHAYS: You may proceed.
MS. SANDASIVAN: Thank you.
Q. (BY MR. SADASIVAN) So let's turn to your role in this case, Mr. Fairfax. What were you asked to do in Callais v. Landry by the Robinson intervenor defendants?
A. I was asked to review the expert reports of Mr. Hefner, Dr. Voss, and Dr. Sadow in regard to congressional district plan SB8, review their analysis, come up with any opinions or conclusions, and develop a report.
Q. And were you asked to offer opinions on whether race

was the predominant motive of the Legislature in drawing the SB8 plan?

A. No, I was not.

Q. Let's turn to your methodology. How did you go about reviewing and offering opinions on the reports of Mr. Hefner and Dr. Voss?

A. I first began to obtain the appropriate data. I downloaded the plans that were on the legislative websites, including HB1, SB8, the Plan A3. I also included or accessed data that I had previously created, for example, CVAP data, socioeconomic aspects or indicators that I used previously in court. And there was one plan that I forgot. That's why I hesitated. The sell points plan. I couldn't think of that. I downloaded that as well. I also was sent the plan from Mr. Hefner, the Illustrative Plan 1. I apologize for the brain fog.

MR. GORDON: I'm sorry to interpret, Your Honors. I notice that on the monitor there is a projection of the courtroom that has one of the -- I believe of Your Honors' monitors on it. I don't believe it's readable at all, but I just wanted to bring that to the Court's attention in case that was a concern for anybody.

JUDGE SUMMERHAYS: I think the -- which one is it?

JUDGE JOSEPH: I think it's got your monitor on it.

MR. GORDON: Perhaps it's the court reporter's. I'm sorry. Okay. I'm sorry.

(Off the record.)

JUDGE SUMMERHAYS: All right. You may proceed.

MS. SADASIVAN: Thank you, Your Honor.

Can you please pull up what I am going to ask -- what I will call Robinson Exhibit 294?

Q. (BY MS. SADASIVAN) Mr. Fairfax, are you familiar with the two figures hopefully before you?

A. Yes, I am.

Q. And how are you familiar with them.

A. One of them on the left is the Illustrative Plan 2023 that I developed and submitted in a report in December of 2023. The other is a plan that I referred to before, Plan A3. That was developed in 2021. It was submitted or presented during that period of time where the state legislature was requesting input from the community and anyone else. So the Power Coalition and LDF submitted this as a proposed plan during that time.

Q. And where did the Robinson Illustrative 2023 Plan 2 described in your report come from?

A. It was a modification of the previous plan, Illustrative Plan, 4 that was submitted during the

Robinson litigation. Made some slight changes.
Q. And are you aware of whether any of these -- either of these plans was introduced in the Louisiana legislature?
A. There was a very similar plan, an HB12 plan that was similar to the Robinson plan that was submitted.
Q. Do you know when it would have been considered by the Louisiana legislature?
A. In 2024. Excuse me, in 2021. I apologize.
Q. So just to clarify, which figure, Figure 3 or Figure 4 from your report in Exhibit 294 would have been considered by the Louisiana legislature in 2021?
A. Plan A3.
Q. Okay. And that's Figure 4.
A. I'm sorry. I'm sorry. The HB12 plan I believe was -- check that. Yes. I'm sorry. I apologize. Continue, please.
Q. Ask you again? When was the -- do you know which of these plans was introduced in the Louisiana legislature?
A. Yes. Plan HB12 similar to Plan A3.
Q. Okay. And when was HB12 introduced in the Louisiana legislature?
A. In 2021.
Q. And is this -- did Robinson Illustrative 2023 Plan 2 and Figure 3 and the A3 plan and Figure 4 that you drew

create two majority black congressional districts?
A. Yes, it did.
Q. In the Marcelle-Price plan that you also considered from the 2024 legislative session, did that create two majority black congressional districts?
A. Yes, it did.
Q. Did these plans represent the only way in which you could have drawn two majority black congressional districts?
A. No. During the process, there are many different configurations you can actually configure the two majority black districts.
Q. And what were the metrics by which you compared the SB8 plan with other redistricting plans that you considered in your report?
A. I used traditional redistricting criteria. A core sequel population is always a consideration, but I looked at contiguity. I looked at compactness. I looked at preserving communities of interest and minimizing political subdivision splits.
Q. How did you prioritize the traditional redistricting criteria that you considered?
A. When there is no priority given any guidance, then what you do is you attempt to balance the criteria.
Q. What sources did you look at to identify communities

of interest in evaluating Dr. Voss and Mr. Hefner's analysis of whether the SB8 plan respected traditional districting principles?

A. Mr. Hefner, in his first report, utilized communities of interest or established communities of interest of parishes and municipalities. And so I looked at those in regards -- in reality, they could be also be political subdivision that you actually look for minimizing political subdivision splits.

Q. And what socioeconomic data did you look at?

A. I looked at six different socioeconomic indicators: Income, education, poverty, renter percentage, food stamps. And then there is one that the Census Bureau actually creates called Community Resilience Estimates. And it's a ranking of how resilient a population can come back from a disaster. And so I looked at that as well.

Q. Are there other types of information that a map-drawer might consider when drawing a congressional districting plan, for example, on behalf of a legislature?

A. Yes. Yes. Of course, there are political considerations with any of the plans. It could be, for example, assets. They call it assets. These are areas that would be included, that's desirable to be in a particular district. So, for example, like a college or a university, the military bases. And then, of course,

there is incumbent locations that you may consider as well.

Q. And I am going to show you what I'm going to call Exhibit 295. Next slide. Are you familiar with these tables, Mr. Fairfax?

A. Yes, I am.

Q. And how are you familiar with them?

A. The one on the left is included in my report. The one on the right is included in Mr. Hefner's second report. Or it's the third, the last report, I believe.

Q. And what do these tables from your response report on page 12 show generally about parish splits across the HB1 and the SB8 plan?

A. Insofar as parish splits, there are several. SB8 split 16. HB1 splits 15. When you look at the congressional district in each of the plan that has the largest number of parish splits, it's 11 in HB1 and 6 in SB8. If you look and consider how the splits are spread out, let's say, on each of the plans, you have the HB1 ranking or rating from 1 to 11 split. Whereas, the SB8 goes from 3 to 6 splits, so it's a little more evenly split across the plan.

Q. And is that a tradeoff spreading the splits of parishes more evenly between districts that you as a mapmaker might have made?

MR. GREIM: Objection. Vague and leading.

JUDGE SUMMERHAYS: Can you rephrase?

Q. (BY MS. SADASIVAN) Have you as a mapmaker drawn districts to spread out parish splits more evenly between the districts?

A. It's something that you can consider. The primary metric is the number of splits. But I think you're always cognizant of all of the different splits for each of the districts.

Q. Okay. Did you analyze the split population as Mr. Hefner did in the table on the right?

A. No. No, I did not.

Q. Why not?

A. That's usually not included in the splits. You may include the population in a report just for identification of the population in each of the districts but not as a metric for splitting.

Q. Were you able to conclude, based on your analysis and the opinions offered by Dr. Voss and Mr. Hefner that you heard, that racial considerations predominated over the preservation of parishes in the SB8 plan?

MR. GREIM: Objection --

A. No, I did not.

MR. GREIM: Objection because this is not an opinion. It seems like it's calling for opinion that's

not actually offered in the report.

JUDGE SUMMERHAYS: Counsel?

MS. SADASIVAN: Mr. Fairfax does offer this opinion in the report.

JUDGE SUMMERHAYS: Where in the report? If you can clarify that, I'll allow the question.

MS. SADASIVAN: Clarify where in his report?

JUDGE SUMMERHAYS: Yes, that he is covering in the report. All I hear from you is: Yes, it's in the report.

MS. SADASIVAN: Sorry, Your Honor. I mean, it's in the summary of his opinions. That is what he was asked to do in this particular case, whether -- and as I asked at the beginning, he wasn't asked to determine whether race was the predominant motive of SB8; he was simply asked to opine on whether or not Mr. Hefner and Dr. Voss were able to conclude that race predominated. So the entirety of his opinion, what he's offering is whether or not the information that they have provided would allow them to conclude that.

JUDGE SUMMERHAYS: Counsel?

MR. GREIM: Well, I didn't hear the question that way. I think so long as it's kept to whether Voss or Hefner could draw that conclusion, I'm okay with it. I didn't hear it come out that way.

JUDGE SUMMERHAYS: I will allow overrule the objection.

Do you need to repeat the question?

MS. SADASIVAN: Sure.

JUDGE SUMMERHAYS: We've had a lot of argument since you asked the question.

Q. (BY MS. SADASIVAN) Were you able to conclude, based on your analysis of the opinions of Dr. Voss and Mr. Hefner, that racial considerations predominated over the preservation of parishes in the SB8 plan?

A. No, I did not.

MR. GREIM: Well --

JUDGE SUMMERHAYS: I'm going to overrule the objection. Please proceed.

Q. (BY MS. SADASIVAN) You can answer, Mr. Fairfax. Apologies. Do you need me to ask the question again?

A. No, I did not. That's the answer.

Q. No. Okay.

So I am going to show you what I'll call Robinson Exhibit 296. Are you familiar with these tables, Mr. Fairfax?

A. Yes, I am.

Q. How are you familiar with these tables?

A. Once again, on the left you have a table from my report, and on the right you have a table from

Mr. Hefner's report.

Q. And what does the table on the left show you or demonstrate about the number of split municipalities in the SB8 and the HB1 plan?

A. Once again, you see not a substantial difference. You have SB8 as 42 municipality splits, and HB1 has 32. I also want to say, just go on the record, that the state municipalities followed Mr. Hefner's nomenclature, these are actually census places and not municipalities.

That said, 42 and 32 is not a significant difference when you consider that you have 488 municipalities or census splits, as I said. Once again, you have a more evenly spread of splits across the plan. And the largest congressional district in the HB1 plan splits 19 and the SB8 plan splits only 15.

Q. And what is the range of municipality splits in the HB1 plan?

A. They range from 3 to 19.

Q. And what is the range of municipality splits in the SB8 plan?

A. They range from 12 to 15.

Q. And were you able to conclude, based on your analysis of the opinions Mr. Hefner offered, that racial considerations predominated over the preservation of municipalities in the SB8 plan?

A. No, I could not.
Q. Did Dr. Voss analyze municipality splits?
A. I do not believe so.
Q. Okay. And in your opinion does that impact Dr. Voss's ability to opine on political subdivision splits as a traditional redistricting principle subordinated to race?
A. It is missing a component.
Q. And does that affect Dr. Voss's ability to conclude that race was a predominant factor motivating the splits of municipalities in the SB8 plan?
A. Yes, it's missing a component.
Q. I am going to show you what I'll call Robinson Exhibit 297. Are you familiar with this table, Mr. Fairfax?
A. Yes, I am.
Q. How are you familiar with it?
A. It is a table included in Dr. Voss's report.
Q. And what does this table show?
A. It shows several plans and the MSA split in those plans. It shows the, what he calls the most effective, which is the largest population. I would say that's effective. And then he has the effective splits, a ratio that is being calculated. He then has the -- I would say what the second most, and then the same thing with

1 effective splits.
2 Q. And what's the approximate size of a metropolitan
3 statistical area?
4 MR. GREIM: I have an objection. This line of
5 testimony was not given by Dr. Voss. It does exist in his
6 report. It was not offered in evidence in our
7 case-in-chief. And this witness was brought here only to
8 rebut the testimony of Dr. Voss.
9 MS. SADASIVAN: That's fair.
10 JUDGE SUMMERHAYS: Counsel?
11 MS. SADASIVAN: That's fine. We'll move on.
12 JUDGE SUMMERHAYS: Sustained.
13 MS. SADASIVAN: Can we pull up what I'll call
14 Robinson exhibit -- I'm going to call this 297?
15 JUDGE SUMMERHAYS: 297?
16 MS. SADASIVAN: And take the other one out, if
17 that's okay. So what I'll call Exhibit --
18 JUDGE SUMMERHAYS: What's the plan? Are you
19 going to introduce these exhibits?
20 MS. SADASIVAN: If it's okay, I can introduce
21 them at the end. I mean I think he's authenticated
22 through at least 296 thus far. I can ask for them to be
23 moved into evidence now.
24 JUDGE SUMMERHAYS: Any objection to that?
25 MR. GREIM: No objection, Your Honor.

MR. BOWEN: No objection, Your Honor.

JUDGE SUMMERHAYS: And which ones, just so we state it on the record, which ones are you moving in?

MS. SADASIVAN: 294 through 296. And there will be more, but --

JUDGE SUMMERHAYS: All right. We'll get those introduced. There has been no objection. They are admitted.

Q. (BY MR. SADASIVAN) So I'm showing you what I'm going to call Robinson Exhibit 297. Do you recognize the maps in this exhibit, Mr. Fairfax?

A. Yes, I do.

Q. And what is the map, Map 14 on the left purport to demonstrate?

A. That is a heat map which provides the concentrated locations of black voting age population using 2020 census in the state of Louisiana.

Q. How do you recognize that map?

A. That map was included in Mr. Hefner's report.

Q. And did you review that report?

A. Yes.

Q. And what does the map on the right illustrate?

A. The map on the right I generated in response to the map on the left. The map on the right shows that the parishes in Louisiana, the black population percentage is

not just concentrated in one or two or three or a few areas, it is throughout the state. And so the red that shows you those parishes greater than 50 percent, and the yellow shows between 25 and 50 percent, which is an ample or a significant amount of black population. Whereas, the heat map gives you the impression that the population of black persons only exist in a few areas throughout the state.

Q. And can you give us an example of how the heat map's representation of the black population differs from the map on the right, Figure 2, from your report, illustrates the black population in Louisiana?

A. Yes. A visible difference is: When you look at East Carroll, Madison, and Tensas -- I believe is you how pronounce it -- you see that on the heat map, it doesn't appear that there is a significant amount of black population in those parishes. But they are all majority black parishes if you look at the map on the right. It gives you a completely different perspective of the black voting age population.

Q. How did you go about assessing whether the black population is distributed in such a way that you could create a second majority black district while complying with traditional redistricting principles?

A. Well, I generated prior to this as well as in

1 December, an illustrative plan, as well as a remedial
2 plan, that contained two majority black districts and it
3 adhered to traditional redistricting criteria.
4 Q. So in testing that hypothesis, how do you go about
5 determining whether it is, in fact, possible then?
6 MR. GREIM: I'm sorry to object again. But I
7 think now, rather than responding to Dr. Voss and
8 Mr. Hefner, this witness is just flat out testifying about
9 whether it's possible to draw other two majority-minority
10 maps following traditional redistricting criteria, which
11 is again not a response to Voss and Hefner.
12 JUDGE SUMMERHAYS: Counsel?
13 MS. SADASIVAN: This is actually what
14 Mr. Hefner testified about today, about whether or not it
15 was possible to draw a map with two majority black
16 districts that complies with traditional redistricting
17 principles. So not only is Mr. Fairfax responding to the
18 direct testimony we all heard today, but he is also
19 responding directly to what was contained in Mr. Hefner's
20 report.
21 JUDGE JOSEPH: I think Dr. Voss and Mr. Hefner
22 both testified that they didn't think it was possible two
23 draw two majority black districts.
24 JUDGE SUMMERHAYS: Yeah. I am inclined to allow
25 it unless I have a dissent from --

JUDGE JOSEPH: That's what they said.

JUDGE STEWART: No, they testified -- it's free rein on impossibility. They were asked over and over about it. You've got experts on. They're all reviewing each other's reports. You've got the reports unless you're saying something is coming in that's not in the report, we've given pretty wide range to all counsel with these experts to be able to kind of testify within the confines a bench trial. We can exclude later if you want to prop it up, but try to stay away from these, you know, continued objections unless it's relevance, it's beyond the report themselves. If it's within the range of what was brought out in direct or cross by experts, we've allowed them to stay in the courtroom for a reason. So they've heard what each person has said. This is not the parameters when we're talking about fact witnesses. And all counsel are well aware that we've given a lot of room on these reports.

So unless we're dealing with something relevant, it's not in the report, something new or whatever, let's stay within -- the same rules were given on these experts. We're going to evaluate them in the end. And counsel will definitely be able to tell us, you know, what to consider and how much weight to be given to them and so on and so forth, without having waived any kind of, you know,

1 objection that you may have. The fact that you don't
2 object to it doesn't mean you have waived any argument
3 about whether you should believe it, exclude it, whatever.
4 We're just trying to get the evidence in the record so
5 nobody's prejudiced by not having it in there. And we'll
6 figure out, you know, what it all means. We don't have a
7 jury in the box that we're worried about not being able to
8 "untell" it.
9 MR. GREIM: And I would just say: Obviously
10 we've had plenty of expert testimony, Your Honor.
11 Appreciate that. I think this -- I am not certain if this
12 is in the report. It's not something I focused on.
13 There's another part that does talk about maps. But this
14 isn't it.
15 JUDGE SUMMERHAYS: But it's been testified about
16 repeatedly in this proceeding. I am going to overrule the
17 objection. You may proceed.
18 MS. SADASIVAN: Thank you, Your Honors.
19 Q. (BY MS. SADASIVAN) Mr. Fairfax, would you like me to
20 ask the question again?
21 A. Yes, please.
22 Q. So in assessing of whether the black population is
23 distributed in such a way that you could create a second
24 majority black district, so to test that hypothesis, how
25 do you -- and comply with traditional redistricting

1 principles, how do you as a demographer go about
2 determining whether it's possible?
3 A. Well, you attempt to develop a plan, a plan that
4 follows or adheres to either their redistricting criteria
5 that's established by the State or what's called
6 traditional redistricting criteria. And, in essence,
7 that's what I did. I developed a plan that created two
8 majority black districts and adhered to traditional
9 redistricting criteria.
10 Q. Thank you. And why does that make sense as a way of
11 determining whether or not it's possible?
12 A. Well, if you are going to try to determine something,
13 I think it's good to attempt to try to do it to see if
14 it's possible. But that's something that you would do in
15 many analysis that you perform.
16 Q. And so in Mr. Hefner's heat map on the left -- and
17 just to go back -- what is the differences that you were
18 describing between the way the black population is
19 depicted in Mr. Hefner's heat map on the left and your map
20 specifically of the black population by parish on the
21 right?
22 A. In his map, it gives the impression that the black
23 population only exists in those areas that you see are
24 colored in. And that's not the true reality. They exist
25 throughout. And some of those areas that you can't see

that doesn't have them -- for instance, you don't see a clear demarcation in East Carroll, Madison and Tensas, but they're majority black. And those would be, you know, likely candidates to actually include in a majority black district.

Q. Okay. Thank you. And did Dr. Voss offer opinions on socioeconomic factors as nonracial considerations that could have motivated the lines in the SB8 plan?

A. I believe Dr. Voss did not.

Q. And in your opinion does that impact Dr. Voss's ability to conclude that race was the predominant factor motivating the district lines in the SB8 plan?

A. Yes. There's a component of that. Yes.

Q. And Mr. Hefner later looked at the socioeconomic factors that you considered in your report; is that right?

A. Yes, that's correct.

Q. And did anything in Mr. Hefner's report change your opinion that Mr. Hefner couldn't conclude that socioeconomic factors couldn't explain the district lines in the SB8 plan?

A. No, nothing changed my mind or conclusions.

Q. So I'll ask to pull up Robinson Exhibit 298. Do you recognize the figures in this exhibit?

A. Yes.

Q. And how do you recognize the figures in this exhibit?

A. These were two maps that I included in my report.
Q. And these maps depict East Baton Rouge -- sorry. What does the map on Figure 5 from your report on the left demonstrate?
A. It shows the boundaries of CD-6 and SB8. And then it overlays the six socioeconomic aspects or indicators that I mentioned before. And the reason why I utilize them to show if the socioeconomic aspects could generally define the configuration of the districts, and they do so.
Q. And what does Figure 6 from your response report on the right illustrate?
A. This shows I guess another aspect that could be looked at. And that's municipal boundaries in an asset of LSU. And so when you show these and overlay the census places on top of the map and the boundaries, you show that they generally attempt to follow the census places. You see central up at the top. You know, you see the one downs on the bottom? They are generally attempting to include them as whole census places. The encroachment if you will of CD-5, the district on the east, let's say, goes all the way to what I consider LSU. And it could be an attempt to include the majority of LSU inside CD-5.
Q. And as a demographer with -- drawn for numerous states, drawn maps on behalf of numerous states and local entities, are these maps that you use in drawing plans on

behalf of those entities?
A. The types of maps is what you're referring to?
Q. Yes. Sorry.
A. Yes. Yes. Routinely you would overlay municipal boundaries just to check out to see if they follow. And, of course, the socioeconomic aspects are used to sometimes even draw plans as I have done or to verify.
Q. And did anything of Mr. Hefner's report lead you to conclude that racial considerations had to predominate over the preservation of communities of interest, including the socioeconomic communities of interest in the SB8 plan?
A. No. No.
Q. And why not?
A. Because one of the things that he did, I believe he included the separate maps with socioeconomic aspects. And that can be used but that doesn't present all of the picture, so overlaying them on top shows a commonality of all of these six different socioeconomic aspects or indicators which allow you to reveal whether that district actually truly followed those six versus looking at it one at a time.
Q. And do you agree with Mr. Hefner and Dr. Voss's opinion that the black population is too dispersed to create a second majority black congressional district

without sacrificing traditional districting principles?
A. No, no. I don't agree.
Q. And do you agree with Mr. Hefner and Dr. Voss that race had to be the predominant motive of the Louisiana legislature in enacting SB8?
MR. GREIM: I do object on this question because we're now asking, while we're mentioning Dr. Voss and Dr. Overholt and Dr. Hefner -- I'm sorry -- Mr. Hefner, the very first thing the witness said is he is not offering opinion on whether race predominated. Now he is being asked that question basically in just different words.
MS. SADASIVAN: What I said was: Do you agree with Mr. Hefner and Dr. Voss that race had to be the predominant motive of the Louisiana legislature, whether or not -- in other words, their conclusions would lead him analyzing it to conclude that it had to be the predominant motive?
JUDGE SUMMERHAYS: I am going to overrule the objection. Proceed, please.
Q. (BY MS. SADASIVAN) Would you like me to ask the question again, Mr. Fairfax?
A. Yes, please.
Q. Sorry about that. Based on the testimony you've heard from Mr. Hefner and Dr. Voss, do you agree with

Mr. Hefner and Dr. Voss that race had to be the predominant motive of the Louisiana legislature in enacting SB8?

A. I do not agree with that.

Q. And why not?

A. Because in my analysis I saw other aspects that could configure the district or allow the district to be configured in a manner other than race.

Q. And did you consider all of the things that the Louisiana legislature could have considered in enacting SB8?

A. No, I didn't consider every one.

Q. Did you conduct a racially polarized voting analysis as part of your work in this case?

A. No, I did not.

MS. SADASIVAN: Nothing further right now.

JUDGE SUMMERHAYS: Does the State have --

MR. BOWEN: Yes, Your Honor, very brief.

JUDGE SUMMERHAYS: You may approach. Proceed when ready.

CROSS-EXAMINATION

BY MR. BOWEN:

Q. Mr. Fairfax, are any of the maps included in your reports ones that you drew?

A. The illustrative --

JUDGE STEWART: Hold on, Counsel. We got the chatter at the tables that --

MR. BOWEN: Apologies.

MS. SADASIVAN: Oh, I'm so sorry.

Q. (BY MR. BOWEN) Sorry about that. I'll reask the question. Are any of the maps included in your reports ones that you drew?

A. The Illustrative 2023 Plan 2.

Q. What about --

A. I'm sorry. And the Plan A3. (Audio interference.) Yes.

Q. Sorry. There seems to be a lag here. Please answer.

A. No, that's it.

Q. When drawing your maps, did you consider the political objective of not pairing incumbents?

A. In drawing my plans, I did include the incumbents so they would be separate.

MR. BOWEN: And if I could impose on my friends, the intervenors, over here to pull up pages -- page 31 of Mr. Fairfax's report.

THE WITNESS: And let me say a caveat in Plan A3 that wasn't a consideration. That was in 2021.

Q. (BY MR. BOWEN) And is this the A3 plan we were just talking about?

A. Yes.

MR. BOWEN: And could we go to the next page, page 32?

Q. (BY MR. BOWEN) And on that page, in paragraph 72 you said the A3 plan provides an example of how population could be added to CD-4 using the SB8 plan as a baseline to eliminate the wraparound configuration and create a more compact district. The configuration of the A3 plan would have provided a more compact district and a plan configuration while creating a second majority black district in the Red River region of the State. Plan would have paired incumbents Mike Johnson and Julia Letlow in CD-4 however. Once again, the State legislature's choice of a different less compact configuration than these alternatives seems to be for political considerations and not race predominating.

What did you mean by that?

A. That means that this could have been one of the political considerations of not accepting that particular plan. That it paired two incumbents. And so they weighed, let's say the pairing of the incumbents over the compact aspect of the districts.

Q. And when you were drawing your maps, did you consider the conclusions of the Fifth Circuit and the Middle District in the Robinson litigation?

A. The Court direction of creating two majority black

1 districts?
2 Q. Yes.
3 A. Yes. Yes, I did.
4 MR. BOWEN: May I confer with counsel?
5 JUDGE SUMMERHAYS: You may.
6 MR. BOWEN: Nothing further from the State.
7 Thank you.
8 MS. SADASIVAN: I apologize. I forgot to move
9 for Exhibits 297 and 298 to be --
10 JUDGE SUMMERHAYS: 297 and 298?
11 MS. SADASIVAN: -- into evidence. I would like
12 to do so now.
13 JUDGE SUMMERHAYS: Counsel?
14 MR. GREIM: No objection. I would love to know
15 what they are, though, for own my notes.
16 JUDGE SUMMERHAYS: Why don't we put them up on
17 the --
18 MS. SADASIVAN: So 297 was the heat map and 298
19 were the socioeconomic and census places.
20 JUDGE SUMMERHAYS: Any objection?
21 MR. GREIM: No objection.
22 MR. BOWEN: No objection, Your Honor.
23 JUDGE SUMMERHAYS: 297 to 298 are admitted.
24 MS. SADASIVAN: Thank you, Your Honor.
25 JUDGE SUMMERHAYS: Counsel, cross?

Yeah. Let me ask you: Counsel, how much do you anticipate for cross?

MR. GREIM: Oh, probably 20 to 30 minutes.

JUDGE SUMMERHAYS: Let's proceed with cross.

MR. GREIM: It feels odd to come over here and stand, but I've got a good video.

JUDGE SUMMERHAYS: That's fine.

JUDGE JOSEPH: Is that microphone on, Mr. Greim? Yeah. Make sure the button is pressed and the green light on.

MR. GREIM: Yeah, I think it's on. I just wasn't loud enough. I wonder if we could please put up I think what we just learned was 297. The heat map, the comparison.

Is the Court ready for me?

JUDGE SUMMERHAYS: You may proceed.

CROSS-EXAMINATION

BY MR. GREIM:

Q. Doctor -- or Mr. Fairfax, good afternoon. I'm Eddie Greim and I represent the plaintiffs here. I didn't depose you so I'm new to you. This may be the first and only time. We'll see.

I want to start with an exhibit that you explored with counsel just a few moments ago.

Now, Mr. Hefner's heat map on the left accounts for

the actual size of population as well as its placement, correct?
A. That's correct.
Q. And I want to turn to the three parishes you mentioned -- well, first of all, your map does not account for the actual size of the population, right?
A. That's correct.
Q. Nor does it account for where within those parishes people live, right?
A. That's correct.
Q. And so by looking at your map, we can't tell, for example, whether there is a huge population, a huge metropolitan area in the bottom of Tensas County that has 500,000 black residents, right?
JUDGE STEWART: Where you from, Mr. Greim?
JUDGE JOSEPH: You said Tensas County. It's Tensas Parish.
MR. GREIM: Tensas? Okay.
JUDGE JOSEPH: You got both of those words wrong.
MR. GREIM: That's like Arkansas. Listen, I'm Kansas City-ian.
JUDGE STEWART: You just outed yourself.
MR. GREIM: It's probably obvious already.
Q. (BY MR. GREIM) So, Mr. Fairfax -- well, I think I got

an answer. The answer was yes, right?
A. Can you repeat the question just in case?
Q. Well, I think, I'll move on. I think the point is made.
Did you know what the size of the black population actually is in the three red counties up there in the northeast of the State?
A. No, not offhand, I don't.
Q. Now, we heard you testify that you have used traditional redistricting criteria to create maps with two majority-minority districts, right?
A. That is correct. Can I address the previous question?
Q. About Tensas County?
A. Yes, about the population in there. And what I wanted to follow up is to say that that's not the purpose of this map. The purpose of the map that I would add full response is to show that black population in Louisiana inside the parishes exists in many, many, many different parishes, not in just the few locations as what's seen in the heat map. It gives a completely different prospective of where the black population exists. That's all.
Q. Right. But there simply may not be, in terms of raw numbers, very many blacks living in those three counties, correct?

A. Correct. But when you're drawing a plan, you're looking -- if anything, you're not going to create areas where there aren't any black population. I mean they are not going to create majority black districts in areas that don't have a significant amount of black population. And so what I am showing is that you can create different many places using many different parishes. That's all.

Q. Right. You're going to be trying to draw towards the red areas, right?

A. That's one option.

Q. And in fact, when you drew your Robinson maps, you consciously drew those districts at right around 50 percent because that's what you thought you needed for *Gingles*, right?

MS. SADASIVAN: Objection, Your Honor. Mr. Fairfax hasn't testified about the maps he drew for the Robinson case or what he was intending to do or his map-drawing process in that litigation.

JUDGE SUMMERHAYS: Response?

MR. GREIM: Well the response is that we learned that one of these maps was a slight tweak on the Robinson map. And we heard the witness testify that you can come up with his maps using traditional redistricting criteria. I think we need to explore whether that's true.

JUDGE SUMMERHAYS: I'm going to overrule the

1 objection. You may proceed.
2 Q. (BY MR. GREIM) So how -- I'll start again here,
3 Mr. Fairfax. You consciously drew those districts at
4 right around 50 percent because that's what you needed for
5 *Gingles*, right?
6 A. No. No. That would be using a target. And so I
7 didn't consciously look at 50 percent. I looked at it as
8 a minimum threshold because that's what *Gingles* says, but
9 that wasn't a target that I was looking at.
10 Q. Mr. Fairfax, do you recall testifying about this very
11 topic when you presented your maps in court?
12 A. I believe so.
13 MR. GREIM: Could we pull up the Robinson
14 hearing transcript, please.
15 Q. (BY MR. GREIM) And I'm presenting you, Mr. Fairfax,
16 with your testimony presenting one of your maps before
17 Judge Dick. And I am going to take you to page 217. If
18 we could scroll to that. There we go. And the questioner
19 here is Mr. Strach who was here. He was sitting behind me
20 for much of the day in the courtroom. You can't see that.
21 But Mr. Strach was questioning you.
22 And you'll see he asked you, line 9: At least we
23 know that the CD-5 could have ended up at 50 percent -- 50
24 percent to 60 percent DOJ black.
25 Your answer: I don't know if it would be that high.

Yeah, I don't know it would be that high.

Question: All right.

Then he goes on -- and then you go on. You see at line 15: But certainly there is a possibility it could be higher than what it is here if that's what you are getting to.

You follow me so far, Mr. Fairfax?

A. Yes.

Q. And you do recall giving testimony in that case, right?

A. Yes.

Q. Line 18, question: Okay. So you consciously drew the district right around 50 percent because that's what you needed for the first *Gingles* precondition, right?

Answer: That's right. It satisfied -- it satisfied that first precondition.

I read that correctly, didn't I?

A. Yes, you did.

Q. Let me also --

MR. GREIM: Can we put up Plaintiffs' Exhibit -- I'm talking to the technician to work on putting up a new exhibit.

(Off the record.)

THE WITNESS: Let me respond to that.

MR. GREIM: I'm sorry, Doctor. I'm just

asking --

JUDGE SUMMERHAYS: Don't respond until we have a question.

Counsel, you're going to put something -- you're going to put an exhibit up and then you can ask the question and the witness can respond.

MR. GREIM: I apologize to the Court. I just have a little technical difficulty. An exhibit that was supposed to go over here I think maybe didn't. If I could have one minute to talk to my bench just to have it sent over. We're having to do this because the --

JUDGE SUMMERHAYS: Why don't we go ahead and take the afternoon break. I will advise, since we are in the middle of cross-examination, that the witness will not confer with counsel with respect to the subject matter of his testimony. Is that clear?

THE WITNESS: Yes.

JUDGE SUMMERHAYS: All right. We'll come back in 15 minutes.

(Recess.)

JUDGE SUMMERHAYS: Counsel, you may resume.

Q. (BY MR. GREIM) Mr. Fairfax, welcome back. During the break, did you talk to anybody?

A. No. No, I did not.

Q. Did you review any documents you received from

anyone?

A. No, I did not.

Q. So before the break we were talking about your past drawing of maps and I'm going to ask you to take a look at what we've shown here on the screen. This is Plaintiff's Exhibit 22. Do you recognize this as the map that was invalidated in the *Hays* case?

MS. SADASIVAN: Objection, Your Honors. Mr. Fairfax hasn't testified at all about the *Hays* case or the *Hays* map. It's totally outside the scope of the direct.

JUDGE SUMMERHAYS: Counsel?

MR. GREIM: This is directly relevant to the point we were just covering, but I -- I hate to say it like this, but I have to connect it up.

MS. SADASIVAN: If it's outside the scope of the direct, though, Your Honors, it -- just because it's relevant --

JUDGE SUMMERHAYS: I'm going to allow it. The Court can control the order and I will allow this exploration. You may proceed.

Q. (BY MR. GREIM) And I'm sorry, Mr. Fairfax. Do you recognize this map?

A. It does appear to be the *Hays* map.

Q. And in drawing your own maps you would never draw a

map like this, correct?
A. I would not draw a map like that, that is correct. But can I address the last question? Or I won't be able to address when we left?
Q. Mr. Fairfax, we have a system, a back and forth system here and I can't let you just talk during my -- you can answer my questions, but --
JUDGE SUMMERHAYS: I'll just have the -- I have the expert -- Mr. Fairfax, if you would just answer the question that's asked.
Counsel, you may proceed with your question.
Q. (BY MR. GREIM) Now, you testified about -- well, I think we called it Robinson Illustrative Plan 2 and Map A3 which you had drawn in 21, right?
A. Correct.
Q. And I think you testified that the differences between those two maps and Senate Bill 8 seemed to be for political considerations. Right?
A. It could be.
Q. Well, you have no way of knowing, right?
A. That is correct. It could be. There is a possibility that it could be for political reasons.
Q. And you've done nothing to compare the racial performance of SB8, A3, the Robinson Illustrative Plan 2, and the other map that you considered in your report,

right?

MS. SADASIVAN: Objection, Your Honor. It's totally unclear what Mr. Greim means by "racial performance."

JUDGE SUMMERHAYS: If you could clarify and rephrase, please.

MR. GREIM: I will.

Q. (BY MR. GREIM) Okay. Let's forget about racial performance for a second. You understand what the term "BVAP" means?

A. Yes.

Q. And we talked a second ago about considerations of BVAP in drawing districts. So I assume you must have looked at the BVAP, the comparative BVAP between SB8 and the other three plans before hazarding an opinion about whether race predominated in SB8, right?

A. No, I did not. What I did was analyze the reports from the other experts -- Mr. Hefner, Dr. Voss, and Dr. Sadow -- and respond to their analysis.

Q. But you know, Mr. Fairfax, that BVAP is the highest in SB8, isn't it?

MS. SADASIVAN: Objection, Your Honor. That wasn't what Mr. Fairfax testified about. He didn't say that.

JUDGE SUMMERHAYS: Counsel?

MR. GREIM: I'm not asking -- he said he didn't analyze. I'm going to ask what this person knows as someone who has drawn many of these maps.

JUDGE SUMMERHAYS: I'm going to overrule the objection. You may proceed.

Q. (BY MR. GREIM) So, Mr. Fairfax, you know that BVAP is higher in SB8 than the other three maps, don't you?

A. No. No. I didn't look at that.

Q. You just completely blinded yourself to BVAP before answering a question about racial predominance?

A. No. I analyzed the reports of the three experts and responded to their analysis.

Q. So even today, as you sit here as an expert after a couple of years of testifying in different cases, your testimony is you don't know if SB8 has a higher BVAP than the other three districts. Is that right?

A. That is correct. I can surmise from your question it may. But before that, no.

MR. GREIM: I am sorry, but I didn't hear the last words that the witness said. I can surmise from -- and I actually didn't hear the end of it?

JUDGE STEWART: He said I don't know.

MR. GREIM: Okay. I'm sorry. I just -- I couldn't hear it I wanted to make sure I wasn't...

Mr. Fairfax, I don't have any other questions for you

on cross.

JUDGE SUMMERHAYS: Redirect?

MS. SADASIVAN: Your Honor, I would like to offer -- Your Honors, I would like to offer Exhibits 117, 118 and 122. Those are the Fairfax reports in the Robinson case, into evidence. And then as well, I believe it is Robinson 125, which is the transcript of the preliminary injunction hearing in Robinson.

JUDGE SUMMERHAYS: Is this the one that he was -- the witness --

MS. SADASIVAN: That Mr. Greim was just using and referring to.

JUDGE SUMMERHAYS: Counsel?

MR. GREIM: I was using that to impeach the witness's testimony in this case. The purpose for which these were going to be offered, foundation has not been laid. But the witness had inconsistent testimony in a prior proceeding and that's the only thing he was questioned on. I can't believe that all of his reports and an entire day of testimony now comes in for that reason.

JUDGE SUMMERHAYS: Yeah, I am disinclined subject to any discussion with my colleagues, to allow expert reports from a different proceeding into the case unless a foundation can be laid. And the foundation would

be if this was considered by the Legislature in formulating a plan. And that's what it was represented as. And I have not heard that testimony at this point.

As far as the transcript, to the extent this is impeachment with prior inconsistent statements, the prior inconsistent statement is read into the record, but it's not independently admitted as an exhibit. And unless the parties agree to admit it, but I hear that there is an objection.

MS. SADASIVAN: Your Honor, respectfully, the way that the transcript was offered, it wasn't an inconsistent statement, because he hadn't any offered any opinion yet and it was on traditional redistricting principles. Mr. Greim was exploring a new area of testimony that he demonstrated the relevance of.

JUDGE SUMMERHAYS: Yeah. I thought I heard him ask a question and a different answer that he highlighted under the transcript.

Counsel, am I incorrect?

MR. GREIM: Your Honor, I asked a question that was worded almost exactly like the question that the witness was asked, and I believe I impeached him by showing a prior inconsistent statement with almost the exact same words.

JUDGE SUMMERHAYS: It appeared to be valid

1 impeachment to me. And again, unless counsel agrees, I do
2 not admit the actual statement as independent -- as an
3 independent exhibit. It can be read into the record, but
4 it's not -- and it is in the record -- independent basis.
5 Any disagreement? The objection is --
6 JUDGE STEWART: No, I don't disagree about the
7 transcript itself. I'm trying to recollect, because
8 Mr. Greim had asked a question and felt, I guess, the
9 answer was nonresponsive in terms of what was in the
10 report then sought to put on the screen the paragraph and
11 the two questions and say is this what you said? And my
12 recollection the witness said affirmative to what was
13 asked. Is that -- wasn't that tracking? You asked him
14 the question -- whatever it is, paragraph number 7, it's
15 just that portion is what you put on the screen?
16 MR. GREIM: Well, Your Honor, I didn't put
17 anything on the screen. What I had done, the witness had
18 testified that he drew other maps consistent with
19 traditional redistricting principles. I then asked him if
20 he consciously drew the maps to get to 50 percent BVAP.
21 He said no. I then asked him -- I guess, we did put it on
22 the screen. We did.
23 JUDGE STEWART: Well, I know. I mean --
24 MR. GREIM: Yeah.
25 JUDGE STEWART: -- we saw it here.

MR. GREIM: I'm sorry. My short-term memory is fading, but -- I'm sorry, Your Honor.

JUDGE JOSEPH: I guess regardless of whether it was successful impeachment or not, which we can debate about I think, the purpose of the questioning was for impeachment, not to admit it for the truth of the matter asserted, therefore, it's not admitted into evidence.

MR. GREIM: That's right. We are not moving to admit the other transcript. I attempted to impeach his statement that he did not consciously use race to draw those districts.

JUDGE STEWART: My only reticence -- I don't disagree with that -- is that if counsel on redirect or something is seeking -- in other words, he read paragraph whatever it was, he needed to read the paragraph ahead of it and afterwards to show it in its completeness, that is proper redirect on an impeachment attempt. That's why I was saying we're talking about a segment. So on redirect, if she was seeking to do that, to show it in context as opposed to one answer, that's proper redirect on it. That's separate and apart from admitting the whole document into evidence. And I don't think Mr. Greim disagrees with that. Right?

MR. GREIM: I don't.

MS. SADASIVAN: Thank you, Your Honors. I will

do that. Would you --

JUDGE SUMMERHAYS: So you're going to point the witness to add the additional statements on redirect that were not highlighted up on the screen?

MS. SADASIVAN: Yes, Your Honor.

JUDGE SUMMERHAYS: And we're not going to -- you're not going to introduce the entire exhibit?

MS. SADASIVAN: No.

JUDGE STEWART: To be clear, we're all in agreement you don't get the whole exhibit, so don't take anything I said as license for that. We're all in agreement that part doesn't come in. Just clarification of what Mr. Greim said he was doing in terms of that impeachment if it were the case on the paragraph. That doesn't mean that's a green light and you have to do that. We have the testimony in the record, you know, and that's the best evidence what he is saying.

MS. SADASIVAN: Thank you, Your Honors. Do you mind if just I consult with my --

JUDGE SUMMERHAYS: Yes. Absolutely.

MS. SADASIVAN: I apologize, Your Honors. But with respect to the expert reports of Mr. Fairfax, he was asked about his map drawing process in that case and whether or not he was able to draw two majority black districts that complied with traditional redistricting

1 principles, which Mr. Greim -- because he was asking about
2 it, clearly thinks is relevant. So we're not offering it
3 or wouldn't ask for it to be admitted for the purposes of,
4 you know, its relevance to the Legislature. But clearly
5 if the ability to create two majority black districts in
6 compliance with traditional redistricting principles is
7 relevant in Louisiana and his ability to do so, then those
8 reports explaining his map-drawing process -- and Mr.
9 Greim asked extensively about his map-drawing process --
10 then those two -- that's why we were seeking to offer them
11 into evidence.
12 JUDGE SUMMERHAYS: I don't recall getting into
13 the contents of his reports. These were questions that
14 were asked of the witness. Again, to say that he
15 testified on those subject matters that may overlap with
16 the expert reports to say that that allows hearsay expert
17 reports from a different proceeding, I have a problem
18 with, unless --
19 JUDGE JOSEPH: No. Yeah.
20 JUDGE SUMMERHAYS: -- my colleagues have a
21 different view, I --
22 JUDGE JOSEPH: We don't even let expert reports
23 in for this case, and now you're asking us to put expert
24 report from a different case, so no.
25 JUDGE SUMMERHAYS: I'm going to sustain the

1 objection and I'm not going to reconsider it.
2 MS. SADASIVAN: Thank you for your indulging me.
3 Apologies, Your Honors.
4 JUDGE SUMMERHAYS: Thank you.
5 MS. SADASIVAN: So if we can pull up the
6 transcript from the preliminary injunction hearing which
7 Mr. Greim just showed at 235. And actually while you're
8 pulling that up --
9 REDIRECT EXAMINATION
10 BY MS. SADASIVAN:
11 Q. Mr. Fairfax, what did you want to say when you asked
12 if you could respond further about the question about your
13 map-drawing process?
14 MR. GREIM: Objection. I'm afraid there -- I
15 think that question sort of calls for a narrative. I
16 think if there is a way to develop it, fine, but I don't
17 think he can just say -- answer what you wanted to say is
18 a question.
19 JUDGE SUMMERHAYS: He is an expert. You know,
20 again, I am going to allow it. And if it gets out of
21 control, at that point the Court will step in. But I'm
22 going to allow the question. The objection is overruled.
23 Q. (BY MS. SADASIVAN) Sorry, Mr. Fairfax. Again, what
24 did you want to say when you were asking if you could
25 respond further to Mr. Greim's question about the BVAP in

the districts in Robinson?
A. What I was going to say is that you take -- you have to take that series of questions and answer in the context of the questions and answers that were prior to that statement about 50 percent. And in the previous senators above were clearly talking about a district that's 50 to 60 percent. That's the question that was asked me about 50 to 60 percent. My immediate response was: No, it's not that high. Meaning that I clearly know that 50 percent came from that. I'm talking about the 60 percent. And so then the question moves -- so then what you did was actually draw a district around 50 percent. And what I am responding to at that particular moment is: Yes, it's not 60 percent, because I know a 60 percent district can't be created. So, yes, I am going to probably end up with a district around 50, 54 percent. I am just using the experience that I have in drawing the plans. I am not using it as a target, which is the inference I think I got from the original question here. I am talking about, yes, it's probably going to be around 50 to 60 percent -- 50 to 54 percent, even though I didn't use 54. But I'm saying around. And the question was around. And so it wasn't that it was a target. The inference here it was a target, that I was shooting for 50 percent. No, I was responding that it's not going to be 60 percent because I know the

1 demographics. I am familiar now with being able to draw a
2 plan. The plan is going to be most likely in the 50's, in
3 the low 50's.
4 Q. Thank you, Mr. Fairfax. And on the screen I have
5 more of your testimony from the preliminary injunction
6 hearing. Do you remember being asked when you were
7 talking about Congressional District 5 earlier and that
8 was the subjective of Mr. Greim's question, about the
9 number or the black voting age population fluctuating, you
10 weren't trying to achieve any particular racial target.
11 And what was your answer?
12 A. The answer was no. No, I am just trying to satisfy
13 that first precondition. And that's, in essence, what I
14 was saying. I knew I had to reach 50 percent in order to
15 satisfy it. In the previous questions, as I was
16 mentioning, I know from being familiar with the state, I
17 am not going to get to 60 percent. That's just the
18 reality. And so, most likely, if I can satisfy it, it's
19 going to be around 50-ish, the low 50's.
20 Q. Thank you, Mr. Fairfax.
21 MS. SADASIVAN: That's all I have, Your Honors.
22 JUDGE SUMMERHAYS: Counsel?
23 MR. GORDON: Your Honor, I think I need to raise
24 one additional point here and this isn't to be overly
25 pedantic. And I'm certainly not asking for a

1 reconsideration of the ruling on the admissibility of the
2 Fairfax reports. I am circling back to our request that
3 judicial notice be taken of the Robinson proceeding as
4 well as -- and in this case the Fairfax reports. I don't
5 think you can reasonably question, now that plaintiffs has
6 asked questions about Fairfax's reports and about the
7 proceedings in the Middle District, that the Court not
8 take judicial notice of those.
9 JUDGE SUMMERHAYS: I am just not sure what
10 you're requesting judicial notice of. The fact of the
11 reports? Because even the standard that you articulated
12 would say the Court doesn't take judicial notice of
13 disputed facts. And whatever is in those reports is
14 highly disputed. I would imagine it's one side of a
15 proceeding. And if the argument is that judicial
16 notice -- that those reports were filed, it has to be
17 relevant. What's the relevance of that?
18 MR. GORDON: That there existed certain --
19 certain facts, if you want to call them, or testimony,
20 that there existed something in the world that the State
21 had in its possession that said VRA districts may have
22 been required. Not that that is in fact true, but that
23 the mere existence of the report is all we're seeking the
24 Court's acknowledgment of and the mere existence of the
25 proceeding in the Middle District.

JUDGE SUMMERHAYS: I don't think you have laid a foundation or a predicate for the relevancy of that.

Judicial notice, you correctly stated the standard, and it's a -- it is required -- it's a "shall," the Court shall take judicial notice. But that doesn't overrule all the rules of evidence as far as relevancy. And I don't see the relevance, and I am going to overrule the -- I'm going to overrule your request to take judicial notice, unless my colleagues have a different view on that with respect to the expert reports.

MR. GORDON: And with respect to the existence of the proceeding in the Middle District, I believe you heard significant testimony as to the fact that the Legislature thought that the Middle District wasn't somehow requiring them to draw a second majority-minority district.

JUDGE SUMMERHAYS: But why -- if we have that in the record already, why do we need to -- why does the Court need to take independent judicial notice of that proceeding?

MR. GORDON: And I guess that sort of begs the question why. Perhaps I'm being overly pedantic about this, Your Honor, and I -- that's all I was seeking to clarify.

JUDGE JOSEPH: It's public record. It's public

record --

MR. GORDON: Yes.

JUDGE JOSEPH: -- in the case. The existence of that case, that ongoing litigation is public record.

MR. GORDON: That's correct, Your Honor, and that's all. We're just seeking acknowledgement of it.

JUDGE SUMMERHAYS: And I'm sure counsel will be able to cite it in their legal memoranda that they're going to be submitting after the close of trial. So I am going to deny the motion or the request that the Court take judicial notice.

JUDGE STEWART: And I come back to the point I raised earlier, because we went out of -- we went out of convention. The State is an intervenor of right. These intervenors came in permissibly. So ordinarily I might expect the State to have been after the plaintiffs. And that's why I heard this morning, earlier when this came up, about the import or not of those other proceedings.

But the point is the State is yet to put its case on. So, I mean, you know, we're not even there. So I agree with the ruling. I am saying you're raising it kind of hooked on to the intervenors who we're dealing with. We haven't even gotten to the point of whatever the State chooses to do or not do.

So in addition, you're asking us to do something;

we're not even at your case yet. Whatever the state -- the answer to us, was: We'll observe what transpires and determine our flow and so I guess we're about to get to that point, maybe, or at some point.

MR. GORDON: Understood, Your Honors. Thank you.

JUDGE SUMMERHAYS: Thank you.

JUDGE JOSEPH: If I can beg the indulgence of my colleagues for a minute.

I am curious. Mr. Fairfax, what -- and I understand from the questions and your answers that you were involved in this Robinson litigation. Other than that, what experience do you have in Louisiana specifically with respect to being able to evaluate communities of interest? Have you lived here? Have you done a lot of work here? What qualifies you to be able to determine communities of interest in the state of Louisiana?

THE WITNESS: I have assisted some organizations, the Power Coalition during that redistricting process that helped them work with different organizations. Of course, I looked at the socioeconomic aspects of the state. In that Robinson case I did look at the regions that existed and their multiple regions that exist and cultural regions and geographic regions that exist in the state. And so I tried to familiarize myself

adequately during the Robinson case. Of course, I don't live here, but many times map-drawers don't live in the state of the jurisdiction that they draw in developing plans for.

JUDGE JOSEPH: So outside the Robinson matter, you haven't done any work here on districting?

THE WITNESS: Once again, I've helped and assisted with the Power Coalition and some of their jurisdictions that they were helping and assisting in redistricting. So I have worked looking at plans in East Baton Rouge, I believe. Probably a couple of others that actually escape my mind right at this particular time. But there were -- there were other redistricting plans, smaller jurisdictions that I've worked and helped with.

JUDGE JOSEPH: All right. Thank you, Mr. Fairfax.

Any follow-up questions based on that question from counsel?

MR. GREIM: Your Honor, I have nothing on that question but I wanted to make a record on the very end of the redirect about the text that was shown up there. I want to make sure we don't miss that.

JUDGE JOSEPH: What?

MR. GREIM: Well, we didn't get a page number.

It was just shown to the witness. And I'd just like to have a record on where that was in the transcript.

JUDGE SUMMERHAYS: Counsel?

MS. SADASIVAN: It was page 235, line 6 through 15.

MR. GREIM: That's all I have.

JUDGE SUMMERHAYS: Thank you.

All right. Mr. Fairfax, thank you for your testimony.

Counsel?

MR. NAIFEH: Your Honor, I just want to say I'm very proud that my new colleague, newly admitted colleague will be calling our next witness.

JUDGE SUMMERHAYS: Very good. Welcome. Congratulations.

MR. GREIM: He is very involved in the case.

MR. BURKE: Thank you, Your Honors. I am Colin Burke for the Robinson intervenors, and we would like call to Dr. Michael Martin to the stand.

JUDGE SUMMERHAYS: If Dr. Martin will approach, you may swear him in.

(Oath administered to the witness.)

JUDGE SUMMERHAYS: Counsel, you may proceed when ready.

MICHAEL STERLING MARTIN,

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. BURKE:

Q. Good afternoon, Dr. Martin. Can you please state and spell your name for the record?

A. My name is Michael Martin. Michael Sterling Martin. M-I-C-H-A-E-L, S-T-E-R-L-I-N-G, M-A-R-T-I-N.

Q. Dr. Martin, where are you from?

A. I was born in Lafayette. Spent my childhood in between there and the New Orleans area. I did attend high school in Magnolia, Arkansas not far from here.

Q. And where did you attend college?

A. For college, I returned to my hometown, Lafayette, for the University of Southwestern Louisiana, where I earned my bachelor's and master's in history. I then attended the University of Arkansas for my Ph.D. in history.

Q. And after you finished graduate school, what did you do?

A. I was blessed enough to be able to return home. I got a job at what was then UL Lafayette or is now UL Lafayette in 2003 as assistant professor of history.

Q. And what is your current title and occupation?

A. I am professor of history and I am currently interim department head for the department of history, philosophy, and geography.
Q. And how long have you been a faculty member of UL Lafayette?
A. In between 20 and 21 years.
Q. So as a professor of history, what do you do?
A. Basically three things: First and foremost, I teach. So I teach classes every semester. Along with that, I do research in fields of interest to me. And then I'm also engaged in community activities, service activities either for the university or the larger Acadiana community.
Q. And what does your research focus on?
A. So my research mainly focuses on Louisiana, modern Louisiana, and I have spent a lot of time writing about Louisiana politics.
Q. And can you briefly describe the types of classes that you have taught?
A. Sure. So I teach a wide variety of classes. My specialization, as I said, is Louisiana history, so every semester, pretty much every semester, I offer a survey class in Louisiana history and an upper level class in some specialized interest area, usually of Louisiana, sometimes of Louisiana in a broader context. I have taught classes on Louisiana politics. I've taught classes

on Louisiana and the South, Louisiana and the world. Louisiana and the world, you know, Louisiana since 1898. Things of that nature.

Q. And what time periods do those classes tend to cover?

A. The specialized courses tend to focus on the period from, if it's Louisiana, 1898 or thereabouts, up until today, or as close as I can get to today. The survey courses, I cover everywhere from 1699 through at least Hurricane Katrina.

Q. And has any of your scholarly work been published?

A. Yes. I have published several single-authored works. I have published several edited volumes. I have also published journal articles, magazine articles, lots of different things.

Q. And can you tell me about the content or the subject matter of those publications?

A. Sure. So I guess my most notable book was a biography of U.S. Senator Russell Long, who served from 1948 to '86. And, you know, the biography covered all the way till his death in 2001 -- excuse me -- 2003.

I have also done quite a bit of peer-reviewed journal articles on Louisiana politics focused especially on a period covering from like the Long era from Huey Long through the 1980's, 1990's. And I sometimes get into David Duke and the "race from hell," as it's called.

Q. And were any of those publications you just described peer reviewed?
A. Not all of them but many of them, yes.
Q. And about how many peer-reviewed publications would you estimate you have?
A. 12, 13.
Q. And you earlier testified that your research focuses includes Louisiana political history. Have you published in peer-reviewed scholarly works on Louisiana political history?
A. Most of what I published has been on Louisiana political history.
Q. And do you supervise graduate students?
A. I do.
Q. What does that involve?
A. Well, at UL we have a master's degree program that involves two tracks. One they can write a thesis, or the other option is they can take comprehensive exams. I have overseen 10 or 12 comprehensive exam students, and as of yesterday, 21 thesis students.
Q. And can you tell me about what those theses covered?
A. Yeah. So the theses cover a wide variety of time frames. Of the 21, only one of them did not deal with a Louisiana topic.
Q. And do you some involve Louisiana politics?

A. Yes. Roughly a third. So maybe seven, eight.
Q. Have you presented any papers on academic conferences?
A. Yes.
Q. And what have been the subject of those papers -- of some of those papers?
A. Well, again, it's a wide variety. Most of my work has, as I've said with other things, focused on Louisiana, especially 20th century through today and political history.
Q. And have you presented papers on Louisiana's congressional delegation?
A. Yes.
Q. And do you serve on any professional boards?
A. I do. I'm the managing editor for the Louisiana Historical Association. As a result of that, I'm on the board of directors and also the executive counsel for the Louisiana Historical Association. And as managing editor, I oversee the production of the state's quarterly historical journal, "Louisiana History."
Q. And are you sometimes called on to review the work of your peers?
A. Yes.
Q. In what fields?
A. Looking back on it, it's been a variety of different

1 fields. But the main, I guess if there is a main theme,
2 it's Louisiana and 20th century politics.
3 Q. And turning to this case, who retained you in this
4 case?
5 A. The Robinson intervenors.
6 Q. And what were you asked to do?
7 A. I was asked to put together a history of the First
8 Extraordinary Session of 2024, the Louisiana session of
9 2024.
10 Q. And as a trained historian, what sorts of materials
11 do you rely on to inform your work or your opinions?
12 A. First and foremost, I'm looking for what we call
13 primary sources. Primary sources are usually firsthand
14 accounts. They can range from things like diaries,
15 manuscripts, memoirs, newspaper reports. It's a broad
16 range of things.
17 Q. And were those the type of materials you relied on to
18 prepare your expert report in this case?
19 A. Yes.
20 Q. And why did you rely on those materials in your
21 report?
22 A. Well, it's part of the methodology of what historians
23 do. We start with primary source materials. We take
24 those materials, analyze them, attempt to create some sort
25 of narrative usually and at the same time think abstractly

about what those materials are telling us.
Q. And are these materials that historians would usually review in seeking to understand whatever they are seeking to understand?
A. Yes. They're the standards of the profession.
Q. Do you have any views on whether other historians rely on these materials in conducting the same sort of analysis?
A. I would hope so, yes. I would assume so, yes.
Q. And turning to methods. You kind of spoke about this, but can you explain what sort of methods that you use to analyze these materials?
A. Sure. So the first thing with in dealing with primary source materials is looking for corroboration. So ideally you want to find at least a couple of instances where a particular event or happening is referenced and you kind of cross-reference those. You can't always find corroboration. And when you can't, it's important that you kind of acknowledge that. But the more corroboration the better.
Secondly, we look for bias, bias by whoever created the primary source, and that can come in various different ways. We're also -- you know, at some point we're going to, as historians, look to see what other historians have said just to try to see if we agree with what the way they

have interpreted things or not. And quite often we disagree. In this instance very little actual history has been written. I think mine may be the very first for this particular extraordinary session and so I wasn't able to consult the historiography as we call that.

Q. And is the methodology that you relied upon typical for how a historian tries to understand historical events?

A. Yes. It's standard across the board for our profession.

Q. And do historians routinely apply these methods to enable them to understand contemporary events?

A. Yes. I mean, there's a sense that studying history has some relevance to the presence. But there is no reason why you can't apply those same methods to really any field of time. I mean, I would expect that everybody would kind of think critically about the things that they are presented with as factual and to test them for bias and to try to make sense of them.

MR. BURKE: So, Your Honors, at this time the Robinson intervenors move to proffer Dr. Martin as an expert in the political history of Louisiana, including contemporary politics?

JUDGE SUMMERHAYS: Any objection or voir dire?

MR. GREIM: There is some voir dire?

JUDGE SUMMERHAYS: You may approach.

VOIR DIRE EXAMINATION

BY MR. GREIM:

Q. Dr. Martin, good afternoon. I'm Eddie Greim. I'm counsel for the plaintiffs. I think you told us where the river was where we were walking around outside earlier.

I counted about 53 footnotes in your report. Am I right? Does that sound right?

A. Seems right.

Q. Okay. And in your description of methods, I noticed in your report you say: I relied much more on media sources than I typically would. Right?

A. Correct.

Q. And, in fact, almost every footnote cites a newspaper article or a social media, right?

A. Newspaper article, yes. The statement about typically doing it more than I would is simply because there are no other primary sources available at this moment.

Q. Right. As you said, very little history has been written on things that happened last -- in January, right?

A. As of now, yes.

Q. Right. And the only other -- the only primary source you cited are the transcripts and videos from the legislative session itself, right?

A. No. The press releases of the Governor. But, yes,

the transcripts and the press releases.
Q. Now, did you interview any Louisiana legislators?
A. No.
Q. Now you know that some have been witnesses in this case, right?
A. Yes, but I did not speak to them.
Q. Okay. And I noticed you said that you've got special skills in rooting out bias. That's one of the special techniques that you are bringing to the Court?
A. Yes. That's one of the techniques of any historian.
Q. So are you proposing to root out bias from statements that are made in the official transcripts from the Legislature?
A. I am attempting to, yes.
Q. And you also are an expert, I think you said, in rooting out even your own bias; is that right?
A. I assess my own biases, yes. I don't think I used the word "rooting out" though. Maybe I did.
Q. Well, I'll just tell you that is, in fact, what you say in your report.
A. All right.
Q. So in drafting your report you realize that you had some bias but you rooted it out before reaching your conclusion?
A. Yes, like anybody I have bias.

Q. And what's your -- the basic topic you cover in your report, if I could summarize, and tell me if I've missed something -- is basically what the parties -- what you think the legislators were trying to accomplish in the legislative session. That's one of them?
A. Yes, that's one of them.
Q. And then also what the Governor was trying to accomplish?
A. Yes.
Q. And then also what the Governor was intending?
A. That was one of my hopes, yes.
Q. And the unexpressed motivations of some of the legislators, correct?
A. Yes. That's where you get into the thinking about primary sources as opposed to just using the facts alone.
Q. So what you would be bringing us is special expertise in understanding what the legislators and Governor were thinking?
A. Special expertise in the methods of trying to obtain that information, yes.
MR. GREIM: I'd have to object to this form of expert testimony. We've excluded newspaper articles as hearsay. And basically this is a compendium of newspaper articles that is trying to create sort of a meta analysis from what the newspaper articles say. The Court itself

can read the transcripts. The parties will be arguing about what the transcripts say. And this witness is about to go in and try to characterize what he believes the legislators wanted to do based on their statements and based on other commentators. It's just -- I mean, if articles themselves can't come in, they can't come in through an expert who mainly cites articles. So I don't think it's expert testimony. I think it's going to be a very large load of hearsay.

JUDGE SUMMERHAYS: Let me ask Counsel, because we're governed by Rule 702 that provides -- and this does not appear to be a challenge to his expertise in his subject field. It's to the subject matter of his testimony.

And 702 guides us that it's admissible if the expert's scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue.

How would this expertise -- and counsel is correct. We excluded newspaper articles. How would this witness's expertise assist the Court in determining racial predominance or what the Legislature was intending or what the Governor was intending as far as directing the Legislature in this regard? It seems like this is evidence that their trier of fact can glean just as well

as an expert from the evidence that's available.

MR. BURKE: Sure. So, as Dr. Martin just testified to, like he has a specialized methodology where he attempts to corroborate sources, attempts to root out their bias, and then creates a coherent like narrative framework. And so he is using this specialized methodology to explain these sources and create this framework --

JUDGE SUMMERHAYS: Isn't that a part from just citing newspaper articles, he's corroborated those newspaper articles. But what I heard was that he hadn't interviewed the underlying sources for those articles.

MR. BURKE: I mean, as he testified to, to the best of his ability. Like these events have just happened, but he's also corroborated them like across multiple sources of other types of sources. Like, he hasn't just used one type of source and has made sure that those sources like line up with --

JUDGE SUMMERHAYS: Well, I heard newspaper articles, videos and transcripts and press releases. Those are all available to this court for the Court to make the determination why -- and I am not putting -- I am not saying that he is not -- I know the skills of a historian in assembling that data and coming to an opinion on what the history shows, but in this proceeding, why do

we need that expertise to review the transcripts, the videos that we have -- and audio recordings that we have heard and come to our own conclusion? Why would an expert assist us in that process?

MR. BURKE: Because part of his expertise is creating a framework and narrative of thinking about these sources. And as we've recognized, there is lots of sources, there is lots of transcripts, there is lots of like news media articles that can all be assessed. And one of his qualifications that he has done for over 20 years and his 10 -- almost 10 years of education to become a historian is creating narratives out of disparate sources. And he can put what happened in historical context.

And also related to the hearsay point, that goes to the weight of his -- the weight that Your Honors are willing to give his testimony rather than its admissibility.

JUDGE JOSEPH: Response, Mr. Greim?

MR. GREIM: I mean, we could do this in every case. The skills that this expert are said to bring are what we think lawyers and judges do. I mean, we are supposed to assemble the facts. This isn't any kind of technical or specialized data. I mean, these are the very transcripts we heard. And having someone opine that

so-and-so really wanted to do this, or, you know summarizing several articles together, I mean, that candidly, probably, compounds the problem rather -- of letting in articles, rather than just letting individual articles in, now we've got yet another person acting as sort of a journalist of journalists.

JUDGE SUMMERHAYS: What about the statements by counsel that he is going to take his review of the current history of the 2024 session and relate it to historical precedent? And that's something that we don't have in front us.

MR. GREIM: Right. But the historical precedent that it's being related to -- and I flipped through here and there is very little -- I want to say there was a reference to the nullification crisis of 1832 to 1833 sort of appears in the middle of the report. The Reagan Revolution appears. But it doesn't relate to redistricting whatsoever. I mean, it's sort of like an attempt to introduce history into the middle of what's otherwise a narrative of the transcripts and what journalists have said about the redistricting process.

JUDGE SUMMERHAYS: I will have to say I am more open to accepting expert testimony in assigning the proper weight as the Court deems, but we have a limited amount of time. And I have to say I am not convinced that this --

that this meets the 702 standard, but I could be persuaded otherwise by my colleagues.

JUDGE JOSEPH: I guess, Dr. Martin, let me ask maybe -- something that kind of occurred to me. Most of your work takes place on things that happened years ago, correct?

THE WITNESS: Yes.

JUDGE JOSEPH: And would you say, as a historian, as a doctor in history, that historians can have a better understanding as more time has passed of why events happen than contemporaneous to those events? Is that true?

THE WITNESS: Yes, I would agree with that.

JUDGE JOSEPH: Okay. So you think that affects your ability to really opine on these issues? They just happened in January.

THE WITNESS: Well, I think if I had 50 years, I could probably opine on them better. But for what I was asked to do, I did what I was asked to do.

JUDGE JOSEPH: Right. I know that. No one is questioning your qualifications or anything. We are trying to figure out a very specific rule of evidence and how your testimony would fit into that, okay? So please don't take anything as being dismissive of your work.

We're just -- if we were talking about the "Whiskey

Rebellion" after the Revolutionary War or something of that nature, then the Court might very well benefit from your expertise. There has been a lot of articles, peer-reviewed articles about that, a lot of textbooks, a lot of nonfiction written about those types of things. But this isn't that. Right?

THE WITNESS: No. This would be like the very first step towards those things, yes.

JUDGE JOSEPH: Right.

JUDGE STEWART: Have you been previously qualified in a court to give this -- not a redistricting case, but I mean have you been previously qualified as a as an expert in a court to give the substance of the kind of testimony you are purporting to offer here?

THE WITNESS: This is my first time. I was asked to be an expert witness on a previous iteration of this particular case, but that was --

JUDGE STEWART: And the report that you did, does it consist of -- other than the area we're talking about? I mean, we don't have the report in front of us. But I mean does it consistent of more than -- more than one thing? I mean, sometimes with evidence, we sever stuff out, you know, things that can't come in and get to the sliver that can. So without looking at your report, is there some other area -- counsel, we haven t ruled on

it.

JUDGE SUMMERHAYS: Can we narrow this down?

JUDGE STEWART: -- that's in the report that's not within the zone of this conversation? Or said differently, is there some other area of his report that doesn't fit in this sliver of the conversation that you would be offering, or is it kind of a totality of what you want to put on, fit within what we're talking?

MR. BURKE: Sorry. I don't think I understand your question.

JUDGE STEWART: Well, I'm trying to figure out -- because we don't have the report. We ruling in a blind. We're just trying to figure out. You hear the colloquy here and so I am just asking: Is there something in addition? In other words, does he have five paragraphs worth of conclusions, the first three fit within what's been objected to, but there is a bottom part that doesn't, but that's part of your proffer? Or is this an all or nothing proposition?

MR. BURKE: And it seems like Mr. Greim is objecting to the totality of it, if I'm understanding him correctly.

JUDGE JOSEPH: Right, he is. But Judge Stewart is asking you is there -- I think probably the most -- the part of what he is being proffered for that would most fit

1 within 702 would be trying to get historical context,
2 telling the Court what the historical background is. And
3 not historical from January, but historical from many
4 years ago, what the relevance of that would be to the
5 case.
6 JUDGE SUMMERHAYS: To motivation.
7 JUDGE JOSEPH: Could you separate that and just
8 have him testify about that? That's the question.
9 MR. BURKE: It's difficult to separate. There
10 are other areas in the report where he puts it in its
11 appropriate historical context, but it's interspersed.
12 JUDGE SUMMERHAYS: My view is that, as far as
13 the issues we have to decide as to the intent and the
14 motivations of the Legislature in 2024, we already have
15 items in evidence and we have legislators that have come
16 and testified. This evidence -- and it's not putting
17 anything past -- I agree with counsel that this expert is
18 well-qualified to opine and has a very outstanding body of
19 work on the issue in which he is opining, but I still have
20 not heard anything that convinces me that this comes
21 within 702(a) which it will assist the trier of fact in
22 our determination of the Legislature's intent and purpose
23 in a 2024 session. You know, it's something that this
24 Court can do on its own, to be frank. I am inclined to
25 sustain the objection to this testimony --

JUDGE JOSEPH: I agree.

JUDGE SUMMERHAYS: -- in toto.

JUDGE STEWART: Only showing may, I agree, unless -- on the showing, may I agree with the ruling.

JUDGE SUMMERHAYS: The objection is sustained. Dr. Martin, thank you for appearing here today. I'm sorry that this has transpired the way it has. But again, this has nothing to do with the quality of your work or your background or your qualifications. This is an evidentiary rule that we have to comply with.

THE WITNESS: Thank you.

JUDGE SUMMERHAYS: Thank you.

MR. BURKE: Thank you, Your Honor?

JUDGE SUMMERHAYS: Thank you. The intervenors may call their next witness.

MR. NAIFEH: Your Honors, may we reserve the right to proffer Dr. Martin's report at a later stage of the case? We are not prepared to do that right this moment, but --

JUDGE SUMMERHAYS: You may -- you may proffer it for the record in light of the Court's ruling sustaining the objection.

MR. NAIFEH: Thank you, Your Honor.

MR. GREIM: I have a quick question. We actually have two experts who are here. We never asked

that they be released to get them out of here.

JUDGE SUMMERHAYS: You want to release them so you can stop the meter running?

MR. GREIM: It's already been running a little too long. But I want them to be released, Dr. Voss and Mr. Hefner.

JUDGE SUMMERHAYS: Any objection to that?

MR. NAIFEH: No objection, Your Honor.

MR. GORDON: No objection, Your Honor.

JUDGE SUMMERHAYS: Okay. They are released. Thank you all for appearing here and testifying.

MR. NAIFEH: Your Honor, may we have a minute? We have our witnesses here, but they are not in the room and so we need to gather them because we didn't expect to be there quite yet. Can we have --

JUDGE JOSEPH: Who is next, Mr. Naifeh?

MR. NAIFEH: Well, we had talked about shuffling the order because the day seems to be going more slowly than we anticipated. Now suddenly it's going more quickly.

JUDGE JOSEPH: It's weird how that happens sometimes.

MR. NAIFEH: So what we originally had intended was to call Ashley Shelton next. But we may be calling Mayor Glover. And I just would like a moment to confer

and try and sort that out.

JUDGE SUMMERHAYS: Do you want to take a brief recess?

JUDGE JOSEPH: Do you we need a recess for Mayor Glover?

MR. NAIFEH: I think a five-minute recess might be helpful.

JUDGE SUMMERHAYS: We'll take a short recess. We'll come back in five.

JUDGE STEWART: He just walked in the door.

(Off the record.)

MS. ROHANI: Good afternoon, Your Honors.

JUDGE SUMMERHAYS: Good afternoon. We are going to swear in the witness as soon as we get everything ready.

(Oath administered to the defendant.)

JUDGE SUMMERHAYS: Counsel, you may proceed when ready.

MAYOR CEDRIC BRADFORD GLOVER

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MS. ROHANI:

Q. Thank you. Good afternoon, Mayor Glover.

A. Good afternoon.
Q. Thank you for joining us. Will you please state and spell your full name for the record?
A. Full name is Cedric Bradford Glover. That's C-E-D-R-I-C, B-R-A-D-F-O-R-D, G-L-O-V-E-R.
Q. So, Mayor Glover, where do you currently live?
A. Here in Shreveport, Louisiana.
Q. And how long have you live here in Shreveport?
A. All of my life.
Q. And can you briefly describe your professional background in public service?
A. I started as the president of the Martin Luther King Neighborhood Association, became twice elected to Shreveport City Council. Served three terms in the Louisiana House of Representatives. Was elected mayor of the city of Shreveport. I served two terms there to be term limited and returned back to Louisiana House of Representatives for two additional terms. Over the course of that time, I professionally have worked in the staffing industry.
Q. Thank you. And during your tenure as a state representative, were you involved in the redistricting process?
A. I was.
Q. And since your tenure as a state representative

ended, have you continued to follow redistricting efforts?
A. Yes, I have.
Q. Now, I would please like to pull up what's marked as Joint Exhibit 11.
And, Mayor Glover, I am going to ask you if you are familiar with the map that was passed -- you don't have to look yet -- well, it's up now. So are you familiar with the map that was passed in January of this year?
A. Yes, I am.
Q. And I will refer to that as SB 8. And is the map that's presented on the screen the map that you are familiar with?
A. To the best of my recollection, it certainly resembles it.
Q. And were you surprised by the configuration of the districts when you first saw SB8?
A. Surprised that it passed, but not necessarily ultimately that was offered.
Q. Can you please elaborate a little bit about that?
A. Well, it was just not ever sure that the Legislature would ultimately do the right thing, that this represented the first time, to my recollection, since the *Shelby* case that you had seen an actual advancement around this particular issue without the literal force of the federal government stepping in to actually do it for us as opposed

to the Legislature taking initiative and actually doing it itself.

Q. And during the redistricting process, had you ever seen a congressional map with a similar configuration of districts?

A. Yes, I did, on two occasions. One, that I, myself, drafted and considered offering and one that was actually offered by Representative Marcus Bryant.

Q. Thank you. And are you familiar with Senator Pressly?

A. Yes, I am.

Q. And if we could go to the next slide, please.

Mayor Glover, I would like to read you a quote from Senator Pressly and I would like to get your reaction. This is from the senate floor debate. And do you see it on the screen?

A. I do.

Q. What I am concerned with the important part of this state, northwest Louisiana not having the same member of congress. With having two members of congress, that has the potential to split our community even further along the line that's purely based purely on race and I am concerned about that; therefore, I am voting no and I urge you to do the same.

Mayor Glover, what is your reaction to this

statement?
A. I respect this, but I disagree. I think it's a -- not necessarily a bad thing. I think it was a great thing to be able to have two different members of congress representing this region, especially one of those members being the Speaker of the House and the other member more largely probably being a member of the democratic caucus. That's where you have both of those -- both sides of the congressional equation represented within one region, one area I think would be a definite positive for us.
Q. Thank you. And if we could turn back to slide one, please. So in your experience as an elected official and a community leader, does Congressional District 6 in SB 8 reflect common communities of interest?
A. Yes, it does.
Q. And how so?
A. Well, I think the two that come most quickly to mind would be the I-49 corridor and the Red River. Obviously, Shreveport itself was founded by the clearing of the Red River. One of the big things that helped make this area grow was navigation thereof. We had leadership over the course of the last 50 years that's worked very hard towards trying to bring that back. You now have a series of lock and dams, five of them, between here and where the river flows into the Mississippi. That essentially

mirrors the eastern side of that district. When you add to it, the connecting factor of I-49, that essentially makes Shreveport, Mansfield, Natchitoches, all one general commuting area, all of those are connecting factors. You layer on top of that the higher education connections where you have campuses of Northwestern State University, both in Shreveport and in Natchitoches. You have campuses in southern Shreveport and Southern University, Baton Rouge, the main campus being Baton Rouge as connecting factors. And then when you put -- and wrap all of that around the health-care component in that you have a series of hospitals between Willis Knighton, the CHRISTUS system, but most specifically the Ochsner/LSU system which has a presence here in Shreveport, Natchitoches, and even has a residency program that's in Alexandria. All of those are connections and commonalties that represent communities of interests from my perspective.

Q. Thank you. And are there other shared communities of interest that you can think of that unite the area?

A. From an economic development standpoint?

Q. Correct.

A. You have the North Louisiana Economic Partnership which is based here in Shreveport that just last week announced a huge job announcement down in DeSoto Parish.

So you have an actual Shreveport-based entity that is in partnership with economic leaders from the south of us, all the way down to Natchitoches working to retain and grow jobs, all of those represent commonalities and communities of interest.

Q. Thank you. And, Mayor Glover, did you and other people from Shreveport articulate these ties earlier in the redistricting process?

A. Yes.

Q. And can you tell me a little bit more about that?

MR. GREIM: Objection. I object. It calls for hearsay, talking about what he heard other people say.

JUDGE SUMMERHAYS: Counsel, can you rephrase?

Q. (BY MS. ROHANI) Mayor Glover, did you articulate these ties earlier in the redistricting process?

A. Yes.

Q. And can you tell me a little more about your experiences?

A. Basically, that it was necessary to ensure that we ended up with a fair and balanced representation throughout the State, but especially, if possible, through -- for Northwest Louisiana. The idea of ending up with a set of circumstances where you could have two members of congress, based from this area, ending up representing not just a fair distribution of congressional

1 districts throughout the State, but an opportunity to be
2 able to really elevate and advance this particular region.
3 Since we know obviously the southern part of the state has
4 benefited New Orleans, Baton Rouge being the capital. So
5 more representation in this area ends up representing
6 greater opportunity and potential for us.
7 Q. And without getting into the substance of the other
8 conversations, were there other individuals attesting to
9 these ties as well during the redistricting process?
10 MR. GREIM: Your Honor, I object. It, again,
11 calls for hearsay, just in an indirect way, asking if
12 other people said the same thing.
13 JUDGE SUMMERHAYS: Counsel?
14 MR. ROHANI: You can strike that question.
15 Q. (BY MS. ROHANI) So, Mayor Glover, lastly, what would
16 the impact on your community would be if this map was
17 taken away?
18 A. It would mean that you would have the ability to be
19 able to look to two members of congress to represent,
20 advance and elevate the interests of this region, whether
21 you're talking about higher education, whether you're
22 talking about research dollars, whether you're talking
23 about infrastructure funding, whether you're talking about
24 workforce development, to be able to have two individuals
25 representing both caucuses of the Congress representing

Northwest Louisiana would be something that would be highly beneficial and highly empowering for Shreveport and the rest of the region.

MS. ROHANI: Thank you. One moment to confer.

Q. (BY MS. ROHANI) Mayor Glover, as the Legislature, did you ever hear testimony of other community members informing your impressions on communities of interest?

MR. GREIM: Objection. Calls for hearsay again and also this witness was not a legislator in the last session. So we are probably going a couple of sessions back. We've got a relevance issue as well.

JUDGE SUMMERHAYS: Counsel?

MS. ROHANI: No further questions, Your Honor. Thank you.

MR. GORDON: Nothing from the State.

JUDGE SUMMERHAYS: Counsel, cross?

MR. GREIM: Nothing from plaintiffs.

JUDGE SUMMERHAYS: We can release the mayor?

MR. GREIM: Yes.

JUDGE SUMMERHAYS: Thank you, Mayor, for appearing here today. Appreciate the time.

Counsel, you may call your next witness.

MR. NAIFEH: My next witness is coming in now.

JUDGE SUMMERHAYS: And this is Ms. Shelton?

MR. NAIFEH: This is Pastor Steven Harris from

Natchitoches Parish.

JUDGE SUMMERHAYS: Okay.

(Oath administered to the witness.)

PASTOR STEVEN HARRIS, SR.

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MR. EVANS:

Q. Good afternoon, Pastor Harris.

A. Good afternoon.

Q. Can you please state your name and spell it for the record?

A. Steven, S-T-E-V-E-N, Harris, H-A-R-R-I-S, Senior.

Q. Pastor Harris, where do you currently live?

A. Natchitoches, Louisiana.

Q. Where and what schools did you attend?

A. Elementary school, Goldonna, Louisiana. Campti. Grambling State University. Went to seminary in Slidell Bible College. And in Metairie at Victory School of Ministry.

Q. What did you do after you finished school?

A. Got involved in what I had been studying in, in seminary. Assistant pastor, youth pastor, different pastoral callings.

Q. And where did you do this work at?
A. Jonesborough. In Natchitoches. And in Red River. A little place called Lake End.
Q. What do you currently do for a living?
A. I'm full time pastor and I set on the Natchitoches Parish School Board.
Q. And how long have you been a pastor?
A. Around 28 years.
Q. And how long have you served on school board?
A. This is my third term. I think about nine years.
Q. What do your duties as a pastor entail?
A. Preparing messages for parishioners, doing marriages and premarital counseling, funerals, visiting hospitals, correctional centers, and things like that.
Q. And when you are performing these services and these sacraments, does it require you to travel at all?
A. Yes.
Q. Where does it require you to travel to?
A. Anywhere from Alexandria, Shreveport, Lafayette, Baton Rouge, places in between.
Q. So let's break that down a little bit, Pastor Harris. You said that your duties as a pastor require you to travel to Shreveport; is that correct?
A. Yes.
Q. How often would you say that you travel to

Shreveport?
A. Anywhere between four and five times during the week.
Q. And what is the nature of your business to Shreveport?
A. Either to hospitals. My dad is a veteran of the Korean Conflict and so many times I have to take him either to the VA Hospital in Shreveport or the VA in Alexandria. And also visiting parishioners that may be at one of the hospitals.
Q. You said that your duties as a pastor require you to travel to Alexandria or Alec, as we call it; is that correct?
A. Yes.
Q. How often would you say that you travel to Alec?
A. Probably around the same amount of times, four or five times during the week.
Q. And what is the nature of your visits to Alec?
A. Seeing parishioners in the hospital. Things like that.
Q. You said that your duties as a pastor require you to travel to Baton Rouge; is that correct?
A. Yes.
Q. How often would you say that you travel to Baton Rouge?
A. Maybe about four times out of a month or so. And

kind of been traveling more since I got a new grandbaby. My daughter lives in Baton Rouge as well.

Q. So in addition to visiting your grandbaby in Baton Rouge, what is the nature of your other visits to that city?

A. Sometime going to meet with some of my friends, as far as pastor friends, part of the associations and things like that.

Q. You said that your duties as a pastor require you to travel to Lafayette; is that correct?

A. Absolutely.

Q. Does that include the Opelousas area?

A. Yes.

Q. And how often would you say that you travel to the Opelousas and Lafayette area?

A. Anywhere between two to four times during the month.

Q. And what is the nature of your visits to Opelousas and Lafayette?

A. Basically the same things. Seeing about parishioners or going to an association convention.

Q. So, Pastor Harris, you shared with us that you live in Natchitoches Parish?

A. Yes.

Q. But that your duties as a pastor require you to travel to Shreveport?

A. Yes.
Q. To Alexandria, to Opelousas, and Lafayette and to Baton Rouge, that's correct?
A. Yes.
Q. In your opinion, and based off of your own experience, is there a sense of community and commonality between these areas?
MR. GREIM: I just to have to object. I don't think the foundation has been laid for a general sense of community among all of these different cities based on this one witness's travel.
MR. EVANS: Your Honors, Pastor Harris is a lifelong resident of this area. He has pastored, lived, worked and served in these areas. He's an elected official for three terms. He's speaking to his own lived experiences in these communities?
JUDGE SUMMERHAYS: I am inclined to overrule the objection. You may proceed.
MR. EVANS: Thank you.
Q. (BY MR. EVANS) Pastor Harris, my last question was: In your own opinion and based off of your own lived experience, is there a sense of community and commonality between these areas that we talked about?
A. Yes, there is, because, you know, most of us fellowship in our different churches, conventions, other

times seeing one another at these events and things.
Q. You mentioned events. Can you elaborate explain what you mean by events?
A. Our associations.
Q. When you say "our," what do you mean there?
A. Church. Church associations. Just recently we had the Baptist Convention. And we fellowship with both Baptist, Church of God in Christ. All of these different conventions bring us together and we fellowship.
Q. And so when you say that there is a sense of community, is there any events or institutions that you could cite?
A. Yes. Northwestern State University where my youngest daughter attends and has a whole lot of friends and things that come to our church, as well as where my daughter attend both LSU as well as Southern University, the same.
Q. Pastor Harris, earlier you said that you studied in New Orleans, correct?
A. Yes.
Q. In your own opinion, does Baton Rouge reflect more commonality with New Orleans or Alexandria?
A. Alexandria.
Q. Why do you say that?
A. The culture is different. Much different. Foods are different that we eat. Even the music and thing is

1 different. In New Orleans the food is mostly cayenne
2 pepper, and in Baton Rouge and Alexandria and
3 Natchitoches, we do more brown gravy.
4 Q. And how about Shreveport? Would you say that Baton
5 Rouge has more in common with Shreveport or New Orleans?
6 A. Shreveport.
7 Q. And why do you say that, Pastor?
8 A. Some of the some thing. Music even, it's different.
9 The culture is just so different. And you have to be
10 there to actually see it, and I have in my engagement in
11 even the music. In Baton Rouge and in Natchitoches and
12 things, we play more of a bottom baseline. In the area of
13 New Orleans, it's more of a house party kind of
14 atmosphere. Like that's why it's called The Big Easy.
15 Q. Pastor Harris, are you familiar with the Red River?
16 A. I am. Very much so.
17 Q. What, if anything, is the significance of the Red
18 River to your community?
19 A. That's how we get our material to do our
20 infrastructure, our roads, and things like that. It comes
21 in on the river at the port. And we either go up the
22 river into the Shreveport area --
23 Q. When you say port, do you mind elaborating what you
24 mean by that?
25 A. The Natchitoches port, which is across the Red River

bridge, which is close to also where my residence is at. And then we go down south and either drop off or pick up things. But it's very important to our area in order for us to get products for roads and things like that.

Q. Pastor Harris, are you familiar with Interstate 49?

A. Very much so.

Q. What, if anything, is the significance of I-49 to your community?

A. Very convenient in time in getting me from Natchitoches to Shreveport about an hour 15 minutes from Natchitoches to Alexandria from about 45 minutes. And when I'm having to run those areas, sometimes going to Shreveport to go visit parishioners and going to Alexandria or having to head all the way down into the southern end, Baton Rouge or something, it's definitely good on me and my vehicle.

Q. Pastor, I would like to go back to something that you mentioned earlier when you were talking about your work as a pastor. Do you ever have guest pastors or guest churches come and visit your congregation?

A. All the time.

Q. And when these guest pastors and churches come to visit your church, where are they visiting from?

A. Anywhere from Shreveport, Alexandria, Opelousas, Baton Rouge, anywhere in between there.

Q. And do you yourself ever receive invitations to speak at other churches?
A. All the time.
Q. And where do these invitations come from? These churches that you are invited to speak at, where are they located mostly?
A. Mansfield, Shreveport, Alexandria, Baton Rouge, all over the state. Even other states.
Q. Pastor Harris, are you familiar with the map that passed in January of this year, which I will refer to as SB8?
A. I am.
MR. EVANS: I'd like to pull up Joint Exhibit 11.
Q. (BY MR. EVANS) Pastor Harris, can you see this map on your screen there?
A. I can.
Q. And is this the map that you're familiar with?
A. Yes.
Q. Which district do you live in under this map?
A. District 6.
Q. And where is your church located in this map?
A. In the Natchitoches District 6.
Q. And where is the majority of your church congregation located at under this map?

A. District 6.
Q. And the majority of churches that you visit as a pastor, where are those churches located at?
A. In District 6.
Q. Pastor Harris, in your experience living, working, serving, pastoring and preaching in Natchitoches, does the Sixth Congressional District in this map in SB8 reflect common communities of interest?
A. They do.
Q. Can you cite some of those communities of interest or explain what you mean there for the Court.
A. Yes. Again, we have different things, events that go on, whether it's going to the state fair in Baton Rouge or going to the state fair as a community church to Baton Rouge or going to Alexandria to one of the events there, we oft times commune together. Matter of fact, we have a couples retreat that we do, called "weekend getaways" where about 250 couples from all over the state, as well as other states, come to Baton Rouge. And those are some of the things that we have in common.
Q. My last few questions for you, Pastor. This map was passed by the Legislature in January of this year.
A. Uh-huh.
Q. So there has not been an election held on this particular map yet. So, should this map still be in

place, you will be voting for the first time this fall in a majority black district where your preferred candidate would be able to be elected. Is that correct?

MR. GREIM: Objection. Leading question.

JUDGE SUMMERHAYS: Sustained.

Q. (BY MR. EVANS) So you will be voting for the first time under this map, Pastor Harris. I'm rephrasing, Your Honors. You will have the opportunity to vote under this current map. Pastor Harris, what does that mean to you? Can you tell the Court today, sitting there, not just as a pastor, not as a black man in Louisiana, but just as an American, as a human being, what does voting under this map mean to you?

A. I think it means that I have an opportunity to elect someone who I have their ear as well as I have their voice. That's what I think.

Q. Anything else you want to share with the Court what about this map means to you, Pastor?

A. Again, it gives us the opportunity to have someone that has shared values, that are concerned about some of the same things that we are concerned about in our communities, whether it's in education or healthcare or whatever the case may be.

MR. EVANS: No further questions, Your Honor. Thank you, Pastor.

JUDGE SUMMERHAYS: Anything from the State?

MR. GORDON: Nothing from the State, Your Honor.

JUDGE SUMMERHAYS: Cross?

MR. GREIM: No cross.

JUDGE SUMMERHAYS: We can release this witness? All right. Pastor, you may step down. Thank you for testifying here today.

Counsel, you may call your next witness.

MR. NAIFEH: Plaintiffs will call Ashley Shelton. And again, I misspoke again. We're not the plaintiffs. We're the intervenor.

JUDGE SUMMERHAYS: Ms. Shelton, if you will approach and we'll swear you in.

(Oath administered to the witness.)

MS. THOMAS: My name is Alora Thomas on behalf of the Robinson intervenors from Harvard Election Law Clinic.

JUDGE STEWART: Proceed when ready.

ASHLEY KENNEDY SHELTON,

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MS. THOMAS:

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

A. Yes. Ashley Kennedy Shelton.
Q. Where are you from?
A. I am from Baton Rouge, Louisiana.
Q. And how long have you lived in Louisiana?
A. All my life.
Q. Can you briefly describe your work history for the Court?
A. Sure. I worked at the Baton Rouge Area Foundation straight out of college, and then the Louisiana Disaster Recovery Foundation, and then ultimately founded and run the Power Coalition for Equity and Justice.
Q. And type of work did you do with the Louisiana Disaster Recovery Foundation?
A. Help rebuild the communities affected and impacted by Hurricanes Katrina, Rita, Gustav, Ike, and helping communities rebuild with the focus on housing and economic development.
Q. And where do you currently work?
A. At the Power Coalition for Equity and Justice.
Q. And what is your title there?
A. I am founder, president, and CEO.
Q. And what is the Power Coalition for Equity and Justice?
A. We are a nonpartisan 501(c)(3) civic engagement table. We work to create pathways to power for

historically disenfranchised communities: African American, Latinx, Native American, and Asian Pacific Islander. And we do that work through both engaging in voter education and information as well as deep listening and organizing throughout communities in the state of Louisiana.

Q. And what is your involvement in this case?

A. I am a "plain" -- I am the intervenor.

Q. We've all been making that mistake today. And are you here as an individual voter or on behalf of the Power Coalition?

A. On behalf of the Power Coalition.

Q. Where does Power Coalition have staff located?

A. We have staff across the state. We have offices in both Baton Rouge, New Orleans, Shreveport, and then we have additional staff in Alexandria and Lafayette as well.

Q. Has Power Coalition been involved in the redistricting process?

A. Yes, we have.

Q. And what has Power Coalition's involvement been?

A. Power Coalition has been involved since census. We began this work educating community about census, trying to allay people's fears about why they needed to take the census and engage in the process. And then went on to educate communities about redistricting. And so what it

was, what it meant to draw lines, trainings on Dave's Redistricting app, multiple trainings on the principles of redistricting. And then certainly prepared and supported the community in participating in the redistricting session.

Q. I would like to take a few of those in turn. What did the work that Power Coalition did around the census look like?

A. We -- even in the midst of COVID, we canvassed, phone banked, and text messaged community -- you know, black and brown communities throughout the state of Louisiana. And really again had to lay allay a lot of the fears. I think there was some fear created around where would their information go, how would that information be used, and we reassured people that we wanted to make that their voices were counted and that Louisiana receive the funds that it needed that was representative of the population.

Q. And after the census, what did the work that Power Coalition do look like?

A. After the census, the State, both Senate Governmental Affairs and House Governmental Affairs, went on a roadshow. I think it was 10 stops across the State. Power Coalition worked with community along every one of those stops, again, preparing them to be able to give testimony at those roadshows. Helping them again

1 understand the redistricting principles, organizing and
2 supporting folks in understanding like why redistricting
3 mattered, why their voices were really important in that
4 process. And then again, you know, went on to mobilize
5 and engage communities to actually show up at the Capitol
6 and have their voices heard in the redistricting process.
7 And I'm really proud to say that we had historic
8 unprecedented participation in redistricting in 2022.
9 Q. And what, if anything, did you learn through
10 engagement with communities throughout the redistricting
11 process?
12 A. You know, I think one was that I was surprised that,
13 you know, as I was kind of focused on teaching people
14 about redistricting and its principles and what it meant,
15 but so many people in the community already knew. And,
16 you know, one of the things that I appreciated as someone
17 that participated in several of the roadshows, myself
18 personally, in addition to training folks all across the
19 state, was that there was already a drumbeat around fair
20 and equitable maps. People all across the state of
21 Louisiana asked again and said it again and again and
22 again, even one of the most compelling pieces of testimony
23 was a young woman from Dillard University --
24 MR. TYLER: I'm going to object to hearsay.
25 JUDGE SUMMERHAYS: Counsel?

MS. THOMAS: I asked the witness what she learned from engagement with communities, so we are not offering this for the truth of the matter, just for its impressions and how it affected the witness.

JUDGE SUMMERHAYS: I'm not sure it would be relevant for anything but for the truth of the matter as it's phrased as I heard the question. So I am going to sustain the objection. Let's steer away from hearsay.

MS. THOMAS: Yes, Your Honor.

Q. (BY MS. THOMAS) Did you have any impressions after your engagement with community?

A. Yes. As I stated before, community was engaged. They understood the importance of redistricting. And, again, unprecedented participation and engagement throughout the process. And I've participated in several redistricting sessions and so there were not nearly as many people last time as there was this time, so, again, I can testify based on my own experiences.

Q. And were you engaged in the process at the legislature?

A. I was.

Q. And what was your involvement at the Legislature like?

A. We worked to support community and being able to show up, speak to their legislators, educate them about the

legislative process, what's a green card, what's a red card, helping people understand how to engage in the legislative committee, decorum, et cetera, as well as working with legislators to, you know, again educate and provide information on the key principles of redistricting and what it means to draw fair maps.

Q. And did you testify at all at the legislature?

A. I did.

Q. And are you registered as a lobbyist?

A. I am not because I do not lobby enough to have to meet the time requirement just to register.

Q. And focusing in on the work that Power Coalition has done around redistricting, was the Power Coalition involved in the process back in 2022?

A. We were.

Q. And what was the outcome of the 2022 redistricting process?

A. Again, I know at least on the second day of redistricting there were 300 cards that were put into the House and Governmental Affairs Committee from citizens from across the state. Green cards that meant that citizens supported the map, and that is in the record. It is in the --

MR. TYLER: I'm going to object to hearsay again.

JUDGE SUMMERHAYS: Counsel?

MS. THOMAS: As of right now, she is not testifying to any statements that were made by anyone else. She is testifying to things that -- actions that occurred that she witnessed herself.

JUDGE SUMMERHAYS: If you'd limit the question to those actions and not to statements, I'll allow the question. If we limit it that way, I'll overrule the objection. You may proceed.

Q. (BY MS. THOMAS) To state my question again, what was the outcome of the 2022 redistricting process?

A. We -- there was -- the process ensued, people testified, and our legislators ultimately approved a map that only had one African American district even though there was -- yeah, even though there was lots of, you know, lots of requests and talk about fair and equitable maps including two districts.

Q. And were you involved in the litigation that ensued after the 2022 redistricting process?

A. Yes.

Q. And why was the Power Coalition a part of that litigation?

A. Power Coalition is a nonprofit dedicated to building pathways to power for historically-disenfranchised populations, and so black and brown people need support to

be able to understand that their vote and their voice actually matter and it actually does have the ability to change outcomes for themselves and their communities.

Q. And was Power Coalition involved in the 2024 special legislative session that just happened this past January?

A. We were.

Q. And what was Power Coalition's involvement in the special legislative session?

A. It was the same as it has been throughout the redistricting process over the last two and a half years: Education, information, and to support the engagement of anybody in the state who wanted to engage and have their voices heard in the process.

Q. And was there a bill or map that you supported as part of the special legislative session in 2024?

A. Yes, SB4.

Q. And why did you support SB4?

A. Because it was the most compact map. And, you know, the map made sense. It also was drawn by Tony Fairfax, who is one of -- in my opinion, one of the best demographers in the country. And so when I looked at it, that was my opinion of SB4.

Q. And do you know if SB4 contained two black majority districts?

A. Yes, it did.

Q. What happened to SB4?
A. It died in committee.
Q. And are you familiar with Senate Bill 8?
A. I am.
Q. And what is Senate Bill 8?
A. It was a bill introduced by Senator Womack.
Q. And do you know if SB8 included two black majority districts?
A. It did.
Q. And were you present at the legislature when SB8 was debated and voted on?
A. Yes. I was in governmental affairs when it was presented.
Q. And you mentioned in your earlier testimony that there are these things called red cards and green cards. Can you just briefly describe those?
A. Yes. Green cards are for support. Anybody that gives testimony must complete one of the cards, whether green for support, red for opposed, white for information.
Q. And did you submit a red card in support of SB8?
A. No, I did not.
Q. I'm sorry. I would just like to rephrase. I think I read two questions together. So just for the record is clear, did you support a red card in opposition to SB8?
A. We did not.

Q. Did you support a green card in support of SB8?
A. No, we did not.
Q. Did you end up supporting SB8 in other ways?
A. Yes. I mean, from the perspective of education and looking at the map from the perspective of creating a new district that actually centered communities that have never been centered in any of the current congressional districts that they are within. And so when you look at the district that's created in SB8, the communities across that district are living in poverty, have poor health outcomes, lack of access to economic opportunity, similar hospitals, similar size airports. Like there is this -- there is this opportunity to really center these communities in a way that they have not had the attention in the current districts that they exist within.
Q. And what were the most important factors that you considered in deciding to support SB8?
A. Again, you know, the opportunity to, one, realize a second majority-minority district, a district that makes sense, a district that met the redistricting principles, and also was fair and equitable. And again, as we looked at that map and went through that redistricting process, ultimately that map, it got -- it made it -- it worked. It worked.
Q. Are you aware of amendments to SB8 that would have

increased BVAP in both CD-6 and CD-2?
A. Yes.
Q. Did you support those amendments?
A. I did not.
Q. Why?
A. Because, one, it made the map less compact. And then also, the -- you know, like I think that the idea that we were going to make the map less compact, to just pick up, you know, pick up more BVAP didn't really make sense, and so for us, we did not support the amendments.
Q. Do you know what happened to those amendments.
A. Yes. They were voted down on the house floor if I'm not mistaken.
Q. We're going to pull up Joint Exhibit 11. I think we've been looking at this document quite a bit. Do you recognize this document?
A. Yes.
Q. And does this look like an accurate version of SB8?
A. Yes.
Q. What were your impressions about the geography of SB8 when you saw it?
A. That, you know, these are -- these are communities even though, you know, you have north Baton Rouge, which is probably -- well, North Baton Rouge and Shreveport which have, you know, strong population, that these are

all, again, poor communities that are not -- that have never benefited from, you know, congressional leadership that was going to vote on the things that they cared about and things that matter to them. And so for me, it was really just an opportunity to see a district that just made sense in comparison to HB1 that packs Baton Rouge and New Orleans into the same district.

Q. Does Power Coalition organize in communities throughout CD-6?

A. We do -- we have staff throughout -- throughout the new district before it even was a district. We have always worked in communities throughout CD-6 and also do work in other parts of the state. But we have organized, we have talked to, we have worked with, we have done "Get Out to Vote." We have done deep listening and we have done policy work in support of the interests and voices of those communities.

Q. And are you familiar with the term "communities of interest"?

A. I am.

Q. And what is your understanding of a community of interest?

A. The things that, you know, bring communities together, the things that define the passions of a community, the things that kind of define, you know,

define, to them, you know, for themselves what makes their community unique.

Q. How do you think SB8 compared to HB1 along communities of interest, as you understand them?

A. You know, again, as I said, you know, HB1 packed Baton Rouge and New Orleans into the same district. SB8, one of the things that I'm really clear about is that, you know, outside of New Orleans, certainly African American communities and other communities of color kind of have the same experience in this state as evidenced by the fact that when you look at this particular district, if you look at quality of life indicators, job opportunities, again hospitals, airports, there's a lot more similarities than there are with Baton Rouge and the city of New Orleans. I mean, again, I think that there is, you know, there's kind of, unfortunately a very similar experience being experienced by people in CD-6.

Q. Do you think Baton Rouge has more in common with New Orleans or with Alexandria?

A. Alexandria.

Q. Do you think Baton Rouge has more in common with New Orleans or Monroe?

A. Monroe.

Q. Do you think Baton Rouge has more in common with New Orleans or Lafayette?

A. Lafayette.
Q. Do you think Baton Rouge has more in common with New Orleans or Shreveport?
A. Shreveport.
Q. And why do you give those answers about commonalities between Baton Rouge and these other parts of the state?
A. Because of the -- you know, like, again, for those of us that work in the state and understand the state and its demographics and the issues with folks throughout these communities, again, the issues are the same and their experience is the same. High electricity bills. Again, lack access to healthcare, small airports, et cetera. And New Orleans is much more of a -- you know, it's a historic city. They have a pipeline of leaders. They have the first Supreme Court justice seat. They have, you know, much more of a history of, you know, of leadership and the ability -- the ability like to hold, you know, to hold what is now CD-2 wholly to themselves.
Q. What was your impression of community sentiment around SB8 when it was first passed?
A. Communities were excited. I mean, I think it was the opportunity to see their voices realized in a map.
MR. TYLER: I'm going to object to hearsay there.
JUDGE SUMMERHAYS: Counsel?

MS. THOMAS: She didn't testify to any statements. I asked her about her impressions. Her work as an organizer organizing communities. She is here on behalf of an organizing NGO.

JUDGE SUMMERHAYS: As long as we keep it away from the statements of others --

MS. THOMAS: Yes, Your Honor.

JUDGE SUMMERHAYS: -- I'll allow it; I will give some leeway on that.

Q. (BY MS. THOMAS) And you mentioned that community was excited about SB8. Why was community excited about SB8?

A. I think after -- again, after kind of moving and watching this process over the last two and a half years, community was really clear that this was an opportunity again to have their voices centered in a congressional district and as well as it establishing a second majority-minority district.

Q. What are the current impressions of the community? What are your impressions about community sentiment around SB8 currently?

A. I think communities are waiting to see. I think, me personally, as well as our organization, we do voter education and voter information. And so as we prepare for the 2024 elections, you know, there are so many questions around like what district do people live in? Is the

enacted map the map. And so for us, we are trying to do as much education and information as possible so that community can be prepared for, you know, for the 2024 elections, which is why this is so important.

Q. And what would it mean to Power Coalition's work if the newly enacted CD-6 was taken away?

A. It would mean that we spent 10 years as an organization engaging, educating, and mobilizing voters of color. And what we know is that apathy is driven by voters not feeling like they have a voice. We know that if they don't feel like they can actually elect a candidate of choice, that again that drives voter apathy and it makes my job harder. It is not to say that candidates don't matter, but it is certainly about, you know, community, feeling like they have the opportunity to elect a candidate of choice, someone that is actually going to vote for and put them first and not politics.

MS. THOMAS: I think I can turn over the witness. Just give me one second to confer.

JUDGE SUMMERHAYS: Counsel?

MS. THOMAS: We can pass the witness.

JUDGE SUMMERHAYS: State?

MR. HENSON: Nothing from the State, Your Honor.

JUDGE SUMMERHAYS: Cross-examination?

MR. BOWEN: Just a short one.

JUDGE SUMMERHAYS: You may proceed when ready.

CROSS-EXAMINATION

BY MR. BOWEN:

Q. Ms. Shelton, we had a deposition the other day, correct?

A. We did.

Q. I similarly told you that I did not have a whole lot for you, and then we ended up going for quite a long time?

A. Two hours.

Q. So I will try to not do that again today, but no promises.

First of all, you are not a demographer, correct?

A. I am not.

MR. BOWEN: Okay. Can we go ahead and put up Joint Exhibit 14.

Q. (BY MR. BOWEN) So this exhibit is -- do you recognize what this is?

A. I am quickly putting it together. This is -- is this HB1 or -- I'm trying to see. I mean, I would assume it's the new map, if I'm not mistaken. Could you make it a little bigger? I can't see. I can't see the... yes. This is actually -- yes, it is SB8.

Q. So this is SB8, correct?

A. I mean, as far as I can tell. Again, I'm not a demographer. I've been looking at these maps for two and

a half years, various versions of it. But it does look like it runs the course of what I understand to be SB8. Except for actually -- I know St. Landry actually isn't a part of it, so actually maybe not. But, yeah. So can't be sure.

Q. The map that you looked at with intervenors' counsel was not SB8, correct?

A. Yes, it was. With my lawyer? Yes, it was.

Q. Okay. I will represent to you that this is SB8 post amendment as it was passed, and what you were looking at before was a pre-amendment version, not SB8.

A. Okay.

Q. So knowing that and we've heard your thoughts on the map that you were looking at, this map, post-amendment, is less compact and it has a higher BVAP value, which are two things that you said were not worth the change, correct?

A. The amendments, as they were proposed that I saw at that time, whatever amendment this is -- could you be more specific about who actually -- who actually presented the amendment to the map?

Q. This is SB8 as it is enacted.

A. Okay.

Q. And so knowing that it is less compact and it has a higher BVAP value, do you still support it?

A. I mean, I think at the end of the day, I'd have to

see -- do you -- I mean, do you have the -- I mean, again, so if -- let's say, SB8 as enacted, you know, again, six SB -- I mean, Senate Congressional District 6 is what -- has a BVAP of about what, 54 percent, and then District 2 is about 51 percent, if I am correct?

Q. Are you asking me?

JUDGE SUMMERHAYS: This is not a two-way conversation.

THE WITNESS: Okay. I'm making a statement.

JUDGE SUMMERHAYS: I'll ask the witness to please just answer the question that's asked.

And, Counsel, let's try to lead the witness through your questions.

THE WITNESS: So, to answer your question, I think that the map ultimately -- ultimately is a good map. I mean, you know, we have presented in partnership with our lawyers over six different maps that drew -- that drew a two district -- a two-district two map. And, again, we presented SB4. It was voted down in committee. But as we went through the process and the legislature did the work, I mean, it is less compact and maybe has a lower or higher BVAP.

But, again, I do think that those communities make sense. They are connected. I drive them on a regular basis and worked throughout all of those communities to

support them in engaging in their vote and their voice. So again, it works.

Q. (BY MR. BOWEN) So is your answer that you do support it even though it has a higher BVAP value and is less compact?

A. Yes.

MR. BOWEN: May I confer quickly?

JUDGE SUMMERHAYS: You may.

MR. BOWEN: We have no further questions.

JUDGE SUMMERHAYS: Redirect?

REDIRECT EXAMINATION

BY MS. THOMAS:

Q. Do you recall the amendment that you did not support, how many times Baton Rouge was split?

A. Four times.

Q. Does SB8 currently split Baton Rouge four ways?

A. No, it does not.

Q. Was the split of Baton Rouge one of the reasons that you did not support the amendment that increased BVAP?

A. Yes.

Q. And do you recall whether the amendment that you did not support increased BVAP to a higher level than is currently present in SB8?

A. Yes, it did.

MS. THOMAS: No further questions.

JUDGE SUMMERHAYS: Thank you. We can release this witness? Thank you for testifying. You are free to go.

JUDGE JOSEPH: How many more witnesses do you have, Mr. Naifeh?

MR. NAIFEH: We have two more witnesses in the case. We have one we could call today, but I think he will probably go well beyond 5:30.

JUDGE SUMMERHAYS: So what you're saying is that now is a good time to break for the day?

MR. NAIFEH: With Your Honor's leave, I think, you know, it would be a good time to break for the day.

JUDGE JOSEPH: And the other one is not here?

MR. NAIFEH: He is not here. He is coming.

JUDGE JOSEPH: Who are those two witnesses?

MR. NAIFEH: One is Davante Lewis. He is one of our clients, one of the intervenors. And the other is Senator Royce Duplessis.

JUDGE SUMMERHAYS: And then we have Overholt as rebuttal. How much time do you think you have with him?

MR. GREIM: Well, we're actually considering whether to still call him based on Fairfax today. That's a decision that we'll make tonight. But it's possible that we actually, after all that, that we will not call Overholt.

JUDGE SUMMERHAYS: So it looks like we could finish up and have closing arguments tomorrow morning.

JUDGE JOSEPH: So be prepared for closing arguments tomorrow morning before lunch.

JUDGE STEWART: Do we have any wrap-up left on all the document discussion? Have all of those been neatly tied and packaged?

MR. NAIFEH: Not yet, Your Honor. I think we will see where we are tomorrow.

JUDGE SUMMERHAYS: Well, we'll put that to counsel to complete that by tomorrow morning.

MR. NAIFEH: Absolutely. We will complete it before we rest our case.

JUDGE SUMMERHAYS: That's the cutoff is the start of proceedings tomorrow morning. That needs to be resolved.

MR. NAIFEH: Okay. Your Honor, some of the exhibits, if we do seek to move them in may come in through one of our -- one or either one of our witnesses tomorrow. So we may need -- you know, to move them in through the witness if there are foundation and relevance issues that we can resolve through those witnesses.

JUDGE JOSEPH: Okay. And just a kind of addendum. We discussed amongst ourselves the fact that it might be beneficial to have as an attachment to

1 post-hearing briefs proposed findings of fact.
2 Conclusions of law I don't think are necessary, but
3 proposed findings of fact. So I think that's all I have.
4 JUDGE STEWART: The only thing I have is just a
5 reprise of the earlier, earlier conversation where we were
6 going back and forth about the exhibits and foundations.
7 You both kind of made argument, but you've given us back
8 to sort them back. I guess, more to the point, if you're
9 going to be firing along with that, you need to have
10 something to back it up besides just saying -- in other
11 words, if you're seeking to push through putting in things
12 we've otherwise said is hearsay, you heard sort of the --
13 call it what you want. It's not going to be enough to
14 just like argue about it. You know, as we say in my other
15 line of work, you know, give us your best case as to why
16 in this preface you can thread the needle with it, because
17 otherwise it's just argument.
18 So, you know, you heard the concerns. You know,
19 we're trying to make a good record. But we are at the
20 point now, you know, it's going to take more than argument
21 either way. So I'm not talking about coming here with
22 briefs, just come with more than just the same argument we
23 heard today, particularly if it's foundational, if you're
24 talking about judicial notice in the generic sense. You
25 know, be more precise as exactly what you're talking about

taking judicial notice in this context. You know, that's a doable item. You follow me? That precision should be higher up in day three of the trial?

MR. NAIFEH: Yes, Your Honor.

MR. GORDON: I believe to one point about Your Honor's concerns about a fulsome record and the transcript and video issue, I believe we all have agreement that the entire legislative transcript is in evidence, and also the video record I think will be in evidence once we finalize that this evening. But we will, of course, be designating portions of it for Your Honors' review that we think all most favor our case. For convenience, I believe the entire transcript and video will be admitted. Either it will be called joint or it will just rely on the ones that have been admitted already for each party I think. Is that an accurate statement to other counsel? I'm sorry.

MR. NAIFEH: That is accurate. I think actually most of it has already been moved in by the plaintiffs without objection. And we have a couple of more portions of the transcript that we will be moving in. And that we can handle I think first thing tomorrow morning.

JUDGE SUMMERHAYS: Just the portions that they moved in their case, the idea that we are going to supplement that with a joint exhibit. And that's what you're talking about? You put --

MR. GORDON: Well, if Your Honors would like us to make it a joint exhibit, we certainly can. Or we can all each rely on the other parties' evidence, which we have I think all listed as a reservation in our exhibit lists so that we don't have to move them more than once.

JUDGE SUMMERHAYS: I thought that we decided a joint exhibit that's supposed to be substituted in.

MR. GORDON: Okay. Well, we can do it that way. Absolutely.

JUDGE SUMMERHAYS: Because if we do a dump of the entire transcript, it doesn't really point us to what you feel is the most relevant. And the idea was we would have it from both sides, what each side felt was the most relevant portions of that transcript. And unless my colleagues disagree, I think that's the approach that the panel is going to take.

JUDGE JOSEPH: I thought that was the goal. I thought that was our goal.

MR. NAIFEH: Absolutely. So I think -- I think that there may just be some confusion.

MR. GREIM: Could be.

JUDGE SUMMERHAYS: Well, you've got tonight to iron it out. Anything else?

MR. GREIM: We'll figure it out. I have a question actually. I know we talked about closing

statements last week. I just wonder if there is any further instruction from the panel because we're going to be putting these -- finalizing these tonight. I think we said 20 minutes, but I might be wrong.

And my other question is: In the openings, the Secretary ceded her time equally to the other side, but it kind of made me arguing 10 minutes against 30 minutes. I wonder what the understanding will be for closing so that I don't find myself in that position again.

JUDGE JOSEPH: 30 and 30. 30 for plaintiffs, 30 for defendants and intervenors. Is that okay?

MR. NAIFEH: Yes, Your honor.

JUDGE SUMMERHAYS: That seems like a fair allocation.

MR. GORDON: That's fine with us, Your Honor.

JUDGE JOSEPH: Yeah, that sounds -- I think that's enough time for everybody.

JUDGE SUMMERHAYS: So I'll see you back at 9:00 and we'll start sharply.

(Proceedings adjourned at 5:08 p.m.)

CERTIFICATE OF OFFICIAL REPORTER

I, DIANA CAVENAH, RPR, Federal Official Court Reporter, in and for the United States District Court for the Western District of Louisiana, DO HEREBY CERTIFY that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically-reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

/s/ Diana Cavenah
DIANA CAVENAH, RPR
Federal Official Court Reporter

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	
VS.	)	Civil Action No. 3:24-cv-00122
NANCY LANDRY, in her official capacity as Secretary of State,	)	
Defendant.	)	

PRELIMINARY INJUNCTION HEARING
CONSOLIDATED WITH BENCH TRIAL
OFFICIAL TRANSCRIPT OF PROCEEDINGS, VOLUME III
BEFORE THE HONORABLE CIRCUIT JUDGE CARL E. STEWART
THE HONORABLE DISTRICT JUDGE DAVID C. JOSEPH
AND THE HONORABLE DISTRICT JUDGE ROBERT R. SUMMERHAYS
APRIL 10, 2024
SHREVEPORT, LOUISIANA

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C O N T E N T S

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(Court called to order with all parties present at 9:09 a.m.)

JUDGE JOSEPH: We are back on the record now in day three of Callais, et al. v. Nancy Landry, Docket No. 3:24-cv-122.

When we left yesterday, I think we had a couple of administrative matters we were trying to handle. The most consequential was the joint evidentiary offering by the parties. Have the parties come to a resolution on that?

MR. TYLER: Yes, we should have joint designations of the audio and also of the text transcripts themselves.

JUDGE JOSEPH: Oh, great. Wonderful. So what are we going to call those?

MR. TYLER: They are Joint Exhibit -- somebody might have the numbers.

MR. BOWEN: Your Honor, Joint Exhibit 38 and 39.

JUDGE JOSEPH: 38 and 39. Thank you very much. That will be -- 38 will be the transcript and 39 the audio or vice versa?

MR. BOWEN: Vice versa.

JUDGE JOSEPH: Okay.

MR. BOWEN: Your Honor, we are also intending to file them with their own separate ECF filing. Would you prefer that or is it sufficient to have them as exhibits?

Do we submit the list of designations or --

JUDGE JOSEPH: Well, we can just admit them. We don't need to file them in ECF.

MR. BOWEN: Okay.

JUDGE JOSEPH: Yeah.

MR. NAIFEH: And then I think we also need to move in the actual transcripts themselves and the videos. And I think -- I think my colleagues, the State or on the Plaintiffs' side I think may have the numbers. I don't happen to have the numbers in front of me, but they are joint exhibits that will replace, I believe, some of the Plaintiffs' exhibits.

JUDGE JOSEPH: I thought that's just what we were talking about.

MR. NAIFEH: Right. So he was talking about the documents 38 and 39 are just a list of the page numbers and line numbers in the transcripts that we -- that each party have designated to call to --

JUDGE JOSEPH: Oh, but it doesn't have --

MR. NAIFEH: -- Your Honors' attention.

JUDGE JOSEPH: -- a lot of the --

MR. NAIFEH: It's not the actual text --

JUDGE JOSEPH: Okay.

MR. NAIFEH: -- of those transcripts. So the text of the transcripts, I believe, is -- I don't know

what -- is it -- it's --

JUDGE JOSEPH: Will that be provided -- that will be provided to us maybe after trial --

MR. TYLER: It will, Your Honor.

JUDGE JOSEPH: -- it would be okay as long as --

MR. TYLER: We can put that on a flash drive.

JUDGE JOSEPH: -- we have an agreement about what part that would be in this thing, which y'all have already done you're telling me, then actually having the thumb drive into Ms. LaCombe's hands can wait, I guess, a couple of days.

MR. NAIFEH: They need to be moved in just so they -- you know, that there are exhibit numbers that correspond to those.

JUDGE JOSEPH: Yeah. So we'll call those what? Joint Exhibit 40 and 41? 40 being the joint transcript of all of the legislative testimony and --

MR. CHAKRABORTY: Your Honor, actually, the parties met last night on this --

JUDGE JOSEPH: Get by the microphone.

MR. CHAKRABORTY: The parties met last night on this and we have -- the last joint exhibit list ended at Joint Exhibit 17 so the legislative videos and the transcripts have been added and they go from Joint Exhibit 18 to Joint Exhibit 37. So 38 and 39 are the

1 designations at the end and everything in between are the
2 videos and the transcripts.
3 JUDGE JOSEPH: So each designated portion has
4 its own number?
5 MR. CHAKRABORTY: Each transcript and each video
6 has its own number, yes.
7 JUDGE JOSEPH: All right. That will be fine.
8 So when you have those prepared, just hand them to
9 Ms. LaCombe and however she wants that done, she'll let
10 you know.
11 MR. CHAKRABORTY: Your Honor, we're finalizing
12 the thumb drives and we'll have those to the Court.
13 JUDGE JOSEPH: Okay. All right. What else do
14 we need to talk about before we start back?
15 MR. NAIFEH: Your Honors, the Robinson
16 intervenors have some exhibits that we would like to move
17 in, in addition to the joint exhibits. So starting with
18 R294 to R306, those are the demonstratives that we showed.
19 I think 294 to 298 have actually already been admitted
20 during the witness examination yesterday. 299 to 306 were
21 used the day before with Dr. McCartan. Those are the
22 demonstratives that we showed during the exam.
23 JUDGE JOSEPH: Basically they were charts in the
24 report that --
25 MR. NAIFEH: Charts from the reports and maps.

JUDGE JOSEPH: Any objection to that?

MR. GREIM: No objection, Your Honor.

JUDGE JOSEPH: From the State?

MR. GORDON: No objection, Your Honor.

JUDGE JOSEPH: Okay. Without objection, those exhibits will be entered into evidence.

MR. NAIFEH: And then two more exhibits and I was just discussing before Your Honors came in with Mr. Greim these exhibits, so we have not fully resolved whether there are objections. I think he will advise you of that.

JUDGE JOSEPH: All right.

MR. NAIFEH: But they are R275 and R276. Those are letters that were submitted to the legislature during the January special session. One from the Legal Defense Fund on behalf of the Robinson intervenors and one from a coalition of organizations that include some of the Robinson intervenors urging the legislature to adopt the map with two majority black districts. So those are part of the legislative record. They're available on the Legislature's website and they were before the Legislature as they were adopting SB8.

MR. GREIM: And we had earlier objected to these as having hearsay within hearsay. My question has been are we going to use -- is a legislator or someone going to

say, "Well, here is what I considered from this letter from that letter," and at that point I think it comes in to help prove what the Legislature was intending, but --

JUDGE JOSEPH: It's a relevance objection?

MR. GREIM: It's relevance and hearsay. Because at least some of these --

JUDGE JOSEPH: Well, if it's offered for the truth of what's in those letters, it's hearsay.

MR. GREIM: Right.

JUDGE JOSEPH: I think if it's a motivating factor behind some legislative action or could be considered that, then it may be relevant for that purpose, but you're saying that foundation has not been laid yet.

MR. GREIM: Yes. Better stated. That's right, Your Honor. And we have the same general issue with a bunch of other things where we haven't -- no one has told us yet how exactly this is going to be used. And so when there are these blanket designations made, this is going to be our objection. Now, if it comes up with a witness, you know, then it may come in for a more limited purpose.

JUDGE JOSEPH: Response?

MR. NAIFEH: Our position is that these were before the Legislature. The Legislature had a process for taking in input from the public that became part of the record, so they were before the Legislature. Whether

one -- any individual legislator looked at them or relied on them doesn't seem to be the dispositive issue. The question -- I mean, we don't know that any one legislator listened to any particular part of the transcript, but we've got the entire transcript in the record, even though not every legislator was present at every hearing or every meeting of the relevant committees.

JUDGE JOSEPH: Were any other letters entered into the legislative record?

MR. NAIFEH: There were -- there were other -- there were definitely other submissions to the legislative record.

JUDGE JOSEPH: I guess -- I guess -- I understand your point, Mr. Naifeh. I guess, my question would be, well, doesn't the witness need to draw attention to these letters as being important? I mean, if we had the whole legislative record and you don't have a witness that's saying these letters are important, now I don't know if it meets the 401 standard. I mean, I'd defer to my colleagues on this, but that's my question.

JUDGE SUMMERHAYS: I mean, it seems like the letters in isolation without any testimony to establish their connection to the decisions that were made, you know, I am not sure how much probative value that has, so I would tend to agree with you.

JUDGE JOSEPH: Yeah. If there is a witness that can connect the dots on that, then, of course, we'll consider it at that time, so right now those are not admitted.

MR. NAIFEH: Thank you, Your Honor.

JUDGE JOSEPH: Anything else, Mr. Naifeh? Any other exhibits?

MR. NAIFEH: No, nothing now, Your Honors.

JUDGE JOSEPH: All right. Well, then it's the intervenor's case, so please proceed.

MR. NAIFEH: The intervenors will call Davante Lewis.

(Off the record.)

MR. NAIFEH: Apparently, the order has changed. We are calling Senator Royce Duplessis first.

JUDGE JOSEPH: Okay.

(Oath administered to the witness.)

THE WITNESS: Yes.

MS. MCTOOTLE: Good afternoon, Your Honors. My name is Arielle McTootle. I represent the Robinson intervenors in this matter and the intervenors call Senator Royce Duplessis.

SENATOR ROYCE DUPLESSIS,

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as

follows:

DIRECT EXAMINATION

BY MS. McTOOTLE:

Q. Good afternoon, Senator.

A. Hi.

Q. Can you please state your full name for the record and spell it for the court reporter?

A. Royce, R-O-Y-C-E. Last name Duplessis, D-U-P-L-E-S-S-I-S.

Q. And where do you live, Senator Duplessis?

A. I live in New Orleans, Louisiana.

Q. And were you born and raised in New Orleans?

A. Yes.

Q. And what do you do for a living?

A. I'm an attorney by trade, but I also serve in the Louisiana State Senate.

Q. And what district do you represent?

A. District 5 which is most of uptown New Orleans and parts of Jefferson Parish.

Q. And how long have you served as a state senator?

A. I've served as a -- I've served in the Senate since December of 2022, but I served in the Legislature as a whole since -- I think today makes six years. I was sworn in April 10th of '18, so six years, yes.

Q. And can you tell us about your background in public

service before that time?
A. Yes. Before -- before going into the Legislature, I -- right before then, for several years, I worked at the Louisiana Supreme Court as special counsel to Chief Justice and all the other Justices. I worked -- I served New Orleans City Planning Commission. I volunteered on a number of boards and commissions. Yeah. So that's a little bit about what I did before running for office.
Q. And so I want to ask you first about the 2020 redistricting cycle. Were you a state representative during the redistricting process that followed the 2020 census?
A. Yes, I was.
Q. And starting with that very first redistricting legislative session around early 2022, did you play any role in that redistricting process?
A. Yes.
Q. And what was that role?
A. So I was assigned to serve on House and Governmental Affairs as the vice chair of that committee and that was the committee that vetted all the bills that were filed during redistricting. Prior to that process, we traveled across the state extensively. We traveled for months across the state and conducted roadshows and listened to the community, listened to the people of Louisiana, in

terms of what they wanted to see in the redistricting process. So I was very involved in that. And once we started the special session again, I was in every committee meeting because I was vice chair of the committee. So every bill that was filed and heard on the House side, I was very involved in that. So a lot of time was spent there.

Q. And going back to the roadshows that you mentioned, what was your reason for attending those roadshows?

A. So the roadshows are something that are done in every redistricting process. It was my first time doing it and it was our opportunity -- it was our -- the purpose of the roadshows was to give the public an opportunity to share their thoughts and what they wanted to see in redistricting. So my job -- I viewed my job as going in and listen, to listen to the people of Louisiana, and what they wanted to see from the redistricting process.

Q. And you also mentioned that you were the vice chair --

A. Yes.

Q. -- of the House and Governmental Affairs Committee. And so, could you describe a little bit what role you played as the vice chair?

A. So I was -- I worked very closely with the chairman. I'm a -- you know, because things are partisan, I guess

1 you could say, in the Legislature, you know, I'm a
2 registered Democrat, so, I guess, you could say I was a
3 ranking member for the Democrats on that committee. Also
4 a member of the Black Caucus, so I had a leading role in
5 that -- in that effort.
6 Q. And we're still talking about that early 2022
7 session. What did you hope that the Legislature would do
8 in creating a congressional map?
9 A. That we would draw a map that was fair, that we would
10 draw a map that would reflect the State, and that we would
11 draw a map that the people of Louisiana wanted to see.
12 And everything that I gathered from the roadshows was that
13 people wanted to see a map that was compliant -- well, not
14 that they wanted to see a map, but that we needed to draw
15 a map that was compliant with the Voting Rights Act.
16 That's what I wanted us to do.
17 Q. Do you recall whether there were bills introduced
18 during that first session that included two majority black
19 districts?
20 A. Yes.
21 Q. And were any of those proposed plans with two
22 majority black districts passed by your committee?
23 A. No, they were all voted down.
24 Q. And was there a different bill from that session that
25 was adopted by the Legislature?

A. Yes.
Q. And are you okay with us calling that bill "HB1"?
A. Sure. I don't have a problem with it. I just don't remember the bill number.
Q. And do you recall how many majority black districts HB1 had?
A. Just one.
Q. Do you know whether that bill was adopted over a Governor's veto?
A. I believe -- yes. Yes. I believe that that original one that was passed was vetoed by the Governor.
Q. And so the bill was enacted?
A. Yeah, then it was enacted. Yeah. Uh-huh.
Q. And the Governor at the time was -- was that Governor Edwards?
A. Yes. Uh-huh.
Q. Are you familiar with the Robinson litigation?
A. Somewhat, yes.
Q. And so at a very high level, can you describe what happened in that case?
A. That lawsuit was brought after the map we just talked about was enacted as not being in compliance with the Voting Rights Act. So the judge -- the Court in that litigation ruled that the map was not compliant with the Voting Rights Act and eventually, after a lot of

1 litigation, ordered us back to the Legislature to draw a
2 map that was compliant with the Voting Rights Act.
3 Q. So going back in time, after the first district court
4 decision, do you recall whether there was a special
5 session that was called to address redistricting around
6 June 2022?
7 A. Yes.
8 Q. And did that session adopt a new map?
9 A. No.
10 Q. And do you have an understanding of why not?
11 A. Well, I remember we were there for a limited number
12 of days. We had a limited number of days in which to do
13 it. Ultimately no map was adopted from what I recall and
14 I don't know the reason as to why we did not adopt a map,
15 but we didn't.
16 Q. Were any of the maps proposed during that session
17 maps that contained two majority black districts?
18 A. Yes.
19 Q. But none of those maps were adopted?
20 A. That's correct. I actually filed one, but none of
21 those maps were adopted.
22 Q. So the bill that you filed, did that have two
23 majority black districts?
24 A. Yes, it did.
25 Q. And did you believe at the time that your bill

complied with traditional redistricting principles?
A. Yes. Based on what I knew of redistricting principles and its compliance with the Voting Rights Act, yes, I do believe that.
Q. And so could you describe a little bit about what you knew about redistricting principles?
A. Yes. So one of the biggest takeaways that I learned as it relates to the Voting Rights Act was that if we, as a legislature could show or had the opportunity to draw a map where black voters could elect the candidate of their choice, then we had -- then we had an obligation to do that under the Voting Rights Act. And then there were other principles that were also pretty critical around compactness, contiguity, the number of split parishes, et cetera. So -- and the main driving force was communities of interest, so those were the factors that we all took into consideration.
Q. So moving forward to 2024, were you a member of the legislature during this most recent 2024 special session on redistricting?
A. Yes, I was.
Q. And were you in the Senate at that point?
A. Yes.
Q. And what, if anything, did you hope that the Legislature would do during that session?

A. My hope was that we would finally do what we was supposed to do from the beginning, which was to adopt a map that was compliant with the Voting Rights Act, to adopt a map that was fair, and to finally put an end to this litigation.

Q. Now, of your colleagues that were in the Senate during the 2024 special session, do you have a general sense of how many had been in the Legislature for the first redistricting session in January 2022?

A. I don't know the number, but I am pretty confident that it was the majority of members.

Q. What about that June 2022 session?

A. I would say the majority of the members who were there during the June session were also there during the original session, but I don't know the number.

Q. Did you attend Governor Landry's address to convene the 2024 session?

A. Yes, I did.

Q. And based on what you heard from the Governor, what did you understand to be his goal for that special session?

A. It was to put an end to the litigation and adopt a map that was compliant with the Judge's order.

Q. And Governor Landry represented -- strike that. Governor Landry was the Attorney General before he was

Governor; is that your understanding?
A. Yes.
Q. And do you know if he had any involvement in the Robinson litigation?
A. As Attorney General, my understanding is that he defended the State during that litigation, or represented the State, defended the State.
Q. So what role did you play in the 2024 redistricting session?
A. So my role was a little different in the 2024 redistricting session because I was not a member of the redistricting committee, just one of 39 members. I had an opportunity to vote, like the rest of my colleagues, but I wasn't a member of the committee.
Q. Would you say that you were an active participant in the session?
A. Active to the extent that I did co-author a map and I did present on that map in the Senate Governmental Affairs Committee. So, yeah, I would say I was probably more active than any other colleagues who didn't file a map, yeah.
Q. So you mentioned that you introduced a bill during the 2024 session. Is it okay if I refer to that bill as "SB4"?
A. Yes.

Q. Did SB4, your bill, have two majority black districts?
A. Yes, it did.
Q. And why did you support SB4?
A. Because I believed that it was compliant with the Voting Rights Act. I believed that it met the proper redistricting principles that I discussed earlier and I believed that it would put an end to the litigation that we were ordered there to -- we were ordered by the Court to comply with.
Q. And did you have discussions with other legislators about your map, SB4?
A. Yes.
Q. Do you recall, generally speaking, who you discussed your map with?
A. Senator Ed Price and I, we co-authored that legislation, so we certainly had conversations about it. I had conversations with a few members of the Senate Governmental Affairs Committee and I'm sure I had other conversations with members. Specifically who, I don't recall, but there were certainly conversations about the map.
Q. And did you have conversations with legislators who supported your bill?
A. Yes.

Q. Did you get an impression, based on those conversations, of why they supported your bill?
A. Because they don't --
MR. GREIM: Objection, Your Honor. I don't think we have -- I think we got hearsay here. We haven't laid a foundation that it's being used for anything other than the truth of the matter.
JUDGE JOSEPH: Can you rephrase the question?
MS. McTOOTLE: Sure.
Q. (BY MS. McTOOTLE) You mentioned that you spoke with legislators who supported your bill; is that correct?
A. Yes.
Q. And do you have any belief about why they supported your bill?
MR. GREIM: Your Honor, I think, again, I am going to object. It's calling for hearsay.
JUDGE JOSEPH: I do want to give some latitude for this witness to discuss what -- his view of what happened in the Senate was during this process, but is there any -- other than the fact that what other legislators told us as true, what's the relevance of that, of those discussions?
MS. McTOOTLE: It goes to just his general state of mind throughout the legislative process. It goes to his -- it's relevant his background for the process of

leading up to.

JUDGE JOSEPH: I'll allow it. Go ahead, Mr. Senator.

THE WITNESS: What I can say is that there were conversations, both informal and formal. Because during the presentation of the bill in committee, that was an opportunity for those who supported the map to actually take a vote on it. So I took their vote yes -- those who voted yes for the map as a sign of support. Although it didn't get enough votes to get out of committee, those members who voted yes for the bill was an indication to me that they supported the map.

MS. MCTOOTLE: Thank you.

Q. (BY MS. MCTOOTLE) And so what ultimately happened with SB4?

A. SB4 was voted down in committee.

Q. Was there a bill that ultimately was enacted?

A. Yes.

Q. And what bill was that?

A. That was a bill that was authored by Senator Glen Womack.

Q. And are you okay if I refer to that bill as "SB8"?

A. Yes.

Q. Great. Were there any differences between your bill and SB8?

A. There were.
Q. Can you talk a little bit about those differences?
A. So with each bill that gets drafted and filed, there is a lot of -- a lot of information, a lot of data, that describes each District 1 through 6. A lot of information on parishes, precincts, race, gender, party registration, you name it. I mean, it's a lot of information.

I recall the numbers being very similar. The main difference between the two maps, that I recall, was just the geographic design of the map, if you will. The map that I co-authored with Senator Price, the second majority black district went from Baton Rouge up to northeast Louisiana, the Monroe area. The map that Senator Womack authored went from Baton Rouge to the northwest area of the State up to the Shreveport area. And that was the only difference that I could point out or remember in the two maps.
Q. Did you have any opinion about whether SB8 would pass, whether it would be enacted?
A. I believed that it would.
Q. And why was that?
A. So as a member of the Legislature and sometimes just as a member of the general public, if you are listening to conversations, or if you are just paying attention, it was common knowledge in the Legislature that that was the map

that Governor Landry would support. He clearly expressed that he was going to support a map to resolve the litigation. And then Senator Womack filed a map and that -- it became clear that that was the map that Governor Landry would support and that the majority -- not all, but the majority of the Legislature would also support.

Q. How much influence did you understand the Governor to have with respect to the passage of SB8?

A. Newly-elected Governor, first session, literally his first session after coming off of an election with no runoff, pretty strong politically, in a legislature where two-thirds of vote chambers share his party affiliation, I would say that his support would have a lot of influence on what does and doesn't get passed.

Q. And so you mentioned the difference in configuration between your Bill SB4 and SB8. Did you have any impression about any rationale behind those different configurations?

A. So during the whole time I spent in redistricting, you don't have to be a redistricting expert to know that any time a new map is drawn, it's kind of like playing musical chairs. There is going to be someone who is negatively impacted from an incumbency standpoint. And of the six congressional districts, the question was always

if there was going to be a second majority black district drawn, who would be negative -- who would be most negatively impacted by this if we are -- again, we have -- a new map has to be drawn. So I believe that ultimately played into what map the Legislature chose to support.

Q. Did you hear anything based on your experience during the redistricting sessions about Representative Graves' seat in relation to support or not for SB8?

MR. GREIM: Your Honor, I object. This is calling for hearsay without the proper foundation for how it impacted this witness's actions.

JUDGE JOSEPH: Can you lay a foundation?

MS. McTOOTLE: Yes. I'll rephrase.

Q. (BY MS. McTOOTLE) So I would like to read you something that you said on -- during one of the legislative debates. Is that all right?

A. Yes.

MR. GREIM: Your Honor, I object to this. I think we have to first lay a foundation that the witness can't remember something before we start reading the witness's own words back to them on direct.

JUDGE JOSEPH: Well, I think it's fine to read a public statement that he made in the Legislature and then ask him follow-up questions on that, on what he meant by that. That's fine.

MS. McTOOTLE: Thank you.
Q. (BY MS. McTOOTLE) You stated --
MS. McTOOTLE: And, Your Honors, I'm referring to RI 15, page 9, which has already been admitted into evidence.
Q. (BY MS. McTOOTLE) You stated, "We've heard a lot from Chairman Womack and my colleague Senator Stine about the importance of protecting certain elected officials."
Do you recall making that statement?
A. Yes.
Q. What were you referring to when you said "the importance of protecting certain elected officials"?
A. Right. So going back to my earlier comment about the redistricting process and as it relates to incumbency, there will be someone who is negatively impacted, so the choice had to be made -- the political decision was made to protect certain members of congress and to not protect one member of congress and it was clear that that member was going to be Congressman Garret Graves.
Q. Thank you. Did you ultimately vote in favor of SB8?
A. Yes.
Q. And why did you vote in favor of SB8?
A. Because as I mentioned earlier -- when I looked at the numbers, I thought they were pretty similar, and I believe that it actually complied with the Voting Rights

Act. I believe that it met the criteria that we were ordered to meet by the Court. And I believe that it was a fair map, that the people of Louisiana would be satisfied with, based on all the time I spent on the road and people saying repeatedly that they wanted to see a map that gave voters the opportunity to elect their candidate of choice. And I believe we had a map, although it wasn't the map that I introduced, it still met the principles of what we were there to do.

Q. And so you mentioned earlier that after the January 2022 session and after the June 2022 session, that the Legislature did not adopt any maps with two majority black districts; is that correct?

A. June 2022?

Q. Yeah.

A. Correct. We did not -- we did not adopt a map during that special session.

Q. So what was your understanding of the shift and -- strike that. What was your understanding of why the Legislature was likely to pass a map with two majority black districts?

A. To me it appeared as though the majority of the Legislature and the newly-elected governor realized we had come to the end of the road, that based on litigation that was going on at the U.S. Supreme Court, litigation at the

U.S. Fifth Circuit Court of Appeals, that there was -- we had to draw a map that was compliant with the Voting Rights Act, and that is what basically forced members who previously did not support that and may not still want to see that, but they knew we had to comply with the Voting Rights Act.

Q. So we've talked a little bit about compliance with the Voting Rights Act. Would you say that was one of your reasons for supporting SB8?

A. Yes.

Q. And did your belief about SB8 and the Voting Rights Act, in part, rely on your prior experience as the vice chair of the House and Governmental Affairs Committee dealing with redistricting issues?

A. Yes.

Q. Was it based on anything else?

A. It was based on -- you know, my understanding of what I was able to learn about the Voting Rights Act and what's required under Section 2, it was based upon just my life experience, you know. It was based on what I heard traveling the state, where people showed up to those roadshows and consistently said that they wanted to see fair maps drawn. They wanted to see maps that they felt they could elect somebody that shared their values, that shared their -- that shared their interests on a multitude

of issues, and I believe that that's -- that's what we were doing. So that's what largely influenced my thinking and my decision-making as it pertains to the redistricting process.

Q. At the time that you voted for SB8, did you believe that it would give black voters the opportunity to elect their candidate of choice?

A. Yes.

Q. And as a public leader, what did it mean to you that the Legislature enacted SB8?

A. It was an incredibly proud moment. Of course, I wish it didn't take as much time as it did. I wish we didn't have to be forced to do it by the federal government or the federal courts rather. But it was also a sign, an indication, that we can do the right thing. And it was always very clear that a map with two majority black districts was the right thing. It wasn't the only thing, but it was a major component to why we were sent there to redraw a map. So that voters in Lake Charles or voters in Alexandria or voters in Monroe, Shreveport, wherever they live, feel like there is a map that's fair based upon the diversity and the makeup of this state. Again, not just racial diversity, but the diversity of interests that we share, and congressional representation is a big part of that. So I think it was a big deal for our state to make

that decision. I was -- I was proud when Governor Landry came and said that he was going to basically do the right thing and comply with the order of the Court and put this litigation past us. So as a member of the Legislature, I was very proud that we were able to, in a bipartisan way, vote for the map that I believe is currently law.

Q. Thank you. I would like to show you an exhibit, what we have marked as Exhibit 276.

Adrianna, do you mind pulling that up?

You should be able to see it on your screen. Do you recognize this exhibit?

A. I can tell you what it is, but I don't specifically -- I don't specifically recall reviewing this letter or receiving this letter, but I can -- I can acknowledge it for what it is.

Q. Okay.

A. I do recognize it.

Q. Could we pull up 276? Exhibit 276.

Thank you. Apologies. It was 275.

A. Okay.

Q. Do you recognize this letter?

A. It's a letter to the chairman of the Senate Governmental Affairs Committee from many different organizations, a broad coalition of organizations, supporting fair maps.

Q. Do you recognize it?
A. When you say "do I recognize it," I'm not sure I understand the question.
Q. Do you recall ever seeing this?
A. I -- I don't recall seeing -- I wasn't on the Senate Governmental Affairs Committee. That's who it's addressed to. I may have seen it at some point, but we get a lot of letters. I mean, we get a lot of correspondence. So I may have seen this at some point, but I don't specifically recall seeing this letter.
Q. Thank you.
A. Uh-huh.
MS. McTOOTLE: Nothing further.
JUDGE JOSEPH: Any questions from the State?
MR. GORDON: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. GORDON:
Q. Good morning, Senator.
A. Good morning.
Q. My name's Phillip Gordon. I'm here on behalf of the State of Louisiana. Just a few things from me. I think you mentioned this before, but SB8 ended up passing; is that right?
A. Yes. That's the bill that was Senator Womack's bill, yes.

Q. Yeah, Senator Womack's bill. Do you happen to remember what the final vote total on that was in the Senate?
A. No, sir.
Q. Do you know if that vote was bipartisan?
A. Yes.
Q. Do you know if Republicans voted for and against it?
A. I believe there were some Republicans who voted against it. I recall -- I think some of the members of the Shreveport delegation may have voted against it, but it passed overwhelmingly.
Q. Right. And do you know if any Democrats voted both for and against it?
A. I don't -- I don't know of any Democrats that voted against it, yeah.
Q. So how would you characterize the process of sort of debating bills? How would you characterize that process?
A. So bills were filed, referred to committee, they were referred to -- if they were on the Senate side, the Senate and Governmental Affairs Committee. If it was on the House side, it was the House and Governmental Affairs Committee. The bills were given hearings, voted up or down. If they advanced out of committee, they went to the full floor for debate.
Q. As part of that process, do you have many discussions

with both your Democratic and Republican colleagues?
A. Yeah. Yes.
Q. Do you discuss any political considerations when you are talking about a bill?
A. Often.
Q. Do you have those consideration -- did you have those considerations with regard to SB8, the enacted plan?
A. When you say "considerations," I want to make sure I'm clear. You know, consider -- it's a factor. You know, that it's a component. But, you know, what it means to me may mean something totally different to a colleague. So, yes, there were absolutely political factors involved in this discussion.
Q. Right. And was one of those political factors, for example, protecting Representative Letlow?
A. Yes.
Q. Was one of those factors ensuring that two members of the congressional delegation were formed from North Louisiana?
A. Yes, that was -- I believe I recall having those conversations as well, yes.
Q. As part of the process of reviewing legislation and specifically in talking about SB8, the enacted plan, would you receive public comments?
A. Yes.

Q. For instance, would you receive comments like that you just saw on the screen from the Robinson intervenors from various groups?
A. Yes.
Q. And what are the types of things those comments would -- what would you understand those comments to be for?
A. Yeah.
MR. GREIM: Objection, Your Honor. This is a rather vague question. I mean, we may be calling for hearsay.
JUDGE JOSEPH: He can answer. What organizations in the Senator's letter is advocating her position.
THE WITNESS: Yeah, on any issue, whether it's redistricting or just some other issue that's not related to redistricting, but specifically, as it relates to redistricting, lots of public comments, lots of public input. I didn't get to go through the specifics of the letter, the exhibit that was shown, but I am quite certain that that coalition of groups that wrote that letter were advocating for a fair map. They were advocating for the community. They were advocating for the State of Louisiana to adopt a map that represented the State and we heard that testimony in committee. We heard -- I wasn't

on the -- I wasn't on the committee as a member in the Senate, but I tried to watch the hearings as much as possible. I did -- I did bring a bill, so I spent some time in the committee. But most of the public input that I can recall, most was all the support of this map. If there was any opposition, it was -- it just seemed to be real disconnected. I just recall it being overwhelming support.

Q. (BY MR. GORDON) And would public support for a bill be part of your consideration to whether to vote for or against a bill?

A. Absolutely.

Q. And would that also inform your political calculus as to vote for or against a bill?

A. Yes.

Q. Because, I mean, these would be your constituents --

A. Yes.

Q. -- essentially? You made several references to litigation sort of driving the process. Do I remember that correctly?

A. Well, litigation was a big piece of all this. I believe litigation is what led us back to all the special sessions that we ended up having after the first session.

Q. And are you referring to the Robinson litigation when you make those comments?

A. Yes.
Q. And what was your understanding of the Robinson litigation?
A. Plaintiffs filed suit contesting the original map that was adopted, that it was not compliant with the Voting Rights Act. And then we were ordered by the Court to go back and draw a fair map that was compliant with the Voting Rights Act, a map that had two majority black districts and a map that gave black voters in the state of Louisiana the opportunity to elect their candidate of choice.
Q. And are you aware of the process that courts use when they're evaluating these maps?
A. No, not -- not -- Court's process? I can't -- I'm not sure I can speak to that.
Q. Fair enough. And then sort of just the final -- your final button on this, you voted for SB8; is that right?
A. Yes.
Q. And do you support SB8?
A. Yes.
Q. And you would like to see the current map remain the current map?
A. Yes.
Q. Thank you.

JUDGE JOSEPH: Cross-examination.

CROSS-EXAMINATION

BY MR. GREIM:

Q. Good morning --

A. Good morning.

Q. -- Senator. My name is Eddie Greim and I represent the Plaintiffs in this case. Nice to meet you.

A. Good morning. Nice to meet you.

Q. You testified a few moments ago that Lake Charles and Monroe would now be represented with the new map. Do you recall that testimony?

A. Yes. And I was speaking just generally --

MS. MCTOOTLE: Objection.

A. -- but yes, I was just kind of speaking in generalities about it.

JUDGE JOSEPH: What's the objection?

MS. MCTOOTLE: Objection. It mischaracterizes his testimony.

JUDGE JOSEPH: I think he said that. He is explaining what he said. Overruled.

THE WITNESS: Yeah. Can I explain what I meant?

Q. (BY MR. GREIM) Sure.

A. I remember being in Lake Charles on the Roadshow and I remember a gentleman -- they had been hit really, really bad by a hurricane several years ago. And I remember a

man who came and spoke in Lake Charles. And he said that as long as he's lived there, he has felt like the congressperson never even knew he existed. He has felt like he didn't matter. And he was advocating for the opportunity just to have someone to share his interests, who might vote yes on an infrastructure bill, you know. So, like, that's what was in my mind as I was talking about the passage of a map that gave people like him a sense of hope, right, even if, you know, the congressman in his district didn't change. It was -- it was stories like that, that I was trying to answer the earlier question about how I felt once we passed SB8.

Q. I see.

A. Yes, sir.

Q. So you know that Lake Charles, obviously, is not in District 6?

A. Clearly, yes, sir.

Q. Nor is Monroe, correct?

A. Yes, sir.

Q. Right?

A. Yes, sir.

Q. I'm learning here.

A. Yes. Yes. And that's what I meant when I talked about -- all the people across the state of Louisiana, yes.

Q. Now, on the Senate floor, you gave a -- you made some remarks on January the 17th. Do you remember that?
A. I've given a lot of remarks. I don't recall the dates.
Q. Okay. Well, you were speaking about redistricting in the special session.
A. Okay.
Q. And do you recall saying: This is about the people of this state and one-third of that state, 33 percent, to be exact, being underrepresented, so I think it's important that we keep the focus on why we are here today. You said that, didn't you?
A. I would -- I probably said that. I don't recall everything I said, but I don't disagree.
Q. And you were talking -- just a few more questions here. You were talking about the gap -- the differences between your bill, which was Senate Bill 4, and Senate Bill 8, and you supported Senate Bill 4 over 8, but you went with 8. I think that was your testimony. Right?
A. I supported both maps. So I didn't support 4 over 8. I filed 4 and I also voted for 8. I thought both maps would -- would work.
Q. And did you prefer Senate Bill 4 to Senate Bill 8?
A. It's just the map that I filed. You know, it -- when I had conversations with people who I would consider

experts on this, I got a -- I gained a level of comfort with SB8 that -- that it was more for me about complying with the order of the Court and adopting a map that would be compliant.

Q. And Senate Bill 8 had a higher percentage of black voting age population than Senate Bill 4 did, didn't it?

A. I believe it did have a slight higher percentage, yeah. I don't disagree with that.

Q. No more questions.

A. Yes, sir.

JUDGE JOSEPH: Any redirect?

MS. McTOOTLE: Nothing, Your Honor.

JUDGE JOSEPH: Thank you for your testimony, Senator. You may be released.

THE WITNESS: Thank you.

JUDGE JOSEPH: Secretary of State, no questions?

MR. STRACH: None from us, Your Honor.

JUDGE JOSEPH: Thank you. I'll just rely on you to tell me if you do, okay?

MR. STRACH: I will, Your Honor.

MS. WENGER: Good morning, Your Honors.

JUDGE JOSEPH: Good morning.

MS. WENGER: Victoria Wenger with the Legal Defense Fund on behalf of the Robinson intervenors. We would like to call Davante Lewis.

(Oath administered to the witness.)

COMMISSIONER DAVANTE LEWIS,

having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:

DIRECT EXAMINATION

BY MS. WENGER:

Q. Good morning, Commissioner Lewis. Can you please state and spell your name for the record?

A. Yes. It's Davante Lewis. D-A-V-A-N-T-E, L-E-W-I-S.

Q. How are you involved in this case?

A. I am a plaintiff in *Robinson v. Landry* and an intervenor in this case.

Q. What race do you identify as?

A. Black.

Q. Where did you grow up?

A. Lake Charles, Louisiana.

Q. And where do you live now?

A. Baton Rouge, Louisiana.

Q. Are you registered to vote there?

A. I am.

Q. What do you do for a living?

A. I'm elected to the Louisiana Public Service Commission, representing the Third District of Louisiana, and I also serve as the chief strategy officer to Invest

in Louisiana, formerly known as the Louisiana Budget Project, a nonprofit think tank.

Q. When were you elected to the Public Service Commission?

A. In December of 2022.

Q. What areas does your district encompass?

A. My district includes ten parishes in the state of Louisiana. Parts of West Baton Rouge Parish, Iberville Parish, East Baton Rouge Parish, Ascension Parish, all of Assumption -- excuse me -- parts of Assumption Parish, all of St. James, all of St. John Parish, parts of Jefferson Parish, and parts of Orleans Parish.

Q. Within your profession or other roles, what is your lens into Louisiana's political process?

A. I got involved in Louisiana politics when I was around 15. I was one of the first members of the Louisiana Legislative Youth Advisory Council that was created under Governor Blanco to advise the Legislature from a youth's perspective and I represented the Third Congressional District on that council. I have also worked multiple political campaigns. I have worked for members of the Legislature. I served on the University of Louisiana Board of Supervisors which governs nine public institutions in the state of Louisiana. I chaired the Louisiana Council of Student Body Presidents while I was

in college. And my work at the Louisiana Budget Project as a registered lobbyist. So I've kind of been a candidate, been a staffer, been an adviser, kind of been all around the ecosystem.

Q. About how many years did you serve as a registered lobbyist?

A. I want to say about six.

Q. How much time do you spend at the State Capitol while the Legislature is in session?

A. Before this session, I started on March 11th, I would be there just about every day.

Q. Why has that changed since?

A. My role at Invest in Louisiana has changed from being the Director of Public Affairs and Outreach where my job was to be not only our Governmental Affairs Director and Lobbyist to the Chief Strategy Officer, and then my role as the Commissioner has deviated me from being there every single day and being in touch with the Legislature like that.

Q. Are you familiar with members of the current Legislature?

A. Yes.

Q. What's the nature of your interactions with those lawmakers?

A. Most of them I have known professionally or

1 personally for -- for some time. I mean, the House, some
2 of the newer members, I have known from their previous
3 political careers or political work. I have been -- in
4 the Senate, the vast majority of the Senate, except for
5 two members, I have worked with as a lobbyist.
6 Q. Except for two members why? Were they current
7 Legislature?
8 A. Yeah. Those two members were not in the Legislature
9 during my tenure of lobbying or advocating. So they were
10 newly elected in January -- or sworn in in January, I
11 should say, and I had not met either one of them prior,
12 but the remaining of the State Senate I was very familiar
13 of.
14 Q. Were they in office during the full course of the
15 post 2020 redistricting process?
16 A. No.
17 Q. I'm talking about the rest of the Legislature part
18 and not those two --
19 A. Oh, yes.
20 Q. -- lobbyists. Specifically other than those two
21 senators, was the rest of the Senate serving for the full
22 duration of the redistricting process following the 2020
23 census?
24 A. Yes.
25 Q. Are you familiar with members of the Executive Branch

here in Louisiana?
A. I am.
Q. And what's the nature of your interactions with them?
A. I have known Governor Landry since he was a member of Congress and we had some interactions while I was student body president at McNeese State University. We hosted a congressional debate after the redistricting of 2012 and that's how I personally got to know him, and so we speak to each other when we see each other. I have also worked with Secretary of State Landry when she was a member of the Education Committee when she served in the House of Representatives. I know a good chunk of the Governor's policy staff and political staff that work now for him from their services and other advocacy organizations and other state agencies, and so just throughout the years of various roles that we've all had interacting with each other.
Q. What's been the nature of your interactions with them since the start of this year?
A. I've had frequent conversations with most of them when I see them or have requested meetings with them.
Q. Did any conversations touch on the topic of redistricting?
A. It did.
Q. How about members of the current congressional

delegation? Any familiarity with them?
A. I know just about all of them.
Q. Can you walk me through each? Let's start with District 1.
A. Yes. I met Congressman Scalise when he was in the State Senate and I was advocating in the early 2000s. I have known Senator -- excuse me -- Congressman Carter since he was in the State Senate. We have worked on bills together. We have had social gatherings together many occasions. Congressman Higgins represents most of my family since I'm from Calcasieu Parish in Southwest Louisiana and so we've had a few interactions in meetings with his office and with him. I met Congressman Johnson or Speaker Johnson, I should say, when he was elected to the State House of Representatives. I have known Congresswoman Letlow from her time working at the University of Louisiana Monroe while I worked at the -- served on the board at the University of Louisiana system, which governs and oversees the University of Louisiana Monroe and I was friends with her late husband, Congressman Luke Letlow. And then Congressman Graves, I have known since he was at CPRA and he is a neighbor, so I see him every once in a while walking the dogs in the morning.
Q. Have you followed the redistricting process since the

2020 census at all?
A. I have.
Q. Have you been involved in any redistricting processes prior?
A. Yes. I advocated in the 2010 redistricting process.
Q. And can you expand upon the nature of your involvement in that redistricting process?
A. Yes. I was an advocate at the time, just advocating and researching. I was still in undergrad, and so I wrote some papers specifically on redistricting and that process that was going on at the Louisiana Legislature.
Q. For this more recent process, were you at the Capitol for any of the sessions regarding redistricting following the 2020 census?
A. I was at all of them.
Q. In the First Extraordinary Session of 2022, do you recall any maps filed that created an additional majority black district?
A. I do.
Q. Do you have a ballpark estimate of how many?
A. There were many. I would say at least six plus.
Q. And do you recall any amendments to the bill that was ultimately enacted that would have also created a second majority black district?
A. I do.

Q. Did you form any impressions of those maps?
A. Yes.
Q. What rubric did you use to form your impressions?
A. I looked at a variety of things. I tried to ground myself in, as a nerd, in the rules of the Legislature and the Voting Rights Act, looking at what redistricting should be, so I studied a lot using Dave's Redistricting and following the process in other states and how they did so. But I particularly was interested in compactness, communities of interest, ensuring that we weren't packing and cracking certain districts to achieve certain goals. And so it was kind of a variety of places and information that I had gathered over the years that I kind of brought into my evaluation.
Q. Do you believe any of those maps introduced in that 2020 session complied with the Voting Rights Act?
MR. TYLER: Judge, we're going to object to this line of questioning. This is expert testimony that we have heard a lot of through this case and the witness has not been established as an expert.
JUDGE STEWART: He hadn't been asked an opinion yet.
JUDGE JOSEPH: I think he is being asked a legal opinion, isn't he?
MR. TYLER: Asking for his legal opinion, yes.

MS. WENGER: We can move along.

JUDGE STEWART: Rephrase your question.

Q. (BY MS. WENGER) What informed your perceptions of the viability of those maps to not only pass but be sustained?

MR. TYLER: Objection. This is a leading question and same objection as the last.

JUDGE JOSEPH: I think that's a proper question, what was the basis of your opinion regarding the congressional maps.

THE WITNESS: Yeah. The basis of my opinion was using the research that I had conducted about compactness, looking at redistricting criteria from the Supreme Court, and so drowning myself in the criteria that I have learned about, and then using analysis that I had seen to see if it would apply and comply with those principles that I had studied.

MR. TYLER: Judge, objection. This is just not relevant unless it is expert testimony which the witness is not qualified to give.

JUDGE JOSEPH: What is the relevance of his opinion about the maps?

MS. WENGER: We are laying a foundation for his impression of the process in 2024; his activities as a plaintiff in the litigation that transpired leading to the 2024 special session; his basis of knowledge for what he

thought would make bills viable or not, what informed, which bill he may or may not have supported along the process, questions that my opposing counsel touched upon in his deposition. So, truly, we're telling the full story of what Commissioner Lewis's understanding of redistricting is as an individual, yeah, certainly as one that that has a lot of experience, but we are not tendering him as an expert. We are bringing him here as a party in this litigation.

JUDGE JOSEPH: Okay. I think the foundation has been established about that he has looked at some of these issues and he had some knowledge as an observer of the legislative process about the benchmarks. So you can move on.

Q. (BY MS. WENGER) What happened after that 2022 redistricting session?

A. A map was signed -- a map was passed and sent to the Governor, I should say, and the Governor vetoed the map that then was overwritten by the Legislature.

Q. How many majority black districts were in that map?

A. One.

Q. Where were you the day that *Merrill v. Milligan* came down from the Supreme Court?

A. I was at the State Capitol.

Q. And why was that?

A. It was the concluding day or better known as *sine die*, so we still had some bills to be passed. And as we were waiting for some of the final bills -- I can't remember if it was the budget or capital outlay bill -- we had received notice of the Supreme Court's ruling.

Q. And what was your impression of what that ruling meant for the path forward here in Louisiana?

MR. TYLER: Objection. Calls for a legal conclusion.

JUDGE JOSEPH: Sustained.

Q. (BY MS. WENGER) What were your sentiments that day?

A. I was happy. I mean, I had seen, as an observer and I like to say a lay lawyer since I'm not a lawyer, but I like to read case law and follow the Supreme Court, it was a very joyous and happy moment to see that the Court had did something that I thought it should have done and I agreed with their ruling.

Q. Were you the only one celebrating that day?

A. Oh, no.

Q. Who else was?

A. I mean, multiple people. I mean, legislators, advocates. As I said, we were all at the Capitol for the conclusion of the day, and there is typically a legislative *sine die* party where both parties and all advocates and lobbyists come together. It was a day of a

lot of social interaction and so a lot of happy faces around the Capitol.

Q. Any not-so-happy faces?

A. I don't think so. I think there was some confused faces, but I wouldn't say some people were -- were frowning.

Q. All right. Let's talk about the January 2024 First Extraordinary Session. Did you engage in any lobbying during that session?

A. Yes.

Q. And what was the purpose of that session?

A. That was a redistricting session following the Court.

Q. Was there any bill that you supported most during that session?

A. Yes. Senate Bill 4.

Q. Why was that?

A. Senate Bill 4 was a map that had been in existence since the start or a version of a map that had been in existence since redistricting. And looking at it with all the criteria that I have studied and talking with fellow Plaintiffs, it was the map that I thought was the most viable path to accomplish the goal that we had set out.

Q. And what about SB4, if anything else, made you feel like it was the most viable map?

MR. TYLER: Objection. Calls for a legal

conclusion.

JUDGE JOSEPH: Can you rephrase the question?

MS. WENGER: I don't mean "viable" legally. I mean viable in the political process at the Legislature.

JUDGE JOSEPH: Overruled.

THE WITNESS: Well, one, it did the least disruption to the existing congressional district. So when you looked at -- I mean, just the eyeball test, it did not fundamentally alter the congressional map in such a way. It also provided, I thought, keeping communities of interest, that had already been together, a part of it, and it just followed all of the principles that we had identified and outlined that we wanted to see in redistricting.

Q. (BY MS. WENGER) Did you sign on to any written testimony in support of SB4?

A. I did.

Q. I would like to pull up Robinson Exhibit 275. Commissioner Lewis, do you recognize this letter?

A. I do.

Q. What is it?

A. It is a letter that was sent to the committee of Senate Governmental Affairs right at the beginning of the special session about our support for Senate Bill 4 or any map that created two minority-majority districts.

Q. And when you say "our," who do you mean?
A. The Plaintiffs and advocacy organizations.
Q. Including?
A. Including myself and the place that I work, the Louisiana Budget Project.
Q. Is this a true and authentic rendering of the letter that you recall submitting on behalf of the Budget Project and your interests?
A. Yes.
Q. And is it your understanding that this letter became a part of the public legislative record in support of SB4?
A. Yes.
Q. And where are those documents made public?
A. They are made public with the Legislature archiver, I believe. They stay in the Committee's -- the Committee's record.
Q. Are they posted anywhere else online where the public can view them?
A. I believe so, but I'm not a hundred percent sure if they still post written testimony as they were doing during the COVID years.
Q. Do you recollect any acknowledgment of written testimony from members of the Legislature during this redistricting process?

A. I do.
Q. Did the letter here that you submitted play any role in your perception of whether your views of the VRA compliance were being heard?
A. It did.
Q. Do you recall if this letter -- or we'll get to others -- recall if they were ever cited anywhere?
A. I believe so. I want to say when we -- or when I testified in Senate Governmental Affairs, it was mentioned when I was called to the table by the chairman.
Q. Who is the chairman?
A. Cleo Fields.
Q. Were they -- was this letter cited anywhere else publically?
A. I can't fully recall. I believe there may have been some testimony during the debate on the Senate and House floor, but I would have to go back and watch the livestreams.
Q. Any citation to this or other written testimony beyond the walls of the Legislature?
A. Yeah. I know that it was covered in some of the news articles that were published and it was picked up by a few of the journalists or mentioned, but that's probably what I can remember.
MS. WENGER: At this time I would like to move

for the admission of Robinson Exhibit 275.

JUDGE JOSEPH: State?

MR. BOWEN: No objection.

MR. TYLER: Plaintiffs object. There is no foundation for the relevance of this letter. No testimony that any Legislature relied on this letter, even Cleo Fields. We have no testimony that he actually relied on this letter or anything like it.

JUDGE JOSEPH: Let me confer with my colleagues. Exhibit 275 we will admit and give it the weight we think it deserves.

MS. WENGER: Thank you, Your Honors.

Q. (BY MS. WENGER) Next I would like to pull up Robinson Exhibit 276. Commissioner Lewis, do you recognize this letter?

A. Yes.

Q. And what is it?

A. It is a letter to the Senate Governmental Affairs Committee and the chairman from the plaintiffs in *Robinson v. Landry*.

Q. And you are one of those plaintiffs?

A. Yes.

Q. And did you sign off on this letter being cited?

A. I did.

Q. Is this a true and authentic rendering of the letter?

A. Yes.
Q. When was it submitted to the Legislature?
A. January 15th at the start of that legislative session.
Q. And is it your understanding that this letter became part of the public legislative record in support of SB4 in the redistricting process?
A. It is.
Q. Do you recollect any acknowledgment of this written testimony from members of the Legislature?
A. I do.
Q. And did that acknowledgment play any role in your perception of whether your views on maps were being heard?
A. Yes. It's the same as the advocacy letter.
Q. And do you recall if this was ever cited in conversations with legislatures or other venues?
MR. JACKSON: Objection. Calls for hearsay.
JUDGE JOSEPH: I don't think it is hearsay. It's did this letter come up in conversations with legislatives. Overruled.
Q. (BY MS. WENGER) Did those conversations inform your views of the lawmakers' state of mind regarding the views in the letter?
A. Yes.
Q. I would like to turn to the last page of this letter,

page 4. In the last paragraph, if we can zoom in, it states, "The federal courts have been clear that the Robinson Plaintiffs' Section 2 claims are well supported, and resolution is necessary this year. Passing SB4 or another VRA-compliant map would ensure that nearly two years of costly, taxpayer-financed litigation can finally conclude." Do you recall that representation, Commissioner Lewis?

A. I do.

MS. WENGER: At this time I would like to move for the admission of Robinson Exhibit 276.

MR. TYLER: Same objection.

MR. BOWEN: No objection.

JUDGE JOSEPH: Let me confer with my colleagues on that as well. Hold on.

The one difference I think in this letter and the other one is this one is actually signed by counsel for the Robinson intervenors, and it is advocating their position in the Robinson litigation. However, we will admit it into evidence and give it the weight it deserves.

MS. WENGER: Thank you, Your Honors.

Q. (BY MS. WENGER) Commissioner Lewis, what was your recollection of the reactions you received from legislatures to that letter from plaintiffs like yourself?

A. That they were interested to hear where the

plaintiffs stood as most took the impression that we were only in the special session because of litigation, and so they were really interested to see what our thoughts would be on potentially ending that litigation.

Q. Did that inform your perceptions of how they felt about Senate Bill 4 or, quote, "another VRA-compliant map"?

A. Yes.

MS. WENGER: We can take that one down.

Q. (BY MS. WENGER) Who sponsored Senate Bill 4?

A. It was sponsored by Senator Ed Price and Senator Royce Duplessis.

Q. Did any House member sponsor a similar version of that same map?

A. Yes. Representative Denise Marcelle had a map on the House side.

Q. How many majority black districts were in the map?

A. Two.

Q. Who currently represents those districts?

A. It would be Congressman Carter and Congresswoman Letlow.

Q. Did you offer any oral testimony in support of SB4?

A. I did.

Q. What or who prompted you to testify when you did?

A. After the bill was presented by the authors,

Senator Fields, as the chairman, recognized the plaintiffs who were present. There was about four of us. And he called us to the witness table to make statements and there gave testimony in support of Senate Bill 4.

Q. Do you remember who those other plaintiffs were?

A. I believe it was Dr. Nairne and Mr. Robinson and I believe Mr. Cage.

Q. When did that meeting take place? Do you recall?

A. That took place on Tuesday. So, I guess, that would have been January 16th. I vividly remember it, because it was an ice storm and all the state government and state buildings had closed for the day. And I was, as a utility commissioner, really worried about power outages, and so I kind of very much remember that day.

Q. Do you recall if Ashley Shelton was there with you?

A. She was.

Q. Do you recall if she testified?

A. I believe she did, yes.

Q. Can you describe the meeting? For example, who else was in the room?

A. Yeah. I would say for a day where all State buildings were closed, it was a pretty packed committee hearing. About 50 to 60 people. There were advocates from across the State that had been present that I knew of. Quite a lot of journalists were in the room. A few

of the lobbyists. So for a cold and icy Tuesday morning, it was a very packed room.
Q. And any familiar faces on the committee?
A. Yes, I knew the entire committee.
Q. And why was that?
A. I had worked with them, because they all either served in the Legislature or previously served in the Legislature.
Q. Any former House members?
A. Yes. Senator Miguez, Senator Jenkins were two House members who are now on Senate Governmental Affairs that I had worked with for over eight years on the House side.
Q. Do you recall if either of them had also served on House and Governmental Affairs?
A. Senator Jenkins did.
Q. Had you testified in front of members of the Senate and Governmental Affairs Committee meeting? And I mean those individual members in that room that day before?
A. Yes.
Q. During the prior redistricting processes?
A. Yes.
Q. And had you been present when they received any briefing on redistricting principles in the past?
A. Yes.
Q. How about the Voting Rights Act?

A. Yes.
Q. Who did they receive that briefing from?
A. Typically it was from Trish Lowrey, who is one of the staff attorneys on House Governmental Affairs, and then Dr. Bill Blair, who is the Senate demographer.
Q. About how much experience do you understand Ms. Lowrey to have?
A. Years. She had been there when I started as a young child, so, I mean, I would say at least 15 years plus.
Q. Did that include any prior redistricting processes?
A. Yes.
Q. Did SB4 make it out of committee that day?
A. No.
Q. How did the vote come down?
A. It came down on party lines. So all Democrats voted for it. All Republicans voted against it.
Q. Did any congressional redistricting bills get out of committee that day?
A. Yes. Senate Bill 8.
Q. All right. Let's shift and talk about Senate Bill 8. When did you first see Senate Bill 8?
A. Senate Bill 8 was released publicly after the Governor's State of the State Address on January 15th. Typically, we see bills prefiled before the gaveling in of the session, but this was one of the rare occasions where

the bill dropped after the session had started.

Q. Let's pull up that original version of the bill, Joint Exhibit 11. Can we go to page 16.

Is this your recollection of the map as filed?

A. Yes.

Q. From your understanding, how many majority black districts were in SB8?

A. Two.

Q. And do you recall any amendments being adopted on the map in Senate and Governmental Affairs that day?

A. I do.

Q. And what do you recall of those amendments?

A. It was an amendment by Senator Heather Cloud. She represents a part of central Louisiana, and she had some concerns, I want to say, about Avoyelles Parish that she represents in the State Senate and their continuous representation in Congresswoman Letlow's district, and so she was offering an amendment to fix those concerns from her constituents.

JUDGE JOSEPH: You had --

MR. TYLER: Objection. Hearsay.

JUDGE JOSEPH: -- a hearsay objection? I don't think it's being offered for the truth of those words as much as that was why she was offering the amendment. Correct?

THE WITNESS: Yes, sir.

JUDGE JOSEPH: All right. Overruled.

Q. (BY MS. WENGER) And would her statements end up in the official video recorded of that meeting?

A. Yes.

Q. And any transcription of it?

A. Yes.

Q. Let's pull up Robinson Exhibit 42. This I believe was admitted yesterday. Do you understand this to be the amendment that Senator Cloud supported in committee?

A. Yes.

Q. What was the impact of this amendment?

A. As I stated, the impact was to shift some voters outside, out of Avoyelles Parish, from District 6 into District 5.

Q. Did it increase any parish splits?

A. I believe it did one.

Q. What did you understand as the driving function of that split?

A. It was to have her constituents be represented by Congresswoman Letlow.

Q. Why did you understand Congressman Letlow to be important to Senator Cloud?

MR. TYLER: Objection. Calls for speculation and hearsay.

JUDGE JOSEPH: Sustained.

MS. WENGER: We can move along.

Q. (BY MS. WENGER) Was this amendment adopted in committee?

A. It was.

Q. And was it reflected in the engrossed version of the map that crossed over to the House?

A. It was.

Q. Which congress members currently represent the majority black districts contained in any of the versions of SB8?

A. It would have been Congressman Carter and Congressman Graves.

Q. Do you recollect any other bills that had previously been introduced during the earlier redistricting processes or this one that created a new majority black district in District 6 where Congressman Graves serves?

A. I think only one.

Q. Did the configuration of Senate Bill 8 surprise you at all?

A. I had a mixed view of it. I was interested to see what the Governor was proposing once he said he had a map and that Senator Womack would carry it, but once I started to really drill into the bill and look at it, as us legislative nerds do when bills drop, it did not surprise

me when I especially looked at East Baton Rouge Parish and what had been done there.

Q. What had been done there?

A. Well, in East Baton Rouge Parish, you have seen that there were some changes, especially around my neighborhood in the Garden District or Mid City, as we call it. As I mentioned earlier, Congressman Graves and I live just a few blocks away from each other. He lives on the northern side of the Garden District. I lived on the southern side of the Garden District. And the northern side traditionally and historically has always been one going away from Terrace Avenue to Kleinert to Dalrymple and LSU Lakes, including the main campus of LSU, while the south side of the district traditionally fell with Congressional District 2 going down towards Ascension, Assumption Parish and Orleans Parish. But there was now a split in Mid City with parts of Kleinert and Terrace neighborhood associations moving in to the blacker areas of the district which started on the south side.

Q. So those areas that were moved in, is it your understanding that they were majority black or majority white?

A. Predominantly white.

Q. And where do you understand Representative Graves to live within that scenario?

A. He would have lived in District 6 with me.
Q. What about your experience working in Louisiana politics informed your impressions of this configuration of SB8?
MR. TYLER: Objection. It calls for expert testimony. The witness has, again, not been qualified as an expert in this area.
MS. WENGER: He is speaking to his personal basis of knowledge that Your Honors can provide the proper weight to that.
JUDGE JOSEPH: I think we can qualify this as lay opinion testimony based on his experience dealing with these issues as an observer and sometime participant in the redistricting session.
THE WITNESS: Can you repeat the question for me again?
MS. WENGER: Certainly.
Q. (BY MS. WENGER) What, if anything, about your experience working in Louisiana politics informed your impressions of this configuration of SB8?
A. Well, Louisiana, I mean, as a studier of history and a participant in multiple legislative events, political retribution has been really used, I mean. And so, knowing that Congressman Graves had flirted with running openly against Governor Landry, did not endorse Governor

Landry after he decided not to run for the race, and there was known tension between supporters of Congressman Graves and Governor Landry that this just seemed to be a traditional Louisiana tactic that once you got some power you went after your enemies.

MR. TYLER: Objection, Judge. This is substantially similar to testimony that we excluded yesterday on the history of a few months ago.

JUDGE JOSEPH: Well, the big difference is the witness yesterday was relying on newspaper articles. This witness is relying on his experience at the legislative -- during the legislative sessions and around the Capitol, so he can form an opinion on that.

Q. (BY MS. WENGER) Have there ever been, in your lifetime, any other instances you're aware of when co-partisans have put their partisan ties aside for the purposes of political retribution?

A. Yes. I mean I think 2015 is one of the most recent examples. Senator Vitter had been running the conservative majority pack that was directly targeting Republicans in trying to build a stronger coalition and had really created odds within the Republican party and after the primary election in 2015 when State Representative John Bel Edwards advanced along with United States Senator Vitter, we saw active Republicans,

the current sitting Lieutenant Governor and Secretary of State Jay Dardenne publicly endorsed Governor Edwards along with former PSC Commissioner Scott Angelle, some Republican sheriffs. And so the tension showcased there was particular in Baton Rouge. In 2008 when Former State Representative Woody Jenkins was running for Congress after the retirement of Congressman Jim Baker you saw a significant amount of Baton Rouge Republicans support State Representative Don Cazayoux in that election which flipped a seat in the United States House of Representatives. Mr. Jenkins also had some history when he ran for United States Senator against Mary Landrieu in 2002. And so there has been quite a -- quite often a bit of if you had an odd with somebody in your party -- you've also seen it the opposite way where Democrats have endorsed Republicans over sitting democratic elected officials. So this is, in my experience, very common in the state of Louisiana.

Q. Did this insight inform your perception or thoughts around the number of safe or unsafe Republican seats in SB8?

A. Yes.

Q. What, if anything, about the overall geography of the districts informed your impressions of SB8?

A. Can you say that again?

Q. I can move along. To confirm, which district do you live in under SB8?
A. District 6.
Q. Is that the same district you lived in before?
A. No.
Q. Were you at the House and Governmental Affairs Committee meeting the day that the committee considered SB8 on January 18, 2024?
A. I was.
Q. Do you recall any amendment offered by Representative Farnum that day?
A. I do.
Q. Let's pull up House Committee Amendment No. 74. This was introduced into evidence as Robinson Exhibit 45 yesterday. I would like to turn to page 11 of that exhibit. Is this the amendment you recall being introduced and debated on in House and Governmental Affairs that day?
A. I do.
Q. Do you understand anyone else beyond Representative Farnum to be involved in the crafting of this amendment?
A. Yes. Senator Gary Carter.
Q. What did this amendment do?
A. This amendment, as Representative Farnum presented it, was to fix -- under Senate Bill 8 there was a parish

split in our hometown, in our home parish of Calcasieu Parish, and he was attempting to make Calcasieu whole since we had never been a split parish before and had also joined up with an amendment that Senator Carter had previously offered in Senate Governmental Affairs that would move some black precincts around in District 2 and in District 6.

Q. And for folks in the room not familiar like yourself with the geography of Louisiana, where is Calcasieu?

A. Calcasieu would be in the southwest corner of the State and so it's the last place you hit before you cross over to Texas.

Q. All right. So I understand it to be the blue parish right above Cameron Parish in the bottom green of the --

A. That is correct.

Q. -- southwest of the State. All right. And which congressional district was that in?

A. In the amendment or the map?

Q. In the amendment.

A. In the amendment it would have been District 4.

Q. All right. Can we turn to page 15 of the exhibit? Do you understand this to be a rendering of the amendment's treatment of East Baton Rouge Parish?

A. I do.

Q. And how did this compare to the original version of

SB8?
A. It now brought East Baton Rouge Parish into three different congressional districts instead of two.
Q. How about the version of SB8 that crossed over from the Senate?
A. It was two.
Q. How do you feel about the amendment?
A. I did not like this amendment at all. I mean, one of my main objections was East Baton Rouge Parish and so I live in the place where you see the three different colors. That's where we would call the Garden District or Mid City. And when I looked at it, I realized every morning when I would walk my dog through the park, I would walk through three different congressional districts.
Q. Did you lobby around the amendment at all?
A. I did.
Q. Why were you so passionate about lobbying against this amendment?
A. I, one, did not like what it did to East Baton Rouge Parish. Secondly, I didn't see any strong justifications for this amendment. While I appreciated Representative Farnum's desire for Calcasieu Parish where I am from, it did a lot of harm in my eyes to the map and I was worried that it would also potentially create litigation.
Q. What did this amendment do in regards to racial

demographics in the districts?
A. It increased the BVAP in both District 2 and District 6 slightly.
Q. And what was your perception on that effort?
A. My perception was that was a direct push by some to make both districts blacker.
Q. When you lobbied around this amendment, who did you reach out to?
A. I reached out to members of the House since it was on the House side so I talked to just about every member that I personally knew or could. So I made calls. I sent texts. I spoke to them on the floor of the House about my opposition to this amendment.
Q. Any other government officials?
A. I talked to the Governor's staff as well about my opposition to this amendment.
Q. Did you understand your grievances to be heard by the folks that you spoke to?
A. I did.
Q. And did this amendment end up on the final version of SB8 enacted?
A. No. There was an amendment offered on the House floor and it was strucken down in a bipartisan vote.
Q. Have you made your views on the amendment available to anyone outside of the State Capitol?

A. I'm a very vocal Tweeter and I Tweeted about this amendment quite a bit.
Q. Did you talk to the press at all?
A. I did talk to the press about this amendment.
Q. So was there any confusion in the political circles that you operate in in your perception about whether or not you supported this type of amendment?
A. No. I'm -- I'm a pretty vocal advocate and have been for quite some time in this state, so when I speak, I tend to make sure everybody hears that I have a view to share.
Q. And how about your views on how this amendment treated black voters on the basis of their race?
A. I made that very clear that I felt this was just moving black precincts around for no particular reason other than to do so.
Q. And so when this amendment was taken off of SB8 on the House floor, how did that vote go down?
A. That vote, I want to say, was a strong over two-thirds vote in the House. I want to say maybe 12 or 16 members voted against it out of the 105.
Q. And did that version of SB8, now stripped of this amendment, but still containing the one from Senator Cloud, did that have an opportunity to cross over to the Senate for final ultimate passage of Senate Bill 8 as we know it enacted today?

A. I don't think it did. I think because there had been no amendments now at that point on the House side and both bodies had now passed a bill, it was considered now to be enrolled and sent to the governor.
Q. Did any final procedural steps occur to ensure that this could move along to the Governor on the Senate side?
A. No.
Q. Were you happy about the ultimate passage of Senate Bill 8?
A. I was.
Q. And why is that?
A. At this point we had been dealing with redistricting for quite some time and we now had passed a map. While this was not my preferred map, this was not the map. Had I been in charge of the Legislature, I would have tried to usher through the body, but it accomplishes the goals that I wanted to see which was complying with the rule of law as well as creating a second black-majority district.
Q. How did you feel it measured up to the rubric that you had established for yourself based off of your prior experiences with redistricting or this 2024 process?
A. I felt it sufficed. I'm a former elementary schoolteacher, so I'm big at making rubrics and it got a passing grade even though it wasn't the perfect score I wanted.

Q. What has been the impact of the passage of SB8 on the political climate that you operate in?
A. It has been a changing force. I mean, I think when we talk about the reaction to it, there has been multiple actions that have demonstrated how we feel. I was recently at the Capital Press (sic) Association's Gridiron dinner, which is an SNL skit fundraiser for journalist scholarships where they produce skits about politicians. I was really happy that I finally got a skit this year.

But they had one skit that I think summarizes this entire session which was called the "Graves Graveyard." And it had Congressman Graves lying there with a knife in him and they had all of the other members of Congress surrounding him, playing a game of Clue, and asking where each congressman or congressperson was. And at the end of the skit, here comes somebody playing Governor Landry and says, "It was me on the fourth floor with a pen signing Senate Bill 8." And that was kind of how people took what Senate Bill 8 did to the political dynamics in Louisiana.
Q. Were there any other political leaders at that dinner?
A. Yeah. We had the Chief Justice of the Supreme Court, Judge Weimer, was there. The Agricultural Commissioner, Mike Strain, was there. Members of the Legislature and the Republican leadership. Appropriations Chair, Jack

McFarland. Ways and Means Chair, Julie Emerson. Representative Dixon McMakin and Congressman Graves was there himself.

Q. Did you observe any of his reactions to the skit?

A. I did.

Q. And what were they?

A. He just laughed and nodded his head.

Q. All right. As a voter, now living in Congressional District 6 in Baton Rouge, do you feel you share any common interests with voters living in the rest of District 6 under SB8?

A. I do.

Q. How so?

A. I mean, when you look at, one, our economies. I mean, both have significant gaming and industrial shift that exist there. When you talk about your civic organizations, like Junior League or Links or 100 Black Men, those are typically in the same regions with each other. Parts of the southern part of this area is heavily Protestant, even though the vast majority of South Louisiana is considered heavily Catholicism and that Protestant faith kind of runs up and down the Red River. When you think about the educational system, the programs that are offered at Northwestern and offered at Southern A&M are very similar. Agriculture is another place where

I particularly looked at because of my role as commissioner in what we were doing with energy production and plant and manufacturing. And so there was a lot of things from also the same style of music that made me feel comfortable having commonality with people elsewhere in the district.

Q. How about your role as a public service commissioner? Does that provide any perception on the shared needs of people in District 6?

A. Absolutely. District 6 in Senate Bill 8 would be in a congressional district that is almost entirely served by, what we would call in the utility regulation space, an IOU, an investor owned utility. That means there is very few municipality-run electric systems, very few electric co-ops run by kind of more rural places.

And so when it comes to the engagement with our federal delegation around transmission planning, generation buildup, the energy transition, we would be -- this one would be well served because of the electric providers that exist within this district.

Q. Are any of those projects eligible for federal grants or appropriations?

A. Yes.

Q. Do you have to coordinate with Representative Letlow at all because of her role on Appropriations?

A. Yes. So part of the appropriation process that's important to me is affordability when it comes to utility services. And so LIHEAP, as it is known, which is the heating and cooling assistance that is given to those who may not be able to afford their utility bills, has been a very important conversation for me, as Louisiana traditionally has gotten underfunded. Right now about 60,000 Louisianans receive assistance, while 600,000 actually qualify for heating and cooling assistance, so I have raised that issue significantly.

Recently after the passage of the IRA, there was the Low Connectivity Program, which provided a rebate of $30 to individuals for access to broadband and that funding was running out, and so we -- I sent a letter to her and Congressman Scalise and I believe also Congressman Johnson about the importance of renewing this program and the recent spending package to ensure that Louisianans had access to affordable broadband. So there was a host of issues that required ensuring funding for multiple projects that have been part of the DoE or EPA or Department of Transportation or HUD through the IIJA or the IRA bills that passed Congress earlier in the term.

Q. Has Representative Mike Johnson's ascension to speaker of the house, now Speaker Johnson, had any impact on your ability as Public Service Commissioner to serve

1 your constituents and other Louisianans statewide?
2 A. Absolutely. The Public Service Commission uses the
3 administrative law judge process before we make decisions
4 and we have been having cases regarding, for instance,
5 transmission siting, building a transmission line through
6 portions of North Louisiana. And we had to deal with
7 procedural hurdles from some of the intervenors because
8 they were receiving or being invited to meetings with
9 Speaker Johnson and we had to evaluate whether or not we
10 would take that as a legitimate delay in our trial
11 process. And so his ascension there has made that
12 extremely important as part of applying for a bunch of the
13 federal grant programs that have been offered under the
14 IRA. So I think about the grid resiliency program. We
15 have a project that is being funded at Beauregard Electric
16 for a transmission line that fell down during Hurricane
17 Laura. So these conversations and his involvement has
18 significantly changed our interaction, especially when it
19 comes to permitting reform, transmission buildup, the
20 admission standards for power plants. There is a lot of
21 issues that are now circling around, especially at the
22 commission level.
23 Q. Are you in the same political party as Speaker
24 Johnson?
25 A. I am not.

Q. Do you have any stake in his proximity to power in DC or even ascension to the presidency still?
A. I do not.
Q. Do you have any understanding of where Louisiana ranks among states on quality of life and opportunity indicators?
A. Yes. At Invest in Louisiana or formerly known as Louisiana Budget Project, as I mentioned, we are a nonprofit, nonpartisan policy think tank that advocates and researches on issues that affect low and moderate income families, and so every year we publish what we call the census fact check which includes the American Community Survey results, and so when we look at Louisiana, we are the second poorest state in the nation. We have the third highest child poverty rate in the nation. We have the sixth highest income and equality in the nation. And so when we look at statistics around poverty or food access, we are at 49th. And so all of my years, I've -- it's been sad to see that Louisiana typically falls at the top of every list that is bad and falls at the bottom part of every list that is good.
Q. And in your sense, what does power and representation in Congress mean for making changes on these measures?
A. Well, Louisiana's state budget is primarily federal funds. About 60 percent of our state budget is federal

1 funds that we receive. So ensuring that our congressional
2 delegation is fighting for FITAP or CHIP or WIC or food
3 stamps assistance is extremely important. I mean, when I
4 think about the Department of Health's budget, for every
5 dollar that is put into the State's budget by our
6 self-generated revenue, we get about five dollars from the
7 federal government. And so having a congressional
8 delegation that reflects Louisiana and the needs of
9 Louisiana is extremely important since we are one of the
10 most dependent states on federal funds not only for our
11 state budget but in terms of all of the programs that are
12 offered through the various agencies.
13 Q. What would it mean to you if this current map under
14 SB8 was taken away?
15 A. Well, this was the start of a new legislative
16 session. I think, if my memory serves me correctly, this
17 would have been my 33rd legislative session. So I now
18 have a session just for about every year of my life. And
19 it started off with a bipartisan endeavor, which I think
20 is extremely hard in this new political reality that we
21 live in of divisive politics, of parties being at odd, and
22 to see not only a governor that I didn't support and
23 advocated and worked against, along with the Legislature
24 combing forces and doing something together really
25 signified that when we put our differences aside and work

for the common good that we can achieve policy objectives and it was really pleasing to see that we had done so. And I'm afraid if Senate Bill 8 disappears, it only enhances the divisiveness that too much has taken over our politics and continues the division among class, among race, among regions, among political affiliations, and just continues to toxic our environment.

MS. WENGER: If I may have a moment, Your Honors.

Q. (BY MS. WENGER) Commissioner Lewis, as one of the Robinson intervenors, why was it important to you to be heard in this court?

A. It was extremely important to me to be heard because this is something that I have been working on for a while. Like I said, redistricting is not something that sparked my interest after the census of 2020. It has been something since being in high school and learning about it in my AP Civics course. And so I felt it was extremely important to share my experience in this process over the last 20 years what has happened and what it really means about how we were able to get Senate Bill 8 accomplished.

MS. WENGER: I'll pass the witness.

MR. BOWEN: Nothing from the State.

JUDGE JOSEPH: Let's take our morning 15-minute break and then we'll come back for cross-examination.

(Recess.)

CROSS-EXAMINATION

BY MR. TYLER:

Q. Mr. Lewis, this is a map of the Louisiana PCS districts?

A. Correct.

Q. And District 6 in SB8 crosses through how many different PSC districts?

A. It would cross through -- it would cross through four in this current map, yes.

Q. So four different PSC districts out of how many total?

A. Five.

MR. TYLER: No more questions.

JUDGE JOSEPH: Any redirect?

MS. WENGER: No redirect.

JUDGE JOSEPH: State? Nothing?

MR. BOWEN: Nothing from the State, Your Honor.

JUDGE JOSEPH: Secretary?

MR. STRACH: None, Your Honor.

JUDGE JOSEPH: All right. Commissioner, you are free to go. Thank you for your testimony.

MR. NAIFEH: Your Honors, the Robinson intervenors have no further witnesses.

JUDGE JOSEPH: And all the exhibits I think have

been taken care of, right?

MR. NAIFEH: Yes, Your Honor.

JUDGE JOSEPH: Okay. Thank you, Mr. Naifeh.

MR. GORDON: Your Honor, we don't have any witnesses. We do have about 10 minutes of our video excerpts we would like to play for the Court now before the defense closes its case.

JUDGE JOSEPH: Okay. And this has been admitted previously?

MR. GORDON: This has been admitted. These are from Joint Exhibits 19 and then 18.

JUDGE JOSEPH: Okay. Good. Just for the record we are playing Joint Exhibits 18 and 19 or at least portions thereof right now.

MR. GORDON: Yes, Your Honor. Do we have our computer turned on?

THE REPORTER: Are we off the record?

JUDGE JOSEPH: Is it all Joint 18 and 19 or not?

MR. GORDON: It is not all Joint 18 and 19. It's our excerpts that were not played by the plaintiffs already, because some of our excerpts are also there.

JUDGE JOSEPH: Okay. Well, then we better have it on the record.

(The following excerpts played:)

SPEAKER: The U.S. Supreme Court can (audio

1 interference) or not taken our case. They took our --
2 they stayed our case last summer, while the Alabama case
3 went forward and was litigated. They said you just wait.
4 They thought we had made a good case for a stay and so
5 they paused our case while they decided that one.
6 But they did something -- and this is kind of a term
7 of art, but I mean they granted cert in advance of
8 judgment. That means they actually took our case and then
9 after they decided the *Merrill* case, the Alabama case,
10 they just vacated their own grant and sent it back to us.
11 So in a way they took our case and then they vacated
12 their own decision to take our case and they sent it back
13 down to the Fifth Circuit and to Judge Dick. And so it's
14 back in the hands of the district court judge who is
15 supervised by the Fifth Circuit Court of Appeals.
16 And so there has been some litigation between August
17 and really through the summer since the *Merrill* case came
18 out all the way through the time that the opinion was
19 issued in November, I think, from the Fifth Circuit where
20 a panel of the Fifth Circuit said you need to go draw a
21 map by February 15th. So they actually suggested we
22 should have done this before -- before we legally really
23 or -- I think it was practically possible to even get it
24 done.
25 But, you know, here you are. I think the Governor

heeded that call, that demand. I mean, we've had it reviewed by a number of judges. They have had nothing to say about our arguments. It's been radio silence.

And so the only decision that remains in front of us right now is Judge Dick's and so Judge Dick has set a timeline for us to have a trial. They did say we get to have a trial. But we don't get to have that trial until after you go through this exercise and, you know, she will do it for you. The job of (audio interference) it's not mine and I -- what I believed have been a defensible map and if you draw a new map, I will defend that map. Judge Dick has put us in a position and the Fifth Circuit, the panel that reviewed that decision, and the whole court, when I asked them to go en banc, by declining to go on en banc, have put us in a position pus of where we are today where we need to draw a map. So I'm here to tell -- I'm not here to you to tell don't draw a map. I mean, I think we do have to draw a map and I will defend that map. We (audio interference) a fact-finding mission. That's what's always happens and made fact-findings regarding the map. She issued an injunction. That injunction is not currently in effect for reasons that I can explain to you, but I think the bottom line is it is not currently in effect because the deadlines for the election that it enjoined are over.

1 The Courts, never the less, have told us to draw a
2 new map. And they have indicated that we have a deadline
3 to do that or Judge Dick will draw the map for us. So you
4 have an opportunity now to go back and draw the map again
5 and I think that it is not an easy task because the United
6 States Supreme Court is not made it an easy task. They
7 have given you some directives that seem to be -- to not
8 give you a lot of clear lines for doing your job. I
9 apologize on their behalf, but, you know, we tried. I
10 mine I am defending that map, and so you won't hear me say
11 that I believe that that map violated the redistricting
12 criteria. I am defend --
13 GOVERNOR LANDRY: It is time to stop averting
14 the issue and confront it head-on. We are here today
15 because the federal courts have ordered us to perform our
16 job. Our job which is not finished. Our job that are own
17 laws direct us to complete and our job that our
18 individuals promise we would perform.
19 To that end, I ask you to join me in adopting the
20 redistricting maps that are proposed. These maps will
21 satisfy the Court and ensure that the congressional
22 districts of our state are made right here in this
23 legislature and not by some heavy-handed federal judge.
24 We do not need a federal judge to do for us what the
25 people of Louisiana have elected you to do for them.

1 You are the voice of the people and it is time that you
2 use that voice. The people have sent us here to solve
3 problems, not exacerbate them. To heal divisions, not to
4 widen them. To be fair and to be reasonable. The people
5 of this state expect us to operate government officially
6 and to act within the compliance of the laws of our nation
7 and of our courts even when we disagree with both of them.
8 And let me say this, I know that many of you in this
9 Legislature have worked hard and endured the -- and tried
10 your very best to get this right. As Attorney General, I
11 did everything I could to dispose of this litigation. I
12 defended the redistricting plan adopted by this body as
13 the will of the people. We sought a stay in the Fifth
14 Circuit. We successfully stayed the case at the United
15 States Supreme Court for more than a year allowing the
16 2022 elections to proceed.
17 Last October we filed for a writ of mandamus which
18 was granted in the Fifth Circuit which would again allow
19 us one more chance to take care of our business. However,
20 when the Fifth Circuit panel ruled against us later in the
21 fall we filed for an en banc hearing which they denied.
22 We have exhausted all legal remedies and we have labored
23 with this issue for far too long. I recognize the
24 difficulty of getting 144 people to agree on anything.
25 My wife and I don't agree on everything. She has kept me

for 21 years. But I sincerely commend you for the work you have done so far. But now, once and for all, I think it's time that we put this to bed. Let us make the necessary adjustments to heed the instructions of the Court, take the pen out of the hand of a nonelected judge and place it in your hands. In the hands of the people. It's really that simple. I would beg you, help me make this a reality in this special session for this special purpose on this special date.

MR. GORDON: That concludes the presentation, Your Honor. The State rests.

JUDGE JOSEPH: State rests. Okay. Thank you, Counsel.

MR. STRACH: No witnesses for the Secretary. The secretary rests.

JUDGE JOSEPH: No evidence heater?

MR. STRACH: No. No, Your Honor.

JUDGE JOSEPH: All right. Have the plaintiffs made a decision about whether to call their rebuttal expert?

MR. GREIM: We have. We are not going to call him.

JUDGE JOSEPH: Okay. So the plaintiffs rest their entire case then?

MR. GREIM: We do.

JUDGE JOSEPH: Okay. You know, I guess I'll kind of feel the pulse of Counsel. Would it be preferable to have a short lunch break before closing arguments? Would that be helpful for would you rather just jump into it?

MR. GREIM: Your Honor, we would rather just jump into it probably for travel reasons.

JUDGE JOSEPH: Well, I am fine with that.

Mr. Naifeh?

MR. NAIFEH: I think I prefer a lunch break because I didn't have breakfast, but --

JUDGE JOSEPH: You would? I think Judge Summerhays has a protein bar you can have.

What about the State?

MR. GORDON: Let's jump ahead, Your Honors.

JUDGE JOSEPH: Well, since the Plaintiffs actually have to give their argument first, I think they'd prefer to go.

JUDGE STEWART: Mr. Greim, you don't want some more Louisiana cuisine before you go back to the steaks and Kansas City barbecue in Kansas City?

MR. GREIM: Well, maybe I'll have some after I'm all done. Then I might even have a drink with it.

JUDGE STEWART: No offense meant. Just noted.

JUDGE JOSEPH: And a point of clarification, in

1 case -- so I don't forget, Judge Stewart reminded me this
2 morning to clarify when post-trial briefs will be due. I
3 think alluded to the fact that it would be a week later,
4 so we'll say close of business next Wednesday, April 17th,
5 and, again, we also ask that you attach to that proposed
6 findings of fact to this case. All right.
7 MR. GREIM: Your Honors, we said on Monday
8 morning that this could have been a one-day trial.
9 Didn't quite accomplish that, but no party used up its
10 allotted time. Why is that? The legislative record was
11 clear. It took little time for us to play. We then
12 brought in four legislators to testify. After you
13 listened, no one contradicted the record. The purpose of
14 the session, you clearly heard, was to draw a map with two
15 black districts. End of story. The Robinson intervenors
16 and State both tried to show that politics helps explain
17 which of the two black district maps were chosen, but not
18 that a two black district map was drawn. In other words,
19 politics is not what caused the two black district.
20 So the principle that couldn't be compromised, to
21 quote directly from the case law we cited back in our
22 preliminary injunction briefing, and from which every
23 single political choice flowed, was that two black
24 districts had to be drawn.
25 The battle of the experts -- and, by the way, the

1 first prong of the case really could end there. But the
2 battle of the experts here provided further circumstantial
3 evidence that race predominated in the SB8 lines. So at
4 the end of the day, the sum of all that evidence is that
5 strict scrutiny is required and the burden was on the
6 State as supplemented by the intervenors under the
7 Court's order.
8 Now, that's a demanding standard. That itself could
9 have taken days, and that's why these trials sometimes
10 take a long time. Instead of strict scrutiny, this case
11 took almost no time. Why was that? As predicted, as we
12 mention in our preliminary injunction briefing and as we
13 said in our opening, the State and Robinson intervenors
14 adopted exactly the same VRA defense. They adopted
15 exactly the same trial strategy. They jointly argue that
16 the materials from the Robinson case, coupled with Judge
17 Dick's vacated decision of the Fifth Circuit's failure to
18 find clear error in Her factual findings, met their
19 evidentiary burden here. But that strategy must fail
20 under the law. It just can't work.
21 Under the law, as we cited this, the State cannot
22 rely on post hoc rationalizations and pretty up the record
23 after the fact. Instead, it must show that it actually
24 performed a VRA analysis on the proposed legislation on
25 SB8 and on District 6. It must show not that legislators

1 acted out of fear that, as we kept hearing, Judge Dick
2 would draw unfavorable districts, but because they were
3 actually convinced that the VRA itself demanded two
4 majority-minority districts. Even if the State now claims
5 that the VRA itself and not merely a single judge requires
6 two districts. And, to be clear, the State does not make
7 that claim. It matters not one bit. It's a post hoc
8 rationalization, based on a record that doesn't address
9 SB8 or these districts. We never heard once after the
10 Court asked everyone for designations, tell us what you
11 want to use here, use them with witnesses. They never
12 tried to do those things. This is an open-and-shut case
13 for the plaintiffs and they must prevail.
14 Now, I am going to drill down a little bit on the law
15 and the facts. First of all, the law, the *Bethune-Hill v.*
16 *Virginia Board of Elections* from 2017 says, "Racial
17 predominance exists even when a reapportionment plan
18 respects traditional principles if race was the criterion
19 that, in the State's view, could not be compromised and
20 race-neutral considerations came into play only after the
21 race-based decision had been made." That's exactly what
22 happened. That's describing our case.
23 There are several other cases that say the same
24 thing. Racial predominance is established where the
25 State expressly adopted and applied a policy of

1 prioritizing mechanical racial targets above all other
2 redistricting criteria. That's what the two
3 majority-minority seats was.
4 *Cooper v. Harris*. Finding a textbook example of
5 race-based districting from an announced racial target
6 that subordinated other districting criteria and produced
7 boundaries, amplifying divisions between blacks and
8 whites. Again, that's what we saw here.
9 *Bethune-Hill* involved the use of an expressed racial
10 target. *Bush v. Vera* from 1996 plurality decision noted
11 that the State's, quote, "Commitment from the outset to
12 creating majority-minority districts" -- that's what we
13 had here -- "indicates racial predominance." And here is
14 the important thing, because I know what the State is
15 going to say in response. They are going to say, "Well,
16 Judge Dick was about to make us do this." But racial
17 gerrymandering even for remedial purposes is still racial
18 gerrymandering subject to strict scrutiny. That's from
19 all the way back at the beginning of this line of cases,
20 *Shaw* from 1993. So that's why it's no answer to say,
21 "Well, the Court made us come here." You don't get a
22 freebie and move on to other considerations. If it's
23 race, it's race.
24 Now, we heard the facts from all the witnesses. I
25 won't replay anything. I do want to show, though, a few

1 clips from Senator Seabaugh and Senator Pressly's
2 testimony.
3 This is Senator Seabaugh. I asked him if there was
4 any understanding about a particular number of
5 majority-minority districts. And what did he say? He
6 said, "We were there because, I mean, essentially we were
7 told we had to draw a second majority-minority district
8 where the Judge was going to. So there was really no
9 point in introducing a map that did include a second" --
10 I think it should say "did not include" -- a second
11 majority-minority district." Again, the principle that
12 couldn't be compromised. Let's go to the next clip.
13 Senator Seabaugh, again, said the political
14 consequences flowed from that decision. Theoretically,
15 he said, a second minority seat was switched from five
16 Republicans and one Democrat to four Republicans and two
17 Democrats theoretically. And I asked him, just to be
18 clear, I said, "Did anyone, to your knowledge, advocate
19 for losing a Republican seat without drawing a
20 majority-minority district?" "Answer: No, of course
21 not."
22 Let's go to Senator Pressly. His testimony, "I
23 don't know specifically that the caucus put it together,
24 but certainly we were instructed that we needed to have
25 two majority-minority districts and any other

1 redistricting guidelines were secondary to that."
2 Again, predominance.
3 Now, we also heard -- and we won't play these
4 clips -- but when you listen to the A.G. Murrill
5 testimony, a not insignificant number of legislators
6 openly expressed an intent to use a raw proportionality
7 measure, even after being warned by A.G. Murrill that that
8 would be unconstitutional. You often heard six divided by
9 three is two. Well, you can't do that. That's further
10 direct evidence.
11 Now, much of the time we spent in this courtroom was
12 really not that evidence, it was circumstantial evidence,
13 and that's often how these cases go. So I will briefly
14 walk through that testimony.
15 Mr. Hefner, showed that Senate Bill 8 is highly
16 similar to the district invalidated in the *Hays*' case as a
17 racial gerrymander. Eighty-two percent of the black
18 population from the *Hays*' district is in SB8. And even
19 Anthony Fairfax, the Robinson's expert, who is not
20 entirely credible in describing his own district drawing
21 methods as we heard on cross-examination, admitted he
22 would not have drawn the *Hays*' districts. So Anthony
23 Fairfax would not have drawn the district that looks a
24 whole lot like Senate Bill 8.
25 Now, Mr. Hefner also showed how SB8 splits multiple

1 communities of interest, splits parishes and cannot be
2 explained by so-called socioeconomic factors. He
3 explained how agricultural differs from the north and
4 south Louisiana. I think Missouri is the flip side
5 around. I think we have more row crops in the north and
6 we have more timber in the south. That's the opposite in
7 Louisiana. But perhaps the heat map best encapsulates
8 SB8.
9 So this is the heat map with the District 6 overlain
10 on top. And we heard Mr. Fairfax criticize this and he
11 showed a different map that showed a lot of red up in the
12 upper northeast corner of the State. But, again, as he
13 had to concede, there is no one living up there. It's
14 very low population. Where the actual population is, is
15 reflected on the heat map. That's why we use that. As
16 you can see, the gray shaded area almost perfectly weaves
17 in and out, catching those concentrations of minority
18 population and trying to bring them together.
19 We saw that this reached nearly 54 percent, as we
20 call it, BVAP, and that's the highest of any second black
21 majority district. None of the other districts that you
22 saw, whether they were prepared for this litigation or
23 they were prepared in the prior litigation or wherever
24 they were used, got to this number. So this is the way to
25 maximize BVAP.

1 Mr. Hefner testified that, as a demographer, he saw
2 no way to draw a second majority black district in north
3 Louisiana that's consistent with traditional redistricting
4 principles. Certainly that this one was not.
5 Now, we wanted to do something different. Dr. Voss
6 testified on many of these same principles for part of his
7 testimony, but we also had Dr. Voss simulate hundreds of
8 thousands of hypothetical maps in these different
9 simulations and he produced those in batches under a wide
10 variety of constraints. This is a table that we used that
11 was entered into evidence with Dr. Voss and what he tried
12 to do here is, he obviously used contiguity, population,
13 equality and compactness. Yet he found no evidence of a
14 naturally occurring, majority black district outside
15 New Orleans. Even when he nudged the simulation process,
16 to avoid breaking apart various African American
17 populations, no second-majority black district appeared.
18 Even when Dr. Voss's simulations preserved much of SB8's
19 majority white districts, leaving little room around them
20 for other contiguous districts of equal population to
21 occupy, no black-majority district emerged organically in
22 central Louisiana.
23 Now, you might recall rebuttal witness, Dr. Cory
24 McCartan, put up the blue and yellow map that showed blue
25 bands in the middle of the State and little yellow specks

kind of scattered throughout and he actually was trying to criticize Dr. Voss. Said, "Well, this simulation didn't do much, because, you know, there is not much here in the middle." Well, he told us that. What he said was, the slash district was, quote, "has no core." So he was telling us little more than he realized at that point.

And actually that brought to mind the words of Senator Womack in the audio we played for the Court who basically admits the same. He said it had no heart when he was asked what's the heart of this district. The problem is if you take two precincts in around Senate Bill -- around District 6, you end up with no district almost, because in very few places is it even five precincts wide.

Now, Dr. McCartan and Mr. Fairfax tried to suggest that simulations produced by Dr. Voss offered little value, leaving aside quibbles about additional considerations that Dr. Voss might have taken into account, considerations that Dr. Voss in his testimony offered good reasons to omit, and that Dr. McCartan himself ignored in his own ALARM simulations. The one consistent complaint about the Voss analysis, if you listen to Dr. McCartan, is that he didn't push hard enough with his simulation method to produce a black district. Well, that's exactly the point of the simulation. What we

are trying to show is that the slash district, District 6, is extreme. You do have to have race predominating to end up with a map like that.

In trying to unite the far-flung communities of Shreveport and Baton Rouge, using bulges and tendrils, in Dr. Voss's words, to rope in African American districts, while using twists and turns -- I think that's how Mr. Hefner said it -- to avoid concentrations of whites in central Louisiana, the Sixth Circuit created by SB8 violates traditional redistricting criteria. The plans for creating two majority black parishes broke apart. Districts broke apart more parishes than necessary, and SB8 splinters them more than any other map analyzed. All of the plans for creating two majority black districts scooped African American communities out of multiple metropolitan areas also, that SB8 pulls apart Louisiana cities more than any of the other maps analyzed. And, of course, that makes sense, because they are trying to go to each area and grab out the African American population.

Finally, the always considered element of compactness, none of the plans for majority-minority black districts were compact, but SB8 was the worst of those.

So that's the circumstantial evidence in a nutshell. Now, again, the other side's argument really tries to say

1 the differences aren't that great and then they turn back
2 to the political conspiracy. I mean, that is so much of
3 the testimony we heard from people who were talking about
4 politics. But the problem again is this, the problem is
5 this: It was all downstream from the initial decision to
6 draw two black districts and, therefore, the
7 black-district decision predominated and that's under
8 controlling law.
9 So, in conclusion, even without expert testimony,
10 this part of the analysis is not a close call. The
11 Legislature sought to appease the Robinson litigants,
12 perhaps, by meeting their racial target of controlling two
13 districts, while keeping the pen in the hands of the
14 Legislature to decide where the gerrymandering would
15 occur, but it doesn't excuse the gerrymandering. So long
16 as race was actually a predominant factor, the political
17 goals and schemes, if they existed, just don't matter to
18 us in the first analysis.
19 Now, let's move to strict scrutiny and drill down
20 there. Did the State have a strong basis in evidence to
21 believe that VRA demanded the map. Well, on the facts,
22 when the State uses race to draw lines, here is what the
23 Courts say -- this is from the *Cooper* case I mentioned
24 earlier -- it must show to meet the narrowly tailored
25 requirement that it had a strong basis in evidence for

1 concluding that the VRA required its actions. So the
2 State has to conclude that VRA required its actions. This
3 analysis is district by district. There is no such thing
4 under the VRA as ordering the State to create X number of
5 black districts. That is not an order under the VRA.
6 You can't just say, Come back to me, somewhere, anywhere,
7 I want to see two or three or four black districts. You
8 cannot do that. Rather, you have to remedy in a VRA case
9 the injury that was proved by the VRA Plaintiffs in their
10 own region in the district where they proved there should
11 be a second map drawn, a second district drawn.
12 So you've got to show in this case that SB8's
13 district lines are narrowly tailored to remedy an alleged
14 VRA violation. We get that from what you call *Shaw II*,
15 the *Shaw v. Hunt* case from 1996, the *LULAC* case,
16 *LULAC v. Perry*, 2006, which I cited earlier. As we said
17 in our brief over and over again, the fear of a VRA
18 violation somewhere does not allow the State to
19 gerrymander just anywhere.
20 Now, can the State look back in time and say,
21 Well, hypothetically, there was evidence by which the
22 Legislature could have concluded this or must the
23 gerrymandering be the justification -- I'm sorry -- or
24 must the VRA be the justification the State actually
25 relied on. And, again, we get this from *Bethune-Hill*.

1 It says actual considerations that provided the essential
2 basis for the lines rather than, quote, "post hoc
3 justifications the Legislature in theory could have used,
4 but in reality did not," closed quote, matter. So we've
5 got to look at the actual considerations.
6 Now, what quality of evidence has to be shown?
7 One of the most important cases is pretty recent from
8 Wisconsin. I don't have my citation here, but it's -- I
9 believe it's Wisconsin Legislature. It may be versus
10 Wisconsin Supreme Court. I may have that wrong, but we
11 cited it in our briefs. That talks -- in fact, there it
12 was the Wisconsin Supreme Court that had drafted the map.
13 So we have the U.S. Supreme Court treating the Wisconsin
14 Supreme Court as the mapmaker. It's an interesting case.
15 And they criticize the Wisconsin Supreme Court. Because
16 the Wisconsin Supreme Court's analysis was full of "may."
17 We think that there is a good argument that the VRA may
18 require this, and it actually at least went into evidence.
19 But here is the kind of evidence you're supposed to be
20 citing. You're not supposed to be citing that, Well, we
21 think this Judge is against us. We think she is going to
22 rule against us. You're supposed to say, well, here are
23 the turnout rates in the different districts and the
24 results are recent contested elections. Here is our RBV
25 analysis. Here is our statistical evidence of racial

1 block voting. *Abbott v. Perez* from 2018 talks about that.
2 You've got to come in and say -- and *Abbott* also says
3 where you're going to rely on good reasons, you've got to
4 say the State made a strong showing of a pre-enactment
5 analysis with justifiable conclusions. And certainly
6 you've got to go through and establish the three *Gingles*'
7 preconditions. There is not a single witness who came up
8 who purported to say what the Legislature was thinking and
9 said yes, we walked through the *Gingles*' factors. We
10 looked at expert reports. We didn't have hear any of
11 that. The challenge was laid down for the State to come
12 in and talk about that. And the witnesses that you would
13 expect to have supported the State here were unable to do
14 that and seemed to have only a very rough familiarity with
15 the Voting Rights Act.
16 Here is another principle: A pure error of law by
17 the Legislature is never okay. I mean, there is breathing
18 room. We've all read the cases that say there is
19 breathing room. You can make a reasonable mistake, but
20 you can't make a pure error of law. And that's from the
21 *Cooper* case. And in this case, the legislators were told
22 by A.G. Murrill, race can't predominate. Now, it's
23 confusing. It's understandable. But she told that to the
24 legislators, and what do we see right around the same
25 time, race is predominating, and the legislators are

1 saying we have to draw these two majority-minority
2 districts.
3 Let's talk a little bit about the facts. I've sort
4 of been doing this throughout, but I'll focus on that now.
5 Again, a proper showing would have established that the
6 map-drawer here reviewed analyses of the three *Gingles*'
7 factors for people living in the area of SB8. We need to
8 see what? We need to see sufficiently large and compact
9 black population in the new SB8 territory. We need to see
10 the black voters in the SB8 territory can actually elect
11 their own candidates, the candidates that they prefer.
12 We've got to see white voters generally defeating black
13 voters in the SB8 territory. And in the totality of
14 circumstances, after those three prongs, we've got to see
15 that SB8 actually performs. This wasn't our burden to
16 disprove. This was the State's burden to prove and not
17 just that this exists, but that the Legislature did this
18 the work.
19 Now, remember, the Robinson intervenors affirmatively
20 tried to block any such evidence from actually coming in.
21 There was actually a motion in limine saying there can't
22 be argument or evidence on this point at the same time
23 that they're trying to admit all the record evidence from
24 the prior case. That can't be correct, and that motion
25 wasn't renewed before the close of trial. In fact, the

effort to admit those exhibits was abandoned.

At any rate, we saw what the debate in the Legislature was about. It was not about those factors even for the Robinson maps. Rather than a hearing about VRA factors, you hear about over and over again, Judge Dick, the desire to draft the majority-minority district instead of Judge Dick and other strategic factors. That is political strategy and not -- or may be legal strategy and not a VRA analysis.

If we could, just for a second, there is a part of the AG's testimony we have not heard but that's in evidence. Let's just listen for a moment to the way --

(The following excerpt played:)

ATTORNEY GENERAL: You have an opportunity now to go back and draw a map again, and I think that it is not an easy task, because the United States Supreme Court has not made it an easy task. They have given you some directives that seem to be -- to not give you a lot of clear lines for doing your job. I apologize on their behalf, but, you know, we tried. I mean, I am defending that map. And so you won't hear me say that I believe that that map violated the redistricting criteria. I am defending that map. You have an opportunity now to go back --

(End of excerpt.)

1 MR. GREIM: Let's stop there. So you won't hear
2 me say -- you won't hear me say that that map violates the
3 redistricting criteria. Well, the evidence needs to have
4 been the opposite. The Attorney General needs to have
5 come in and said we have concluded that it does violate
6 the redistricting criteria, but the Legislature heard
7 exactly the opposite from the Attorney General.
8 Just to save time, I won't put up the other -- we had
9 some other slides that we'll show later. But, you know,
10 other claims made by the Attorney General was that the
11 litigation did not lead to a fair or reliable result.
12 There was much discussion about how fast the process went,
13 that there was evidence that wasn't put in. And then,
14 ultimately, there was continued statements that the
15 question presented was really one of strategy, because the
16 Attorney General was willing to continue to defend the
17 map, but then talked about what would happen if an appeal
18 drug out over time.
19 So that's what the evidence actually shows and,
20 again, on strict scrutiny, we really could end there. I
21 do want to show the quote from Senator Pressly, though,
22 that I think encapsulates this. And I mean I just asked
23 and we heard it, but I said, "Did the Attorney General
24 actually state that she believed the VRA required two
25 majority-minority districts?" "Answer: I don't recall

her ever saying that." We have seen the transcript. She doesn't say that.

Interestingly, if you go back to the opening that the State made in this case -- let's pull that slide up. The opening that we heard from the State used very interesting language that we haven't even seen before. So the State tried to recast its burden in this case, not as analyzing the SB8 districts under the VRA, but instead as, quote, "Predicting how federal courts might review the maps."

The Legislature did not hire an expert to address the VRA issue. Here we go. This is the State's -- this is what the State said in the opening. So although the Legislature did not specifically hire an expert during the special session, its drafting of the SB8 map was informed by the most definitive experts whose opinions matter more than any others, the federal courts.

Well, that's the problem. The showing cannot be predicting what the federal courts will do. The showing has to be about the VRA itself. Now, what were some of the objections by the other side. What have we heard from them? We have heard them say, Well, but there was this earlier preliminary injunction decision that was vacated, but it wasn't vacated on the merits. We still had a very good sense of where the federal district court judge was going and we've heard different characterizations how the

1 Fifth Circuit treated that. And I think, rather than
2 going through all that, the Fifth Circuit decisions speak
3 for themselves. But at no point did the Fifth Circuit
4 order Louisiana to go draw a two majority-minority map.
5 That is untrue. You will not find that in the Fifth
6 Circuit decisions.
7 But what you will hear, though, is that, well, a
8 remedial map in a VRA case doesn't have to be the exact
9 illustrative map that was presented by the plaintiffs and
10 there is case law that says that that's very true, but it
11 does have to be a map that actually addresses the facts
12 presented in that case. And so you can't wriggle out of
13 the VRA inapplicability by just saying, well, any old map
14 will do. Any old map will not do. You've got to make a
15 showing on SB8.
16 I will turn just for a second to the Fifth Circuit
17 cases. They only apply clear error reasoning on the facts
18 as they had to. They expressed some discomfort with the
19 state of the record and the argument. They recognize the
20 State might want to completely alter its defense after the
21 *Merrill* case from Alabama. And an important piece also is
22 that the State never set out to prove what we would be
23 doing in a remedial phase here if it occurs, that these
24 other maps are actually going to perform under the
25 totality of the circumstances test. The *Merrill* types of

1 arguments that were raised initially and that went away
2 after the Supreme Court case, that was the State's
3 strategy. We did not see the second sort of analysis,
4 which is, even though you're over 50 percent BVAP, are
5 those voters going to turn out, and is crossover voting
6 going to put them over the top to actually elect
7 candidates, that's the analysis that needed to have been
8 done and it could be done here.
9 Now, I'll address an issue that the Court asked us
10 about earlier. I'm running out of time, but I can briefly
11 cover it. There are reasons to be concerned with Judge
12 Dick's jurisdiction to decide Equal Protection issues.
13 First of all, Judge Dick did not truly reach the issue of
14 equal protection because Judge Dick found that the
15 question there was the map-drawers who were not State
16 actors. But for a different reason, it would have been
17 inappropriate to reach it because there was no case or
18 controversy. There was no injured party that was actually
19 challenging state action, so that was the wrong case, and
20 especially in a single-judge court to address equal
21 protection.
22 As soon as anyone actually brings an equal protection
23 claim, where you have standing as an injured party and you
24 can get a remedy against the person you have sued, then
25 Section 2284 applies and that requires the use of a

1 three-judge panel. That's not a complete answer, but I
2 want to make sure I say something about it here in my
3 opening.
4 In conclusion, as the State first suggested in the
5 very first conference with the Court, this case largely
6 does turn on the law once one hears a legislative record.
7 That's true. The Intervenors claimed they need to be here
8 to fully develop the record, but their hours of witnesses
9 exceeded only nibbling at the edges of Plaintiffs'
10 circumstantial evidence. Expert testimony confirms what
11 we already know from looking at the legislative record.
12 Here, the State did engage in an odious practice of
13 segregating citizens into districts based on race and for
14 some, based on what proportionality, which you can't do
15 under the VRA, it is not less odious because some
16 legislators wanted to achieve political goals after they
17 decided to achieve a racial goal. Indeed, that sort of
18 opportunism and the lack of honesty to admitting what the
19 set out to do makes the gerrymander worse.
20 We're ultimately here because of a strategic decision
21 by the Robinsons to bring a naked VRA claim in a
22 single-judge court. Now it falls to this Court to finally
23 consider Louisianan's equal protection rights, invalidate
24 SB8, and after taking evidence and considering all of the
25 applicable law, enter an interim remedial map. Thank you.

1 MR. NAIFEH: Good morning, Your Honors. May it
2 please the Court.
3 Your Honors, Plaintiffs in this case, who have been
4 entirely absent from these proceedings, ask this Court to
5 overturn an act of the elected representatives of the
6 people by which they sought to fulfill their duty to
7 establish congressional districts while complying with the
8 mandates of federal law and the federal courts.
9 In these circumstances, the Supreme Court has said
10 the Legislature must be given breathing room to navigate
11 the competing demands of the Equal Protection Clause and
12 the Voting Rights Act. The courts in -- the district
13 court in Robinson and the Fifth Circuit gave the
14 Legislature that breathing room when they provided an
15 opportunity to remedy the likely Section 2 violation those
16 courts had found before facing the prospect of a
17 court-imposed map.
18 Mr. Greim's theory of the case would hold that any
19 time a state draws a map to comply with the Voting Rights
20 Act, even when it is directed to do so by a court, it
21 necessarily engages in racial gerrymandering. In effect,
22 he is saying that Section 2 is unconstitutional, and just
23 last term the Supreme Court in *Allen v. Milligan* rejected
24 an identical argument.
25 Plaintiffs would also require the Legislature to defy

1 the federal courts unless the Attorney General herself
2 agrees with those Court's rulings or the Legislature.
3 The record here at trial makes clear that the Legislature
4 balanced appropriate consideration of race against other
5 primarily political considerations and that race did not
6 predominant in the enactment of SB8. Plaintiffs have
7 failed to meet their burden.
8 Plaintiffs' case is premised on a fundamental
9 misunderstanding of the law applicable to both parts of
10 the *Shaw* standard. As a result, the factual record
11 assembled by the Plaintiffs fails to meet their burden to
12 show that race predominated in the creation of SB8 and
13 fails to rebut the not just strong, but overwhelming basis
14 for the Legislature's race-conscious redistricting to
15 comply with the mandates of Section 2 of the Voting
16 Rights Act.
17 First, Plaintiff suggests that the mere fact that the
18 Legislature set out in the January special session called
19 by Governor Landry to create a congressional plan with two
20 majority-minority districts is enough to meet their
21 burden. They say that decides the case on its own. They
22 offered the bare statements of legislators during special
23 session in which SB8 was adopted, acknowledging that the
24 task given to them by the Courts in the Robinson
25 litigation. But the Supreme Court has been clear that the

1 intentional creation of majority-minority districts
2 without more is not sufficient to establish racial
3 predominance or trigger strict scrutiny and that's from
4 *Bush v. Vera*. And that the Courts must exercise, quote,
5 extraordinary caution in adjudicating claims that a state
6 has drawn district lines on the basis of race, and that's
7 from the *Easley v. Cromartie* case.
8 Plaintiffs must show more that race was simply a
9 motivation for the drawing of a majority-minority
10 district. They must show that race predominated over all
11 other considerations. Meeting this standard is demanding
12 and Plaintiffs have not met it here. Over the last three
13 days, the Court heard testimony from legislators involved
14 in the enactment of SB8. That political goals were at the
15 center of SB8's final shape. Representative Mandie Landry
16 and Senator Royce Duplessis testified that from the start,
17 they understood that SB8 was Governor Jeff Landry's map
18 and that Republican Congressman Garret Graves was chosen
19 as the incumbent that would be placed in the new majority
20 black district. Plaintiffs' own legislative witness,
21 Senator Pressly, agreed that the central challenge in
22 creating SB8 was how the Legislature would create a second
23 majority black district, quote, in a way to ensure that
24 they were not getting rid of the speaker of the House, the
25 majority leader, end quote, and while also protecting

1 Congresswoman Julia Letlow. And Senator Womack, SB8
2 sponsor, stated when introducing the bill SB8 was the only
3 map he had seen that could achieve both of those goals.
4 The testimony of plaintiffs' experts is divorced
5 from this political reality and does not move the needle.
6 Mr. Hefner conceded that some consideration of race is
7 required every time the Legislature creates a
8 majority-minority district and as evidence that SB8's new
9 majority-minority district, CD-6, included more majority
10 black precincts than majority white ones, shows nothing
11 more than that the Legislature drew a majority black
12 district.
13 Dr. Voss's simulations analysis also fails to show
14 that race predominated. As Dr. Cory McCartan explained,
15 the simulations were flawed in design and execution and
16 were not suited to answering the question that he sought
17 to answer, which was whether it was possible to draw a
18 reasonably configured majority black congressional
19 district outside of the New Orleans area. Dr. Voss's
20 conclusion that Representative Letlow and Speaker Johnson
21 could have been protected without creating a second
22 majority black district is irrelevant and misses the
23 point. As Senator Pressly explained, the question for the
24 Republican caucus in the State was how to do both.
25 While it is not the preference of our clients, the

1 Robinson intervenors, that politics dominated this
2 decision-making process behind the enactment of SB8, it is
3 the reality. The Legislature could have enacted our
4 client's map, remedial map, which was before the
5 Legislature in the form of Senate Bill 4. SB4 was more
6 compact, split fewer parishes and municipalities and
7 better protected communities of interest based on common
8 socioeconomic indicators than either HB1 or SB8. But as
9 Senator Womack stated, it did not meet the political goals
10 he prioritized. The difference is that simple. The
11 overriding consideration in the choice of SB8 over more
12 compact options that also satisfied the Voting Rights Act
13 was politics, not race. Plaintiffs have not proven that
14 race predominated over all other considerations that drove
15 the configuration of SB8 and they cannot prove that
16 because it is not true. Even if the Plaintiffs had met
17 their burden of establishing racial predominance, they
18 failed to grasp the legal principles that apply to the
19 second part of the *Shaw* analysis. You heard Mr. Greim
20 assert that there is no evidence that anyone in the
21 Legislature actually believed they were required to create
22 a majority black district, but that is not the test. A
23 strong basis in evidence only requires that the
24 Legislature have good reasons to believe that they would
25 run afoul of the Voting Rights Act if they did not engage

in race-conscious districting. It does not require an inquiry into the legislator's personal legal positions and it does not require the Legislature to engage in a full-blown *Gingles*' analysis or pursue every avenue of judicial relief, especially when a federal judge has already ruled that the *Gingles*' standard has been satisfied.

Plaintiffs here ask this court to conclude that a recent decision in favor of our clients offered by a pure Federal District Court after a five-day evidentiary hearing and approved in substance by the Fifth Circuit, after a failed effort to invoke Supreme Court review, did not provide the Legislature with a reasonable basis to conclude that if they did not act, they would face liability for violating the VRA.

Your Honors, Robinson intervenors are nine individual black voters and two civic organizations who worked with communities and voters across the State to ensure that Louisianans can realize the power of their voice and vote. The Court heard from some of them in these proceedings. As Ashley Shelton testified on behalf of Power Coalition and the communities it works with taking away SB8 would make her job much harder. What we know is that apathy is driven by voters not feeling like they have a voice, she said. We know that if they don't

1 feel like they can actually elect a candidate's choice,
2 that drives voter apathy. The impact of taking away SB8
3 is real for the Robinson intervenors. It is relief they
4 have sought over two years of litigation and many, many
5 more years of fighting for a fair future for their state.
6 Let's talk about who we haven't heard from in these
7 proceedings. In contrast to the Robinson intervenors, not
8 one Callais plaintiff has taken the stand to articulate
9 any injury they face through the enactment of SB8. Not
10 one plaintiff has shared their view on whether or not
11 SB8 honors the communities of interests they occupy. Not
12 a single plaintiff has lent their story nor defended their
13 position on cross-examination. I will close by
14 highlighting that the process of redistricting following
15 the 2020 census has now lasted for years. It is time for
16 finality for all Louisianans. A decision by this court,
17 striking down SB8 will only prolong the uncertainty and
18 aggravate the conflicting demands that the Legislature has
19 had to navigate in adopting SB8. The district court in
20 Robinson called for the Legislature to remedy the
21 egregious Voting Rights Act violations shown by our
22 clients and rather than continue to fight a losing battle,
23 the Legislature heeded that call. SB8 is the remedy that
24 the district court demanded. It is the law enacted by the
25 Legislature, elected by the voters of this state, and it

is not a racial gerrymander. Accordingly, this court should deny plaintiffs' motion for preliminary injunction and enter judgment in favor of the defendants and the Robinson intervenors on the merits. Thank you.

MR. ENSIGN: Good afternoon, Your Honors. Drew Ensign on behalf of the State of Louisiana.

SB8 here passes constitutional muster here for two overarching reasons. First, race did not predominate the drawing of its contours. As the Supreme Court has explained, race predominance only exists, quote, when race-neutral considerations come into play only after the race-based decision has been made and that's from *Milligan*.

Here, three other factors motivated the Legislature to act rather than race. First, a desire to comply with federal court orders as to what the VRA likely requires and, thereby, forego expensive and protracted litigation; second, a desire to preserve assemblance of the State's sovereign prerogative to draw maps itself; and, third, political considerations such as preserving incumbents and avoid pitting them against each other and in particular protecting Representative Letlow.

That race did predominate is further demonstrated by the chronology here. The State initially enacted HB1 which maintain Louisiana's long history of having a

1 single majority black district that had prevailed for over
2 40 years. This was the Legislature's first preference,
3 and, absent the Robinson litigation, it is undisputed that
4 it would be the map in place here.
5 But the evidence shows that the Legislature was
6 compelled against that express preference in the drawing
7 of a second majority black district. That sequence shows
8 that race was not the Legislature's predominant intent
9 here. Without Federal Court's effectively mandating that
10 they do so, it would not have done so. You know, put
11 simply, the Robinson court decisions are the but-for cause
12 that led to SB8 and not race.
13 Second, even assuming the Plaintiffs have satisfied
14 their burden of showing racial predominance, Plaintiffs'
15 constitutional claims still fail because SB8 satisfies
16 strict scrutiny. As to compelling interest, Plaintiffs do
17 not appear to even genuinely contest that complying with
18 the VRA and further complying with decisions construing
19 the VRA is a compelling state interest. And even if they
20 had contested that, here it's even more compelling than
21 just merely complying with the VRA because you have the
22 additional factor of both the Middle District and the
23 Fifth Circuit holding that it was likely a violation of
24 the VRA to fail to draw a second majority black district.
25 The State also satisfies the strong basis in evidence

1 test the Supreme Court initially set forth in the
2 *Alabama Legislative Black Caucus* and then reiterated it
3 again in *Cooper* and *Bethune-Hill*. That test, quote,
4 insists only that the legislature have a strong basis in
5 evidence in support of the race-based choice it has made
6 and that's from *Bethune-Hill*. Here the State readily
7 satisfies that standard.
8 The State had exceptionally strong evidence in the
9 form of federal court decisions including a precedential
10 decision of its regional circuit affirming a legal
11 determination that the lack of a majority -- a second
12 majority black district likely violated VRA which the
13 Fifth Circuit declined to hear in en banc without even
14 holding a vote.
15 It's true that the Robinson cases did not squarely
16 hold that the failure to draw a second majority black
17 district would violate the VRA. Only that they would
18 likely do so. But the strong basis in evidence standard
19 expressly give the states, "breathing room," to navigate,
20 "the competing hazards of liability under the Voting
21 Rights Act and the Equal Protection Clause," and that's
22 from *Bethune-Hill*. Here that breathing room should
23 include reading the thirdly obvious writing on the wall.
24 Under the district court's opinion, it was clear to the
25 State that prevailing at trial on HB1 was incredibly

1 unlikely and the consequence of making that likely futile
2 attempt would be that a map would be imposed on the State
3 and it would lose its opportunity to draw districts
4 whatsoever and it would be imposed on the State whole
5 cloth by the Middle District. And so, within that
6 breathing room, the State exercised, you know, the
7 remaining semblance of its sovereign prerogative to draw
8 its maps, and that's what have here.
9 And for that reason it was also not necessary for the
10 legislators to parse the nuances of expert reports
11 themselves. The reason to consult experts is to make
12 predictive judgments as to how federal courts are likely
13 to rule as to, you know, whether or not a map or a
14 particular challenge practice would violate the VRA.
15 But here, there is no need to do so because we have that
16 information from the horse's mouth themselves. Here we
17 have federal courts specifically holding that the failure
18 to draw a second majority black district likely violated
19 the VRA and it did so based on that weighing of all the
20 *Gingles*' factors. So there is no need for the
21 Legislature to engage in doing that *Gingles*' analysis
22 itself when the Courts have already done so for it and
23 have done so in a precedential decision that will bind
24 future proceedings.
25 Those actual rulings of federal courts readily supply

1 the strong basis and evidence here. You know, and,
2 finally, I would add a quick note about Plaintiffs'
3 Arlington Heights' claim, which we haven't heard much
4 about, but is is nonetheless part of this case. You know,
5 the Arlington Heights' standard here is subsumed within
6 the *Shaw/Bethune-Hill* predominance inquiry which is a more
7 refined test specifically applicable for the redistricting
8 context.
9 But even if it had any separate application here, it
10 would do Plaintiffs little good. Even if Plaintiffs could
11 satisfy the Arlington Heights' factors, that would only
12 get them to strict scrutiny, and for the reasons that
13 we've already discussed previously, SB8 is constitutional
14 under that strict scrutiny analysis. And I'm happy to
15 answer any questions, if the Court has any otherwise.
16 JUDGE JOSEPH: Thank you, Mr. Ensign.
17 MR. ENSIGN: Thank you, Your Honors.
18 MR. STRACH: Your Honor, nothing from the
19 Secretary. We had yielded our time to the other parties
20 on our side of the v.
21 JUDGE JOSEPH: Ms. LaCombe, I don't think the
22 Plaintiffs have any more time for rebuttal, do they?
23 MS. LACOMBE: No, sir.
24 JUDGE JOSEPH: I do note that Mr. Greim wore an
25 LSU tie today, it looks like, to make up for his

pronunciation of Tensas Parish yesterday. All right.

(Off the record.)

JUDGE JOSEPH: Well, I think that brings our proceeding to a conclusion. Again, post-trial briefings will be due next Wednesday by close of business. Is there anything else we need to talk about before we go into recess?

JUDGE STEWART: I just want to make a comment before we adjourn and that's to say I'll take the liberty of saying it on behalf of the panel. As you know, three-judge panels are, like this configuration, are rare. Of course, I do them on a regular basis, but that's with the Fifth Circuit. This is very rare.

The point is, I think we have like 20 lawyers, at least, in the case, in the trial, et cetera. A lot of you are not here. All Judges appreciate the highest of professional, ethical conduct in conducting business. This is an extremely sensitive, important complex case and the panel richly appreciates the extremely high professionalism, civility, cooperation, between the parties, among the parties. I am sure there was some after-hours work, to put it mildly, to put the case together. Whatever way we end up at the end of it, it's not to be understated the appreciation, because we know from experience, all cases don't go that way. Even the

1 objections were handled very fluidly, very professionally,
2 and that's much appreciated by the Bench, commendations to
3 all of you. Even if you were a lawyer that didn't come to
4 the podium, nonetheless our job is to make easier, not to
5 be confused with easy, when we have the highest of
6 professional and ethical conduct on behalf of it.
7 And the second is to give commendations to the court
8 reporters and to the staff who had to endure faster
9 speaking than even New York people, seemingly, everybody
10 talked fast here, and so my heart goes out, all of ours to
11 them, to only interrupt you when they really had to, to
12 get it right, but to do that trying to take it in.
13 And, thirdly, we all had some apprehensions about
14 using this technology, you know, stuff tends to go wrong.
15 And so you all kind of nimbly navigated to it. So even
16 that was well done.
17 In short, a few very complex, very important trial,
18 but ably conducted by extremely professional, high caliber
19 lawyers and nothing makes judges more satisfied than to
20 have that kind of engagement. If more people in the
21 American public saw that and really were tuned into how
22 things worked, they would have less sort of negative
23 appreciations on the caliber of lawyers. So my hat and
24 commendations to everybody for your actions in the trial.
25 JUDGE JOSEPH: I, wholeheartedly, agree. I was

very impressed with the conduct of counsel as well as the efficacy of counsel during this trial and greatly appreciate how counsel worked together and this is really exemplar of how litigation should work. So I appreciate that.

JUDGE SUMMERHAYS: And I agree with all the comments above. I thank you.

JUDGE JOSEPH: All right. Court's adjourned.

(Proceedings concluded at 12:31 p.m.)

CERTIFICATE OF OFFICIAL REPORTER

I, DIANA CAVENAH, RPR, Federal Official Court Reporter, in and for the United States District Court for the Western District of Louisiana, DO HEREBY CERTIFY that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically-reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

/s/ Diana Cavenah
DIANA CAVENAH, RPR
Federal Official Court Reporter

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS, ET AL	**CIVIL DOCKET NO. 3:24-CV-00122 DCJ-CES-RRS**
VERSUS	**THREE-JUDGE COURT**
NANCY LANDRY, in her official capacity as Louisiana Secretary of State	

INJUNCTION AND REASONS FOR JUDGMENT

Opinion of the Court by David C. Joseph and Robert R. Summerhays, District Judges.

The present case involves a challenge to the current congressional redistricting map enacted in Louisiana on the grounds that one of the congressional districts created by the Louisiana State Legislature — District 6 — is an impermissible racial gerrymander in violation of the Equal Protection Clause of the Fourteenth Amendment. This challenge reflects the tension between Section 2 of the Voting Rights Act and the Equal Protection Clause. The Voting Rights Act protects minority voters against dilution resulting from redistricting maps that "crack" or "pack" a large and "geographically compact" minority population. On the other hand, the Equal Protection Clause applies strict scrutiny to redistricting that is grounded predominately on race.

The challenged Louisiana redistricting scheme originated in response to litigation brought under Section 2 of the Voting Rights Act in a separate suit filed in the United States District Court for the Middle District of Louisiana, challenging Louisiana's prior redistricting scheme under Section 2 of the Voting Rights Act.

Robinson, et al v. Ardoin, No. 3:22-cv-211; consolidated with *Galmon et al v. Ardoin*, No. 3:22-cv-214 (M.D. La.) ("*Robinson* Docket"). There, the district court concluded that the *Robinson* plaintiffs were likely to succeed on the merits of their claim that Louisiana's prior redistricting plan violated Section 2 of the Voting Rights Act. In response, the Legislature adopted the present redistricting map (created by Senate Bill 8) ("SB8"), which established a second majority–Black congressional district to resolve the *Robinson* litigation. The plaintiffs here then filed the present case challenging this new congressional map on the grounds that the second majority–Black district created by the Legislature violates the Equal Protection Clause.

This matter was tried before the three-judge panel from April 8-10, 2024. Having considered the testimony and evidence at trial, the arguments of counsel, and the applicable law, we conclude that District 6 of SB8 violates the Equal Protection Clause. Accordingly, the State is enjoined from using SB8 in any future elections. The Court's Opinion below constitutes its findings of fact and conclusions of law. The Court sets a status conference with all parties to discuss the appropriate remedy.

I.
PROCEDURAL AND HISTORICAL BACKGROUND

A. The *Hays* Litigation

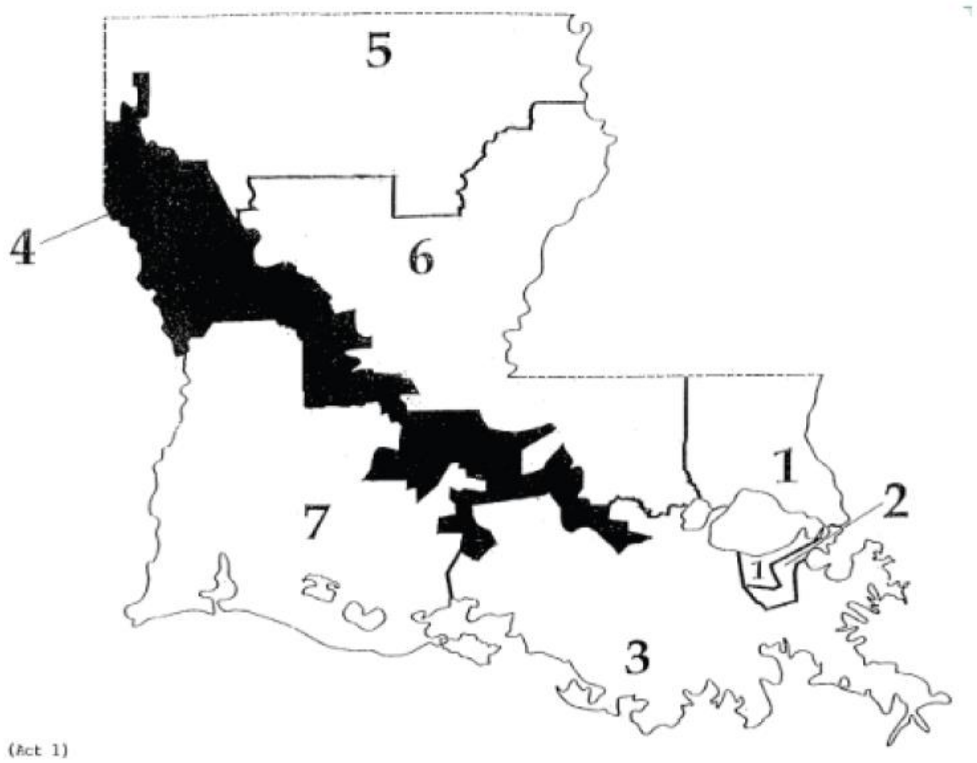
"Those that fail to learn from history are doomed to repeat it."
- Winston Churchill

Following the 1990 census, the Louisiana State Legislature (the "Legislature") enacted Act 42 of 1992, which created a new congressional voting map. Prior to the Act 42 map, Louisiana had seven congressional districts, one of which included a majority-Black voting population. Act 42 created a second majority-Black district.

The existing majority-Black district encircled New Orleans, and the other, new one, "[l]ike the fictional swordsman Zorro, when making his signature mark, ... slash[ed] a giant but somewhat shaky 'Z' across the state." *Hays v. State of La.*, 839 F. Supp. 1188, 1199 (W.D. La. 1993), *vacated sub nom. Louisiana v. Hays*, 512 U.S. 1230, 114 S. Ct. 2731, 129 L.Ed.2d 853 (1994) ("*Hays I*").

Several voters challenged the scheme. After a trial, a three-judge panel of the Western District of Louisiana concluded that Act 42's plan violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, and accordingly enjoined the use of that plan in any future elections. *Id.* In 1993, while an appeal of the district court's findings in *Hays I* was pending before the Supreme Court of the United States, the Legislature repealed Act 42 and passed Act 1, creating a new map. *Hays v. State of La.*, 862 F. Supp. 119, 125 (W.D. La. 1994), *aff'd sub nom. St. Cyr v. Hays*, 513 U.S. 1054, 115 S. Ct. 687, 130 L.Ed.2d 595 (1994), *and vacated sub nom. United States v. Hays*, 515 U.S. 737, 115 S. Ct. 2431, 132 L.Ed.2d 635 (1995) ("*Hays II*").

The 1993 map, like the 1992 map, had two majority-African American districts. *Id.* One encircled New Orleans, while the other was long and narrow and slashed 250 miles in a southeasterly direction from Shreveport down to Baton Rouge. This district was described as resembling "an inkblot which has spread indiscriminately across the Louisiana map." *Id.*



PE22 (Map from *Hays II*).

The Supreme Court vacated *Hays I* and remanded the case for further proceedings in light of the passage of Act 1. *See Louisiana v. Hays*, 512 U.S. 1230, 114 S. Ct. 2731, 129 L.Ed.2d 853 (1994). The panel of our colleagues making up that three-judge court determined that the Legislature had once again allowed race to predominant in the map's creation and declared Act 1 unconstitutional. *Hays II* at 121. The case was again appealed to the Supreme Court. Without addressing the merits of the case, the Supreme Court determined that the plaintiffs lacked standing to challenge Act 1 as they did not reside in the challenged district. *United States v. Hays*, 515 U.S. 737, 115 S. Ct. 2431, 132 L.Ed.2d 635 (1995).

On remand, the three-judge panel permitted an amended complaint to address the standing issue. The court then reiterated its findings from *Hays II* that Act 1

constituted a racial gerrymander and was not narrowly tailored to further a compelling state interest. The court therefore found that Act 1 violated the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and ordered the state to implement a redistricting plan drawn by the court. *Hays v. Louisiana*, 936 F. Supp. 360 (W.D. La. 1996) ("*Hays III*").

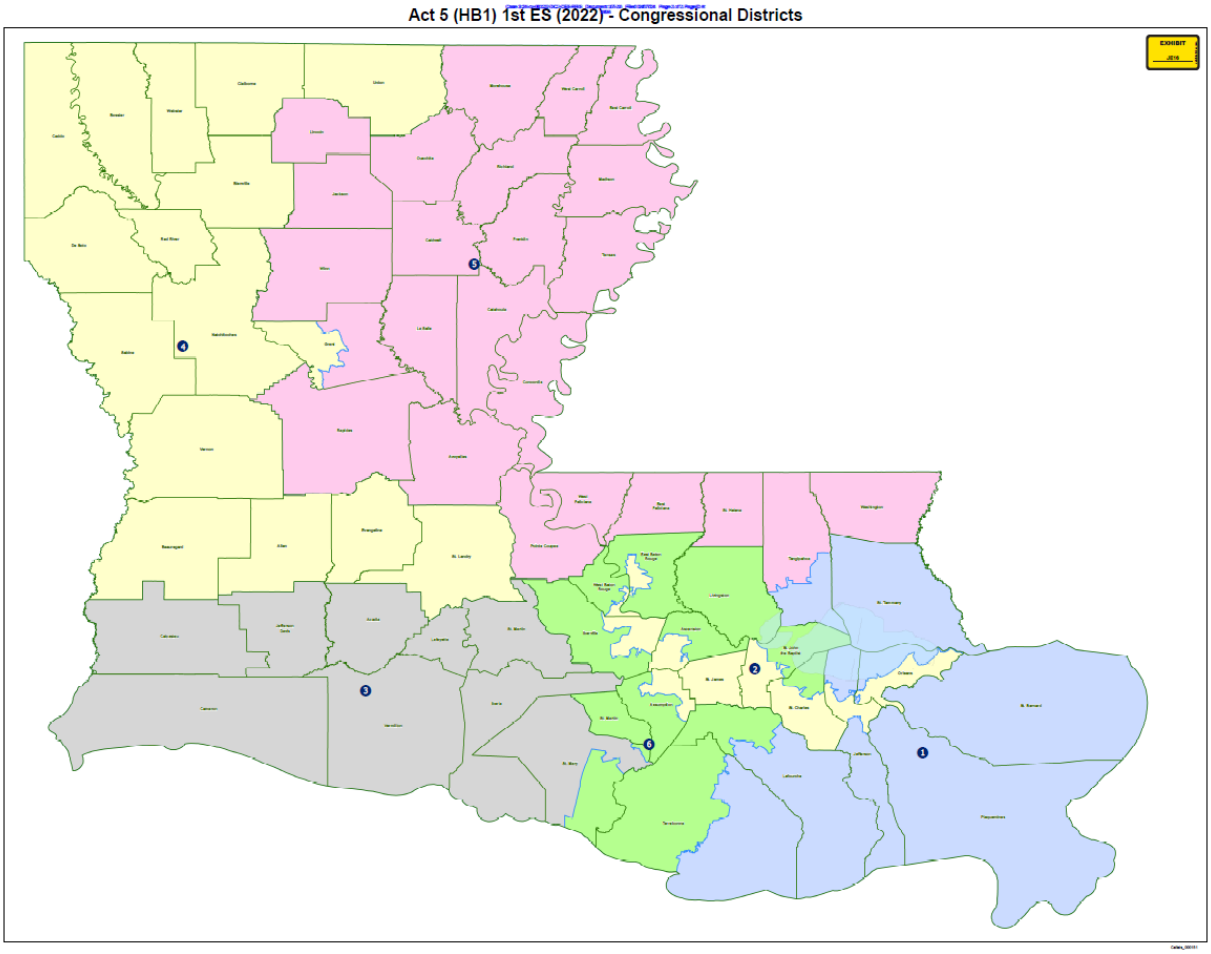
B. 2020 Census and Events Leading up to the *Robinson* Litigation

Based on the 2020 Census, Louisiana's population stood at 4,657,757 with a voting-age population of 3,570,548. JE6; JE15. As a result, the state qualified for six congressional districts — one less district than it had during the *Hays* litigation, but the same number it was allotted after the 2010 Census. JE15. Prior to the start of the legislative session on redistricting, members of the Legislature traveled across the state conducting public hearings, called "roadshows," to give the public the opportunity to voice their views on the redistricting process. *See* JE-3; *see also* Tr., Vol. III, 513:14–514:17. The roadshows were "designed to share information about redistricting and solicit public comment and testimony." *Robinson v. Ardoin*, 605 F.Supp.3d 759, 767 (M.D. La. 2022), *cert. granted before judgment,* 142 S. Ct. 2892, 213 L.Ed.2d 1107 (2022), *and cert. dismissed as improvidently granted,* 143 S. Ct. 2654, 216 L.Ed.2d 1233 (2023), *and vacated and remanded,* 86 F.4th 574 (5th Cir. 2023) ("*Robinson* Injunction Ruling").

The Louisiana Senate Governmental Affairs and House Governmental Affairs conducted ten hearings as part of the roadshow across the state. Tr., Vol. II, 476:18–25; Tr., Vol. III, 513:18–514:7. These hearings allowed citizens to testify on their redistricting preferences. *Id.* Senator Royce Duplessis, who served as Vice Chair of

the House and Governmental Affairs Committee at the time, attended the roadshows and testified that "the purpose of the road shows was to give the public the opportunity to share their thoughts and what they wanted to see in redistricting." Tr., Vol. III, 514:8–17.

Louisiana ultimately enacted a new congressional map, created by House Bill 1 ("HB1"), on March 31, 2022. JE1. As with Louisiana's prior congressional map, HB1 had one majority-Black district. Louisiana Governor John Bel Edwards vetoed HB1, but the Legislature overrode that veto. *Robinson* Injunction Ruling *at* 767.



2022 Enacted Map (JE16).

C. The *Robinson* Litigation

On the same day that HB1 was enacted, a group of plaintiffs led by Press Robinson[1] (the "*Robinson* Plaintiffs"), and a second group of plaintiffs led by Edward Galmon, Sr.[2] (the "*Galmon* Plaintiffs"), filed suit against the Louisiana Secretary of State in the United States District Court for the Middle District of Louisiana. *Robinson* Injunction Ruling at 768. The Middle District consolidated the *Robinson* and *Galmon* suits and allowed intervention by the President of the Louisiana State Senate, the Speaker of the Louisiana House of Representatives, and the Louisiana Attorney General. *Id.* at 768-69.

The *Robinson* and *Galmon* Plaintiffs alleged that the congressional map created by HB1 diluted the votes of Black Louisianians in violation of Section 2 of the Voting Rights Act of 1965, 52 U.S.C. § 10301. *Robinson* Injunction Ruling at 768. This dilution was purportedly accomplished through " 'packing' large numbers of Black voters into a single majority-Black congressional district…and 'cracking' the remaining Black voters among the other five districts…to ensure they [would be] unable to participate equally in the electoral process." *Id.* at 768. Both sets of plaintiffs sought a preliminary injunction that would prohibit the Secretary of State from using the HB1 map in the 2022 congressional elections, give the Legislature a deadline to enact a map that complied with the Voting Rights Act, and order the use

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[1] Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, National Association for the Advancement of Colored People ("NAACP") Louisiana State Conference, and Power Coalition for Equity and Justice.

[2] Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard.

of a map proposed by the plaintiffs in the event the Legislature failed to enact a compliant map. *Id.* at 769.

The Middle District held an evidentiary hearing in the *Robinson* matter, beginning May 9, 2022. *Robinson* Injunction Ruling at 769. On June 6, 2022, the court issued a preliminary injunction finding that the *Robinson* and *Galmon* Plaintiffs were likely to prevail on their Section 2 vote dilution claims. *Id.* at 851-52. The Middle District further determined that a new compliant voting map could be drawn without disrupting the 2022 election. *Id.* at 856.

Accordingly, the Middle District entered an order enjoining the Secretary of State from conducting elections using the HB1 map, ordered the Legislature to enact a new voting map that included a second majority-Black voting district by June 20, 2022, and stayed the state's nominating petition deadline until July 8, 2022. *Robinson* Injunction Ruling at 858. In the event the Legislature failed to enact a new map before the deadline, the Middle District set an evidentiary hearing for June 29, 2022, regarding which map should be used in its place. *Robinson* Docket, [Doc. 206].

On June 9, 2022, the Middle District denied a motion to stay the injunction pending appeal. *Robinson v. Ardoin*, No. CV 22-211-SDD-SDJ, 2022 WL 2092551 (M.D. La. June 9, 2022). While the United States Court of Appeals for the Fifth Circuit initially stayed the injunction review on the same day, *Robinson v. Ardoin*, No. 22-30333, 2022 WL 2092862 (5th Cir. June 9, 2022), it vacated the stay a few days later. *Robinson v. Ardoin*, 37 F.4th 208, 232 (5th Cir. 2022). On June 28, 2022, the Supreme Court of the United States again stayed the Middle District's injunction. *Ardoin v. Robinson*, 142 S. Ct. 2892, 213 L.Ed.2d 1107 (2022). On June 26, 2023,

after the Supreme Court issued its decision in *Alabama v Milligan*, 599 U.S. 1, 143 S. Ct. 1487, 216 L.Ed.2d 60 (2023), the court vacated the stay in *Robinson* as improvidently granted, allowing review of the matter to continue before the Fifth Circuit. *Ardoin v. Robinson*, 143 S. Ct. 2654, 216 L.Ed.2d 1233 (2023).

In response to the Supreme Court's action in vacating the stay, the Middle District reset the remedial evidentiary hearing to begin October 3, 2023. *Robinson* Docket, [Doc. 250]. The Louisiana Attorney General sought mandamus from the Fifth Circuit, which vacated the evidentiary hearing. *In re Landry*, 83 F.4th 300, 308 (5th Cir. 2023).

On November 10, 2023, the Fifth Circuit issued its decision on the Secretary of State's appeal of the Middle District's preliminary injunction. *Robinson v. Ardoin*, 86 F.4th 574 (5th Cir. 2023) ("*Robinson* Appeal Ruling"). Although noting that the *Robinson* Plaintiffs' arguments were "not without weaknesses," the Circuit Court found no clear error with the Middle District's factual findings, nor with its conclusion that the HB1 map likely violated Section 2, and held that the preliminary injunction was valid when it was issued. *Robinson* Appeal Ruling at 599. However, because the 2022 election had already occurred and because the Legislature had time to enact a new map without disrupting the 2024 election, the Fifth Circuit concluded that the district court's preliminary injunction was no longer necessary. *Id.* Accordingly, the Fifth Circuit vacated the injunction to give the Legislature the opportunity, if it desired, to enact a new redistricting plan before January 15, 2024. *Id.* at 601. The Fifth Circuit opinion did not provide any parameters or specific direction as to how the Legislature was to accomplish this task. *Id.* If no new re-districting plan was

enacted before January 15, 2024, the Fifth Circuit directed the district court, "to conduct a trial and any other necessary proceedings to decide the validity of the HB1 map, and, if necessary, to adopt a different districting plan for the 2024 elections." *Id*.

The Middle District thereafter set a remedial evidentiary hearing for February 5, 2024. Prior to that date, and as detailed below, the Legislature enacted SB8, creating a new congressional districting map. Upon notice of SB8's enactment, the Middle District cancelled the remedial hearing. *Robinson* Docket, [Doc. 343].

D. Legislative Response

Among the first actions of newly inaugurated Governor Jeff Landry was to call the 2024 First Extraordinary Session on Monday, January 8, 2024 (the "Special Session"). JE8. This call directed the Legislature to, among other things, "legislate relative to the redistricting of the Congressional districts of Louisiana." *Id.* On the first day of the Special Session, Governor Landry addressed the joint chambers. After detailing his extensive efforts in *Robinson* to defend the congressional map enacted in 2022, he stated: "we have exhausted all legal remedies and we have labored with this issue for far too long." JE35 at 11. "[N]ow, once and for all," he continued, "I think it's time that we put this to bed. Let us make the necessary adjustments to heed the instructions of the court. Take the pen out of the hand of a non-elected judge and place it in your hands. In the hands of the people. It's really that simple. I would beg you, help me make this a reality in this special session, for this special purpose, on this special day." *Id.*

The product of the Special Session was SB8, which was passed on January 22, 2024. JE10. The Court has reviewed the entire legislative record, including the January 15 Joint Session, the January 15 House and Governmental Affairs Committee hearing, the January 16 Senate and Governmental Affairs Committee hearing, the January 17 Senate floor debate, the January 17 House and Governmental Affairs Committee hearing, the January 18 House floor hearing, the January 18 House and Governmental Affairs Committee hearing, the January 19 House of Representatives floor debate, and the January 19 Senate floor debate. PE23-29. Numerous comments during the Special Session highlight the intent of the Legislature in passing SB8.

Senator Glen Womack, the Senate sponsor of SB8, stated at the legislative session that redistricting must occur because of the litigation occurring in the Middle District of Louisiana. PE41, at 18. Specifically because of that litigation, Senator Womack opined that "we had to draw two majority minority districts." PE41, at 20. Later in the Special Session, Senator Womack, in addressing the odd shape of SB8's District 6 (shown below), admitted that creating two majority-Black districts is "the reason why District 2 is drawn around the Orleans Parish and why District 6 includes the Black population of East Baton Rouge Parish and travels up I-49 corridor to include Black population in Shreveport." PE41, at 26. Senator Womack also professed: "we all know why we're here. We were ordered to draw a new black district, and that's what I've done." JE31, 121:21-22

Likewise, in the House of Representatives, Representative Beau Beaullieu was asked during his presentation of SB8 by Representative Beryl Amedee, "is this bill

intended to create another Black district?" and Representative Beaullieu responded, "yes, ma'am, and to comply with the judge's order." JE33, 9:3-8. . Representative Josh Carlson stated, even in his support of SB8, that "the overarching argument that I've heard from nearly everyone over the last four days has been race first" and that "race seems to be, at least based on the conversations, the driving force" behind the redistricting plan. *Id.* at 97:18-19, 21-24.

But, Representative Carlson acknowledged that racial integration made drawing a second majority-Black district difficult:

> And so the reason why this is so difficult is because we are moving in the right direction. We don't have concentrated populations of – of certain minorities or populations of white folks in certain areas. It is spread out throughout the state. Compared to Alabama, Alabama has 17 counties that are minority-majority, and they're all contiguous. Louisiana has seven parishes that are minority-majority and only three are contiguous. That's why this process is so difficult, but here we are without any other options to move forward.

Id. at 98:2-12.

Representative Rodney Lyons, Vice Chairman of the House and Governmental Affairs Committee, stated that the "mission that we have here is that we have to create two majority-Black districts." JE31, 75:24-76:1. Senator Jay Morris also remarked that "[i]t looks to me we primarily considered race." JE34, 7:2-3. Senator Gary Carter went on to express his support for SB8 and read a statement from Congressman Troy Carter on the Senate floor:

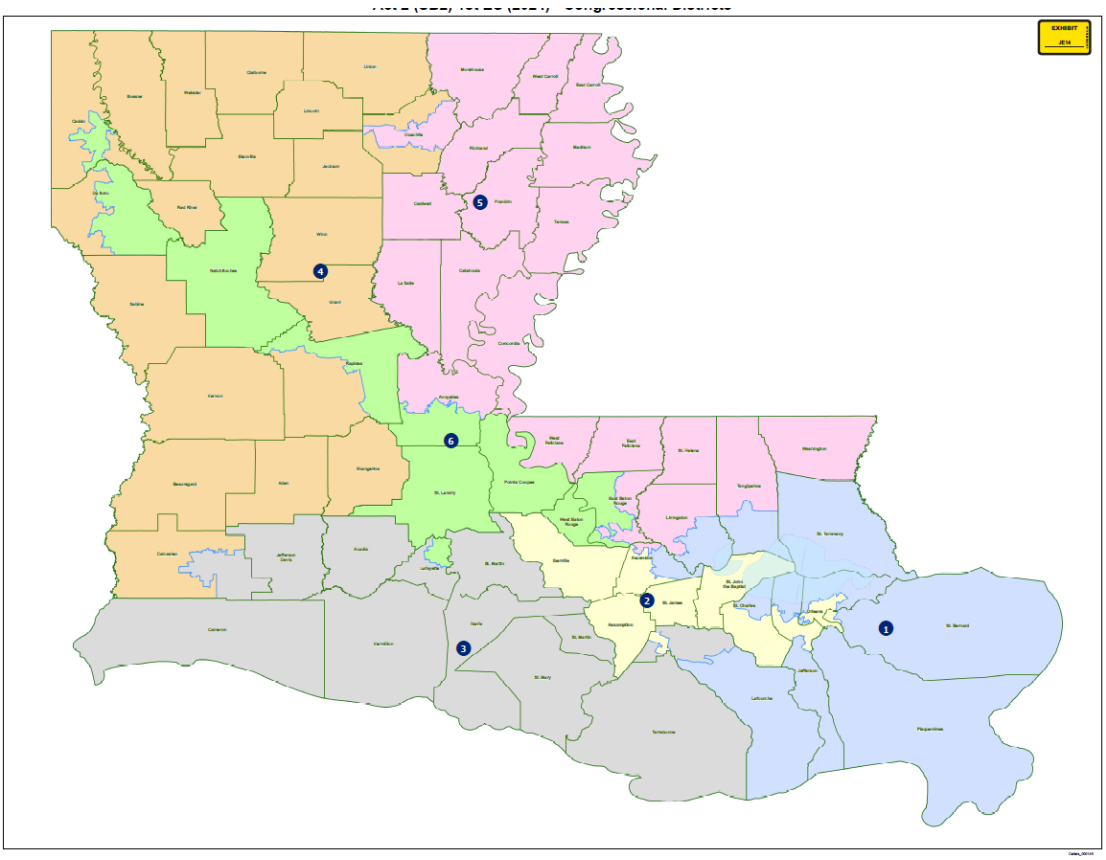
> My dear friends and colleagues, as I said on the steps of the capital, I will work with anyone who wants to create two majority-minority districts. I am not married to any one map. I have worked tirelessly to help create two majority-minority districts that perform. That's how I know that there may be better ways to create – to craft both of these districts. There are multiple maps that haven't been reviewed at all.

> However, the Womack map creates two majority-minority districts, and therefore I am supportive of it. And I urge my former colleagues and friends to vote for it while trying to make both districts stronger with appropriate amendment. We do not want to jeopardize this rare opportunity to give African American voters the equal representation they rightly deserve.

JE30, 16:10-25.

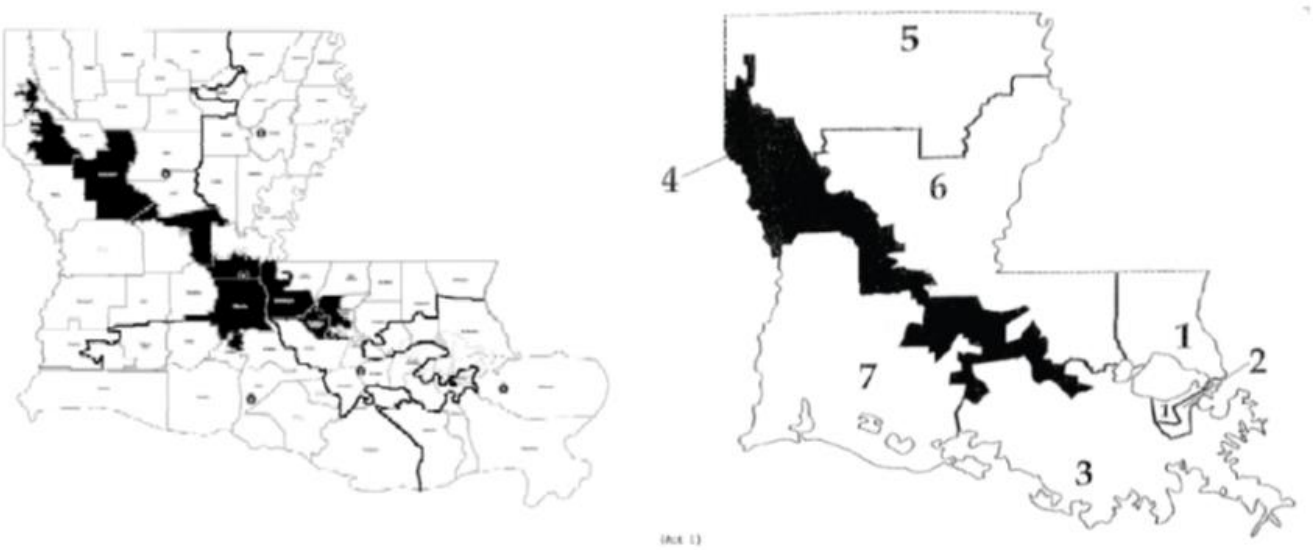
Louisiana Attorney General Murrill also gave the legislators advice during the Special Session. She told them that the 2022 enacted map, HB1, was a defensible and lawful map. JE28, 36:24-37:1. She stated, "I am defending that map, and so you won't hear me say that I believe that that map violated the redistricting criteria," *Id.* at 42:23, and "I am defending it now." *Id.* at 46:3-4. She further declared "I am defending what I believe to have been a defensible map." *Id.* at 53:2. She also informed legislators that the *Robinson* litigation had not led to a fair or reliable result. *Id.* at 61:20-62:12, 62:24-63:3, 63:6-17.

SB8 was the only congressional map to advance out of committee and through the legislative process. The map was passed on Friday, January 19, 2024, and signed by the Governor as Act 2 on January 22, 2024. JE10. SB8's second majority-minority district, District 6, stretches some 250 miles from Shreveport in the northwest corner of the state to Baton Rouge in southeast Louisiana, slicing through metropolitan areas to scoop up pockets of predominantly Black populations from Shreveport, Alexandria, Lafayette, and Baton Rouge. The figure below, which shows the map enacted by SB8, demonstrates the highly irregular shape of Congressional District 6.



PE14.

When converted to a black and white map and placed next to the *Hays II* map, the similarities of the two maps become obvious.



Black and White Version of PE14 (left) and PE22 (right).

E. The Parties and Their Claims

The Plaintiffs, Philip Callais, Lloyd Price, Bruce Odell, Elizabeth Ersoff, Albert Caissie, Daniel Weir, Joyce LaCour, Candy Carroll Peavy, Tanya Whitney, Mike Johnson, Grover Joseph Rees, and Rolfe McCollister, challenge SB8. [Doc. 156]. Plaintiff Philip Callais is a registered voter of District 6. *Id.* Plaintiff Albert Caissie, Jr. is a registered voter of District 5. *Id.* Plaintiff Elizabeth Ersoff is a registered voter of District 6. *Id.* Plaintiff Grover Joseph Rees is a registered voter of District 6. *Id.* Plaintiff Lloyd Price is a registered voter of District 6. *Id.* Plaintiff Rolfe McCollister is a registered voter of District 5. *Id.* Plaintiff Candy Carroll Peavy is a registered voter of District 4. *Id.* Plaintiff Mike Johnson is a registered voter of District 4. *Id.* Plaintiff Bruce Odell is a registered voter of District 3. *Id.* Plaintiff Joyce LaCour is a registered voter of District 2. *Id.* Plaintiff Tanya Whitney is a registered voter of in District 1. *Id.* Plaintiff Danny Weir, Jr., is a registered voter of District 1. *Id.* Each of the Plaintiffs is described as a "non-Black voter." [Doc. 1].

The State Defendants are Secretary of State Nancy Landry, in her official capacity, and the State of Louisiana, represented by Attorney General Elizabeth Murrill. [Doc. 156]. The State intervened as a defendant on February 26, 2024. [Doc. 79].

Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, National Association for the Advancement of Colored People Louisiana State Conference, and Power Coalition for Equity and Justice (collectively "*Robinson* Intervenors") are African American Louisiana voters and civil rights organizations.

[Doc. 156]. They were Plaintiffs in *Robinson, et al v. Landry*, No. 3:22-cv-0211-SDD-SDJ (M.D. La.) and intervened here as defendants to defend SB8. [Doc. 156]. They intervened permissively in the remedial phase of this litigation on February 26, 2024, and permissively in the liability phase on March 15, 2024. [Docs. 79, 114]. Davante Lewis lives in District 6. Tr., Vol. III, 567:23–568:1. The voting districts for the other individual *Robinson* Intervenors was not established in the record.

Plaintiffs assert that: (1) the State has violated the Equal Protection Clause of the Fourteenth Amendment by enacting a racially gerrymandered district; and (2) the State has violated the Fourteenth and Fifteenth Amendments by intentionally discriminating against voters and abridging their votes based on racial classifications across the State of Louisiana. [Doc. 1, ¶ 5]. The Plaintiffs request that the Court issue a declaratory judgment that SB8 is unconstitutional under the Fourteenth and Fifteenth Amendments, issue an injunction barring the State of Louisiana from using SB8's map of congressional districts for any election, and institute a congressional districting map that remedies these violations. *Id.*, p. 31.

F. The Three-Judge Panel and Trial

On February 2, 2024, Priscilla Richman, the Chief Judge of the Fifth Circuit Court of Appeals, issued an Order Constituting Three-Judge Court. [Doc. 5]. Chief Judge Richman designated Judge Carl E. Stewart, of the Fifth Circuit Court of Appeals, Judge Robert R. Summerhays, of the Western District of Louisiana, and Judge David C. Joseph, of the Western District of Louisiana, to serve on the three-judge district court convened under 28 U.S.C. § 2284. *Id.* On February 17, 2024, Plaintiffs filed a Motion for Preliminary Injunction. [Doc. 17]. On February 21, 2024,

the Court issued a Scheduling Order setting the hearing on the Preliminary Injunction—consolidated with trial on the merits—to commence on April 8, 2024, in Shreveport, Louisiana. [Doc. 63]. The hearing commenced on April 8, 2024, and ended on April 10, 2024. Collectively, the parties introduced thirteen (13) witnesses and one hundred ten (110) exhibits.

II.
EVIDENTIARY RECORD

A. Fact Witnesses

1. Legislators

a. Alan Seabaugh

Alan Thomas Seabaugh is a Louisiana State Senator for District 31, located in northwest Louisiana. Senator Seabaugh took office in January 2024. He had previously served as a Louisiana State Representative for thirteen years. Tr. Vol. I, 42:16-17. Senator Seabaugh testified that the only reason the Legislature was attempting to pass a redistricting plan during the Special Session was the litigation pending in the Middle District of Louisiana, and specifically "Judge Dick saying that she – if we didn't draw the second minority district, she was going to. I think that's the only reason we were there." *Id.* at 47:22-48:1. When asked if having a second majority-Black district was the one thing that could not be compromised in the plans being considered, Senator Seabaugh testified "that's why we were there." *Id.* at 50:2. Senator Seabaugh ultimately voted no to SB8 and indicated that he believed the 2022 map (HB1) was a good map. *Id.* at 52:19-22. On cross examination, Senator Seabaugh acknowledged that, in determining how to draw the new districts,

protecting the districts of Mike Johnson and Stephen Scalise – two of Louisiana's representatives in the United States House of Representatives, serving as Speaker and Majority Leader, respectively – were important considerations. *Id.* at 60:8-20.

b. Thomas Pressly

Thomas Pressly is a Louisiana State Senator for District 38, which is located in the northwest corner of Louisiana. Senator Pressly took office in January 2024. He had previously served as a Louisiana State Representative for four years. Tr., Vol. I, 66:1-6. Senator Pressly testified that during the Special Session, "the racial component in making sure that we had two performing African American districts was the fundamental tenet that we were looking at. Everything else was secondary to that discussion." *Id.* at 69:16-19. Senator Pressly acknowledged that political considerations were also factored into the ultimate redistricting plan, stating:

> [t]he conversation was that we would – that we were being told we had to draw a second majority-minority seat. And the question then was, okay, who – how do we do this in a way to ensure that we're not getting rid of the Speaker of the House, the Majority Leader, and Senator Womack spoke on the floor about wanting to protect Julia Letlow as well.

Id. at 72:1-7. Senator Pressly testified that he did not believe that his district in the northwest corner of Louisiana shares a community of interest with either Lafayette or Baton Rouge, both located in the southern half of Louisiana, based on either natural disaster concerns or educational needs. *Id.* at 73:1-23. Senator Pressly spoke against SB8 during the Special Session and testified that he believed the 2022 map should be retained. *Id.* at 77:6-8.

c. Mandie Landry

Mandie Landry is a Louisiana State Representative for House District 91, located in New Orleans. She took office in January 2020. Tr., Vol. II, 366:2-3. Representative Landry testified that the Special Session was convened because the Republicans were afraid that if they did not draw a map which satisfied the court, then the court would draw a map that would not be as politically advantageous for them. *Id.* at 368:8-10. Representative Landry indicated that she understood Governor Jeff Landry to favor the map created by SB8, in part because he believed the map would resolve the *Robinson* litigation in the Middle District, and in part because the new map would cause Congressman Garrett Graves – a Republican incumbent with whom Landry was believed to have a contentious relationship – to lose his seat. *Id.* at 369:10-15.

d. Royce Duplessis

Royce Duplessis is a Louisiana State Senator representing Senate District 5, which is located in the New Orleans area. He took office in December 2022 and previously served as a Louisiana State Representative for over four years. Tr. Vol. III, 512:21-24. Senator Duplessis testified that his understanding of the reason for the Special Session was "to put an end to the litigation and adopt a map that was compliant with the Judge's order." *Id.* at 519:22-23. Though he was not a member of the Senate's redistricting committee, Senator Duplessis co-sponsored a separate bill during the Special Session, namely SB4, which also created two majority-Black districts. *Id.* at 521:1-2. SB4 was ultimately voted down in committee in favor of SB8. *Id.* at 523:14-23. Senator Duplessis testified that he believed SB8 passed

because Governor Landry supported SB8 for political reasons. *Id.* at 525:1-7. Senator Duplessis voted in favor of SB8 because he believed it complied with the Voting Rights Act, it met the criteria ordered by the court, and was a fair map which would satisfy the people of Louisiana. *Id.* at 527:23 -528:9. Senator Duplessis testified that he was very proud of the passage of SB8 because:

> It was always very clear that a map with two majority black districts was the right thing. It wasn't the only thing, but it was a major component to why we were sent there to redraw a map.

Id. at 530:15-19.

2. Community Members

a. Cedric Bradford Glover

Cedric Bradford Glover is a resident of Shreveport, Louisiana, who previously served a total of five terms in the Louisiana House of Representatives, and two terms as mayor of Shreveport. Tr., Vol. II, 454:12-20. Mayor Glover testified that he believes SB8's District 6 reflects common communities of interest, specifically the I-49 corridor, the communities along the Red River, higher education campuses, healthcare systems, and areas of economic development. *Id.* at 457:17–458:21.

b. Pastor Steven Harris, Sr.

Steven Harris, Sr. resides in Natchitoches, Louisiana, where he serves as a full-time pastor and a member of the Natchitoches Parish School Board. Tr., Vol. II, 463:5-6. Pastor Harris' ministerial duties require him to travel to Alexandria, Shreveport, Lafayette, Baton Rouge, and places in between. *Id.* at 463:18-20. Pastor Harris, who lives and works in District 6, testified that there are communities of interest among the areas in which he regularly travels, specifically churches and

educational institutions. *Id.* at 466:24 – 467:16. Pastor Harris testified that he believes Baton Rouge has more in common with Alexandria and Shreveport than with New Orleans, due to the different culture, foods, and music. *Id.* at 467:20-468:14.

c. Ashley Kennedy Shelton

Ashley Kennedy Shelton resides in Baton Rouge and founded and runs the Power Coalition for Equity and Justice (the "Coalition"), one of the *Robinson* Intervenors. Tr., Vol. II, p. 474:8-11. The Coalition is a 501(c)(3) civic engagement organization which seeks to create "pathways to power for historically disenfranchised communities." *Id.* at 474:24-475:1. She testified that the Coalition has been involved with the redistricting process since the 2020 census by educating the community about the redistricting process, as well as encouraging community involvement in that process. *Id.* at 475:21. Ms. Shelton initially supported SB4, another map offered in the Special Session which also contained two majority-minority districts, but that map did not move out of committee. *Id.* at 482:1-2. Ms. Shelton, along with the Coalition, went on to support SB8 because it:

> centered communities that have never been centered in any of the current congressional districts that they are within. And so when you look at the district that's created in SB8, the communities across that district are living in poverty, have poor health outcomes, lack of access to economic opportunity, similar hospitals, similar size airports. Like there is this – there is this opportunity to really center these communities in a way that they have not had the attention in the current districts that they exist within.

Id. at 483:6-15.

d. Davante Lewis

Davante Lewis, one of the *Robinson* Intervenors, is a resident of Baton Rouge, Louisiana, and currently serves as a commissioner for the Louisiana Public Service Commission and chief strategy officer of Invest in Louisiana. Tr., Vol. III, 542:23-25. Commissioner Lewis testified that he has been involved in politics since he was a teenager and has taken part in the redistricting process on numerous occasions as a lobbyist. *Id.* at 548:3-15. During the Special Session, Commissioner Lewis initially supported SB4, another bill which also included two majority-minority districts but failed to pass out of committee. *Id.* at 553:15-22. Commissioner Lewis, who is now a resident in District 6, testified that he was happy with the passage of SB8 because "it accomplishes the goals that I wanted to see which was complying with the rule of law as well as creating a second [B]lack-majority district." *Id.* at 576:16-18. Commissioner Lewis believes that he shares common interests with voters living in other areas within District 6, namely economies, civic organizations, religious organizations, educational systems, and agriculture. *Id.* at 578:14-25. On cross-examination, Commissioner Lewis admitted that District 6 intersects four of the five public service commission districts in the state.

B. Expert Witnesses

a. Dr. Stephen Voss

The Court accepted Plaintiffs' witness Dr. Stephen Voss as an expert in the fields of: (i) racial gerrymandering; (ii) compactness; and (iii) simulations.[3] Tr., Vol.

[3] Plaintiffs retained Dr. Stephen Voss to answer three questions: (1) whether SB8 represents an impermissible racial gerrymander, where race was the predominant factor in

I, 92:13-25; 93:1-19; 111:6-7; 123:7-9. Dr. Voss was born in Louisiana, lived most of his life in Jefferson Parish, and earned his Ph.D. in political science at Harvard University, where his field of focus was quantitative analysis of political methodology. *Id.* at 85:12-13; 87:8-21.

Dr. Voss began his testimony by comparing the districts created by SB8 to past enacted congressional maps in Louisiana and other proposals that the Legislature considered during the Special Session. Tr., Vol. I, 97:19-98:2. Dr. Voss described District 6 as a district:

> that stretches, or I guess the term is "slashes," across the state of Louisiana to target four metropolitan areas, which is the majority of the larger cities in the state. It then scoops out from each of those predominant – the majority black and predominantly black precincts from each of those cities.

Id. at 93:25; 94:1-5. Dr. Voss explained that the borders of District 6, which include portions of the distant parishes of Lafayette and East Baton Rouge, track along Black communities, including precincts with larger Black population percentages while avoiding communities with large numbers of white voters. *Id.* at 94:18-95:10. Dr. Voss reiterated that the boundaries of District 6 were drawn specifically to contain heavily Black-populated portions of cities while leaving more white-populated areas in the neighboring districts. *Id.* at 96:7-16; PE3; PE4. Dr. Voss also testified that, compared to other maps proposed during the Special Session and other past congressional maps, SB8 split a total of 18 of Louisiana's 64 parishes, Tr., Vol. I,

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the drawing of district lines; (2) whether SB8 sacrificed traditional redistricting criteria in order to create two majority-minority districts; and (3) whether the Black population in Louisiana is sufficiently large and compact to support two majority-minority districts that conform to traditional redistricting criteria. Tr., Vol. I, 91:3-25 (Voss).

97:19-99:11, and, at 62.9 percent of Louisiana's population, had the highest percentage of individuals affected by parish splits. *Id.* 98:3-99:11; PE6.

Dr. Voss also studied the compactness of SB8 under three generally accepted metrics: (i) Reock Score; (ii) Polsby-Popper score; and (iii) Know It When You See It ("KIWYSI").[4] Tr., Vol. I, 100:22-103:5. Dr. Voss found that across all three measures of compactness, SB8 performed worse than either HB1 (the map that was enacted in 2022) or the map that HB1 replaced from the previous decade. *Id.* at 104:25-105:4; PE7. Thus, SB8 did not produce compact maps when judged in comparison to other real-life congressional maps of Louisiana. Tr., Vol. I, 107:16-21. Dr. Voss also found that SB8's majority-Black districts were especially non-compact compared to other plans that also included two majority-minority districts. *Id.* at 106:17-24. According to Dr. Voss, SB8's District 6 scored worse on the Polsby-Popper test than the second majority-Black districts in other proposed plans that created a second majority-Black district. *Id.* at 106:17-24.

Dr. Voss further testified that SB8's and District 6's uniquely poor compactness was not necessary if the goal was to accomplish purely political goals. "If you're not trying to draw a second black majority district, it is very easy to protect Representative Julia Letlow. Even if you are, it's not super difficult to protect

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[4] According to Dr. Voss, a district's "Reock score" quantifies its compactness by measuring how close the district is to being a circle. Tr., Vol. 1, 100:23-6. A district's "Polsby-Popper" score is intended to take into account a district's jagged edges and "tendrils." *Id.*, 101:25-102:19. Finally, the "Know It When You See It" method uses a metric derived by panels of judges and lawyers and a representative sample of people looking at the shape of a district and giving their quantification of compactness. *Id.*, 102:20-104:2. The KIWYSI method originated from individuals' subjective judgments, but the metric itself is standardized and uses specific software to compute a numerical figure representing compactness. *Id.*, 103:15-104:2.

Representative Julia Letlow," he testified. Tr., Vol. I, 108:17-21. Additionally, according to Dr. Voss, the Legislature did not need to enact a map with two majority-minority districts in order to protect Representative Letlow's congressional seat: "[Representative Letlow] is in what historically is called the Macon Ridge…[a]nd given where she is located, it is not hard to get her into a heavily Republican, heavily white district." *Id.* at 111:15-23. Dr. Voss testified similarly with respect to Representative Garrett Graves, concluding that the Legislature did not need to enact a second majority-minority district in order to put Representative Garrett Graves in a majority-Black district. *Id.* at 112:2-16. Thus, Dr. Voss concluded that neither the goal of protecting Representative Letlow's district, nor the goal of targeting Representative Graves, would have been difficult to accomplish while still retaining compact districts. *Id.* at 110:15-22.

Dr. Voss testified extensively about simulations, explaining that he used the Redist simulation package ("Redist") to analyze the statistical probability of the Legislature creating SB8 without race predominating its action.[5] *Id.* at 113:14-115:6. Using Redist, Dr. Voss compared "lab-grown" simulations of possible maps to SB8 in order to analyze the decisions the Legislature made during the redistricting process, *Id.* at 114:2-23, so that he could judge whether the parameters or constraints under which he created the simulations could explain the deviations evident in SB8. *Id.* at 118:15-23. Dr. Voss testified that he performed tens of thousands of both "race-

[5] According to Dr. Voss, Redist uses Sequential Monte Carlo ("SMC") simulation in order to generate a representative sample of districts that could have been drawn under certain parameters. *Id.*, 113:8-114:10.

conscious" and "race-neutral" simulations, and that none of these simulations randomly produced a map with two Democratic districts. *Id.* at 138:9-14. On that basis, Dr. Voss opined that the non-compact features of SB8 are predominantly explained by racial considerations. *Id.* at 139:17-23.

Concluding that District 6 performs worse on the Polsby-Popper score than the second majority-Black district in the other plans; worse on the Reock score than the other plans that created a second majority-Black district, with a very low score; and worse on the KIWYSI method than the other plans and the majority-Black districts they proposed, *Id.* at 106:18-24, Dr. Voss ultimately opined that SB8 represents an impermissible racial gerrymander. *Id.* at 92:23-24.

b. Dr. Cory McCartan

Dr. Cory McCartan was proffered by the *Robinson* Intervenors in rebuttal to Dr. Voss and was qualified by the Court as an expert in the fields of redistricting and the use of simulations. Tr., Vol. I, 187:5-14. Though Dr. McCartan criticized Dr. Voss for a number of his methodologies, the Court notes that Dr. McCartan conducted no tests or simulations of his own, *Id.* at 215:18-21, and his testimony was often undercut by his own previous analysis.

First, Dr. McCartan criticized Dr. Voss's simulations on grounds that Dr. Voss did not incorporate the relevant redistricting criteria used by actual mapmakers. *Id.* at 198:10-24. Dr. McCartan also questioned the efficacy of simulations in detecting racial gerrymandering. *Id.* at 196:13-25; 197:1-12. Yet Dr. McCartan had previously led the Algorithm Assisted Redistricting Methodology ("ALARM") Project team, which traversed the country simulating multiple districts in multiple states,

including Louisiana, and authored a paper which declared that simulations are well-suited to assess what types of racial outcomes could have happened under alternative plans in a given state. *Id.* at 227:9-21. Dr. McCartan also testified that he himself used the ALARM project to detect partisan, or political gerrymandering – ultimately finding that Louisiana had only one plausible district favoring the Democratic party. *Id.* at 216:23-25. And on cross-examination, Dr. Voss confirmed that Professor Kosuke Imai, who helped develop the Redist software, applied these same simulation techniques in the racial gerrymandering context. *Id.* at 150:18-151:1. On this point, therefore, the Court finds Dr. McCartan's testimony unpersuasive.

Dr. McCartan also criticized Dr. Voss for not imposing a constraint in his simulations for natural or geographic boundaries. *Id.* at 200:1-6. Yet Dr. McCartan acknowledged that in his work with ALARM to generate Louisiana congressional map simulations, his team did not impose any kind of requirement for natural or geographic boundaries. *Id.* at 230:24-231:1. Dr. McCartan also criticized Dr. Voss for not adding incumbent protection as a constraint in the simulations, but when pressed, could not testify that this extra constraint would trigger the creation of a second majority-minority district. *Id.* at 238:11-16 (McCartan).

Similarly, Dr. McCartan could not give a convincing reason why it was appropriate for his own team to use a compactness constraint of 1.0, while testifying that this same criterion made Dr. Voss's simulations unrepresentative. *Id.* at 231:5-16. Dr. Voss, on the other hand, explained why adjustments to the compactness criterion made the simulation results less reliable. *Id.* at 162:22-24, 163:21-165:19. Finally, Dr. McCartan confirmed that both his simulations on Louisiana

congressional maps and Dr. Voss's simulations generated plans that were more compact than the enacted version of SB8, which was far worse than the Polsby-Popper compactness scores of both Dr. McCartan's and Dr. Voss's simulations. *Id.* at 233:20-24 (McCartan). Dr. McCartan also acknowledged that his own partisan gerrymandering simulations yielded no more than 10 out of 5,000 maps with a second Democratic seat. *Id.* at 235:4-236:12.

In evaluating the testimony of Dr. Voss and Dr. McCartan, the Court finds Dr. Voss's testimony to be credible circumstantial evidence that race was the predominant factor in crafting SB8. Though Dr. McCartan provided some insight into the uses of simulations in detecting the presence of racial gerrymandering, his testimony indicated that his own team had performed simulations under conditions not unlike Dr. Voss's, and with conclusions that supported Dr. Voss. Dr. McCartan's other criticisms of Dr. Voss were either not well-founded or rebutted.

c. Michael Hefner

Plaintiffs proffered Michael Hefner as an expert demographer, and he was qualified by the Court as such. Tr., Vol. II, 270:23-15; 271:1-5. Mr. Hefner is from Louisiana and has lived his whole life in various parts of the state. *Id.* at 258:3-6; [Doc. 182-8]. Having worked in the field of demography for 34 years, most of Mr. Hefner's work consists of creating redistricting plans for governmental entities, including municipalities and school boards, throughout the State of Louisiana after decennial censuses; conducting precinct management work for Louisiana parish governments; working on school desegregation cases in Louisiana; and conducting site-location analyses in Louisiana. Tr., Vol. II, 257:9-22; Doc. 182-8. Mr. Hefner

testified that he came to the following conclusions during his analysis for this case: (1) given the geographic distribution and concentration of the Black population in Louisiana, it is impossible to create a second majority-minority district and still adhere to traditional redistricting criteria, Tr., Vol. II, 271:11-22, 282:21-283:6; and (2) race predominated in the drafting of SB8. *Id.* at 271:23; 272:1-14.

Mr. Hefner explained that the Black population in Louisiana is highly dispersed across the State and is concentrated in specific urban areas, including New Orleans, Baton Rouge, Alexandria, Lafayette, and Shreveport.[6] Tr., Vol. II, 281:7-15; 283:19-285:1; 339:20-340:4 (Hefner); *see also* Mr. Hefner's Heat Map, [Docs. 182-9, 182-10]. Using a heat map he created based on data representing the Black voting age population ("BVAP") across the State from the 2020 census, Mr. Hefner testified that outside the New Orleans and East Baton Rouge areas, the Black population is highly dispersed across the state. Tr., Vol. II, 281:4-15. Mr. Hefner opined that, given this dispersion, it is impossible to draw a second majority-minority congressional district without violating traditional redistricting criteria. *Id.* at 282:22-283:6.

Focusing on SB8, Mr. Hefner testified that SB8 is drawn to trace the areas of the state with a high BVAP to create a second majority-minority district, Tr., Vol. II, 283:15-285:1, echoing the testimony of Dr. Voss. Specifically, Mr. Hefner stated that District 6's borders include the concentrated Black populations in East Baton Rouge, Alexandria, Opelousas, Natchitoches, Mansfield, Stonewall, and up to Shreveport, *Id.*

[6] According to Mr. Hefner, the highest concentration of African American voters is in New Orleans; the second highest concentration is in East Baton Rouge; and the third highest concentration is in Shreveport. Tr., Vol. II, 281:4-15.

at 283:15-285:1, but carved concentrated precincts out of the remainder of the parishes to avoid picking up too much population of non-Black voters. *Id.* at 283:15-285:1. Taking Lafayette Parish as an example, Mr. Hefner testified that District 6 includes the northeast part of the parish, where voting precincts contain a majority of Black voters, while excluding the remainder of the parish, in which the precincts are not inhabited by predominantly Black voters. *Id.* at 283:22-284:4. Likewise, in Rapides Parish, District 6 splits Rapides Parish to include only the precincts in which there is a high concentration of Black voters, for the purpose of including the overall BVAP in the district. *Id.* at 284:4-8.

Mr. Hefner also testified that SB8's compactness score is extremely small. In fact, it is so low on the Polsby-Popper and Reock metrics that it is almost not compact at all.[7] *Id.* at 302:21-303:2; PE21. Explaining that District 6 is extremely long and extremely strung out, Tr., Vol. II, 303:18-20, Mr. Hefner testified that SB8 scored lower than HB1 on both the Polsby-Popper and Reock tests. *Id.* at 302:16-303:25; PE21. Mr. Hefner testified that District 6 is not reasonably compact, Tr., Vol. II, 304:11-14; its shape is awkward and bizarre, *Id.* at 304:23-305:6; it is extremely narrow at points, *Id.* at 305:18-306:2; its contiguity is tenuous, *Id.* at 293:23-24; and it splits many parishes and municipalities, including four of the largest parishes in the State (Caddo, Rapides, Lafayette, and East Baton Rouge), each of which are communities of interest. *Id.* at 295:7-8. Finally, Mr. Hefner testified that the Plaintiffs' redistricting plan, introduced as Illustrative Plan 1, was a reasonable plan

[7] The Polsby-Popper scale goes from 0 (no compactness) to 1 (total compactness). Mr. Hefner testified that District 6 had a Polsby-Popper score of 0.05. *Id.,* 303:13-20.

that can be drawn in a race-neutral manner; adheres to the use of traditional redistricting principles; preserves more communities of interest; provides more compact election districts; preserves the core election districts; and balances the population within each district. *Id.* at 272:17-25; 273:1-2.

a. Anthony Fairfax

Mr. Anthony Fairfax testified on behalf of the *Robinson* Intervenors to rebut the testimony of Mr. Hefner, and was qualified by the Court as an expert in redistricting and demography. Tr., Vol. II, 379:6-15. Contradicting Mr. Hefner, Mr. Fairfax testified that traditional redistricting principles could be used to create maps with a second majority-Black district. *Id.* at 381-383:24. But on rebuttal, Mr. Fairfax admitted that the map he used did not account for where people lived within parishes, and his map therefore failed to take account of where Black voters are located in each parish. *Id.* at 407:4-125; 408:1-12. Therefore, on the issue of parish splitting, Mr. Fairfax's testimony was unpersuasive. Rather, as Mr. Hefner testified, Fairfax's analysis fails to show the Court whether District 6 specifically targeted those pockets of high populations of Black voters. *Id.* at 292:13-293:3. Tellingly, in discussing preservation of communities of interests, parishes, and municipalities, Mr. Fairfax agreed with Mr. Hefner that SB8 split more parishes and municipalities than HB1, *Id.* at 385:14-18; 389:5-9, and that SB8 split more parishes and municipalities than the previously enacted plan. *Id.* at 385:11-15; 389:2-9.

III.
APPLICABLE LAW

To obtain permanent injunctive relief, the plaintiffs must establish by a preponderance of the evidence: "(1) actual success on the merits; (2) that it is likely to suffer irreparable harm in the absence of injunctive relief; (3) that the balance of equities tip in that party's favor; and (4) that an injunction is in the public interest."[8] *Crown Castle Fiber, L.L.C. v. City of Pasadena, Texas*, 76 F.4th 425, 441 (5th Cir. 2023), *cert. denied*, 144 S. Ct. 820 (2024); *see also Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20, 32, 129 S. Ct. 365, 172 L.Ed.2d 249 (2008).

The Equal Protection Clause of the Fourteenth Amendment provides that: "[N]o state shall … deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. AMEND. XIV, § 1. The intent of the provision is "to prevent the States from purposefully discriminating between individuals on the basis of race." *Shaw v. Reno*, 509 U.S. 630, 642, 113 S. Ct. 2816, 2824, 125 L.Ed.2d 511 (1993) (*"Shaw I"*). As applied to redistricting, the Equal Protection Clause bars "a State, without sufficient justification, from 'separat[ing] its citizens into different voting districts on the basis of race." *Bethune–Hill v. Virginia State Bd. of Elections*, 580 U.S. 178, 187, 137 S. Ct. 788, 797, 197 L.Ed.2d 85 (2017) (citing *Miller v. Johnson*, 515 U.S. 900, 911, 115 S. Ct. 2475, 132 L.Ed.2d 762 (1995)). Thus, the Equal Protection Clause prohibits the creation and implementation of districting plans that include racial gerrymanders, with few exceptions. "A racial gerrymander [is] the

[8] The Court consolidated the preliminary injunction hearing with the full trial on the merits. *See* [Doc. 63].

deliberate and arbitrary distortion of district boundaries … for [racial] purposes." *Shaw I*, 509 U.S. at 640 (citing *Davis v. Bandemer*, 478 U.S. 109, 164, 106 S. Ct. 2797, 2826, 92 L.Ed.2d 85 (1986) (Powell, J. concurring in part and dissenting in part), *abrogated on other grounds by Rucho v. Common Cause*, 588 U.S. 684, 139 S. Ct. 2484, 204 L.Ed.2d 931 (2019)). Courts analyze racial gerrymandering challenges under a two-part burden-shifting framework.

First, a plaintiff bears the burden to prove that "race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district." *Miller,* 515 U.S. at 916. This requires a plaintiff to show that "the legislature 'subordinated' other factors – compactness, respect for political subdivisions, partisan advantage, what have you – to 'racial considerations.'" *Cooper v. Harris*, 581 U.S. 285, 291, 137 S. Ct. 1455, 1464, 197 L.Ed.2d 837 (2017) (citing *Miller*, 515 U.S. at 916). The plaintiff may make the requisite showing "either through circumstantial evidence of a district's shape and demographics or more direct evidence going to legislative purpose, that race was the predominant factor motivating the legislature's decision…." *Alabama Legislative Black Caucus v. Alabama*, 575 U.S. 254, 267, 135 S. Ct. 1257, 1267, 191 L.Ed.2d 314 (2015) (citing *Miller*, 515 U.S. at 916).

If Plaintiff meets the burden of showing race played the predominant factor in the design of a district, the district must then survive strict scrutiny. *Cooper*, 581 U.S. at 292. At this point, the burden of proof "shifts to the State to prove that its race-based sorting of voters serves a 'compelling interest' and is 'narrowly tailored' to that end." *Cooper*, 581 U.S. at 285 (citing *Bethune-Hill,* 580 U.S. at 193). "Racial

gerrymandering, even for remedial purposes" is still subject to strict scrutiny. *Shaw I*, 509 U.S. at 657. Where the state seeks to draw a congressional district by race for remedial purposes under Section 2, the state must have a "strong basis in evidence" for "finding that the threshold conditions for section 2 liability are present" under *Gingles*. And, to survive strict scrutiny, "the district drawn in order to satisfy § 2 must not subordinate traditional districting principles to race substantially more than is 'reasonably necessary' to avoid § 2 liability." *Bush v. Vera*, 517 U.S. 952, 979, 116 S. Ct. 1941, 1961, 135 L.Ed.2d 248 (1996).

IV.
FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Racial Predominance

The Court first addresses whether Plaintiffs have met their burden of showing that race predominated in drawing District 6. Racial *awareness* in redistricting does not necessarily mean that race *predominated* in the Legislature's decision to create a second majority-minority district. *Shaw I*, 509 U.S. at 646. When redistricting, a legislature may be aware of race when it draws district lines, just as it is aware of other demographic information such as age, economic status, religion, and political affiliation. *Shaw I*, 509 U.S. at 646. Race consciousness, on its own, does not make a district an unconstitutional racial gerrymander or an act of impermissible race discrimination. *Id.* But while districts may be drawn for remedial purposes, Section 2 of the Voting Rights "never require[s] adoption of districts that violate traditional redistricting principles." *Allen v. Milligan*, 599 U.S. 1, 29 – 30, 143 S. Ct. 1487, 1492, 216 L.Ed.2d 60 (2023) (internal citations omitted). Indeed, to survive strict scrutiny,

"the district drawn in order to satisfy § 2 must not subordinate traditional districting principles to race substantially more than is 'reasonably necessary' to avoid § 2 liability." *Vera*, 517 U.S. at 979. As discussed above, racial predominance may be shown through either circumstantial evidence, direct evidence, or both. *Ala. Legis. Black Caucus*, 135 S. Ct. at 1267.

Here, the *Robinson* Intervenors and the State argue that political considerations predominated in drawing the boundaries of District 6. They argue that the State had to create a second majority-minority district based on the district court's ruling in the *Robinson* litigation and that District 6 was drawn with the primary purpose of protecting key Republican incumbents, such as Speaker Mike Johnson, Majority Leader Steve Scalise, and Representative Julia Letlow. It is clear from the record and undisputed that political considerations – the protection of incumbents – played a role in how District 6 was drawn. Plaintiffs, however, contend that considerations of race played a qualitatively greater role in how the State drew the contours of District 6 than these political considerations.

1. Circumstantial Evidence

In the redistricting realm, appearances matter. A district's shape can provide circumstantial evidence of a racial gerrymander. *Shaw I*, 509 U.S. at 647. In the past, the Supreme Court has relied on irregular district shapes and demographic data to find racial gerrymandering.[9] *See Shaw v. Hunt*, 517 U.S. 899, 910-16 (1996) ("*Shaw II*"); *Miller*, 515 U.S. 900; *Vera*, 517 U.S. 952.

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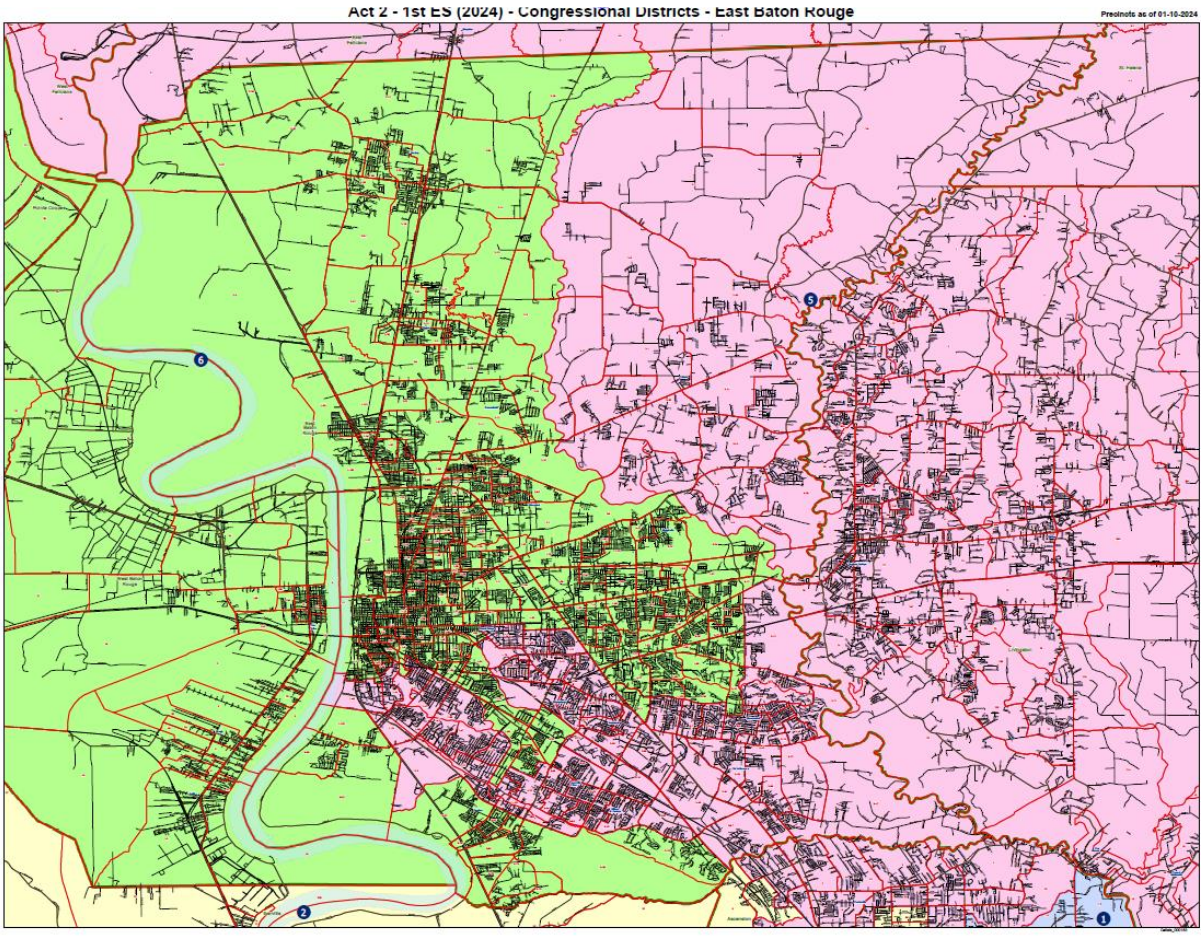
[9] Significantly, "[s]hape is relevant not because bizarreness is a necessary element of the constitutional wrong or a threshold requirement of proof, but because it may be

Here, as described by Dr. Voss, District 6 " 'slashes' across the state of Louisiana" and includes portions of four disparate metropolitan areas. But – critical to our analysis – District 6 only encompasses the parts of those cities that are inhabited by majority-Black voting populations, while excluding neighboring non-minority voting populations. Tr., Vol. I, 93:25; 94:1-5; 94:18-95:10; 96:7-16; PE3; PE4. His description encapsulates what the following maps show on their face:



Baton Rouge Close Up of 2024 Enacted Map (JE17).

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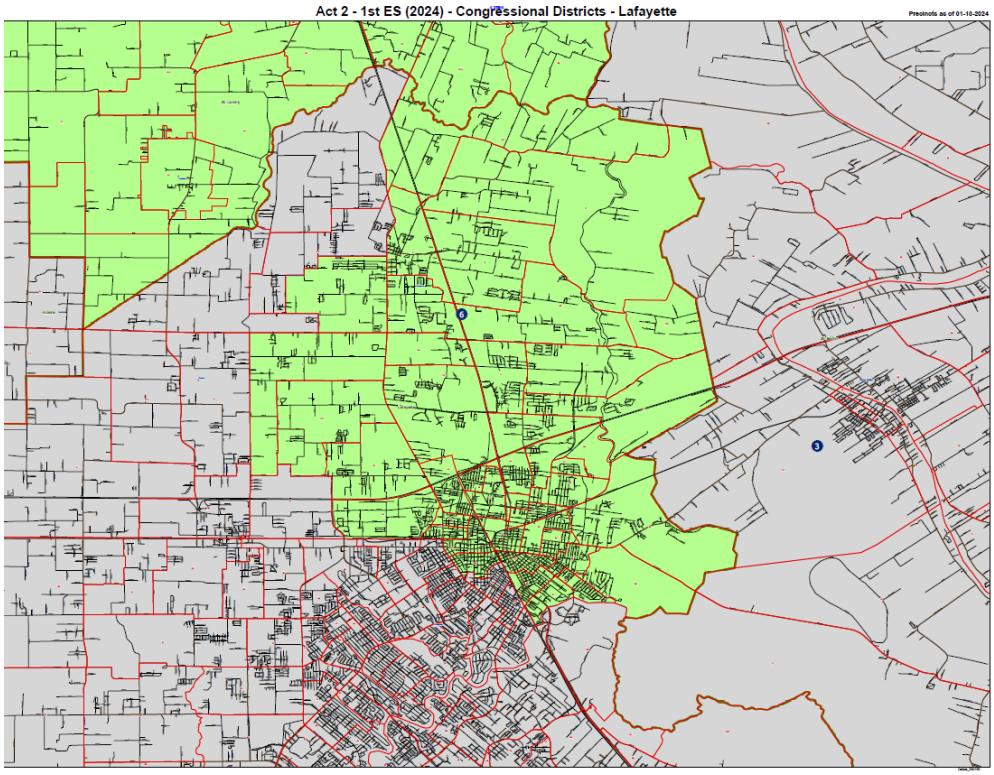
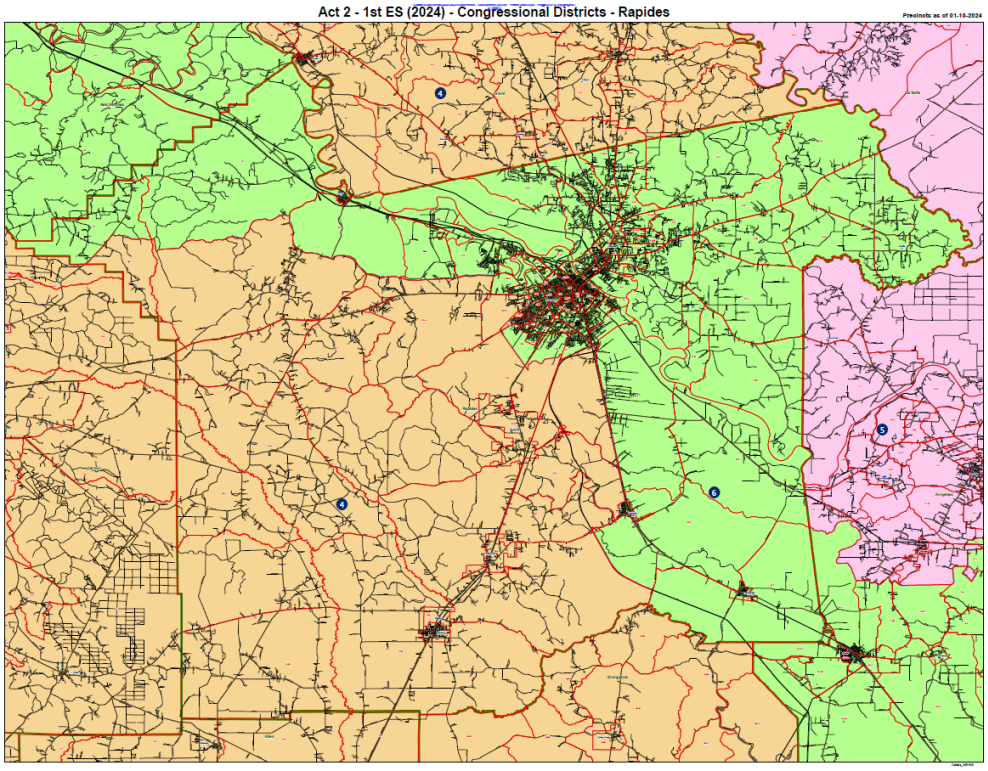
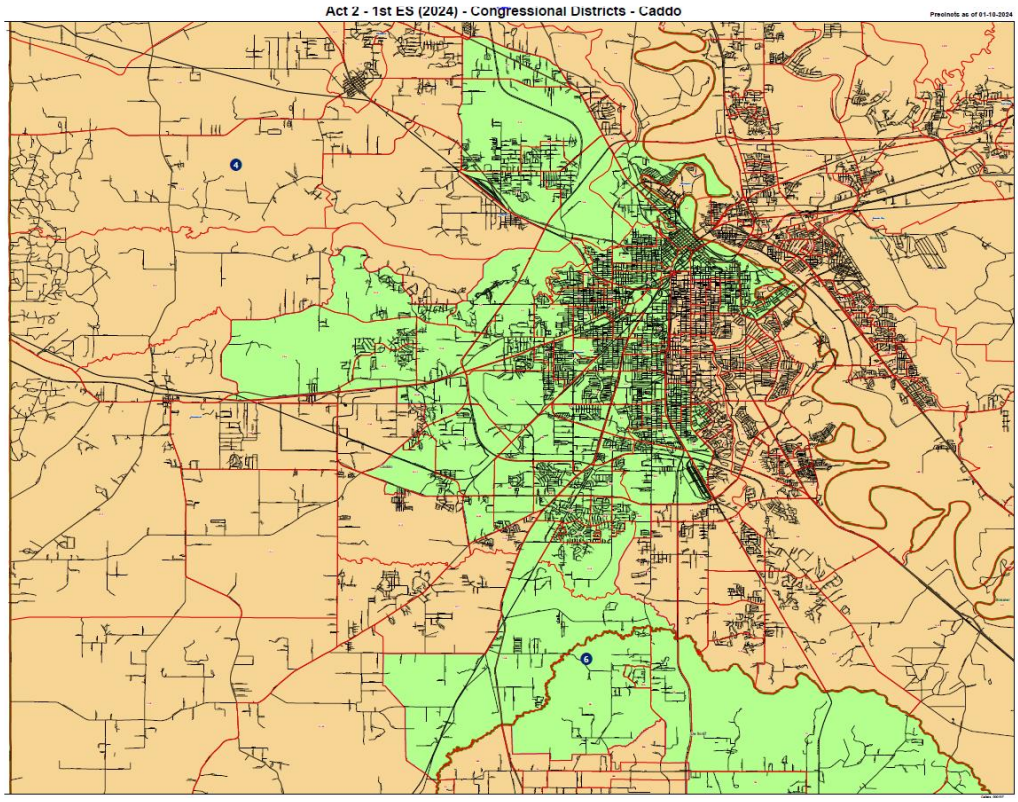
persuasive circumstantial evidence that race for its own sake, and not other districting principles, was the legislature's dominant and controlling rationale in drawing its district lines." *Miller*, 515 U.S. at 912-913; *See Shaw v. Hunt,* 861 F. Supp. 408, 431 (E.D.N.C. 1994); *Hays I*; but see *DeWitt v. Wilson,* 856 F. Supp. 1409, 1413 (E.D. Cal.1994). Thus, a district's bizarre shape is not the only type of circumstantial evidence on which parties may rely. *Id.*



Lafayette Close Up of 2024 Enacted Map (JE17).



Alexandria Close Up of 2024 Enacted Map (JE17).



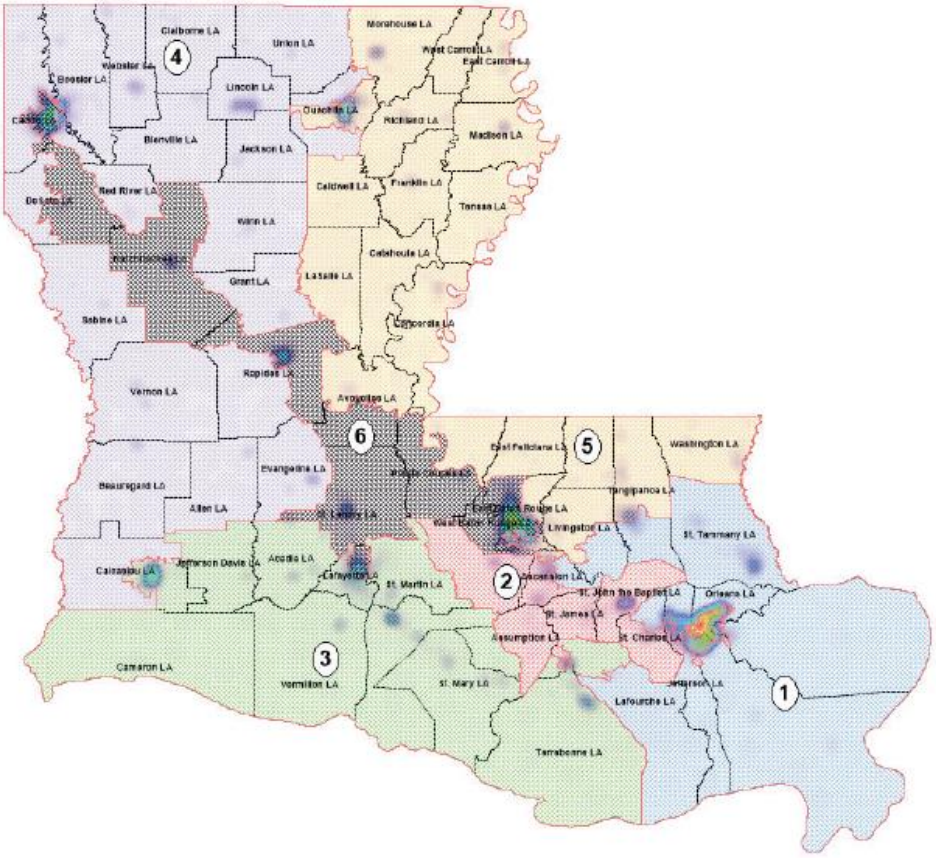
Shreveport Close Up of 2024 Enacted Map (JE17).

Like *Shaw II* and *Vera*, this case presents evidence of "mixed motives" in creating District 6 – motives based on race and political considerations. Unlike a single motive case, any circumstantial evidence tending to show neglect of traditional districting principles, such as compactness and respect for parish lines, caused District 6's bizarre shape could seemingly arise from a "political motivation as well as a racial one." *Cooper v. Harris*, 581 U.S. at 308 (citing *Hunt v. Cromartie*, 526 U.S. 541, 547 n.3, 119 S. Ct. 1545, 1549, 143 L.Ed.2d 731 (1999)). In mixed motive cases such as this one, the Supreme Court has noted that "political and racial reasons are capable of yielding similar oddities in a district's boundaries." *Id.* Accordingly, this Court faces "a formidable task: It must make 'a sensitive inquiry' into all 'circumstantial and direct evidence of intent' to assess whether the plaintiffs have

managed to disentangle race from politics and prove that the former drove a district's lines." *Id.*

Turning to the record, Mr. Hefner's "heat map" is particularly helpful as circumstantial evidence of the motives driving the decisions as to where to draw the boundaries of District 6. The "heat map" shows that outside of the New Orleans and East Baton Rouge areas, the state's Black population is highly dispersed across the state. Tr., Vol. II 281:4-15. Mr. Hefner opined that District 6 was designed as such to collect these highly dispersed BVAP areas in order to create a second majority-minority district. *Id.*, 283:15-285:1.

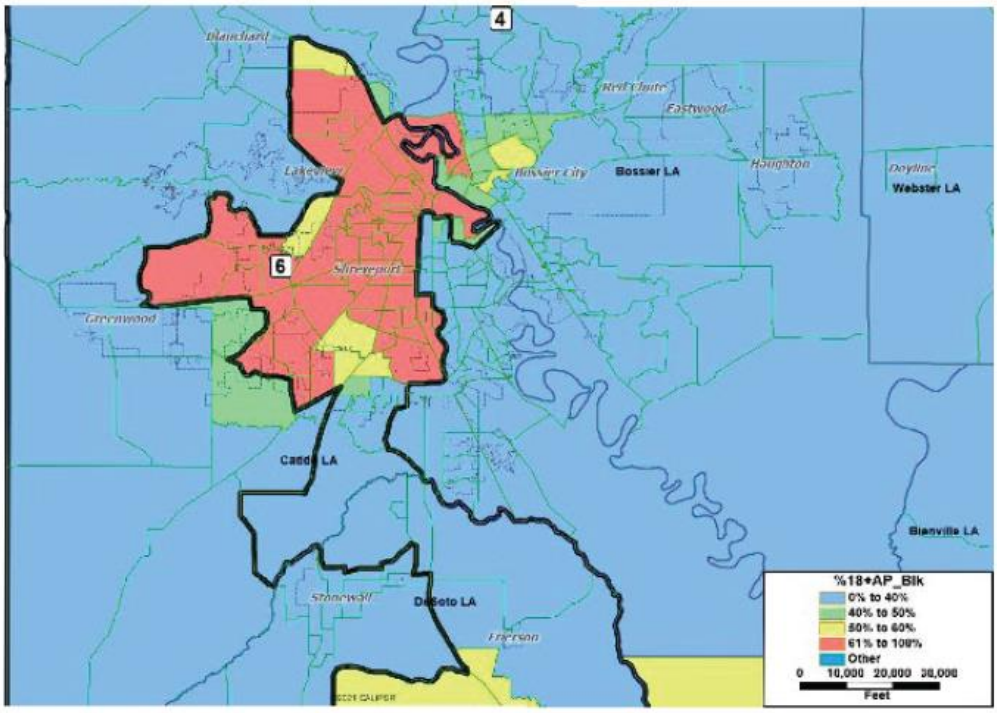
Map 15 – SB 8 Plan with African American Populations



PE 16.

When Mr. Hefner's heat map is superimposed on SB8, the "story of racial gerrymandering" becomes evident. *See Miller*, 515 U.S. at 917 ("… when [the district's] shape is considered in conjunction with its racial and population densities, the story of racial gerrymandering … becomes much clearer"). That exhibit shows that District 6 sweeps across the state to include the heavily concentrated Black population neighborhoods in East Baton Rouge, Alexandria, Opelousas, Natchitoches, and Mansfield. Most telling, District 6 juts up at its northern end to carve out the Black neighborhoods of Shreveport and separates those neighborhoods from the majority white neighborhoods of Shreveport and Bossier City ("Shreveport-Bossier"). Tr., Vol. II, 283:15-285:1.

Map 21 – Shreveport Area in Caddo Parish



PE 18.

District 6 also dips down from its northwest trajectory and splits the majority of Black neighborhoods of Lafayette from the rest of the city and parish. Specifically, District 6 includes Lafayette's northeast neighborhoods, which contain a predominantly Black population, while leaving the rest of the city and parish in neighboring District 3. *Id.* at 283:22-284:4. In sum, the "heat maps" and demographic data in evidence tell the true story – that race was the predominate factor driving decisions made by the State in drawing the contours of District 6. This evidence shows that the unusual shape of the district reflects an effort to incorporate as much of the dispersed Black population as was necessary to create a majority-Black district.

2. Direct Evidence

The Court next looks to the direct evidence of the Legislature's motive in creating District 6 – in other words, what was actually said by the individuals who had a hand in promulgating, drafting, and voting on SB8. The direct evidence buttresses the Court's conclusion that race was the predominant factor the legislators relied upon in drawing District 6.

The record includes audio and video recordings, as well as transcripts, of statements made by key political figures such as the Governor of Louisiana, the Louisiana Attorney General, and Louisiana legislators, all of whom expressed that the primary purpose guiding SB8 was to create a second majority-Black district due to the *Robinson* litigation. As discussed *supra*, the Middle District, after the preliminary injunction hearing in *Robinson*, found a likelihood of success on the merits of the *Robinson* Plaintiffs' claim that a second majority-minority district was required by Section 2 of the Voting Rights. Although the preliminary injunction was

vacated by the Fifth Circuit to allow the Legislature to enact a new map, legislators chose to draw a map with a second majority-Black district in order to avoid a trial on the merits in the *Robinson* litigation. *See, e.g.,* Tr. Vol. III, 588:11-17 ("Judge Dick has put us in a position and the Fifth Circuit, the panel that reviewed that decision, and the whole court, when I asked them to go *en banc*, by declining to go on *en banc*, have put us in a position pus [sic] of where we are today where we need to draw a map."); JE28, 46:5-101 (same); *see also* Tr. Vol. III, 589:1-3 ("The courts, never the less, have told us to draw a new map. And they have indicated that we have a deadline to do that or Judge Dick will draw the map for us."); JE28 at 36:14-17 (same); JE36 at 33 (Senator Price: "Regardless of what you heard, we are on a court order and we need to move forward. We would not be here if we were not under a court order to get this done."); JE36 at 1 (Senator Fields: "[B]oth the district and the appeals court have said we need to do something before the next congressional elections."); JE31, 26:12–24 (Chairman Beaullieu: "Senator Womack, why are we here today? What – what brought us all to this special session as it – as it relates to, you know, what we're discussing here today?"; Senator Womack: "The middle courts of the district courts brought us here from the Middle District, and said, 'Draw a map, or I'll draw a map.'"; Chairman Beaullieu: "Okay."; Senator Womack: "So that's what we've done."; Chairman Beaullieu: "And – and were you – does – does this map achieve that middle court's orders?"; Senator Womack: "It does."); PE41, 75:24-76:2 (Representative Lyons, Chairman of the House and Governmental Affairs Committee, stating "[T]he mission we have here is that we have to create two majority-Black districts."); PE41, 121:19–22 (Senator Womack stating that "… we all know why we're here. We were

ordered to – to draw a new Black district, and that's what I've done."); PE41, 9:3-8 (Representative Amedee: "Is this bill intended to create another black district?" Representative Beaullieu: "Yes, ma'am, and to comply with the judge's order."); JE31, 97:17-19, 21-24 (Representative Carlson: "the overarching argument that I've heard from nearly everyone over the last four days has been race first … race seems to be, at least based on the conversations, the driving force…."). SB 8's sponsor, Senator Womack, also explicitly admitted that creating two majority-Black districts was "the reason why District 2 is drawn around the Orleans Parish and why District 6 includes the Black population of East Baton Rouge Parish and travels up the I-49 corridor to include Black population in Shreveport." PE41 at 26.

The Court also acknowledges that the record includes evidence that race-neutral considerations factored into the Legislature's decisions, such as the protection of incumbent representatives. *See* JE29 at 2-3 (Senator Womack discussing that SB8 protects Congresswoman Julia Letlow, U.S. Speaker of the House Mike Johnson, and U.S. House Majority Leader Steve Scalise); Tr. Vol. I, 71:11-18, 79:1-4 (Senator Pressley testifying that "[w]e certainly wanted to protect Speaker Johnson … We wanted to make sure that we protected Steve Scalise. Julia Letlow is on Appropriations. That was also very important that we try to keep her seat as well."); *Id.* at 60:8-61:15 (Senator Seabaugh testifying that the fact that the Speaker and Majority Leader are from Louisiana is "kind of a big deal" and that protecting Speaker

Johnson, Majority Leader Scalise, and Representative Letlow was "an important consideration when drawing a congressional map.").[10]

However, considering the circumstantial and the direct evidence of motive in the creation of District 6, the Court finds that "racially motivated gerrymandering had a qualitatively greater influence on the drawing of the district lines than politically motivated gerrymandering." *Vera*, 517 U.S. at 953. As in *Shaw II* and *Vera*, the State first made the decision to create a majority-Black district and, only then, did political considerations factor into the State's creation of District 6. The predominate role of race in the State's decisions is reflected in the statements of legislative decision-makers, the division of cities and parishes along racial lines, the unusual shape of the district, and the evidence that the contours of the district were drawn to absorb sufficient numbers of Black-majority neighborhoods to achieve the goal of a functioning majority-Black district. If the State's primary goal was to protect congressional incumbents, the evidence in the record does not show that District 6 in its current form was the only way to achieve that objective. As explained by the Supreme Court:

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[10] At bottom, it is not credible that Louisiana's majority-Republican Legislature would choose to draw a map that eliminated a Republican-performing district for predominantly political purposes. The Defendants highlight the purported animosity between Governor Jeff Landry and Representative Garrett Graves to support their contention that political considerations served as the predominant motivating factor behind SB8. However, given the slim majority Republicans hold in the United States House of Representatives, even if such personal or intra-party animosity did or does exist, it is difficult to fathom that Louisiana Republicans would intentionally concede a seat to a Democratic candidate on those bases. Rather, the Court finds that District 6 was drawn primarily to create a second majority-Black district that they predicted would be ordered in the Robinson litigation after a trial on the merits. Thus, it is clear that race was the driving force and predominant factor behind the creation of District 6.

> One, often highly persuasive way to disprove a States contention that politics drove a district's lines is to show that the legislature had the capacity to accomplish all its partisan goals without moving so many members of a minority group into the district. If you were really sorting by political behavior instead of skin color (so the argument goes) you would have done – or, at least, could just as well have done – this. Such would-have, could-have, and (to round out the set) should-have arguments are a familiar means of undermining a claim that an action was based on a permissible, rather than a prohibited, ground.

Cooper, 581 U.S. at 317. In the present case, the record reflects that the State could have achieved its political goals in ways other than by carving up and sorting by race the citizens of Baton Rouge, Lafayette, Alexandria, and Shreveport. Put another way, the Legislature's decision to increase the BVAP of District 6 to over 50 percent was not required to protect incumbents and supports the Plaintiffs' contention that race was the predominate factor in drawing the district's boundaries. In sum, Plaintiffs have met their initial burden, and the burden now shifts to the State to prove that District 6 survives strict scrutiny.

B. Strict Scrutiny

When a Plaintiff succeeds in proving racial predominance, the burden shifts to the State to "demonstrate that its districting legislation [was] narrowly tailored to achieve a compelling interest." *Bethune-Hill*, 580 U.S. at 193 (citing *Miller*, 515 U.S. at 920).

1. Compelling State Interest

The State argues that compliance with Section 2 of the Voting Rights Act is a compelling state interest. The Supreme Court has repeatedly assumed without deciding that compliance with the Voting Rights Act is a compelling interest. *See Shaw II*, 517 U.S. at 915; *Cooper*, 581 U.S. at 292; *Bethune-Hill*, 580 U.S. at 193. To

show that the districting legislation satisfies the "narrow tailoring" requirement "the state must establish that it had 'good reasons' to think that it would transgress the act if it did not draw race-based district lines." This "strong basis (or 'good reasons') standard" provides "breathing room" to the State "to adopt *reasonable* compliance measures that may prove, in perfect hindsight not to have been needed." *Cooper*, 581 U.S. at 293 (quoting *Bethune–Hill*, 581 U.S. at 293) (emphasis added). Moreover, the Supreme Court has often remarked that "redistricting is primarily the duty and responsibility of the State," not of the courts. *Abbott v. Perez*, 585 U.S. 579, 603, 138 S. Ct. 2305, 2324, 201 L.Ed.2d 714 (2018) (citing *Miller*, 515 U.S. at 915).

Turning to the present case, the State argues that it had a "strong basis" in evidence to believe that the district court for the Middle District was likely, after a trial on the merits in *Robinson*, to rule that Louisiana's congressional map violated Section 2 of the Voting Rights Act and order the creation of a second majority-Black district. *See Robinson* Appeal Ruling at 583 (vacating the district court's preliminary injunction and granting the Legislature the opportunity to draw a new map instead of advancing to a trial on the merits of HB1); *See also Robinson* Docket, [Doc. 315] ("If the Defendant/Intervenors fail to produce a new enacted map on or before [January 30, 2024], this matter will proceed to a trial on the merits on [February 5, 2024], which shall continue daily until complete"); *see, e.g.,* JE36 at 4 (Senator Price: "We all know that we've been ordered by the court that we draw congressional districts with two minority districts. This map will comply with the order of both the Fifth Circuit Court of Appeals and the district court. They have said that the Legislature must pass a map that has two majority black districts."); JE33, 5:1-7

(Representative Beaullieu: "As Senator Stine said earlier in this week, 'It's with a heavy heart that I present to you this other map,' but we have to. It's that clear. A federal judge has ordered us to draw an additional minority seat in the State of Louisiana."); JE34, 11:3–7 (Senator Carter: "[W]e came together in an effort to comply with a federal judge's order that Louisiana provide equal representation to the African Americans in the State of Louisiana, and we have an opportunity to do that."); JE36 at 18 (Representative Marcelle: "Let's not let Judge Dick have to do what our job is, which is to create a second minority-majority district."); JE30, 20:22–21:4 (Senator Duplessis: "It's about a federal law called the Voting Rights Act that has not been interpreted just by one judge in the Middle District of Louisiana who was appointed by former president Barack Obama, but also a U.S. Fifth Circuit Court of Appeals that's made up of judges that were appointed by predominantly Republican presidents, and a United States Supreme Court that has already made rulings."); Tr. Vol. I, 47:22-48:1 (Senator Seabaugh: "Well, the – really, the only reason we were there was because of the other litigation; and Judge Dick saying that she – if we didn't draw the second minority district, she was going to. I think that's the only reason we were there."); Tr. Vol. I, 69:24-70:4 (Senator Pressly: "We were told that we had to have two performing African American districts. And that we were – that that was the main tenet that we needed to look at and ensure that we were able to draw the court – draw the maps; otherwise, the Court was going to draw the maps for us").

The Court assumes, without deciding, that compliance with Section 2 was a compelling interest for the State to attempt to create a second majority-Black district in the present case. However, even assuming that the Voting Rights Act is a

compelling state interest in this case, that compelling interest does not support the creation of a district that does not comply with the factors set forth in *Gingles* or traditional districting principles. *See e.g., Shaw II*, 517 U.S. at 915 ("We assume, arguendo, for the purpose of resolving this suit, that compliance with Section 2 could be a compelling interest" but hold that the remedy is not narrowly tailored to the asserted end); *Vera*, 517 U.S. at 977 (plurality opinion) ("[W]e assume without deciding that compliance with [the Voting Rights Act], as interpreted by our precedents, can be a compelling state interest" but hold that the districts at issue are not "narrowly tailored" to achieve that interest (citation omitted)); *Ala. Legis. Black Caucus*, 575 U.S. at 279 ("[W]e do not here decide whether … continued compliance with § 5 [of the Voting Rights Act] remains a compelling interest" because "we conclude that the District Court and the legislature asked the wrong question with respect to narrow tailoring.").

Indeed, the Supreme Court has made clear that, in the context of a constitutional challenge to a districting scheme, "unless each of the three *Gingles* prerequisites is established, " 'there neither has been a wrong nor can be a remedy'" and the districting scheme does not pass muster under strict scrutiny. *Cooper v. Harris*, 581 U.S. at 306 (quoting *Growe v. Emison*, 507 U.S. 25, 41, 113 S. Ct. 1075, 1084, 122 L.Ed.2d 388 (1993)). With respect to traditional districting requirements, the Supreme Court has consistently warned that, "§ 2 never require[s] adoption of districts that violate traditional redistricting principles. Its exacting requirements, instead, limit judicial intervention to 'those instances of intensive racial politics' where the 'excessive role [of race] in the electoral process ... den[ies] minority voters

equal opportunity to participate.'" *Allen v. Milligan*, 599 U.S. at 29–30 (internal citations omitted).[11] Accordingly, whether District 6, as drawn, is "narrowly tailored" requires the Court to address the *Gingles* factors as well as traditional districting criteria.

a. Consideration of the *Gingles* Factors

The Supreme Court in *Gingles* set out how courts must evaluate claims alleging a Section 2 violation of the Voting Rights Act. *Gingles* involved a challenge to North Carolina's districting scheme, which purportedly diluted the vote of its Black citizens. *Gingles*, 478 U.S. at 34–36.

Gingles emphasized precisely what Section 2 guards against. "The essence of a § 2 claim," the Court explained, "is that a certain electoral law, practice, or structure interacts with social and historical conditions to cause an inequality in the opportunities enjoyed by black and white voters." *Id.* at 47. This inequality occurs where an "electoral structure operates to minimize or cancel out" minority voters' "ability to elect their preferred candidates." *Id.* at 48. This risk is greatest "where minority and majority voters consistently prefer different candidates" and where minority voters are submerged in a majority voting population that "regularly defeat[s]" their choices. *Ibid.*

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[11] The concern that Section 2 may impermissibly elevate race in the allocation of political power within the states is, of course, not new. *See, e.g., Shaw I*, 509 U.S. at 657 ("Racial gerrymandering, even for remedial purposes, may balkanize us into competing racial factions; it threatens to carry us further from the goal of a political system in which race no longer matters."); *Allen v. Milligan*, 599 U.S. at 41–42. To ensure that *Gingles* does not improperly morph into a proportionality mandate, courts must rigorously apply the "geographically compact" and "reasonably configured" requirements. *Id.* at 44 (Kavanaugh concurrence, n. 2).

But Section 2 of the Voting Rights Act explicitly states that, "nothing in this section establishes a right to have members of a protected class elected in numbers equal to their proportion in the population." 52 U.S.C. § 10301. And the Supreme Court has repeatedly admonished that *Gingles* does not mandate a proportional number of majority-minority districts. Indeed, "[i]f *Gingles* demanded a proportional number of majority-minority districts, States would be forced to group together geographically dispersed minority voters into unusually shaped districts, without concern for traditional districting criteria such as county, city, and town lines. But *Gingles* and this Court's later decisions have flatly rejected that approach." *Allen v. Milligan*, 599 U.S. at 43–44 (Kavanaugh concurring) (citing *Abbott*, 585 U.S. at 615; *Vera*, 517 U.S. at 979; *Gingles*, 478 U.S. at 50; *Miller*, 515 U.S. at 917–920; and *Shaw I*, 509 U.S. at 644–649).

Instead, *Gingles* requires the creation of a majority-minority district only when, among other things: (i) a State's redistricting map cracks or packs a large and "geographically compact" minority population and (ii) a plaintiff's proposed alternative map and proposed majority-minority district are "reasonably configured" – namely, by respecting compactness principles and other traditional districting criteria such as county, city, and town lines. *Allen v. Milligan*, 599 U.S. at 43 (Kavanaugh concurring) (citing *Cooper*, 581 U.S. at 301–302; *Voinovich v. Quilter*, 507 U.S. 146, 153–154, 113 S. Ct. 1149, 122 L.Ed.2d 500 (1993)).

In order to succeed in proving a Section 2 violation under *Gingles*, Plaintiffs must satisfy three specific "preconditions." *Gingles*, 478 U.S. at 50. First, the "minority group must be sufficiently large and [geographically] compact to constitute

a majority in a reasonably configured district." *Wisconsin Legislature v. Wisconsin Elections Comm'n*, 595 U.S. 398, 402, 142 S. Ct. 1245, 1248, 212 L.Ed.2d 251 (2022) (per curiam) (citing *Gingles*, 478 U.S. at 46–51). Case law explains that a district will be reasonably configured if it comports with traditional districting criteria, such as being contiguous and reasonably compact. *See Ala. Legis. Black Caucus*, 575 U.S. at 272. "Second, the minority group must be able to show that it is politically cohesive." *Gingles*, 478 U.S. at 51. Third, "the minority must be able to demonstrate that the white majority votes sufficiently as a bloc to enable it ... to defeat the minority's preferred candidate." *Ibid.* Finally, a plaintiff who demonstrates the three preconditions must also show, under the "totality of circumstances," that the political process is not "equally open" to minority voters. *Id.* at 38-38 and 45-46 (identifying several factors relevant to the totality of circumstances inquiry, including "the extent of any history of official discrimination in the state ... that touched the right of the members of the minority group to register, to vote, or otherwise to participate in the democratic process.").

Each of the three *Gingles* preconditions serves a different purpose. The first, which focused on geographical compactness and numerosity, is "needed to establish that the minority has the potential to elect a representative of its own choice in some [reasonably configured] single-member district." *Growe*, 507 U.S. at 40. The second, which concerns the political cohesiveness of the minority group, shows that a representative of its choice would in fact be elected. *Ibid.* The third precondition, which focuses on racially polarized voting, "establish[es] that the challenged districting thwarts a distinctive minority vote" at least plausibly on account of race.

Ibid. Finally, the totality of circumstances inquiry recognizes that application of the *Gingles* factors is "peculiarly dependent upon the facts of each case." 478 U.S. at 79. Before a court can find a violation of Section 2, therefore, they must conduct "an intensely local appraisal" of the electoral mechanism at issue, as well as "searching practical evaluation of the 'past and present reality.'" *Ibid.*

In the present case, the State simply has not met its burden of showing that District 6 satisfies the first *Gingles* factor – that the "minority group [is] sufficiently large and [geographically] compact to constitute a majority in a reasonably configured district." The record reflects that, outside of southeast Louisiana, the State's Black population is dispersed. That required the State to draw District 6 as a "bizarre" 250-mile-long slash-shaped district that functions as a majority-minority district only because it severs and absorbs majority-minority neighborhoods from cities and parishes all the way from Baton Rouge to Shreveport. As discussed below, this fails to comport with traditional districting principles.

b. Traditional Districting Principles

The first *Gingles* factor requires that a minority population be "[geographically] compact to constitute a majority in a reasonably configured district." *Allen v. Milligan*, 599 U.S. at 18 (quoting *Wisconsin*, 595 U.S. at 402). This requires consideration of traditional districting principles.

Traditional districting principles consist of six criteria that arose from case law. The first three are geographic in nature and are as follows: (1) compactness, (2) contiguity, and (3) preservation of parishes and respect for political subdivisions. *Shaw I*, 509 U.S. at 647. The Supreme Court has emphasized that "these criteria are

important not because they are constitutionally required – they are not, *cf. Gaffney v. Cummings*, 412 U.S. 735, 752, n. 18, 93 S. Ct. 2321, 2331, n. 18, 37 L.Ed.2d 298 (1973) – but because they are objective factors that may serve to defeat a claim that a district has been gerrymandered on racial lines." *Id.* The other three include preservation of communities of interest, preservation of cores of prior districts, and protection of incumbents. *See Miller*, 515 U.S. at 916; *Karcher v. Daggett*, 462 U.S. 725, 740 (1983).

Joint Rule 21 – enacted by the Legislature in 2021 – contains criteria that must be satisfied by any redistricting plan created by the Legislature, separate and apart from compliance with the Voting Rights Act and Equal Protection Clause. JE2. Joint Rule 21 states, relevantly, that "each district within a redistricting plan … shall contain whole election precincts as those are represented as Voting Districts (VTDs)" and "[i]f a VTD must be divided, it shall be divided into as few districts as possible." *Id.* at (G)(1)-(2). Joint Rule 21 further requires the Legislature to "respect the established boundaries of parishes, municipalities, and other political subdivisions and natural geography of this state to the extent practicable." *Id.* at (H). However, this requirement does not take precedence over the preservation of communities of interest and "shall not be used to undermine the maintenance of communities of interest within the same district to the extent practicable." *Id.*

The Supreme Court case of *Miller v. Johnson* demonstrates how traditional districting criteria applies to a racial gerrymandering claim. 515 U.S. at 910–911. There, the Supreme Court upheld a district court's finding that one of Georgia's ten congressional districts was the product of an impermissible racial gerrymander. *Id.*

At the time, Georgia's BVAP was 27 percent, but there was only one majority-minority district. *Id.* at 906. To comply with the Voting Rights Act, Georgia's government thought it necessary to create two more majority-minority districts – thereby achieving proportionality. *Id.* at 920–921. But like North Carolina in *Shaw I*, Georgia could not create the districts without flouting traditional criteria. Instead, the unconstitutional district "centered around four discrete, widely spaced urban centers that ha[d] absolutely nothing to do with each other, and stretch[ed] the district hundreds of miles across rural counties and narrow swamp corridors." *Miller*, 515 U.S. at 908. The Court called the district a geographic "monstrosity." *Allen v. Milligan*, 599 U.S. at 27–28 (citing *Miller*, 515 U.S. at 909).

c. Communities of Interest

Perhaps more than any other state of its size, the State of Louisiana is fortunate to have a rich cultural heritage, including diverse ethnicities, customs, economic drivers, types of agriculture, and religious affiliations. While the Court is not bound by the decisions in the *Hays* litigation – made some thirty years ago and involving a different though similar map, and different Census numbers – much of the "local appraisal" analysis from *Hays I* remains relevant to an analysis of SB8. There, the *Hays* court concluded that the distinct and diverse economic interests encapsulated in the challenged district, namely

> cotton and soybean plantations, centers of petrochemical production, urban manufacturing complexes, timberlands, sawmills and paper mills, river barge depots, and rice and sugarcane fields are strung together to form the eclectic and incoherent industrial base of District 4. These diverse segments of the State economy have little in common. Indeed, their interests more often conflict than harmonize.

Hays I, 839 F. Supp. at 1201. Though this was written 30 years ago, the same is true today. And like the predecessor districts drawn in *Hays*, it is readily apparent to anyone familiar with Louisiana history and culture that Congressional District 6 also

> violates the traditional north-south ethno-religious division of the State. Along its circuitous route, this new district combines English–Scotch–Irish, mainline Protestants, traditional rural Black Protestants, South Louisiana Black Catholics, Continental French–Spanish–German Roman Catholics, sui generis Creoles, and thoroughly mixed polyglots, each from an historically discrete and distinctive region of Louisiana, as never heretofore so extensively agglomerated.

Id.

Indeed as succinctly stated by the *Hays* court, the differences between North Louisiana, Baton Rouge, and Acadiana in term of culture, economic drivers, types of agriculture, and religious affiliations are pronounced.[12] This is so well known that

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[12] Among other strong cultural and ethnic groups divided by SB8, the French Acadian ("Cajun") and Creole communities in Southwest Louisiana have a strong identity and a shared history of adversity. The Acadians, for their part, were expelled from Nova Scotia by the British and Anglo-Americans during the French and Indian War, and some settled into the southwestern parishes of Louisiana ("Acadiana"). See Carl A. Brasseaux, *The Founding of New Acadia: The Beginning of Acadian Life in Louisiana, 1765-1803* (Chapter 5) (Louisiana State University Press 1987). This historical event is well-known in Louisiana and referred to as *Le Grand Dérangement*. *See* William Faulker Rushton, *The Cajuns From Acadia to Louisiana* (Farrar Straus Giroux 1979). The Acadian refugees made their homes in the foreign swamps and bayous of southern Louisiana and from there, built a rich and persisting culture – marked by their distinct dialect of French, and their cuisine, music, folklore, and Catholic faith. *See* Brasseaux, *The Founding of New Acadia*.

In 1921, Louisiana's Constitution eliminated any reference to the French language and instead required only English to be taught, used, and spoken in Louisiana schools, which detrimentally affected the continuation of Cajun French. Roger K. Ward, The French Language in Louisiana Law and Legal Education: A Requiem, 57 La. L. Rev. 1299 (1997). https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=5694&context=lalrev.

Remarkably, after years of cultural suppression, the late 1960s/early 1970s witnessed collective activism to revive Cajun French and culture in the area. *Id.* at 1299; *see also* https://www.nationalgeographic.com/culture/article/reviving-the-cajun-dialect. Thankfully, Louisiana's 1974 Constitution safeguarded efforts by Cajun cultural groups to "ensure [their] preservation and proliferation." *Id.* at 1300. To this day, Acadiana celebrates its

any Louisiana politician seeking statewide office must first develop a strategy to bridge the regional cultural and religious differences in Louisiana.[13]

There is no doubt that District 6 divides some established communities of interest from one another while collecting parts of disparate communities of interest into one voting district. Among other things, District 6 in SB8 splits six of the ten parishes that it touches. As the Court succinctly states in *Hays*, "there is no more fundamental unit of societal organization in the history of Louisiana than the parish." *Hays I*, 839 F. Supp. at 1200.

District 6 also divides the four largest cities and metropolitan areas in its path along clearly racial lines. Among these are three of the four largest cities in Louisiana — *i.e.,* Baton Rouge, Lafayette, and Shreveport. And the maps in the record are clear that the division of these communities is based predominantly on the location of majority-Black voting precincts. Indeed, SB8, just like the congressional districts in *Hays I*, "violates the boundaries of nearly all major municipalities in the State." *Hays*

Francophone ties with festivals such as Festival International de Louisiane, which features Francophone musicians and artisans from around the world, and Festival Acadiens and Créoles, the largest Cajun and Creole festival in the world. Further, to preserve the language, organizations such as CODOFIL support the preservation of the French language in Louisiana, and on a smaller scale, many community members form "French tables" where only French is allowed to be spoken. The unique community of Acadiana, among many others in Louisiana, with a deep connection and awareness of its past, certainly constitutes a community of interest. Race predominating, SB8 fails to take into account Louisiana's diverse cultural, religious, and social landscape in any meaningful way.

[13] Attempting to bridge the north-south religious divide, one of Louisiana's most famous politicians, Huey Long, began his stump speech by claiming, that, "when I was a boy, I would get up at six o'clock in the morning on Sunday, and I would take my Catholic grandparents to mass. I would bring them home, and at ten o'clock I would hitch the old horse up again, and I would take my Baptist parents to church." A colleague later said, "I didn't know you had any Catholic grandparents." To which he replied, "Don't be a damned fool. We didn't even have a horse."

I, 839 F. Supp. at 1201. The law is crystal clear on this point. As the Supreme Court held in *Allen v. Milligan*, it is unlawful to "concentrate[] a dispersed minority population in a single district by disregarding traditional districting principles such as compactness, contiguity, and respect for political subdivisions," reaffirming that "[a] reapportionment plan that includes in one district individuals who belong to the same race, but who are otherwise separated by geographical and political boundaries," raises serious constitutional concerns. 599 U.S. at 27 (citing *Shaw I,* 509 U.S. at 647). Based upon the foregoing, the Court finds that SB8's District 6 does not satisfy the "geographically compact" and "reasonably configured" *Gingles* requirement.

d. Respect for Political Subdivisions and Natural Boundaries

Nor does SB8 take into account natural boundaries such as the Atchafalaya Basin, the Mississippi River, or the Red River. Just as in *Miller*, District 6 of SB8 "centers around four discrete, widely spaced urban centers that have absolutely nothing to do with each other, and stretches the district hundreds of miles across rural counties and narrow swamp corridors." 515 U.S. at 908; *Allen v. Milligan*, 599 U.S. at 27–28 (citing *Miller v. Johnson*). Specifically, District 6's population centers around the widely-spaced urban centers of Shreveport, Alexandria, Lafayette, and Baton Rouge – each of which is an independent metropolitan area – and are connected to one another only by rural parishes having relatively low populations. Importantly, none of these four cities or the parishes in which they are located are, by themselves, large enough to require that they be divided to comply with the "one person, one vote"

requirement of the Fourteenth Amendment. *Reynolds v. Sims*, 377 U.S. 533, 566, 84 S. Ct. 1362, 1384, 12 L.Ed.2d 506 (1964).

e. Compactness

The record also includes statistical evidence showing that District 6 is not "compact" as required by traditional districting principles. Specifically, Dr. Voss testified that, based on three measures of compactness — (i) the Reock Score; (ii) the Polsby-Popper score; and (iii) the Know It When You See It ("KIWYSI") score — the current form of District 6 in SB8 performs worse than the districts in either HB1 (the map that was enacted in 2022) or the map that HB1 replaced from the previous decade. Tr., Vol. I, 100:22-103:5; 104:25-105:4; PE7. Thus, SB8 does not produce compact maps when judged in comparison to other real-life congressional maps of Louisiana. Tr., Vol. I, 107:16-21. Dr. Voss also opined that SB8's majority-Black districts were especially non-compact compared to other plans that also included two majority-minority districts. *Id.* at 106:17-24. According to Dr. Voss, SB8's District 6 scored worse on the Polsby-Popper test than the second majority-Black districts in other proposed plans that created a second majority-Black district. *Id.* at 106:17-24.

In sum, District 6 does not satisfy the first *Gingles* precondition nor does it comply with traditional districting principles. Accordingly, SB8 and, more specifically, District 6 cannot withstand strict scrutiny. That being said, while the record is clear that Louisiana's Black population has become more dispersed and integrated in the thirty years since the *Hays* litigation (and Louisiana now has only six rather than the seven Congressional districts it had at that time), this Court does not decide on the record before us whether it is feasible to create a second majority-

Black district in Louisiana that would comply with the Equal Protection Clause of the Fourteenth Amendment. However, we do emphasize that Section 2 of the Voting Rights Act never requires race to predominate in drawing Congressional districts at the sacrifice of traditional districting principles. *Allen v. Milligan*, 599 U.S. at 29–30 (internal citations omitted).

V.
REMEDIAL PHASE

The Court will hold a status conference to discuss the remedial stage of this trial on May 6, 2024, at 10:30 a.m. CST.

VI.
CONCLUSION

As our colleagues so elegantly stated in *Hays II*, the long struggle for civil rights and equal protection under the law that has taken place in Louisiana and throughout our country, includes:

> countless towns across the South, at schools and lunch counters, at voter registrar's offices. They stood there, black and white, certain in the knowledge that the Dream was coming; determined that no threat, no spittle, no blow, no gun, no noose, no law could separate us because of the color of our skin. To say now: "Separate!" "Divide!" "Segregate!" is to negate their sacrifice, mock their dream, deny that self-evident truth that all men are created equal and that no government may deny them the equal protection of its laws.

Hays II at 125. The Court agrees and finds that SB8 violates the Equal Protection Clause as an impermissible racial gerrymander.

In light of the foregoing, the Court GRANTS PLAINTIFFS' REQUEST FOR INJUNCTIVE RELIEF. The State of Louisiana is prohibited from using SB8's map of congressional districts for any election.

A status conference is hereby set on **May 6, 2024, at 10:30 a.m. CST** to discuss the remedial stage of this trial. Representatives for each party must attend.

THUS, DONE AND SIGNED on this 30th day of April 2024.

ROBERT R. SUMMERHAYS
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF LOUISIANA

DAVID C. JOSEPH
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF LOUISIANA

Carl E. Stewart, *Circuit Judge*, dissenting:

Contrary to my panel colleagues, I am not persuaded that Plaintiffs have met their burden of establishing that S.B. 8 is an unconstitutional racial gerrymander. The totality of the record demonstrates that the Louisiana Legislature weighed various political concerns—including protecting of particular incumbents—alongside race, with no factor predominating over the other. The panel majority's determination that S.B. 8 is unconstitutional is incredibly striking where, as here, Plaintiffs did not even attempt to address or disentangle the various political currents that motivated District 6's lines in S.B. 8.[1] While this inquiry should end at racial predominance, I would further hold that S.B. 8 satisfies strict scrutiny because the Supreme Court has never imposed the aggressive incursion on state sovereignty that the panel majority advocates for here. Indeed, the panel majority's requirements for permissible electoral map trades in the substantial "breathing room" afforded state legislatures in reapportionment for a tightly wrapped straight-jacket. Therefore, I respectfully dissent.

I. Factual Background

The Supreme Court has undoubtedly recognized that in a "more usual case," alleging racial gerrymandering, a trial court "can make real headway by exploring the challenged district's conformity to traditional districting principles, such as compactness and respect for county lines."

[1] Notably, none of the plaintiffs in this case demonstrated that S.B. 8 had a discriminatory effect on them based on their race. None of them testified or otherwise entered any evidence into the record of their racial identity, which conflicts with the well-recognized principle that actionable intentional discrimination must be against an "identifiable group." *See Fusilier v. Landry*, 963 F.3d 447, 463 (5th Cir. 2020). As an aside, nearly all of the plaintiffs in this case lack standing to allege this racial gerrymandering claim because they do not reside in District 6. *See United States v. Hays*, 515 U.S. 737, 744–45 (1996).

Cooper v. Harris, 581 U.S. 285, 308 (2017). Notably, the panel majority has proceeded full steam ahead in this direction without proper regard for the atypical nature of this case and trial record. Because of this, the panel majority has mis-stepped with regard to their approach, resulting in numerous errors and omissions in both their reasoning and holding.

One such omission derives from the fact that none of the prior redistricting cases arrive from the same genesis as this one. This case involves important distinctions, worth noting, that make it anything but a "usual" racial gerrymandering case. *See Cooper*, 581 U.S. at 308. First, the State has made no concessions to racial predominance.[2] Second, the State affirmatively invokes a political motivation defense.[3] Third, the State constructively points—not to a Justice Department demand letter as "a strong basis in evidence" but—to the findings of an Article III judge.[4] The panel majority has failed to adequately grapple with each of these relevant factors, I will address them herein.

I start with the 2020 Census because understanding the setting is necessary in deciding this nuanced and context-specific case. The Supreme Court has said as much. It has held that the "historical background of the decision is one evidentiary source, particularly if it reveals a series of official

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[2] *See Miller v. Johnson*, 515 U.S. 900, 918 (1995) ("The court supported its conclusion not just with the testimony . . . but also with the State's own concessions.").

[3] *E.g.*, *Cooper*, 581 U.S. at 308 (2017) (citing *Hunt v. Cromartie*, 526 U.S. 541, 547 n.3 (1999) ("*Cromartie I*")) (emphasizing the importance of inquiries into asserted political or partisanship defenses since bizarrely shaped districts "can arise from a 'political motivation' as well as a racial one").

[4] *See Miller*, 515 U.S. at 918 ("Hence the trial court had little difficulty concluding that the Justice Department spent months demanding purely race-based revisions to Georgia's redistricting plans, and that Georgia spent months attempting to comply.") (internal citation and quotation marks omitted).

actions taken for invidious purposes. The specific sequence of events leading up to the challenged decision also may shed some light on the decisionmaker's purposes." *Village of Arlington Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 267 (1977) (internal citations omitted). Effectually, it is a mistake to view this case in a vacuum—as if the Louisiana Legislature's redistricting efforts and duties burgeon in January 2024. Instead, viewing the case within the lens of the appropriate backdrop—the United States and Louisiana Constitutions, *Robinson v. Ardoin*,[5] and Governor Landry's call to open the 2024 Extraordinary Legislative Session—the Legislature had an obligation to reapportion.

The U.S. Constitution sets out that "[t]he House of Representatives shall be composed of Members chosen every second Year by the People of the several States." It further vests state legislatures with the primary responsibility to craft federal congressional districts, namely through the Election Clause. U.S. Const. art. I, § 4, cl. 1. Article III, § 6 of the Louisiana Constitution charges the Louisiana Legislature with the duty to reapportion the single-member districts for the U.S. House of Representatives after each decennial census. La. Const. art. III, § 6. In April 2021, the results of the 2020 Census were delivered to Louisiana and the state's congressional apportionment remained six seats in the U.S. House of Representatives. Robinson Interv. FOF, ECF 189-1, 11 (citing *Robinson I*, 605 F. Supp. 3d 767). The 2020 Census data would drive the state of Louisiana's redistricting process. *See* La. Const. art. III, § 6; *Robinson I*, 605 F. Supp. 3d at 767.

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[5] *Robinson v. Ardoin*, 605 F. Supp. 3d 759, 767 (M.D. La. 2022) ("*Robinson I*"), *cert. granted before judgment*, 142 S. Ct. 2892 (2022), and *cert. dismissed as improvidently granted*, 143 S. Ct. 2654 (2023), and *vacated and remanded*, 86 F.4th 574 (5th Cir. 2023).

"Leading up to their redistricting session, legislators held a series of 'roadshow' meetings across the state, designed to share information about redistricting and solicit public comment and testimony, which lawmakers described as absolutely vital to this process." *Id.* "The drawing of new maps was guided in part by Joint Rule No. 21, passed by the Louisiana Legislature in 2021 to establish criteria that would 'promote the development of constitutionally and legally acceptable redistricting plans.'" *Robinson I*, 605 F. Supp. 3d at 767. "The Legislature convened on February 1, 2022 to begin the redistricting process; on February 18, 2022, H.B. 1 and S.B. 5, the bills setting forth new maps for the 2022 election cycle, passed the Legislature." *Id.* at 767–68.

Following the promulgation of H.B. 1, a select group of Black voters brought a claim under § 2 of the Voting Rights Act of 1965 ("VRA") to invalidate the congressional maps. *See id.* at 760. The events of that litigation as it proceeded through in the Middle District of Louisiana and the Fifth Circuit propelled the newly elected Governor Jeff Landry to call an Extraordinary Legislative Session in January 2024. *See* JE 35 at 10–14. Ultimately, S.B. 8 "was chosen over other plans with two majority-Black districts that were more compact and split fewer parishes and municipalities because those plans failed to achieve the overriding goal of protecting the seats of United States House Speaker Mike Johnson, Majority Leader Steve Scalise, and Representative Julia Letlow at the expense of Representative Garret Graves." Robinson Interv. Post-trial Memo, ECF 189 at 1; Robinson Interv. FOF, ECF 189-1, at 33–35, ¶¶ 135–142.

While the panel majority repeatedly concedes that the *Hays* litigation is three decades old and relies on now-antiquated data, its opinion nevertheless presses forward by drawing parallels and making conclusions that are devoid of crucial context. The panel majority avers that "much of

the 'local appraisal' analysis from *Hays I* remains relevant to an analysis of S.B.8," claiming that S.B. 8's District 6 succumbs to the same violations of the "traditional north-south ethno-religious division of the State." Majority Op. 53-54. Unlike *Hays*, where the cartographer tasked with drawing the map *conceded* that he "concentrated virtually exclusively on racial demographics and considered essentially no other factor except the ubiquitous constitutional 'one person-one vote' requirement,"[6] the record before this court is filled with evidence that political factors were paramount in the drawing of S.B. 8. Additionally, the racial makeup of the state has changed *drastically* over the past three decades. As the Middle District of Louisiana adeptly concluded:

> By every measure, the Black population in Louisiana has increased significantly since the 1990 census that informed the *Hays* map. According to the Census Bureau, the Black population of Louisiana in 1990 was 1,299,281.285. At the time, the Census Bureau did not provide an option to identify as more than one race. The 2020 Census results indicate a current Black population in Louisiana of 1,464,023 using the single-race Black metric, and 1,542,119 using the Any Part Black metric. So, by the Court's calculations, the Black population in Louisiana has increased by at least 164,742 and as many as 242,838 since the *Hays* litigation. Hays, decided on census data and demographics 30 years ago, is not a magical incantation with the power to freeze Louisiana's congressional maps in perpetuity. *Hays* is distinguishable and inapplicable.

Robinson I, 605 F. Supp. 3d at 834. Given this pivotal context, I deem it a grievous error for the panel majority to place the *Hays* map and S.B. 8 map

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[6] *Hays v. State*, 936 F. Supp. 360, 368 (W.D. La. 1996).

side-by-side and imply that the similarities in district shape alone are dispositive. The panel majority is correct, however, that "[this] Court is not bound by the decisions in the *Hays* litigation." Majority Op. 53.

II. Racial Predominance

Because of the interminable interplay between satisfying the Fourteenth Amendment and complying with § 2 of the VRA, it is axiomatic that electoral districting involves some racial awareness. Redistricting violates the Equal Protection Clause of the Fourteenth Amendment when race is the "predominant" consideration in deciding "to place a significant number of voters within or without a particular district." *Miller*, 515 U.S. at 913, 916. However, the Supreme Court has highlighted that:

> [Electoral] districting differs from other kinds of state decision-making in that the legislature always is aware of race when it draws district lines, just as it is aware of age, economic status, religious and political persuasion, and a variety of other demographic factors. That sort of race consciousness does not lead inevitably to impermissible race discrimination.

Shaw v. Reno, 509 U.S. 630, 646 (1993) ("*Shaw I*"); *see also Miller*, 515 U.S. at 915–16 ("Redistricting legislatures will . . . almost always be aware of racial demographics; but it does not follow that race predominates in the redistricting process."). The Court again reemphasized in *Easley v. Cromartie* that "race must not simply have been a motivation for the drawing of a majority-minority district but the predominant factor motivating the legislature's districting decision." 532 U.S. 234, 241 (2001) ("*Cromartie II*") (internal citations and quotation marks omitted). Consequently, in my view, the panel majority has not properly assessed "predominance" under the relevant caselaw.

Specifically, the Supreme Court has directed "courts, in assessing the sufficiency of a challenge to a districting plan, [to] be sensitive to the

complex interplay of forces that enter a legislature's redistricting calculus." *Miller*, 515 U.S. at 915–16. This sensitive inquiry requires a careful balancing of the legislative record and evidence adduced at trial to unpack the motivations behind the lines on the map. The Court in *Miller* explained that:

> The distinction between being aware of racial considerations and being motivated by them may be difficult to make. This evidentiary difficulty, together with the sensitive nature of redistricting and the presumption of good faith that must be accorded legislative enactments, requires courts to exercise extraordinary caution in adjudicating claims that a State has drawn district lines on the basis of race.

Id. at 916. The Supreme Court in *Alabama Legislative Black Caucus v. Alabama* reaffirmed the characterizations of "predominance" and the associated burden of proof. 575 U.S. 254, 272 (2015) Plainly, "a plaintiff pursuing a racial gerrymandering claim must show that race was the predominant factor motivating the legislature's decision to place a significant number of voters within or without a particular district." *Id*. (quoting *Miller*, 515 U.S. at 916) (internal quotation marks omitted). Here, Plaintiffs have shown racial awareness—to be sure. But identifying awareness is not the end of the inquiry.

To prove racial predominance, a "plaintiff must prove that the legislature subordinated traditional race-neutral districting principles . . . to racial considerations." *Miller*, 515 U.S. at 916. The relevant "traditional race-neutral districting principles," which the Court has listed many times, include "compactness, contiguity, respect for political subdivisions or communities defined by actual shared interests," incumbency protection, and political affiliation. *Miller*, 515 U.S. at 901; *Bush v. Vera*, 517 U.S. 952, 964, 968 (1996). A plaintiff's burden in a racial gerrymandering case is "to show, either through circumstantial evidence of a district's shape and

demographics or more direct evidence going to legislative purpose, that race was the predominant factor motivating the legislature's decision." *Miller*, 515 U.S. at 916. Plaintiffs have failed to show racial predominance through either direct or circumstantial evidence or any combination thereof.

A. Circumstantial Evidence

Like the plaintiffs in *Cromartie I*, Plaintiffs here seek to prove their racial gerrymandering claim through circumstantial evidence—*e.g.*, maps showing the district's size, shape, an alleged lack of continuity, and statistical and demographic evidence. *See* 526 U.S. at 541–43. In their post-trial memorandum, Plaintiffs maintain that the "bizarre shape of District 6 reveals racial predominance." ECF 190 at 15. In opposition, the State raises its "political motivation" defense by alleging that: (1) "the Governor and the Legislature made a political judgment to reclaim the State's sovereign right to draw congressional maps rather than cede that responsibility to the federal courts" and (2) "the contours of the S.B. 8 map were themselves motivated by serious political calculations." State's Post Trial Memo at 5–6. Because "political and racial reasons are capable of yielding similar oddities in a district's boundaries," the Court in *Cooper* entrusted trial courts with "a formidable task: [to] make 'a sensitive inquiry' into all 'circumstantial and direct evidence of intent' to assess whether the plaintiffs have managed to disentangle race from politics and prove that the former drove a district's lines." *Cooper*, 581 U.S. at 308 (quoting *Cromartie I*, 526 U.S. at 546). Here, the trial record underscores that Plaintiffs have made no effort to disentangle race consciousness from the political factors motivating District 6's precise lines. Therefore, the panel majority cannot undertake the "sensitive inquiry" required. Because Plaintiffs have fallen short, the panel majority takes a myopic view of the record and pieces together slithers of circumstantial evidence without comprehensively analyzing all pieces of evidence to the contrary to craft a "story of racial gerrymandering." *See* Majority Op. at 39 (citing *Miller*, 515 U.S. at 917).

First, I begin by explaining how the panel majority's narrow perspective incorporates no evidence that District 6's lines were drawn solely based on race. Second, I address how Plaintiffs' inconsistent demographic testimony is deficiently limited in scope to support the conclusion that race predominated. Third, I discuss how Plaintiffs' similarly impaired simulation data fails to meet the demanding burden as required by binding precedent.

i. The Shape of District 6

A point of agreement amongst the panel in this case is that "[a] district's shape can provide circumstantial evidence of a racial gerrymander." Majority Op. 35. However, we diverge based on how we apply this significant point, as the panel majority confuses evidence that the Legislature sought to create a second majority-Black district with evidence that race was the "dominant and controlling" factor in the drawing of S.B. 8's contours.

The Supreme Court has acknowledged that notwithstanding the fact that circumstantial evidence—like a district's unusual shape—can give rise to an inference of an "impermissible racial motive," such a bizarre shape "can arise from a 'political motivation' as well as a racial one." *Cooper*, 581 U.S. at 308; *Cromartie I*, 526 U.S. at 547 n.3.[7] As such, the inquiry does not stop at a rudimentary examination of the district's lines in some precincts. In *Cooper*, the Court further clarified this point by articulating that "such evidence [of a 'highly irregular' shape] loses much of its value when the State asserts partisanship as a defense, because a bizarre shape" may be attributed best to political or personal considerations for a legislator instead of racial considerations. *See* 581 U.S. at 308. The panel majority's and Plaintiffs' inability to coherently parse these considerations is particularly striking as there have been several instances in Louisiana "where legislators wanted a precinct in their district because their grandmother lived there." *See, e.g.*, Trial Tr. 177 (testimony of Dr. Voss). Nonetheless, the panel majority ignores this crucial step of the circumstantial evidence analysis, eliding to other "mixed motive" cases. Majority Op. 38.

[7] *See also Shaw v. Hunt*, 517 U.S. 899, 905 (1996) ("*Shaw II*") (acknowledging that "serpentine district" was "highly irregular and geographically non-compact by any objective standard"); *Miller v. Johnson*, 515 U.S. 900, 913 (1995) ("Shape is relevant . . . because it may be persuasive circumstantial evidence that race for its own sake, and not other districting principles, was the legislature's dominant and controlling rationale in drawing its district lines.").

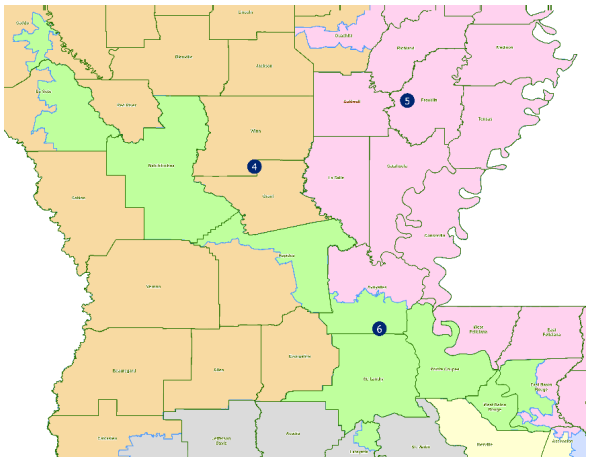
However, a closer comparison between the instant case and those prior "mixed motive" cases reveals how inapt these comparisons are. In *Shaw I*, the Court stated that in "exceptional cases," a congressional district may be drawn in a "highly irregular" manner such that it facially cannot be "understood as anything other than an effort to segregate voters on the basis of race." *Shaw I*, 509 U.S. at 646–47 (internal citation and quotation marks omitted); *see also* Richard H. Pildes, Richard Niemi, *Expressive Harms, "Bizarre Districts," and Voting Rights: Evaluating Election-District Appearances After* Shaw v. Reno, 92 Mich. L. Rev. 483 (1993). Since that utterance in *Shaw I*, the Court has never struck down a map based on its shape alone. Nonetheless, the panel majority functionally does so here on the basis of severely cabined analyses of select precincts in the metropolitan areas within the district. *See* Plaintiffs' Br. 9–10; Majority Op. 38.

The panel majority cites to *Vera* as a basis for its conclusion that the circumstantial evidence in this case is sufficient to show racial predominance. A closer look at that case demonstrates how inapt that comparison is. In *Vera*, the Court considered a challenge to three districts in Texas's reapportionment plan following the 1990 census. 517 U.S. at 956. There, as here, the Texas Legislature admitted that it intentionally sought to draw three districts "for the purpose of enhancing the opportunity of minority voters to elect minority representatives to Congress." *See Vera v. Richards*, 861 F. Supp. 1304, 1337 (S.D. Tex. 1994). However, the record there was replete with specific, direct evidence that several members of the Texas Legislature were moving around Black neighborhoods and precincts into the new Congressional districts that they then hoped to run for. *Id.* at 1338–40. The Court noted that the Texas Legislature used a computer program called "REDAPPL" to aid in drawing district lines. 517 U.S. at 961. The software incorporated racial composition statistics for the proposed districts as they were drawn on a "block-by-block" level. *Id.* (noting that the "availability and use of block-by-block racial data was unprecedented"). With all of this in mind, the Court then rejected the state's incumbency protection defense because the district court's "findings amply demonstrate[d] that such influences were overwhelmed in the determination of the districts' bizarre shaped *by the State's efforts to maximize racial divisions*." 517 U.S. at 975.

None of that is present in this case. This is not a case like *Vera*, where the political motives of self-interested electoral hopefuls directly attributed to the precise placement of the electoral map lines that comprised those racially gerrymandered districts. There is no § 5 preclearance letter in which the state legislature, speaking with one voice, explains that the odd shapes in the map result solely from "the maximization of minority voting

strength." *See id.* The panel majority is correct in noting that this is a mixed motive case. But to note this and then to subsequently make a conclusory determination as to racial predominance is hard to comprehend. Particularly so where broad swaths of the record are not addressed. In fact, a quick comparison of District 6 (depicted in lime green below) to the "highly irregular" districts from *Vera* (depicted in black outlines) underscores how the district's shape alone is insufficient evidence to prove racial predominance.[8] Simply put, one of these is not like the others.

[8] While the following images are not at a 1:1 scale, the striking visible differences between District 6 in S.B. 8 and the districts in *Vera*—which more clearly evince an intent to carve up communities and neighborhoods under the guise of invidious racial segregation—show how just examining a few portions of the district is insufficient to parse out whether race predominated. *See* 861 F. Supp. at 1336 (noting the borders "change from block to block, from one side of the street to the other, and traverse streets, bodies of water, and commercially developed areas in seemingly arbitrary fashion").



District 6's shape is not meaningfully comparable to the series of substantially thinner, sprawling, salamander-like districts that have been deemed impermissible racial gerrymanders. In spite of these glaring differences, the panel majority erroneously concludes that a racial gerrymander occurred here in spite of several inconsistencies in Plaintiffs' expert testimony and a limited review of the legislative and trial records. *See Cromartie II*, 532 U.S. at 242–43. It ignores the Court's explicit determinations that evidence of race-consciousness considered in conjunction with other redistricting principles "says little or nothing about whether race played a *predominant* role" in the reapportionment process. *Id.* at 253–54 (emphasis in original); *Miller*, 515 U.S. at 916 (legislatures "will . . . almost always be aware of racial demographics" in the reapportionment process); *Shaw I*, 509 U.S. at 646 (holding same). It also ignores the well-established principles that "[p]olitics and political considerations *are inseparable* from districting and apportionment . . . [and] that districting inevitably has and is intended to have substantial political consequences." *Gaffney v. Cummings*, 412 U.S. 735, 753 (1973); *see also Vieth v. Jubelirer*, 541 U.S. 267, 285 (2004) (plurality opinion) (acknowledging that districting is "root-and-branch a matter of politics"); Trial Tr. 80 (testimony of Sen. Pressly) (admitting that adjudging political considerations of competing prospective legislative actions are "root and branch"). Where there is a "partisanship" or "political motivation" defense, more is required.

The panel majority errs in its analysis of the metropolitan areas in District 6 because it relies solely on the fact that the Legislature created a second majority-Black district[9] to show racial predominance. In *Shaw I*, the Court declined to adopt the view that the panel majority offers here—that evidence of "the intentional creation of majority-minority districts, without more, always gives rise to an equal protection claim." 509 U.S. at 649 (cleaned up). *Compare id.* (expressing no view as to whether this action constitutes a de facto equal protection violation), *with id.* at 664 (White, J., dissenting) ("[T]hat should not detract attention from the rejection by a majority [of the Court] of the claim that the State's intentional creation of majority-minority districts transgressed constitutional norms."); *see also United Jewish Orgs. of Williamsburgh, Inc. v. Carey* ("*UJO*"), 430 U.S. 144, 165 (1977) ("It is true that New York deliberately increased the nonwhite majorities in certain districts in order to enhance the opportunity for election of nonwhite representatives from those districts. Nevertheless, there was no" equal protection violation); *cf. Vera*, 517 U.S. at 959 ("We thus differ from Justice Thomas, who would apparently hold that it suffices that racial considerations be *a* motivation for the drawing of a majority-minority district" for strict scrutiny to apply) (emphasis in original). In *Bethune-Hill v. Virginia State Board of Elections*, the Court explained that "[e]ven where a challenger alleges a conflict [with traditional redistricting principles], or succeeds in showing one, the court should not confine" its racial predominance "inquiry to the conflicting portions of the lines." 580 U.S. 178, 191 (2017).

[9] *Vera*, 517 U.S. at 958.

Here, the panel majority makes the mistake of stopping at the district's contours in the major metropolitan areas in the state without fully considering or crediting the abundance of evidence demonstrating these choices were political. *See* Majority Op. 40 ("In sum, the 'heat maps' and demographic data in evidence tell the true story–that race was the predominate factor driving decisions made by the State in drawing the contours of District" Six). Because the panel majority's plain eye examination loses much of its value in the face of the state's "political motivation" defense, I now will contextualize the relevant circumstantial evidence of legislative intent in this case, including claims of political motivation.

ii. Expert Testimony

Plaintiffs' circumstantial evidence elicited through expert testimony fails to demonstrate that race was the Legislature's controlling motive in drawing S.B. 8. The panel majority makes much ado of Mr. Michael Hefner's dot density map[10] and testimony that the districting decisions shaping District 6 in Lafayette, Alexandria, Baton Rouge, and Shreveport could only be explained by racial considerations. While the Court has accepted evidence of a district's shape and demographics to prove racial predominance, it has required the plaintiff to disentangle race from political considerations. *See Cromartie I*, 526 U.S. at 546. Here, Plaintiffs' expert testimony fails to account for several valid, non-racial considerations that explain the district's shape to impermissibly conclude that race predominated. *Cf. Chen v. City of Houston*, 206 F.3d 502, 506 (5th Cir. 2000) ("[T]he plaintiffs' burden in establishing racial predominance is a heavy one.").

Plaintiffs point to the district's low compactness scores and testimony from two experts opining that the Legislature subordinated traditional redistricting criteria to prove their case via circumstantial evidence. Plaintiffs' Br. 8–12. Notwithstanding my own evidentiary determination that several traditional principles of redistricting do explain District 6's shape in S.B. 8,[11] I now explain that Plaintiffs' offered circumstantial evidence is insufficient to prove the predominance of race. *See Chen*, 206 F.3d at 506.

a. Demographic Evidence

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[10] **Majority Op. 38–39.**

[11] *See infra* Part I.B.i–ii.

The legislative record in this case is inundated with both direct and circumstantial evidence that political considerations predominated in the drafting and passing of S.B. 8.[12] Plaintiffs assert that their demographer, Mr. Hefner, provided testimony that the "awkward and bizarre shape" of the district suggests that race predominated over traditional redistricting criteria. Trial Tr. 304–05. He testified that the district was "very elongated," "contorted," and narrow at points to attach two centers of high BVAP together in one district. Trial Tr. 286. However, Mr. Hefner also acknowledged that incumbency and compliance with the VRA are also important traditional redistricting criteria.[13] Trial Tr. 293. He also explained that political dynamics frequently factor into redistricting. Trial Tr. 321. Ultimately, he concluded that the Louisiana Legislature "can't create a second majority-minority district and still adhere to traditional redistricting criteria" and that "race predominated in the drafting" of S.B. 8. Trial Tr. 271–72. Put another way, no permissible redistricting factor could explain S.B. 8's configuration.

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[12] *See id.*

[13] Q. Are there additional criteria that can be considered?

A. Yes. Incumbency can be considered as to not putting incumbents against each other. Preservation of political entities. It's similar to communities of interest but some specified as political entries, which would be parishes, precincts, municipalities, those that have political boundaries. Also, too, race plays a factor as well, because that's part of what the Voting Rights Act calls attention to for consideration. *So those are some of the other criteria that we generally take a look at as we're drafting redistricting plans*.
Trial Tr. 293 (emphasis added).

But there are several logical gaps in Mr. Hefner's testimony. Mr. Hefner limited his examination of S.B. 8 to the factors of communities of interest, compactness, and preservation of core districts. Thus, he "did not review incumbency." Trial Tr. 272. When asked about the importance of incumbency on redistricting, he opined that a legislature should avoid pitting incumbents against each other to prevent very contentious and unproductive political bodies that fail to "serve the needs of the people." Trial Tr. 335. Mr. Hefner's failure to consider the other politically motived incumbency protection rationales provided by S.B. 8's sponsor[14] demonstrates the unreliability of his testimony. He further constrained his analysis to S.B. 8, H.B. 1, and Plaintiffs' Illustrative Plan 1. He did not review any "of the other plans with two majority black districts" proposed in the 2024 redistricting session, nor did he review "any of the amendments that were offered on [S.B. 8] in the 2024 redistricting session." Trial Tr. 317–18.

[14] *See supra* Part II.B.i.a.

The gaps in Mr. Hefner's analysis severely undercut his opinion that race predominated over respecting communities of interests and political subdivisions. It strains credulity to say that one factor was controlling over all others while simultaneously ignoring several overriding factors. While Mr. Hefner criticized S.B. 8 for the number of parish and community splits it contained, he did not criticize the other maps he examined for that purpose. For instance, his opinion that race predominated in the drafting of S.B. 8 was based in part on the amount of parish splits and divisions of cultural subdivisions tracked by the Louisiana Folklife Program as compared to prior maps. Trial Tr. 337. However, on cross-examination, Mr. Hefner conceded that a district in H.B. 1 split the same number of folklife areas as District 6 in S.B. 8. Trial Tr. 337–38. Additionally, Intervenors' expert, Mr. Fairfax, provided credible testimony that showed that S.B. 8 distributed its parish and municipal splits amongst the districts more equitably in comparison to H.B. 1. Trial Tr. 385–89. Mr. Hefner did not account for such distinguishing factors, which tended to challenge his broad conclusion that two majority-minority districts could not be drawn in Louisiana while adhering to traditional redistricting principles.

Further inconsistencies persisted in his testimony. Mr. Hefner did not offer the same critiques of the shapes of districts in Plaintiffs' Illustrative Plan 1. In fact, he opined that that map "adhered to traditional redistricting principles."[15] Notwithstanding this point, Mr. Hefner agreed that District 5 of Illustrative Plan 1 spanned approximately 230 miles from end to end.[16] By Mr. Hefner's own calculus, District 5 of the plan is a district that is virtually not compact at all. District 6 of S.B. 8 ranges nearly the same length, but he did not agree that S.B. 8 "adhered to traditional redistricting principles." These shifting goalposts based upon whether Plaintiffs or the Intervenors posited the question further demonstrates that little to no weight can be placed on his testimony. Thus, the obvious tension between his opinions based on which party it benefits substantially diminishes its weight here, but the panel majority erroneously accepts portions of his testimony to justify its conclusion. It does so even though none of Mr. Hefner's testimony attempts to unpack the entanglement of the two factors of race and politics plainly present in this case.

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[15] Q. Let me just ask it this way. What does Plaintiffs' Illustrative Plan Number 1, Exhibit PE-14, what does that represent?

A. That plan is a congressional plan that preserves District 2 as a traditional majority-minority district. It generally follows what has been in place for the past couple of census cycles. And the division of the rest of the state into districts largely follows. It's somewhat similar to the traditional boundaries that have been used in the past. Some deviations, but generally overall it follows that general configuration.

Q. Based on your review of this map, does it adhere to traditional redistricting principles?

A. In my opinion it does.

Trial Tr. 275–76.

[16] The Plan's District Five contained a district spanning roughly 230 miles from Washington Parish in the Southeastern tip of the state all the way up to the Northern portion of the state, with Ouachita Parish serving as a main population center. ***See*** **Trial Tr. 341.**

Mr. Hefner testified that he did not speak to any legislators from the 2024 session or consult any sources within the Legislature informing him of the legislative imperatives underlying S.B. 8. *See* Trial Tr. 321 ("Q. And do you have any other basis for knowing what any particular legislator thought about the district lines in [S.B. 8] or why they supported them? A. I did see some [television] interviews of some legislators after [S.B. 8] was approved."). Thus, his ultimate conclusion that race predominated over any permissible factor is factually unsupported because he failed to examine several traditionally accepted factors of redistricting. Most glaring is his failure to examine, analyze, or otherwise critique S.B. 8's incumbency protection considerations or the Legislature's rejection of amendments that solely sought to increase BVAP within the district and added additional parish splits. RI 42; Trial Tr. 573–74 (describing how the legislature struck down an amendment "increased the BVAP in both District 2 and District 6" in a bipartisan vote because it added additional parish splits to the map); Trial Tr. 575 (noting the Legislature's bipartisan rejection of efforts to just "mov[e] black precincts around for no particular reason other than to do so").

The legislative history of S.B. 8 demonstrates that the Legislature took great consideration to avoid merely lumping enough Black Voting Age Population ("BVAP") into two districts to satisfy the *Robinson I* court. Mr. Hefner's failure to account for the history of amendments to S.B. 8 demonstrates how his narrative of racial predominance in the Legislature disintegrates upon review of the record. The Legislature rejected amendments that solely sought to increase BVAP in specific districts and were voted down and discouraged by the bill's proponents and author. *See* Trial Tr. 317–18. As the legislative record shows, Senator Heather Cloud of Avoyelles Parish introduced an amendment that introduced an additional split in District 6, increasing the number of parish splits in S.B. 8 to sixteen, one more split than H.B. 1. Although Mr. Hefner criticizes the number of parish splits in S.B. 8 to serve as evidence that the Legislature racially gerrymandered here, he admittedly did not know that Senator Cloud's amendment was offered to further protect Congresswoman Letlow's seat by moving her own constituents into Letlow's district. JE 29 at 5–6. This extra parish split also narrows District 6 before it traverses through Alexandria. It also explains why the district is narrower at that point and—in Mr. Hefner's view—bears tenuous contiguity.[17] *See* Trial Tr. 293–94.

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[17] On a related note, the legislative record also established that Rapides Parish is accustomed to split representation in a single-member district capacity. Senator Luneau of Rapides Parish noted that in the reapportionment process for State Senate districts, his home parish answered to "six different [state] senators." **JE 34 at 9–10**. Prior jurisprudence demonstrates that further segmentation of parishes accustomed to splitting to achieve partisan goals. In *Theriot v. Parish of Jefferson*, the Fifth Circuit held that no racial gerrymander occurred where "the Parish was not unaccustomed to splitting districts in order to achieve political goals." 185 F.3d 477, 483 (5th Cir. 1999). Thus, the contours of the Rapides Parish area in S.B. 8 cannot seriously be considered to be the product of racial gerrymandering—as Plaintiffs allege—without more evidence than mere conjecture.

Senator Cloud described her amendment at the Senate and Governmental Affairs Committee hearing as an amendment seeking to protect the only Republican Congresswoman in Louisiana's Congressional Delegation. JE 29 at 13–14. Senator Cloud's amendment was the only one made during the legislative process that withstood detailed examination by both houses of the Louisiana Legislature. RE 42; JE 29 at 5–6. The only other amendment that passed in committee was offered by Representative Les Farnum of Calcasieu Parish. Trial Tr. 571–72. Representative Farnum introduced an amendment before the House and Governmental Affairs Committee that sought to make his constituents in Calcasieu Parish in one whole district. Trial Tr. 572. While the amendment advanced out of committee, it was removed from the bill after substantial bipartisan opposition prompted a floor vote to strip the amendment from S.B. 8. Trial Tr. 573–74. Particularly revealing is that S.B. 8's legislative history demonstrates how the Legislature actively sought to prevent the gross contravention of traditional redistricting principles in favor of just getting specific districts to certain BVAP concentrations. *See id.* (detailing the Legislature's denial of amendment to subdivide Baton Rouge into three congressional districts in favor of increasing BVAP in District 2 by some amount).

The history of amendments to the bill do not fit the creative narrative that Mr. Hefner paints in this case to show racial predominance. In the light of all this information publicly available in the legislative record, Mr. Hefner cabined his analysis to just the final enacted version of S.B. 8 and two other maps, without seeking to get the full scope of the legislative environment that created S.B. 8. Notably, the Court said in *Cooper* that where political concerns are raised in defense of a map, evidence of non-compactness "loses much of its value . . . because a bizarre shape . . . can arise from a 'political motivation' as well as a racial one." 581 U.S. at 308. Furthermore, "political and racial reasons are capable of yielding similar oddities in a district's boundaries." *Id.* Here, Senator Glen Womack of Catahoula Parish, the author of S.B. 8, addressed those reasons at numerous points during the legislative session. His intent was clear and consistent. JE 31 at 121–22 (statement of Sen. Womack) ("We were ordered to draw a [second majority-Black] district, and that's what I've done. *At the same time*, I tried to protect Speaker Johnson, Minority Leader Scalise, and my representative Congresswoman Letlow."). He stated that he sought to draw "boundaries in th[e] bill" to "ensure that Congresswoman Letlow remains both unimpaired with any other incumbents and in a congressional district that should continue to elect a Republican to Congress for the remainder of this decade." JE 29 at 2 (Sen. Womack's Remarks Before January 16, 2024 Senate Governmental Affairs Committee Hearing). Based on this strong evidence of legislative will directed at preserving political and personal interests during the redistricting process, I would hold that Plaintiffs' circumstantial demographic evidence cannot be taken in whole or in part to satisfy its burden of showing that race predominated in the drafting of S.B. 8.

b. Simulation Evidence

Neither does Plaintiffs' simulation evidence move the needle for them toward satisfying their stringent burden of proof.. The panel majority likewise credits the marginally relevant testimony of Plaintiffs' other expert, Dr. Stephen Voss. Dr. Voss opined that simulation techniques demonstrate that (1) S.B. 8 constitutes an impermissible racial gerrymander because no other legislative imperatives would create districts in those forms; (2) the Louisiana Legislature "compromised" various "traditional redistricting criteria" in drawing S.B. 8, and; (3) there "is not a sufficiently large and compact African American population to allow [two majority-Black] districts that would conform to traditional redistricting criteria." Trial Tr. 91.

When posed with the question of S.B. 8's political goals, Dr. Voss opined that "[i]f you're not trying to draw a second Black majority district, it is very easy to protect Representative Julia Letlow." Trial Tr. 108. This commentary misses the mark entirely. Neither through simulations nor testimony, Dr. Voss did not demonstrate that it is possible to achieve *all* of S.B. 8's main political goals *and* generate extremely compact districts. On cross-examination, he admitted that he did not "explore" directing the software to prevent "double bunking" or pairing of two specific incumbents. *See* Trial Tr. 175 (cross–examination of Dr. Voss).

As such, Dr. Voss's conclusion that only racial considerations account for District 6's shape flies in the face of his testimony that permissible considerations include regional representation, incumbency protection, and various other personally politicized considerations held by legislators in redistricting. *Compare* Trial Tr. 177–78 (admitting that the Legislature's rationales given ordinarily constitute valid reasons justifying a map's shape), *with* Trial Tr. 180 (attempting to distinguish those factors' application in this case). At most, Dr. Voss only measured or weighed two political motives at the same time: (1) "sacrificing" Congressman Graves and (2) protecting Congresswoman Letlow. Trial Tr. 110 (stating that the Legislature could have complied with these two specific goals and presented a map that is less offensive to traditional redistricting principles); Trial Tr. 111–12 (stating same). With the aid of his simulations, he argued that it would be easy to protect Congresswoman Letlow by pulling her westward into a North Louisiana district even if a second majority-Black district stretched up the Mississippi River into Northeast Louisiana. But pulling her district westward draws her closer to the population bases supporting Speaker Johnson's prominence in his district Northwest Louisiana based district.

Dr. Voss neglected to address protecting the Speaker of the House and Majority Leader *at the same time* as protecting Congresswoman Letlow and cutting out Congressman Graves. *See id.* On direct, Dr. Voss stated that out of his 20,000 simulations, he did have difficulty with securing Congresswoman Letlow and Speaker Johnson without risking Majority Leader Scalise's seat. Trial Tr. 140. Then on cross examination, Dr. Voss conceded that his simulations could not consistently guarantee safe seats for Speaker Johnson, Majority Leader Scalise, and Congresswoman Letlow. Trial Tr. 140 (conceding that many simulations jeopardized Scalise's seat and others pitted the Speaker against Letlow). Attempting to rationalize why he could not account for these valid considerations, Dr. Voss testified on redirect that some unknown number of simulations generated plans without two majority-Black districts that also achieved these political goals.

This testimony, while sensible in the abstract, is nonsensical when applied to the appropriate legislative and constitutional context. Article III, § 6 of the Louisiana Constitution specifies that "the legislature shall reapportion the representation in each house as equally as practicable on the basis of population shown by the census." It is indelibly clear—seemingly to everyone except Plaintiffs' experts—that redistricting is a "root-and-branch" political matter. *See Vieth*, 541 U.S. at 285; *Shaw*, 509 U.S. at 662 (White, J., dissenting) ("[D]istricting inevitably is the expression of interest group politics."). We are tasked with evaluating legislation that is the product of the legislative body's choice resulting from a political process. For this reason, failing to evaluate a politically charged defense that frequently yields oddly shaped districts for personal and political goals of the legislators involved cannot be adequate proof that meets the demanding standard required of Plaintiffs.

Numerous current and former elected officials from both major political parties testified that the legislative aims raised in the 2024 session were (1) satisfying the VRA, (2) protecting senior incumbents with influential national positions, and (3) maintaining the sovereign prerogative of the legislature. *See, e.g.*, JE 31 (Rep. Carlson) ("I can assure you this . . . we're not here today because we're caving to any kind of political pressure. The fact of the matter is, like it or not, Judge Dick has said, 'Either you do your job and draw the map, or I'll draw the map for you,' period."); Trial Tr. 47–48 ("[T]he only reason we were there was because of the other litigation; and Judge Dick saying that she — if we didn't" comply with the VRA "she was going to" draw the State's map for them); Trial Tr. 81–82 (testimony of Sen. Pressly) (stating that Judge Dick would draw the maps if the Legislature did not, and would not consider political benefits to any party or persons); Trial Tr. 368. In my view, Intervenor's expert, Dr. Cory McCartan, credibly demonstrated how the limitations of Dr. Voss's purported race-conscious simulations actually failed to account for race in any meaningful manner. Trial Tr. 196–97. Dr. McCartan noted the substantial difference between stating that "a simulation that uses a tiny bit of racial information doesn't produce black districts, and the extrapolating from there to say that if you produce two black districts, it must be extreme racial gerrymandering." Trial Tr. 196–97. The panel majority avoids this potent adverse testimony by distinguishing Dr. McCartan's work with his ALARM team from the present case. Majority Op. 26–28.

The panel majority's brief discussion of the limitations on Dr. Voss's simulation evidence is in tension with the nature of the pivotal inquiry that this panel was convened to undertake: To evaluate whether the *Legislature*— and not a rebuttal witness's own team—had subjugated all traditional redistricting principles to yield a certain result—i.e., the challenged district. Dr. McCartan's testimony credibly shows that simulations cannot prove the "impossibility" that Dr. Voss sought to prove,[18] and that Dr. Voss's simulation methods added additional restraints that in turn stopped generating results which would more closely resemble the factors that the Legislature actually considered in this case. Trial Tr. 196.

[18] Dr. Voss even acknowledged this, stating that in Louisiana "the number of plans that meet all [traditional redistricting principles] is probably bigger than the number of atoms in the entire universe." **Trial Tr. 200–201; *see also* Trial Tr. 130.**

Setting aside the panel majority's attempts to justify the relevance of Dr. Voss's simulations,[19] the simulation evidence in this case is precisely the type of inconclusive evidence that insufficiently pits S.B. 8 in "endless beauty contests" with other potential maps the Legislature could have drawn but never would have realistically considered for a myriad of reasons other than race. *See Vera*, 517 U.S. at 977. Absent from the panel majority's analysis of Dr. Voss's simulation testimony was his admission that "the population tolerances required from real maps without splitting precincts," as required by Joint Rule 21,[20] "may not be achievable with a simulation method" and likely does not yield "feasible maps" in "many cases." Trial Tr. 152–53. This admission again demonstrates how this evidence fails to encapsulate the pressing factors that the Legislature actually considered. In sum, this evidence does not satisfy Plaintiffs' burden.

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[19] **Trial Tr. 179 (redirect examination of Dr. Voss); Majority Op. at 28.**

[20] The Louisiana Legislature passed Joint Rule 21 in 2021 to establish criteria that would "promote the development of constitutionally and legally acceptable redistricting plans." Joint Rule 21 (2021), https://www.legis.la.gov/legis/Law.aspx?d=1238755.

Through Voss's and Hefner's testimony, Plaintiffs present a simple syllogism. (A) An unconstitutional racial gerrymander occurs where traditional redistricting criteria and other permissible factors cannot account for the shape of the offending district. (B) District 6's shape in S.B. 8 cannot be explained by any permissible reapportionment factors. (C) Thus, S.B. 8 constitutes an unconstitutional racial gerrymander. The glaring gap in the expert testimony results from the fact that both Voss and Hefner did not account for numerous valid justifications for District 6's shape. Thus, it is disingenuous to conclude that no permissible factors—such as protecting incumbents,[21] eliminating the Governor's political opponents,[22] connected ethno-religious networks,[23] the linkage of the District's communities via the I-49 corridor and Red River Basin,[24] veritable cultural similarities,[25] and shared educational and health resources amongst residents of District 6,[26] among others—justify or explain District 6's shape.

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[21] Q. And so you mentioned the difference in configuration between your Bill S.B. 4 and S.B. 8. Did you have any impression about any rationale behind those different configurations?

A. So during the whole time I spent in redistricting, you don't have to be a redistricting expert to know that any time a new map is drawn, it's kind of like playing musical chairs. There is going to be someone who is negatively impacted from an incumbency standpoint. And of the six congressional districts, the question was always if there was going to be a second majority black district drawn, who would be negative -- who would be most negatively impacted by this if we are -- again, we have --a new map has to be drawn. So I believe that ultimately played into what map the Legislature chose to support.

Trial Tr. 525–26; *see also* Trial Tr. 71 (testimony of Sen. Pressly) ("There were certainly discussions on ensuring — you know, we've got leadership in Washington. You have the Speaker of the House that's from the Fourth Congressional District and we certainly wanted to protect Speaker Johnson. The Majority Leader, we wanted to make sure that we protected, Steve Scalise. Julia Letlow is on Appropriations. That was also very important that we tried to keep her seat as well.")**; Trial Tr. 79** (testimony of Sen. Pressly)**; Trial Tr. 63** (testimony of Sen. Seabaugh) (stating same).

[22] *See, e.g.*, **Trial Tr. 527** (testimony of Sen. Duplessis) ("[A]s [redistricting] relates to incumbency, there will be someone who is negatively impacted, so the choice had to be made — *the political decision* was made to protect *certain members of congress* and to *not protect one member of congress* and it was clear that that member was going to be Congressman Garret Graves."); **Trial Tr. 369–71** (testimony of Rep. Landry) (stating same); **Trial Tr. 60–61** (testimony of Sen. Seabaugh) (agreeing that "protecting" Speaker Johnson, Majority Leader Scalise, and Congresswoman Letlow "is an important [political] consideration when drawing a congressional map").

Q. Let me ask that again. Do you have an understanding if one of the current congressional incumbents was drawn out of his or her seat, so to speak, in Senate Bill 8? A. Congressman Graves was targeted in the map, correct. Q. And were you surprised that Congressman Graves was targeted in the map? *A. No. Everyone -- everyone knew that. All the legislators, the media reported it. They have had a long-standing contentious relationship.* Q. And when you say "they," who are you referring to? A. The Governor and Congressman Graves.

Trial Tr. 369–71 (testimony of Rep. Landry).

[23] **Trial Tr. 466–67** (testimony of Pastor Harris).

[24] Q. So in your experience as an elected official and a community leader, does Congressional District 6 in S.B. 8 reflect common communities of interest?

A. Yes, it does.

Q. And how so?

A. Well, I think the two that come most quickly to mind would be the I-49 corridor and the Red River. Obviously, Shreveport itself was founded by the clearing of the Red River. One of the big things that helped make this area grow was navigation thereof. We had leadership over the course of the last 50 years that's worked very hard towards trying to bring that back. You now have a series of lock and dams, five of them, between here and where the river flows into the Mississippi. That essentially mirrors the eastern side of that district. *When you add to it, the connecting factor of I-49, that essentially makes Shreveport, Mansfield, Natchitoches, all one general commuting area*, all of those are connecting factors.

Trial Tr. 457–58 (testimony of former Mayor Glover) (emphasis added).

[25] *See, e.g.*, **Trial Tr. 467–68** (testimony of Pastor Harris) (explaining that Baton Rouge, Alexandria, Lafayette, Natchitoches, and Shreveport share far more cultural commonalities than any of those cities and New Orleans).

[26] *See, e.g.*, **Trial Tr. 457–58** (testimony of Mayor Glover) (explaining that the shared Willis-Knighton, Ochsner/LSUS, and Christus medical systems within District 6 provide the bulwark of medical care to the persons of the region).

Plaintiffs' position ignores that the record as a whole establishes that incumbency protection was the most often stated motivating factor[27] behind S.B. 8. Instead, they adhere closely to a minority of voices within the Louisiana Legislature.[28] Respectfully, I strongly disagree with the panel majority's narrow reading of the conflicting demographic and statistical opinions offered to fashion its conclusion that race was "the legislature's *dominant and controlling* rationale in drawing its district lines." *See Miller*, 515 U.S. at 913.

iii. Any Allegory to Hays *or Application of its Outdated Rationales is Misguided*

[27] As evidenced by the fact that all other, more compact maps from the 2024 legislative session that also sought to comply with the VRA died in committee. *See, e.g.*, **Trial Tr. 482 (testimony of Ms. Thomas).**

[28] **Trial Tr. 533 (testimony of Sen. Duplessis) ("I think some of the members of the Shreveport delegation may have voted against [S.B. 8], but it passed overwhelmingly.").**

Similarly difficult to comprehend is the panel majority's position that *Hays* provides this court with a helpful allegory to make its determination. In *Hays I* and *Hays II*, the district court invalidated congressional maps with two majority-minority districts as impermissible racial gerrymanders on Equal Protection grounds. *See Hays I*, 839 F. Supp. at 1195; *see also Hays v. Louisiana*, 936 F. Supp. 360, 368 (W.D. La. 1996) (*Hays IV*). In *Hays I*, the district court was confronted with an equal protection challenge to a district bearing similarities to District 6. The panel described the contested district as "an inkblot which has spread indiscriminately across the Louisiana map." 936 F. Supp. at 364. Throughout Mr. Hefner's and Dr. Voss's testimonies, they repeatedly stated, suggested, and opined that Louisiana's configuration of minority populations today does not allow the Legislature to draw a map with two minority-Black districts without violating the Constitution.

But when confronted with these assertions on cross-examination, each quickly equivocated stating that they either "can't offer an opinion on" whether "it's impossible to create a congressional plan with two majority-Black districts that perform well on traditional redistricting principles," Trial Tr. 318–320, or that the simulations could not account for other traditional redistricting principles that the Legislature considered in drafting S.B. 8, Trial Tr. 160–61. Aside from the limited testimony parroting the dated proposition derived from the *Hays* litigation, Plaintiffs ignore the fact that *Hays* does not account for drastic changes in the state's population dynamics that have occurred since the late 1990s.[29] The decennial census has occurred three times since the ink dried on the last iteration of the *Hays* case.

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[29] *See supra*, p. 4.

It is for this reason, among others, that the Middle District of Louisiana rejected every formulation of the argument that the "*Hays* maps [were] instructive, applicable, or otherwise persuasive." *See* 605 F. Supp. 3d 759, 852 (M.D. La. 2022); *see also id.* at 834. Not only was this sentiment accepted by the Fifth Circuit,[30] but it was also accepted by the Louisiana Legislature during the 2024 redistricting session. Members of the House and Governmental Affairs Committee repeatedly rejected the assertion that *Hays* preempts S.B. 8's design of District 6. JE 31 at 117–18. During the testimony of Mr. Paul Hurd, counsel for Plaintiffs in this case, Representative Josh Carlson of Lafayette Parish clarified that *Robinson* presented the Legislature with the "complete opposite scenario than [*Hays*] 20 years ago." *See* JE 31 at 117. Despite several attempts to analogize S.B. 8 to the *Hays* cases, no legislator on the committee bought the argument that the State could not draw a map that included two majority-Black districts. *See* JE 31 at 115–18.

[30] *See* 86 F.4th at 597 (determining that the Middle District of Louisiana's preliminary injunction holdings were not clearly erroneous).

In response to this repudiation of *Hays*-like rationales to abandon S.B. 8, Plaintiffs' own counsel conceded that a congressional map with two majority-minority districts was constitutionally valid during his testimony during the 2024 legislative session. JE 31 at 118. During that same House and Governmental Affairs Committee meeting, Mr. Hurd testified that "I believe that my districting plan that I've handed in and I did it for an — an example is as close as you can get to a non-racially gerrymandered district and get to two majority-minority districts, and it does." JE 31 at 31 (page 118). He further stated that "[t]here are abilities to draw a [second] compact contiguous majority-minority district" in the State of Louisiana. *Id.* This evidence in the record demonstrates precisely how Plaintiffs' circumstantial case fails to meet their burden. Their case is directly rooted to expert demographic and simulation testimony that merely repackages an outdated and factually unsupported thesis: that any congressional map with two majority-Black districts must be unconstitutional for the reasons derived from data and occurrences from nearly three decades ago. *See Hays I*, 839 F. Supp. at 1195; *Robinson*, 605 F. Supp. 3d at 852. To avoid addressing these inconsistencies apparent from the record, the panel majority blends the circumstantial and direct evidence together to conclude that race played a qualitatively greater role in S.B. 8's drafting. A look at the direct evidence shows how this conclusion is unwarranted based on the totality of the legislative record.

B. Direct Evidence: Legislators' Intent

The panel majority states that it "acknowledges that the record includes evidence that race-neutral considerations factored into the Legislature's decisions." Majority Op. 43. However, it disregards the mountain of direct evidence showing that the political directives "could not be compromised," as each of the other proposed bills that did not achieve those goals were not seriously considered by the Legislature. *See Bethune-Hill*, 580 U.S. at 189. The panel majority embraces only the quotes from the legislative session that refer to the Legislature's decision to exercise its sovereign prerogative to draw its maps under the Louisiana Constitution following *Robinson I*. Majority Op. 41–42. It cites some language from Senator Womack, the bill's sponsor, stating that he drew the map to create two majority-Black districts as direct evidence of racial predominance. It quotes the statements from select members of the Legislature at functionally every time they mention *Robinson I* and the Governor's decision to place the task of drawing new electoral maps into the hands of the Legislature. [31]

[31] Indeed, it is clear that the district court ordered the Legislature to draw a map consisting of two majority-Black districts. As result, Plaintiffs assert that race was not only the predominant factor, but the *only* factor. Assuming arguendo, how then can we reconcile the assertion that race was the only factor considered when drawing S.B. 8 with the existence of several other maps, including S.B. 4 which contained even more compact districts than the adopted map? How is it possible that each proposed map, and the ensuing amendments, resulted in distinct district renderings? Neither Plaintiffs nor the majority broach this issue because they would be forced to confront what is clear: that factors beyond race, including political considerations, went into the drawing of the maps that included two majority-Black districts, including S.B. 8.

These statements—either alone or crammed together with the circumstantial evidence—are insufficient to show racial predominance. The panel majority's conflation of evidence of race consciousness for the purpose of avoiding successive § 2 violations under the VRA with racial predominance is unprecedented. Its decision to do so after it acknowledges that evidence of race consciousness *does not* constitute evidence of racial predominance is also somewhat hard to comprehend. Majority Op. 34 (citing *Shaw I*, 509 U.S. at 646; *Milligan*, 599 U.S. at 29). Through contextualizing the totality of the legislative record, I will show precisely why those statements referencing *Robinson I* do not prove racial predominance.

i. Legislative Record

Unlike *Cooper*—which turned on "direct evidence of the General Assembly's intent in creating the [challenged district], including many hours of trial testimony subject to credibility determinations,"[32]—this case involves limited trial testimony regarding legislative intent. Although a "statement from a state official is powerful evidence that the legislature subordinated traditional districting principles to race when it ultimately enacted a plan creating [] majority-black districts," the Court has never expressly accepted statements evincing an intent to create a majority-minority district alone as prima facie evidence that a racial gerrymander occurred. *See Shaw II*, 509 U.S. at 649; *see also Miller*, 515 U.S. at 917–19.

[32] *Cooper*, 581 U.S. at 322.

a. Incumbency Protection

First and foremost, it strains credulity to relegate the potent evidence of political considerations and incumbency protection to a minor factor in the Legislature's decisions in this case. The trial record emphatically shows that S.B. 8's sponsor, Senator Womack, spoke continuously and fervently about his aims to protect certain incumbents—as well as to encase specific communities of interest within District 6. The record shows that while the Legislature considered race, it only considered it *alongside* other political and geographic considerations. *See Cromartie II*, 532 U.S. at 236. The legislative record reveals that Senator Womack's personal goals necessitated the protection of certain members of Louisiana's Republican delegation in Congress. *See, e.g.*, JE 31 at 25.

On January 16, 2024, the first day of the 2024 legislative session, Senator Womack introduced his bill to the Senate and Governmental Affairs Committee. *See generally* JE 29 (transcript of committee meeting). In his opening statement, Senator Womack averred that "[t]he boundaries in this bill I'm proposing ensure that Congresswoman Letlow remains both unimpaired with any other incumbents and in a congressional district that should continue to elect a Republican to Congress for the remainder of this decade." JE 29 at 1. He continued to assert that the bill ensured four safe Republican seats and a "Louisiana Republican presence in the United States Congress [that] has contributed tremendously to the national discourse." JE 29 at 2. He described the personal pride that resulted from the fact that the state's congressional delegation included the Speaker of the U.S. House of Representatives, Mike Johnson, and House Majority Leader Steve Scalise. *Id.* He went on to state that "[]his map ensures that the two of them will have solidly Republican districts at home so that they can focus on the national leadership that we need in Washington, DC." JE 29 at 2.

After the bill passed to the House and Governmental Affairs Committee for a hearing on January 18, 2024, Senator Womack stated that he sought to protect Representatives "Scalise, as well as Johnson, Letlow," and "Higgins." JE 31 at 25. Senator Womack left one "odd man out" of the delegation. He directly stated that one member of the state's Republican delegation that was not part of the "Republican team." *See id.* And that one member was Congressman Garret Graves. *See id.* Thus, it is convincing to credit Senator Womack's unwavering assertions that these political considerations were the "primary driver[s]" of S.B. 8. *See id.*

In that same committee hearing, the line of questioning shifted to comparing S.B. 8 to the rejected S.B. 4 map proposed by Senator Ed Price of Ascension Parish and Senator Royce Duplessis of Orleans Parish. While comparing his map to S.B. 4, Senator Womack agreed that his bill proposed districts that were less compact than S.B. 4. *Id.* But he attributed the less compact shape of District 4 in S.B. 8—which impacted District 6's compactness—to his attempt to comply with the VRA *while also* protecting Speaker Johnson and Congresswoman Letlow in North Louisiana and Majority Leader Scalise in Southeast Louisiana "[a]t the same time." *See* JE 31 at 22–25; 31. He continued to state that his map diverged from S.B. 4's configuration which he believed to threaten Congresswoman Letlow's chances of remaining in the House of Representatives. *See* JE 31 at 25–26.

This is precisely because S.B. 4 proposed that District Five would constitute a more compact, second majority-minority district that enveloped Congresswoman Letlow's home precinct.[33] Trial Tr. 524 (testimony of Sen. Duplessis) ("The map that I co-authored with Senator Price, the second majority-Black district went from Baton Rouge up to northeast Louisiana, the Monroe area."). Senator Womack agreed with the characterization that while the Legislature's Democratic caucus supported S.B. 4 for a myriad of reasons, he offered this "political map" to protect his personal political interests as well as Louisiana's standing in the national conversation. *See* JE 31 at 26. In an exchange with House and Governmental Affairs Committee Chairman Gerald Beaullieu of Iberia Parish, Senator Womack explained that he sought to protect the national interests of the state's conservative majority leadership through protecting its most established leaders. JE 31 at 26–27. Senator Womack declared that "[i]t's bigger than just us," and that Louisiana's more influential members of Congress should be protected to elevate the state based on his view of the state's "poor position." JE 31 at 27. Before amendments were offered, Senator Womack and Chairman Beaullieu agreed that S.B. 8 was "able to accomplish what the [Middle District of Louisiana] has ordered through [the] map, and also . . . protect[s] the political interest[s]" raised by Senator Womack. *Id.*

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[33] **Trial Tr. 524** (testimony of Sen. Duplessis) ("I recall the [population] numbers being very similar" between S.B. 4 and S.B. 8, with "[t]he main difference between the two maps . . . [being] just the[ir] geographic design[s]"). Opponents of S.B. 8 suggested that the bill does not actually seek to protect Letlow because it "puts too many votes in the south" or Florida Parishes of District Five. **JE 34 at 6 ("I applaud [Sen. Womack] for having stated that [protecting Congresswoman Letlow] is one of the objectives of this bill, but this bill doesn't do that.")**. These assertions were mere conjecture that: (A) proposed no other reasonable or possible alternative map and sought to risk the probable liability after a full trial in the Middle District of Louisiana; (B) did not consider the fact

The panel majority minimizes the political reasoning behind the map's contours but cites this exact quote from the exchange between Chairman Beaullieu and Senator Womack as direct evidence of racial predominance. Majority Op. 43. The panel majority ignores key pieces of information from the trial record to suggest its conclusion of "racial gerrymandering," where none exists. Regrettably, it subjugates the copious evidence of the overarching political motives in the Legislature. Respectfully, the panel majority ignores wholesale references to partisan politics and incumbent protection in its direct evidence analysis, only to throw it in as an aside before reaching its ultimate conclusion. *See* Majority Op. 43. It "acknowledge[d]" that "race-neutral considerations factored into the Legislature's decisions, such as the protection of incumbent representatives." Majority Op. 43. It then cites trial testimony from Senator Pressly and Senator Seabaugh agreeing that protecting the Republican leadership in Washington played a part in the legislative session. *Id.* (citing Trial Tr. 60, 71, 69).

This narrow examination of the trial record stops short of corroborating whether Plaintiffs actually satisfied their burden of disentangling race from politics. Furthermore, the evidence the panel majority pieces together from trial is far from the only evidence of political motives adduced from the numerous fact witnesses serving in the Legislature.

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that the alternative maps introduced in the legislative session placed Congresswoman Letlow in far less favorable positions. *See* **Trial Tr. 560** (testimony of Commissioner Lewis) (stating that S.B. 4 and H.B. 5 placed Congresswoman Letlow in the second majority-Black district).

Take for instance the trial testimony of Representative Mandie Landry of Orleans Parish, who testified to the "fear among Republicans that if they" failed to pass a map before the *Robinson I* trial "that the [Middle District of Louisiana] would draw one that wouldn't be as politically advantageous for them." Trial Tr. 367–68. She then said the quiet part out loud—that "everyone knew that" Governor Landry "wanted Congressman Graves out." Trial Tr. 370. Her unrefuted testimony demonstrated that S.B. 8 was "the Governor's bill" and that the Republican delegation's leadership supported it. *See id.* Representative Landry also noted that there were "a couple dozen bills [addressing] other issues that we understood were the Governor's bills," each tracking an item addressed in the Governor's call for a special session.[34] Trial Tr. 371 (explaining that the Legislature was "also discussing the [Louisiana] Supreme Court maps" and a bill to abolish the jungle primary system to move to "closed primaries" limited to registered party voters); *see also* JE 8 at 1–2 (calling for the Legislature to convene to draft new legislation and amendments relative to the election code, Louisiana Supreme Court districts, Congressional districts).

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[34] The relevance of Governor Landry's involvement in S.B. 8 cannot be overstated and is not even mentioned in a footnote by the majority. The best evidence of his involvement can be gleaned from his remarks to the Legislature at the opening of the 2024 Extraordinary Legislative Session. To assert that the Louisiana Legislature confronted this redistricting issue solely at the behest of the district court is plainly unsupported based on the Governor's statements and contradicts the language of Article III, § 6 of the Louisiana Constitution which states that "the legislature shall reapportion the representation in each house as equally as practicable on the basis of population shown by the census." Governor Landry—a lawyer, a former Congressman of District 3, and the former Attorney General of Louisiana who "did everything [he] could to dispose of [the *Robinson*] litigation," and who was well aware of the redistricting process—seized the initiative and called upon the Legislature to exercise its sovereign prerogative (and the legislative obligation) to draw the map. During his remarks, when he stated that the district court handed down an order, he specified that the order was for the Legislature to "perform our job… our job that our own laws direct us to complete, and our job that

From Representative Landry's time in the House Chamber during prior legislative sessions and the 2024 legislative session, she noted "hundreds" of discussions with House Republicans that made clear that any legislation that contradicted the political dynamics around S.B. 8 were non-starters. Trial Tr. 375. Representative Landry testified that these political discussions "had been going on since the Governor was elected among us and [in] the media" and "increased [in frequency] as we got closer to [the Governor's] inauguration." Trial Tr. 370–71.

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our individual oaths promise we would perform." **JE 35 at 10.** He continued by asserting that "[w]e do not need a federal judge to do for us what the people of Louisiana have elected you to do for them. You are the voice of the people, and it is time that you use that voice. The people have sent us here to solve problems, not to exacerbate them, to heal divisions, not to widen them." **JE 35 at 11.**

Louisiana Public Service Commissioner Davante Lewis also testified at trial as to the overarching, dominant political objectives of the 2024 legislative redistricting session. With years of experience working in the state capitol as a legislative aide, lobbyist, and elected official, he provided ample evidence of what transpired during the 2024 legislative session. Trial Tr. 562 (stating that he "knew the entire [Senate] committee" because he "had worked with them" in the Legislature for "over eight years"). Commissioner Lewis explained that there were two other redistricting maps that did not advance to the full floor for votes: S.B. 4, sponsored by Senators Price and Duplessis, and H.B. 5, sponsored by Representative Marcelle. Trial Tr. 560. He stated that both of those maps placed Congresswoman Letlow in the second majority-Black congressional district, with Congressman Graves in a safe Republican seat. *See* Trial Tr. 560 ("Q. How many majority black districts were in the map[s]? A. Two. Q. Who currently represents those districts? A. It would be Congressman Carter and *Congresswoman Letlow.*"); Trial Tr. 524 ("The main difference between the two maps . . . was just the geographic design of the map.").

Commissioner Lewis recounted that he testified in favor of S.B. 4 before the Senate and Governmental Affairs Committee on January 16, 2024. Trial Tr. 560–61. He testified that S.B. 4 did not advance out of committee on that day. Trial Tr. 563. He stated that the vote "came down on party lines," and that "[a]ll Republicans voted against it." Trial Tr. 563. From this testimony, it is safe to say that more compact bills that included two majority-Black districts but did not protect the right Republican incumbents were effectively dead on arrival.

A clear example of this sentiment in action in the legislative record comes from Representative Marcelle's statements in front of the House and Governmental Affairs Committee on January 17, 2024. Less than twenty-

four hours after S.B. 4 was shot down in committee on purely partisan lines, Representative Marcelle voluntarily pulled H.B. 5 from consideration. She stated that her reasons for doing so were based on "knowing what the politics are at play." JE 37 at 6. She further stated that any "[b]ill that was very similar" to H.B. 5 and S.B. 4 would "probably never make it to the floor." JE 37 at 6.

Senator Duplessis's trial testimony provides even more context dating back to the initial 2022 legislative redistricting session. As a member of the House and Governmental Affairs for that session, Senator Duplessis "traveled for months across the state and conducted roadshows and listened to the community" to assess what they would like to see in the redistricting process.[35] Trial Tr. 513–14. He witnessed countless perspectives from voters across the state that called for fair maps that would reflect the state's population and comply with the VRA. *See* Trial Tr. 515. Recalling the session that followed the roadshow process, Senator Duplessis explained that legislation featuring an electoral map that included two majority-Black districts were "all voted down" in committee. Trial Tr. 515. In spite of the populace's clear expression for the Legislature to pass fair maps[36] the Legislature ultimately chose H.B. 1. He continued to explain

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[35] *See, e.g.*, Power Coalition, *Legislative Redistricting Roadshow Comes to Alexandria on Tuesday, November 9, 2021*, (Nov. 9, 2021), https://powercoalition.org/legislative-redistricting-roadshow-comes-to-alexandria-on-tuesday-november-9-2021/.

[36] Indeed, the Legislature's deliberative process was informed by community perspectives that demonstrated the unity of interests behind an electoral map that included two majority-Black districts. This sharply contrasts with the situation in *Vera. See* 861 F. Supp. at 1334 ("The final result seems not one in which the people select their representatives, but in which the representatives have selected the people."). Members of both major political parties in the Legislature attended the nearly dozen roadshows across the state and heard this ubiquitous message.

that the Legislature convened for a special redistricting session in June 2022 after the preliminary injunction decision in *Robinson I*. Trial Tr. 517. He testified that several bills introduced in that special session would have complied with the VRA as ordered by the Middle District of Louisiana and adhered to traditional districting principles. Trial Tr. 518. Ultimately, none were adopted in that session for the same reasons that S.B. 4 and H.B. 5 failed; they were not supported by the Governor and the Republican delegation's leadership.

Senator Duplessis further contended that the Governor's influence over S.B. 8 led to its quick passage in the Legislature. Trial Tr. 525. Noting the Governor's position "coming off an election with no runoff," Senator Duplessis testified that "[the Governor's] support would have a lot of influence on what does and doesn't get passed." Trial Tr. 525. He stated that after Senator Womack's bill was filed "it became clear that that was the map that Governor Landry would support." *Id.* He continued to state that one does not "have to be a redistricting expert to know that any time a new map is drawn," that "[t]here is going to be someone who is negatively impacted from an incumbency standpoint." *Id.* On the floor of the Legislature during the 2024 session, Senator Duplessis noted that Senators Womack and Stine consistently talked about "the importance of protecting certain elected officials." JE 30 at 20; Trial Tr. 527. When questioned about this statement at trial, he stated that "the political decision was made to protect certain members of Congress and to not protect one member of Congress and that it was clear that that member was going to be Congressman Garret Graves." Trial Tr. 527.

After the floor was open to amendments to S.B. 8 in the House and Governmental Affairs Committee, Senator Womack and Representative Michael Johnson of Rapides Parish noted that S.B. 8 was not drafted "in a

vacuum" and that the congressional map would affect people in Senator Womack's own State Senate district. JE 31 at 45–46. Senator Womack accepted that while some Republicans may give him "a lot of heat" for the decision to draw a map that included two majority-minority districts, he agreed with Representative Johnson that S.B. 8 "present[s] a map that achieves all the necessary requirements [of a valid map] and . . . [is] the best instrument that [he] could come up with." JE 31 at 46.

Thus, the legislative record in this case reveals the true "dominant and controlling" factors driving the adopted map's boundaries. *See Miller*, 515 U.S. at 913One such factor was the need to protect every member of Louisiana's Republican delegation in the U.S. House of Representatives *except for Congressman Graves*. That was the criterion that "could not be compromised." *See Bethune-Hill*, 580 U.S. at 189 (quotation omitted). On this point, not even S.B. 8's detractors—either at trial or during the legislative session—attempted to debunk or attack this offered rationale. *See* Trial Tr. 71 (testimony of Sen. Pressly) ("There were certainly discussions [in the Republican Delegation] on ensuring" that Speaker Johnson, Majority Leader Scalise, and Congresswoman Letlow were protected); Trial Tr. 76–77 (agreeing that a "Republican would be likely to lose in a second majority-Black district" like the other maps proposed in the Legislature); Trial Tr. 61 (testimony of Sen. Seabaugh). With all of this context, it becomes indelibly clear that Governor Landry's and the Republican delegation's decisions to protect Speaker Johnson, Majority Leader Scalise, and Congresswoman Letlow and cut out Congressman Graves shows that political motivations "could not be compromised" during the redistricting process. *See Bethune-Hill*, 580 U.S. at 189. Thus, the overwhelming evidence of the goal of incumbency protection in the legislative record shows that Plaintiffs have

failed to meet their burden to prove racial predominance in this "mixed motive" case, as required by Supreme Court precedent.

b. Other Traditional Redistricting Principles Respected in S.B. 8

The evidence in the record as to the communities of interest contained within S.B. 8 substantially undermines the assertion that race predominated in the bill's drafting. The Supreme Court has warned that "where the State assumes from a group of voters' race that they 'think alike, share the same political interests, and will prefer the same candidates at the polls,' it engages in racial stereotyping at odds with equal protection mandates." *Miller*, 515 U.S. at 920. Notably, this record is flush with community of interest evidence that rebuts the allegations of racial stereotyping. *See Theriot*, 185 F.3d at 485.

There are tangible communities of interest spanning District 6. The panel majority cannot plausibly conclude that the evidence compels a determination that there are no tangible communities of interest contained in District 6. Unlike in *Miller* in which the Court was presented with a comprehensive report illustrating the fractured political, social, and economic interests within the district's Black population, this court was only presented with trial testimony subject to credibility determinations. *Miller*, 515 U.S. at 919.

"A district may lack compactness or contiguity—due, for example, to geographic or demographic reasons—yet still serve the traditional districting goal of joining communities of interest." *Cromartie I*, 526 U.S. at 555 n.l (Stevens, J., concurring). A determination that race played a predominant role—over incumbency protection, communities of interest, compactness, and contiguity—is crucial to Plaintiffs' case. However, the Plaintiffs rely on this court solving every conflict of fact in their favor and accepting their inferences in order to hold that they have satisfied their burden of proof. The Court has advised courts that "[w]here there are such conflicting inferences one group of them cannot, be[] labeled as 'prima facie proof.'" *Wright v. Rockefeller*, 376 U.S. 52, 57 (1964). If one inference were to be "treated as conclusive on the fact finder," it would "deprive him of his responsibility to choose among disputed inferences. And this is true whether the conflicting inferences are drawn from evidence offered by the plaintiff or by the defendant or by both." *Id*. The record does not support the panel majority's view that Plaintiffs' evidence has established a prima facie case compelling this panel, despite conflicting inferences which could be drawn from that evidence, to hold that the State drew S.B. 8 solely on the basis of race. *See id.*

The panel majority clings to rationales from *Hays*, averring that its descriptions of cultural divides are still true today. It bears repeating that—considering the long passage of time and trends of cultural integration over the last few decades—it is unreasonable and untenable for this court to conclude "much of the 'local appraisal' analysis from *Hays I* remains relevant to an analysis of S.B.8." *See* Majority Op. at 53–54. Citing the map's divisions of the Acadiana region, the majority contends that S.B. 8 "fails to take into account Louisiana's diverse cultural, religious, and social landscape in any meaningful way." Majority Op. 55 n.11. But the panel majority's narrow view rooted from its cursory consultation of select cultural historical sources and *Hays* sharply conflicts with decades of electoral history.

Several witnesses that testified in this case stated that Louisiana's political subdivisions and geographical and cultural hotspots are routinely split in different electoral districts. Instead of evaluating it based on the evidence in this case, the panel majority condemns S.B. 8 for its multiple divisions of the "strong cultural and ethnic groups" in the Acadiana area.[37] At first glance, the panel majority's aim is noble and sensible. But the complexity of relationships between populations within the Acadiana area, as well as its geographic composition, do not promote one unitary community of interest. In 1971, the Louisiana Legislature passed a resolution officially recognizing and protecting the "traditional twenty-two parish Cajun homeland."[38] The Acadiana Delegation in the Legislature provides the following map of Acadiana and segments the often referred-to Cajun Heartland (in darker red) from the rest of Acadiana.[39]

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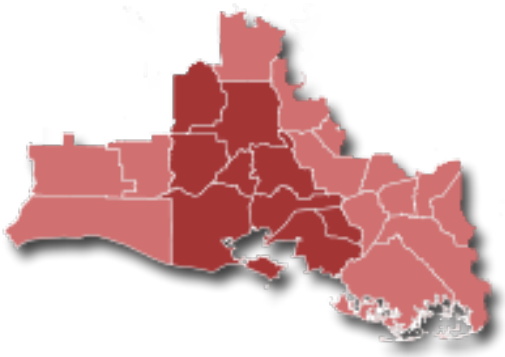
[37] The panel majority also paints with a broad brush to describe the region, but its high-level discussion assumes that two distinctive cultures that have learned how to live harmoniously in a large shared geographic region morphs those distinctive communities into a homogenous, unitary community of interest. Cajun and Creole populations have different histories, languages, food, and music. In my view, the intriguing relationship between Cajuns and Creoles may lend itself to noting that they do not neatly fit into a unitary community of interest. Somewhat respecting this notion, the Legislature has consistently segmented the Acadiana area into multiple congressional districts over the past few decades.

[38] Acadiana Legislative Delegation, (last visited April 29, 2024), https://house.louisiana.gov/acadiana/#:~:text=Acadiana%20often%20is%20applied%20only,sometimes%20also%20Evangeline%20and%20St.

[39] *Id.* ("Acadiana often is applied only to Lafayette Parish and several neighboring parishes, usually Acadia, Iberia, St. Landry, St. Martin, and Vermilion parishes, and sometimes also Evandeling and St. Mary; this eight-parish area, however, is actually the 'Cajun Heartland, USA' district, which makes up only about a third of the entire Acadiana region.").



Under the delegation's definition, the Acadiana parishes contain portions of three of the state's five major population centers: Lake Charles, Lafayette, and the outskirts of Baton Rouge.[40] Acadiana stretches from the marsh lands in St. Mary Parish all the way up to Avoyelles Parish in the Red River Basin. Importantly, the majority ignores the fact that the twenty-two parishes that lie within this corner of the state have been segmented into multiple single-member congressional districts since the 1970s.[41]

The following map demonstrates the congressional districts for the majority of the 1970s. Notably it splits Acadiana into three congressional districts:

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[40] *See id.*

[41] Even if the panel majority restricts its description of Acadiana into the "Cajun Heartland" parishes, *see supra* n.40, it also cannot account for the fact these have been routinely split into multiple congressional districts for decades. The following maps are retrieved from shapefile data compiled and organized by professors from the University of California at Los Angeles. Jeffrey B. Lewis, Brandon DeVine, Lincoln Pitcher, & Kenneth C. Martis, *Digital Boundary Definitions of United States Congressional Districts, 1789-2012* (2013) (datafile and code book generating district overlays), https://cdmaps.polisci.ucla.edu.

Continuing to the 1980s, the Legislature continued to segment Acadiana for another decade:

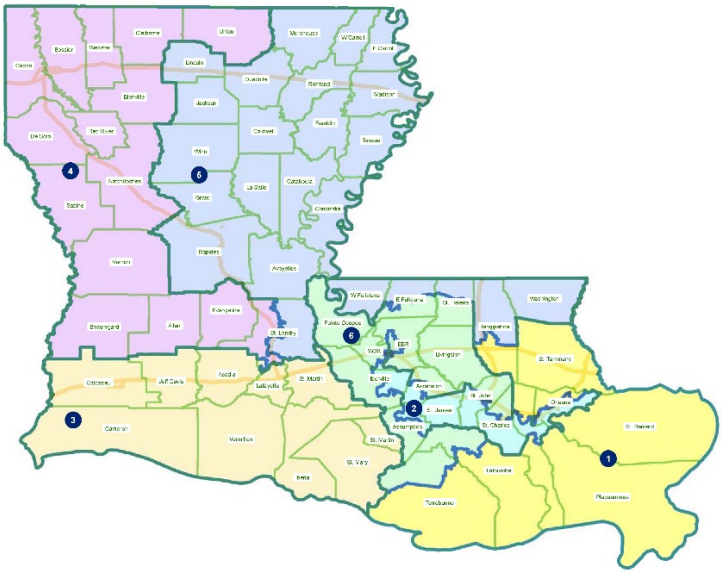
Even the congressional districts drawn by the *Hays* panel were no different on this front, also splitting up the Acadiana area into multiple districts:[42]

Neither did the congressional districts enacted after the turn of the millennium keep Acadiana whole:[43]

[42] 936 F. Supp. 360, 372 (W.D. La. 1996) ("The State of Louisiana is directed to implement the redistricting plan drawn by this court and ordered implemented in *Hays II*."). The judicially created map split Acadiana into districts 3, 5, 6, and 7.

[43] *See* Act 10, H.B. 2 (2001) (splitting Acadiana into four congressional districts).

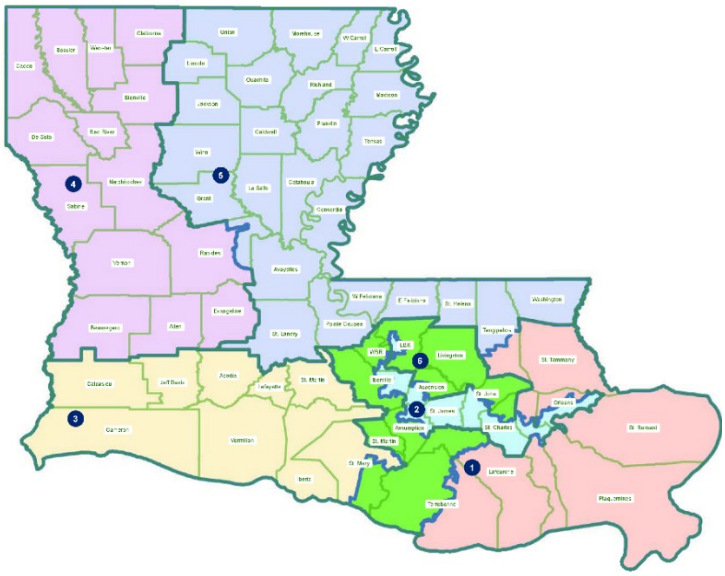
Another decade passes, and the Legislature carves up Acadiana once more. The Legislature continued this trend after the 2010 census. The electoral map enacted in 2011[44] likewise split Acadiana into four districts:



If the majority's formulation is correct, then none of these maps, including H.B. 1 (depicted below),[45] had adequately accounted for Louisiana's diverse cultural landscape in any meaningful way.

[44] Act 2, H.B. 6 (2011) (same).

[45] Act 5, H.B. 1 (2022) (dividing Acadiana into four single-member congressional districts).



Thus, dating back decades, it is safe to say Acadiana has been a community that is "not unaccustomed to splitting" in order to achieve a variety of other goals in Congressional reapportionment. *Cf. Theriot*, 185 F.3d at 483; *Theriot v. Parish of Jefferson*, 966 F. Supp. 1435, 1444 (E.D. La. 1997). For this reason, S.B. 8's division of Acadiana cannot persuasively be interpreted to prove that race predominated in its drafting. *See* H.B. 1, Act 5 (2022) (dividing the Acadiana region into four Congressional districts); H.B. 6, Act 2 (2011) (doing the same). Absent from the majority's analysis is discussion of precedent making clear that an electoral map that splits a community of interest is not strong evidence of racial predominance if the community is accustomed to being split into multiple districts. *Cf. Theriot*, 185 F.3d at 485. Furthermore, the legislative record in this case shows that the Legislature considered a number of other communities of interest and apportioned them appropriately into single-member districts.[46]

[46] *See also supra* notes 21–26.

Here is what the record demonstrates as to the communities of interest factor. In testimony before the House and Governmental Affairs Committee, Senator Womack and numerous other members of the Louisiana House of Representatives noted that District 6 in S.B. 8 contained numerous communities of interest. Representative Larvadain of Rapides Parish noted that District 6 respected regional education and employment interests, noting that Rapides area residents lie within a "community of interest with Natchitoches and Caddo" parishes. JE 31 at 21. He further noted that residents of Point Coupee Parish in District 6, which lies almost midway between Opelousas and Baton Rouge, utilize health systems services and hospitals in Saint Landry Parish's more densely populated seat of Opelousas. JE 31 at 21–22. As another note, S.B. 8's District 4 contains the two major military bases in the state under the watch of the most powerful member of the U.S. House of Representatives, Speaker Johnson. Trial Tr. 384 (noting that assets like military bases, along with colleges or universities are information that legislators and electoral demographers consider as communities of interest).

The majority does not grapple with any of this. Instead, it clings tightly to Mr. Hefner's dot density map and testimony on the contours of the district's lines in certain areas instead of truly examining whether Plaintiffs had disentangled politics and race to prove that the latter drove District 6's lines. *See Cromartie I*, 526 U.S. at 546; *Theriot*, 185 F.3d at 486 ("Our review of the record leads us to conclude that the inclusion or exclusion of communities was inexorably tied to issues of incumbency."). Thus, the majority cannot convincingly hold that Plaintiffs have met their burden of debunking the State's "political motivation" defense.

III. Strict Scrutiny

In my view, the panel majority adopts an incomplete interpretation of the legislative record and inconsistent circumstantial evidence to hold that S.B. 8 constitutes a racial gerrymander. Following that determination, the panel majority asserts that S.B. 8 fails strict scrutiny. Notwithstanding my writings above that demonstrate that S.B. 8 does not constitute an impermissible racial gerrymander, I now explain how the majority's second major determination also lacks a substantial basis in the record.

A. Compliance with the VRA is a Compelling State Interest

To survive an equal protection challenge to an election redistricting plan which considers race as a factor, the state must show that its redistricting plan was enacted in pursuit of a compelling state interest and that the plan's boundaries are narrowly tailored to achieve that compelling interest. *See Vera*, 517 U.S. at 958–59. In my view, it is clear that the State has satisfied its burden in demonstrating that District 6's boundaries in S.B. 8 were created pursuant to a compelling state interest and were narrowly tailored to achieve that interest.

It is axiomatic that "compliance with § 2 of the Voting Rights Act constitutes a compelling governmental interest." *See Clark v. Calhoun Cnty.*, 88 F.3d 1393, 1405 (5th Cir. 1996); *Cooper*, 581 U.S. at 301. Furthermore, the Supreme Court has consistently made clear that "a State indisputably has a compelling interest in preserving the integrity of its election process." *Brnovich v. Dem. Nat'l Comm.*, 141 S. Ct. 2321, 2347 (2021) (quoting *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (per curiam) (internal quotation marks omitted)).

In the face of this, Plaintiffs argue that compliance with the VRA is not a compelling governmental interest based on this record. Plaintiffs

categorize the State's decision to settle the *Robinson* matter by calling a special session to draw new maps as "pretrial court-watching" insufficient to constitute "a compelling interest to justify race-based line drawing." Plaintiffs' Br. 14. They contend that the State's reliance on the VRA is based on the Attorney General's "calculated guess" on how the Middle District would rule, rather than an independent analysis of H.B. 1's performance under the VRA. Plaintiffs point to the Attorney General's responses to questioning during an information session before the 2024 Legislative Session formally opened in the morning hours of January 16, 2024, to support the theory that the Legislature did not truly consider VRA compliance in deciding to promulgate S.B. 8. Plaintiffs' Br. 15. Alternatively, they assert that the VRA is merely a "*post-hoc* justification[]" offered by the State to avoid liability. *See Bethune-Hill*, 580 U.S. at 190.

None of these arguments are persuasive. The State has pointed to a compelling state interest recognized by binding Supreme Court precedent. *See Cooper*, 581 U.S. at 292, 301; *Shaw II*, 517 U.S. at 915. I now proceed to address narrow tailoring as the State has sufficiently established a strong basis in evidence underlying its redistricting decisions.

B. Strong Basis In Evidence

The State argues that it had good reasons to believe that it had to draw a majority-minority district to avoid liability for vote dilution under § 2 of the VRA. *See Ala. Legis. Black Caucus v. Alabama*, 575 U.S. 254, 278 (2015) (holding that legislators "may have a strong basis in evidence to use racial classifications in order to comply with a statute when they have good reasons to believe such use is required, even if a court does not find that the actions were necessary for statutory compliance"); *Cooper*, 581 U.S. at 287 ("If a State has good reason to think that all three of these [*Gingles*] conditions are met, then so too it has good reason to believe that § 2

requires drawing a majority-minority district. But if not, then not.”). Moreover, the Court has emphasized that as part of the strict scrutiny inquiry “a court’s analysis of the narrow tailoring requirement insists only that the legislature have a ‘strong basis in evidence’ in support of the (race-based) choice that it has made.” *Ala. Legis. Black Caucus*, 575 U.S. at 278. In essence, the Court has indicated that the State must establish a strong basis in evidence for concluding that the threshold *Gingles* conditions for § 2 liability are present, namely:

> First, “that [the minority group] is sufficiently large and geographically compact to constitute a majority in a single member district”; second, “that it is politically cohesive”; and third, “that the white majority votes sufficiently as a bloc to enable it . . . usually to defeat the minority’s preferred candidate.”

Vera, 517 U.S. at 978 (quoting *Thornburg v. Gingles*, 478 U.S. 30, 50–51, (1986)) (internal citation omitted).

The majority errs in asserting that the State has not met its burden here. *See* Majority Op. at 51. Markedly, the majority has incorrectly articulated the State’s burden as requiring it to show that the contested district, District 6, satisfies the first *Gingles* factor. The Supreme Court has already directed that the first *Gingles* condition “refers to the compactness of the minority population [in the state], not to the compactness of the contested district.” *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 433 (2006) (“*LULAC*”) (quoting *Vera*, 517 U.S. at 997 (Kennedy, J., concurring))). As such, the State’s actual burden is to show that the first *Gingles* condition—the Black population is sufficiently large and geographically compact to constitute a majority in a single-member district—is *present* so as to establish that it had a strong basis in evidence for concluding that its remedial action to draw a new map was required.

Cooper, 581 U.S. at 287; *Vera*, 517 U.S. at 978. "If a State has good reason to think that all the *Gingles* preconditions are met, then so too it has good reason to believe that § 2 requires drawing a majority-minority district." *Cooper*, 581 U.S. at 302 (internal quotation marks omitted).

The Black population's numerosity and reasonable compactness within the state must first be established as required by *Gingles*. *Cooper*, 581 U.S. at 301; *Allen v. Milligan*, 599 U.S. 1, 19 (2023). To satisfy the first *Gingles* precondition, plaintiffs often submit illustrative maps to establish reasonable compactness for purposes of the first *Gingles* requirement. *Milligan*, 599 U.S. at 33 ("Plaintiffs adduced at least one illustrative map that comported with our precedents. They were required to do no more to satisfy the first step of *Gingles*."). As such, courts evaluate whether the illustrative plans demonstrate reasonable compactness when viewed through the lens of "traditional districting principles such as maintaining communities of interest and traditional boundaries." *LULAC*, 548 U.S. at 433 (internal quotation marks omitted). With respect to the first *Gingles* precondition, in *Robinson I*, the Middle District of Louisiana found both (1) that Black voters could constitute a majority in a second district in Louisiana and (2) that a second district could be reasonably configured in the state. *Robinson I*, 605 F. Supp. 3d at 820–31; *see Milligan*, 599 U.S. at 19. Following *Milligan*'s lead, the *Robinson I* court analyzed example districting maps that Louisiana could enact—each of which contained two majority-Black districts that comported with traditional districting criteria—to conclude that a second majority-minority district could be formulated from Louisiana's demographics. *Robinson I*, 605 F. Supp. 3d at 822–31; *see Milligan*, 599 U.S. at 20.

Because the Middle District of Louisiana had thoroughly conducted a *Gingles* analysis, the State had good reasons to believe (1) that the *Gingles*

threshold conditions for § 2 liability were all present and (2) that it was conceivable to draw two majority-minority congressional districts that satisfy the first prong of *Gingles* while adhering to traditional redistricting principles. The *Robinson I* court's thorough analysis that the plaintiffs were substantially likely to prevail on the merits of their §2 claim provided powerful evidence and analysis supporting the State's strong basis in evidence claim that the VRA requires two majority-Black districts. *Cf. Wisconsin Legis. v. Wis. Elections Comm'n*, 595 U.S. 398, 403 (2022) (holding that the Governor failed to carry his burden because he "provided almost no other evidence or analysis supporting his claim that the VRA required the seven majority-black districts that he drew"). The majority points to no precedent requiring the State to reestablish or embark on an independent inquiry regarding the numerosity and reasonable compactness of Louisiana's Black population after an Article III judge has already carefully evaluated that evidence in a preliminary injunction proceeding. *Id*. at 410 (Sotomayor, J., dissenting) ("The Court points to no precedent requiring a court conducting a malapportionment analysis to embark on an independent inquiry into matters that the parties have conceded or not contested, like the *Gingles* preconditions here.").

Notably, both the majority and the *Robinson I* court would agree that where the record reflects that the Black population is dispersed then § 2 does not require a majority-minority district. *Compare* 605 F. Supp. 3d at 826 ("If the minority population is too dispersed to create a reasonably configured majority-minority district, [§ 2] does not require such a district.") (internal citation and quotation marks omitted), *with* Majority Op. at 51 ("The record reflects that, outside of southeast Louisiana, the Black population is dispersed."). But it was the *Robinson I* court that was provided with an extensive record—particularly extensive for a preliminary

injunction proceeding—regarding the numerosity and geographic compactness of Louisiana's Black population. And this court should not deconstruct or revise that finding. Despite the majority's suggestion that the "[instant] record reflects that, outside of southeast Louisiana, the Black population is dispersed," this record makes no such certitude. *See* Majority Op. at 51.

Likewise, the Supreme Court has been clear that compactness in the equal protection context, "which concerns the shape or boundaries of a district, differs from § 2 compactness, which concerns a minority group's compactness." *LULAC*, 548 U.S. at 433 (quoting *Abrams v. Johnson*, 521 U.S. 74, 111 (1997)). "In the equal protection context, compactness focuses on the contours of district lines to determine whether race was the predominant factor in drawing those lines." *Id.* (citing *Miller*, 515 U.S. at 916–17). The inquiry under § 2 is whether "the minority group is geographically compact." *Id.* (quoting *Shaw II*, 517 U.S. at 916) (internal quotation marks omitted).

The instant case is about an asserted equal protection violation. The fully developed trial record substantiates District 6's compactness as it relates to traditional redistricting factors. Conversely, *Robinson I* and its associated record are about a vote dilution violation. In essence, the record in *Robinson I* is replete with evidence concerning the inquiry under § 2 into whether the minority group is geographically compact. *Robinson I*, 605 F. Supp. 3d at 826. The *Robinson I* court correctly determined that "[t]he relevant question is whether the *population* is sufficiently compact to make up a second majority-minority congressional district in a certain area of the state." *Robinson I*, 605 F. Supp. 3d at 826. And that is the determination that the Middle District of Louisiana made. Equipped with expert testimony regarding the numerosity and reasonable compactness of the Black

population in Louisiana, the *Robinson I* court made a finding that the "Black population in Louisiana is heterogeneously distributed." 605 F. Supp. 3d at 826. In *Robinson I*, the court determined that "[p]laintiffs have demonstrated that they are substantially likely to prove that Black voters are sufficiently 'geographically compact' to constitute a majority in a second congressional district." *Robinson I*, 605 F. Supp. 3d at 822. It would be unreasoned and inappropriate for this court—without the benefit of a record relevant to vote dilution—to now *post hoc* suggest that Black voters are not sufficiently "geographically compact" and thus overrule the *Robinson I* court's finding.

After determining that the previously enacted redistricting plan, H.B. 1, likely violated § 2, the Middle District of Louisiana did not impose a particular map or course of action on the State. *Id.* at 857 ("The State . . . is not required to [use one of plaintiffs' illustrative plans], nor must it 'draw the precise compact district that a court would impose in a successful § 2 challenge.'"). Rather, the *Robinson I* court highlighted that the State retained "broad discretion in drawing districts to comply with the mandate of § 2." *Id.* (quoting *Shaw II*, 517 U.S. at 917 n.9). It emphasized the State's numerous options for a path forward, namely that the State could "elect to use one of Plaintiffs' illustrative plans" or "adopt its own remedial map." The State chose the latter. At the same time, the *Robinson I* court cautioned the State to respect its own traditional districting principles and to remain cognizant of the reasonableness of its fears and efforts to avoid § 2 liability. *Id.* (quoting *Vera*, 517 U.S. at 978).

Although District 6 was not present in any of the illustrative maps submitted to satisfy the first *Gingles* factor in *Robinson I*, the State has shown that as a remedial plan District 6 is reasonably compact when viewed through the lens of "traditional districting principles such as maintaining

communities of interest and traditional boundaries." *LULAC*, 548 U.S. at 433 (internal quotation marks omitted).[47] Recall that a "§ 2 district that is reasonably compact and regular, taking into account traditional districting principles such as maintaining communities of interest and traditional boundaries, may pass strict scrutiny without having to defeat rival compact districts designed by plaintiffs' experts in endless beauty contests." *Vera*, 517 U.S. at 977.

Make no mistake—the "special session [called by Governor Landry] was convened as a direct result of [] litigation, *Robinson v. Landry*." JE36 at 6. Certainly, some state legislators colloquially characterized the genesis of the special session by expressing that "we've been ordered by the court that we draw congressional district with two minority districts." JE36 at 4 (Sen. Ed Price). But, while some state legislators conversationally expressed that "we are now in 2024 trying to resolve this matter at the direction of the court," all legislators formally and collectively understood the redistricting process to have begun in the fall of 2021 "where [the Legislature] began [the] process going to every corner of this state on the roadshow, northeast, northwest, southeast, southwest, central Louisiana, all throughout this state." JE36 at 4 (Sen. Royce Duplessis). Most of these senators—with the exception of two newly elected senators—were involved in the redistricting process when it began more than two years before the January 2024 special session, in the fall of 2021. Trial Tr. 545 (noting that except for only two newly-elected state senators to the 2024 Legislature, "the rest of the Senate serv[ed] for the full duration of the redistricting process following the 2020 census").

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[47] *See supra* Part II.A-B.

As mentioned above, the testimony and evidence show that the legislators gave careful thought when identifying and assessing communities of interest; strategizing incumbency protection; calculating how often maps split parishes, census places (or municipalities), and landmarks, and measuring and comparing compactness scores. Although the impetus for the special session was litigation, the record confirms that the legislators considered traditional redistricting criteria in drawing and amending the maps. During the January 2024 special session, the legislators continuously cited "redistricting criteria, including those embodied in the Legislature's Joint Rule 21" as foremost in their minds while promulgating, drafting, and voting on S.B. 8.[48] As discussed, the record illustrates that the legislators balanced all the relevant principles, including those described in Joint Rule 21, without letting any single factor dominate their redistricting process.

To further imprint that the State had a strong basis in evidence for finding that the *Gingles* preconditions for § 2 liability were present, I examine the remainder of the *Gingles* factors. *See Vera*, 517 U.S. at 978. Louisiana electoral history provided evidence to support the remaining *Gingles* prerequisites. The second *Gingles* factor asks whether Black voters are "politically cohesive." The court determines whether Black voters

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[48] Moreover, Patricia Lowrey-Dufour, Senior Legislative Analyst to the House and Governmental Affairs Committee, presented an oral "101" orientation about the redistricting process. Specifically, she provided an overview of redistricting terms, concepts, and law, redistricting criteria, the 2020 census population and population trends, malapportionment statistics, and illustrative maps. Moreover, Ms. Lowrey-Dufour directed legislators to "a plethora of resources available on the redistricting website of the legislature." In other words, the confection of these redistricting plans did not occur in a vacuum. S.B. 8 was adopted as part of a process that began with the decennial and in which legislators were immensely informed of their duties and responsibilities. **JE28 at 3–11**.

usually support the same candidate in elections irrespective of the contested district. The third *Gingles* factor requires an inquiry into whether White voters in Louisiana vote "sufficiently as a bloc to usually defeat [Black voters'] preferred candidate." Again, the court makes this determination unrelatedly of the contested district. Relying on a record that established racially polarized voting patterns in the state of Louisiana, the State had a strong basis in evidence for finding that the second and third *Gingles* factors were present.

Further, the Middle District of Louisiana court analyzed "the Senate Factors . . . and then turned to the proportionality issue." *Robinson I*, 605 F. Supp. at 844. By evaluating the Senate Factors,[49] the *Robinson I* court determined that the plaintiffs had "established that they are substantially likely to prevail in showing that the totality of the circumstances weighs in their favor." 605 F. Supp. at 844–51. Lastly, when evaluating the proportionality factor, the Middle District of Louisiana concluded that the "Black representation under the enacted plan is not proportional to the Black share of population in Louisiana . . . Although Black Louisianans make up 33.13% of the total population and 31.25% of the voting age population, they comprise a majority in only 17% of Louisiana's congressional districts." *Id.* at 851. Thus, each of the three *Gingles* prerequisites was sufficiently established.

In sum, not only did the State have a strong basis in evidence for believing that it needed a majority-minority district in order to avoid liability under § 2 but—in drafting the remedial plan—it also ensured that its

[49] The Senate Report of the Senate Judiciary Committee—which accompanied the 1982 amendments to the VRA—specifies factors ("Senate Factors") that are typically relevant to a § 2 claim and elaborate on the proof required to establish § 2 violations. *See Gingles*, 478 U.S. at 43–44.

proposed redistricting plan met the traditional redistricting criteria and was geographically compact so as to not offend the VRA. *See Shaw II*, 517 U.S. at 916–17 (rejecting the argument that "once a legislature has a strong basis in evidence for concluding that a § 2 violation exists in the State, it may draw a majority-minority district anywhere, even if the district is in no way coincident with the compact *Gingles* district"). Thus, District 6, as drawn, is "narrowly tailored."

Shaw II recognizes that: (1) the State may not draw a majority-minority district "anywhere [in the state] if there is a strong basis in evidence for concluding that a § 2 violation exists somewhere in the State and (2) "once a violation of the statute is shown[,] States retain broad discretion in drawing districts to comply with the mandate of § 2." *Shaw II*, 517 U.S. at 901, 917 n.9. Citing *Shaw II*, the *Robinson I* court made no determination that a district should be drawn *just anywhere* in the state. 605 F. Supp. 3d at 857–58. Nor did the State seek to embark on such an endeavor. Rather, the *Robinson I* court afforded the State "a reasonable opportunity for the legislature to meet [applicable federal legal] requirements by adopting a substitute measure rather than for the federal court to devise and order into effect its own plan." *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978) (citing *Burns v. Richardson*, 384 U.S. 73, 85 (1966)). Because the Supreme Court has emphasized "[t]ime and again" that "reapportionment is primarily the duty and responsibility of the State through its legislature or other body, rather than of a federal court," this three-judge panel should not usurp the State's efforts to narrowly tailor its reapportionment scheme. *See Voinovich v. Quilter*, 507 U.S. 146, 156 (1993). Under the *Burns* rule, "a State's freedom of choice to devise substitutes [or remedial plans] for an apportionment plan [that was] found unconstitutional . . . should not be restricted beyond the clear commands

of the Equal Protection Clause." *Lipscomb*, 437 U.S. at 536–37; *Burns*, 384 U.S. at 85.

Far from a map "drawn anywhere" in the state simply because "there is a strong basis in evidence for concluding that a § 2 violation exists somewhere in the State," District 6 reasonably remedies potential § 2 violations because (1) the Black population was shown to be "geographically compact" to establish § 2 liability, *Gingles*, 478 U.S. at 50, and (2) District 6 complies with "traditional districting principles such as compactness, contiguity, and respect for political subdivisions," *See Miller*, 515 U.S. at 919. *Shaw II*, 517 U.S. at 900. For the foregoing reasons, I would hold that because S.B. 8 is narrowly tailored to further the State's compelling interests in complying with § 2 of the VRA, it survives strict scrutiny and is therefore constitutional.

IV. Conclusion

The panel's mandate in this case was clear: Plaintiffs needed to prove by a preponderance of the evidence that race predominated in the drawing of the district lines found in S.B. 8. The panel majority, relying on decades-old case law with antiquated observations, and by giving undue disproportionate weight to the testimonies of Plaintiffs' witnesses, concluded that Plaintiffs met their burden. Respectfully, my assessment of the evidence adduced at trial and my complete review of the entire record in this case convinces me that Plaintiffs failed to disentangle the State's political defense from the consideration of race in the formulation of S.B. 8. Not only is the panel majority's decision particularly jarring here, but it also creates an untenable dilemma for the State and eviscerates the semblance of its sovereign prerogative to draw maps.

The Louisiana Legislature conducted roadshows, held floor debates, had the author of the bill and numerous legislators explicitly state the

political impetus for their efforts, and drafted several maps and amendments before finally passing S.B. 8. If, after all of that, the majority still found that race predominated in drawing District 6, are we not essentially telling the State that it is incapable of doing the job it is tasked with under the United States and Louisiana constitutions? While the panel majority states that this court does not decide "whether it is feasible to create a second majority-Black district in Louisiana," the context underlying this case in conjunction with its holding functionally answers that question. Majority Op. 58. I worry that the panel majority's decision fails to properly assess the history that led to S.B. 8 and, consequently, dooms us to repeat this cycle. For the foregoing reasons, I would determine that Plaintiffs have failed to meet their burden showing racial predominance in the drafting of S.B. 8. Alternatively, I would hold that S.B. 8 is constitutional because it is narrowly tailored to further the State's compelling interests in complying with § 2 of the VRA.

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

***ROBINSON* INTERVENOR-DEFENDANTS' NOTICE OF APPEAL**

Notice is hereby given that Intervenor-Defendants Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, National Association for the Advancement of Colored People Louisiana State Conference ("Louisiana NAACP"), and Power Coalition for Equity and Justice appeal to the Supreme Court of the United States the following orders entered in this case.

- **Preliminary Injunction and Reasons for Judgment**, April 30, 2024 (ECF No. 198)
- **Scheduling Order Consolidating the Preliminary Injunction Hearing With Trial on Merits,** February 21, 2024 (ECF No. 63)
- **Order on Motion to Intervene as Defendants and Transfer**, February 26, 2024 (ECF No. 79)

- **Order Denying Motion to Continue Trial with Opposition and Motion to Deconsolidate the Preliminary Injunction Hearing**, April 8, 2024 (ECF No. 173, Tr. Transcript: 4/8 7:7-8:19)
- **Order Denying Admission of Record of *Robinson* Proceedings**, April 9, 2024 (ECF No. 175, Tr. Transcript: 4/9 351:7-360:13)

This appeal is taken under 28 U.S.C. § 1253.

DATED: May 1, 2024

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which provides electronic notice of filing to all counsel of record, on this 1st day of May, 2024.

/s/ *Stuart Naifeh*
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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

ROBINSON INTERVENORS' MOTION FOR STAY PENDING APPEAL

Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National Association for the Advancement of Colored People Louisiana State Conference, and the Power Coalition for Equity and Justice (the "*Robinson* Intervenors") move for the Court to stay its April 30, 2024 Order, ECF 198, enjoining Louisiana's enacted congressional map, SB8, pending appellate proceedings in the United States Supreme Court. The Court's order imposes irreparable harm on *Robinson* Intervenors, Louisiana voters, and the general public; it is unlikely to withstand appellate scrutiny on the merits; and the balance of equities favors a stay pending appeal. In the alternative, *Robinson* Intervenors respectfully request that the Court enter an administrative stay, which would temporarily stay the Court's injunction to permit the *Robinson* Intervenors to move the United States Supreme Court for a stay pending appeal. The bases of *Robinson* Intervenors' motion are

set forth in the accompanying memorandum of law, which is incorporated herein by reference. For the reasons stated therein, this motion for stay pending appeal should be granted.

Due to the consequential and time-sensitive nature of these proceedings, *Robinson* Intervenors respectfully request that the Court rule on this motion expeditiously and that it do so no later than Friday, May 3, 2024.

DATED: May 1, 2024

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I hereby certify that I have electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which provides electronic notice of filing to all counsel of record, on this first day of May, 2024.

/s/ *Stuart Naifeh*
Stuart Naifeh

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *Defendant*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

ROBINSON INTERVENORS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR STAY PENDING APPEAL

Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National Association for the Advancement of Colored People Louisiana State Conference, and the Power Coalition for Equity and Justice (the "*Robinson* Intervenors") move for the Court to stay its April 30, 2024 Order, ECF No. 198, enjoining Louisiana's congressional map ("SB8") pending a resolution of the *Robinson* Intervenors' appeal to the United States Supreme Court. The *Robinson* Intervenors have duly filed a notice of appeal.

All four factors relevant to a stay pending appeal support granting *Robinson* Intervenors' motion. *See Nken* v. *Holder*, 556 U.S. 418, 426 (2009). *Robinson* Intervenors are likely to succeed on the merits because the Court erred by failing to afford the Legislature the latitude the Constitution allows when states have good reason to believe the Voting Rights Act requires race-conscious redistricting, applying an incorrect legal standard for racial predominance, and improperly subjecting SB8 to a *Gingles* analysis. *See Thornburg* v. *Gingles*, 478 U.S. 30 (1986). The Order deprives the Legislature of the breathing room to craft a map that complies with the Voting Rights Act and the 14th Amendment to which the State is entitled under longstanding Supreme Court precedent. *See, e.g.*, *Bethune-Hill* v. *Va. St. Bd. of Elec*., 580 U.S. 178, 196 (2017). The *Robinson* Intervenors and all Louisiana voters will be irreparably harmed absent a stay, and the public interest and balance of the equities support staying these proceedings until the Supreme Court has considered and resolved the *Robinson* Intervenors' appeal.

ARGUMENT

Courts apply a four-part test when weighing whether to grant a stay: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will

substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken* v. *Holder*, 556 U.S. 418, 426 (2009). *See also NFIB* v. *Dep't of Lab*., *Occupational Safety & Health Admin*., 142 S. Ct. 661, 665–66 (2022). These factors are not to be applied "in a rigid or mechanical fashion." *Campaign for S. Equal*. v. *Bryant*, 773 F.3d 55, 57 (5th Cir. 2014) (alterations accepted). A movant "need only present a substantial case on the merits when a serious legal question is involved and show that the balance of equities weighs heavily in favor of granting the stay." *United States* v. *Baylor Univ. Med. Ctr*., 711 F.2d 38, 39 (5th Cir. 1983) (citation omitted).

All four *Nken* factors support a stay here.

I. *Robinson* Intervenors are likely to prevail on the merits.

Robinson Intervenors are likely to succeed on the merits of their appeal because, among other errors, the Court erred in applying the *Gingles* standard to the State's enacted plan, SB8; failed to afford the State flexibility in remedying the likely Section 2 violation found by the Middle District and affirmed by the Fifth Circuit; and improperly equated consideration of race in an effort to remedy a Section 2 violation with racial predominance, contrary to the Supreme Court's repeated teachings.

First, the Court committed a categorical error in holding that SB8 was required to satisfy the first *Gingles* precondition. The Court held that "the State simply has not met its burden of showing that District 6 satisfies the first *Gingles* factor." ECF No. 198 at 52. *See also id.* at 47–48 (asserting that the State's assumed compelling interest in complying with the Voting Rights Act "does not support the creation of a district that does not comply with the factors set forth in *Gingles* or traditional districting principles").

But where, as here, the Legislature has a strong basis in evidence to conclude that the VRA requires an additional majority-minority district, the Supreme Court has never held that a plan adopted by the Legislature must itself satisfy *Gingles* or traditional redistricting principles, so long as any departure from those principles is not predominantly motivated by race. As the Court itself noted, "*Gingles* set out how courts must evaluate claims *alleging a Section 2 violation* of the Voting Rights Act." ECF No. 198 at 49 (emphasis added). *See also Allen* v. *Milligan*, 599 U.S. 1, 17 (2023) ("For the past forty years, we have evaluated *claims brought under § 2* using the three-part framework developed in our decision [in *Gingles*]") (emphasis added); *id.* at 19 ("To succeed in proving a § 2 violation under *Gingles*, plaintiffs must satisfy three 'preconditions.'"). The State's burden in this case was to show that it had a strong basis in evidence to believe that the *Gingles* factors existed, necessitating a second majority-Black district to comply with Section 2, not that the map it adopted itself satisfied *Gingles*. *See Cooper* v. *Harris*, 581 U.S. 285, 302 (2017); *Bush* v. *Vera*, 517 U.S. 952, 978 (1996). The Court's opinion cites no authority to support the proposition that a map adopted by the State must satisfy *Gingles I* where, as here, the State has a strong basis in evidence—in the form of a prior court order, affirmed on appeal, that already found that *Gingles I* could readily be satisfied—that Section 2 required race-conscious districting.

The Court also improperly disregarded the rulings by the Middle District and the Fifth Circuit in *Robinson* that the Black voting age population in Louisiana does satisfy *Gingles I*. *See Robinson* v. *Ardoin,* 605 F. Supp. 3d 759, 820–31 (M.D. La. 2022) ("*Robinson I*")*; Robinson* v. *Ardoin*, 86 F.4th 574, 589–592 (5th Cir. 2023) *(*"*Robinson III*"). The Middle District found that the plaintiffs there "put forth several illustrative maps which show that two congressional districts with a BVAP of greater than 50% are easily achieved," that this population is "sufficiently 'geographically compact,'" and that "the illustrative plans developed by Plaintiffs' experts satisfy

the reasonable compactness requirement of *Gingles I*." *Robinson I*, 605 F. Supp. 3d at 821–22, 831; *see also Robinson III*, 86 F.4th at 592 (finding "no clear error by the district court when it found . . . the first *Gingles* precondition was met"). The Court's opinion does not dispute these findings, and its conclusory observation that "the State's Black population is dispersed" outside of Southeast Louisiana does not change the result for *Gingles I*. ECF No. 198 at 52.

Second, the Court's opinion erred by failing to afford the Legislature "breathing room" to navigate the competing demands of the VRA and the 14th Amendment. *Bethune-Hill*, 580 U.S. at 196; *see also Vera*, 517 U.S. at 977 (rejecting, as "impossibly stringent," the view that a district must have the least possible amount of irregularity in shape such that the state is "'trapped between the competing hazards of liability' by the imposition of unattainable requirements under the rubric of strict scrutiny") (citation omitted)). Because the Middle District and the Fifth Circuit held that Louisiana is likely required to maintain two majority-Black districts to comply with Section 2, the State had "'*good reasons* to believe' it must use race in order to satisfy the Voting Rights Act." *Bethune-Hill*, 580 U.S. at 194 (emphasis in original); *see also Abbott* v. *Perez*, 585 U.S. 579, 616 (2018) (evidence from litigation record could provide "good reasons" to use race in remedial map; *Clark* v. *Calhoun Cnty., Miss.*, 88 F.3d 1393, 1408 (5th Cir. 1996) (holding that there was a strong basis in evidence for concluding a VRA-compliant map was necessary where court had "already found that the three *Gingles* preconditions exist[ed] [t]here"); *Theriot* v. *Par. of Jefferson*, 1996 WL 637762, at *1 (E.D. La. Nov. 1, 1996) ("copious litigation and appeals" finding that each *Gingles* precondition was satisfied provided the state with "a strong basis in evidence to believe a black-majority district was reasonably necessary to comply with Section 2 and thus provided a compelling interest in drawing [an additional] majority-minority district") (internal quotations omitted).

In these circumstances, the Legislature was free, in selecting among possible maps to remediate the likely Section 2 violation found in *Robinson*, to select a less compact map (or one that otherwise departs from traditional redistricting principles) for political or other non-racial reasons. Here, the Legislature properly exercised that discretion by prioritizing incumbent protection and the Red River community of interest over competing district configurations (such as the SB4 plan originally supported by Senator Duplessis and the *Robinson* Intervenors and amendments to SB8 to make it more compact). ECF No. 198 at 19–20; *id.* at 94–95 (Stewart J., dissenting). The Middle District and the Fifth Circuit properly did not direct the Legislature to draw the map in a particular manner, so long as it complied with Section 2, and these courts recognized that the political and policy choices implicated by redistricting are committed to the Legislature's judgment. *See Robinson I*, 605 F. Supp. 3d at 857 (emphasizing the State's "broad discretion in drawing districts to comply with the mandate of § 2" and noting that the State need not "draw the precise compact district that a court would impose in a successful § 2 challenge") (quoting *Shaw II*, 517 U.S. at 917 n.9 and *Vera*, 517 U.S. at 978)).

By contrast, the Court here faulted the Legislature on the ground that "the evidence in the record does not show that District 6 in its current form was the only way to achieve" incumbent protection and second majority-Black district. ECF No. 198 at 44. The Court asserts that "the State could have achieved its political goals in other ways." *Id.* at 45. But that assertion erroneously imposes on the State the straitjacket against which the Supreme Court has warned. *See Vera*, 517 U.S. at 977 ("If the State has a 'strong basis in evidence,' for concluding that creation of a majority-minority district is reasonably necessary to comply with § 2, and the districting that is based on race 'substantially addresses the § 2 violation,' it satisfies strict scrutiny.") (citations omitted); *Bethune-Hill*, 580 U.S. at 196; *Perez*, 585 U.S. at 587.

Third, the Court erred by treating the State's intent to create a second majority-Black district for purposes of complying with the VRA as direct evidence that race was the predominant factor in its adoption of SB8. The Supreme Court has cautioned against just that presumption. "Strict scrutiny does not apply merely because redistricting is performed with consciousness of race" and it does not "apply to all cases of intentional creation of majority-minority districts." *Vera*, 517 U.S. at 958, 962 (evidence that the State was "committed from the outset to creating majority-minority districts" was not "independently sufficient to require strict scrutiny"); *see also Shaw I*, 509 U.S. at 646 ("[R]ace consciousness does not lead inevitably to impermissible race discrimination"); *DeWitt* v. *Wilson*, 856 F. Supp. 1409 (E.D. Cal. 1994) (declining to apply strict scrutiny to an intentionally created majority-minority district), *aff'd*, 515 U.S. 1170 (1995); *cf. Milligan*, 599 U.S. at 31–32 (plurality) (holding that race did not predominate in an illustrative map drawn to satisfy *Gingles* by including a greater than 50% Black Voting Age population); *id.* at 34 n.7 (rejecting the argument that the intentional creation of a majority-minority district in an illustrative plan dooms the enterprise and observing that "[t]he very reason a plaintiff adduces a map at the first step of *Gingles* is precisely *because of* its racial composition—that is, because it creates an additional majority-minority district that does not then exist."). The Court improperly based its racial predominance determination on statements by legislators that they sought to draw a second majority-Black district in order to comply with the Middle District and Fifth Circuit's orders. ECF No. 198 at 41–45. The Court thus disregarded the commands of *Vera* and *Shaw I* by treating the State's determination to create a second majority-Black district when it had every reason to think it must as "racially motivated gerrymandering." *Id.* at 44. By this standard, Louisiana had no way to avoid liability: it would violate Section 2 if it decided not to draw a second majority-Black district, or it would violate the Constitution if it did. This is the wrong standard.

Vera, 517 U.S. at 962 ("commit[ing] from the outset to creat[e] majority-minority districts" is not "independently sufficient to require strict scrutiny").[1]

II. *Robinson*-Intervenors will be irreparably injured absent a stay.

Robinson Intervenors have a direct and substantial interest in this litigation, *see* ECF Nos. 18, 79, 103, 114—an interest that will be irreparably harmed absent a stay.

The *Robinson* district court and two unanimous panels of the Fifth Circuit have held that the Voting Rights Act likely requires Louisiana to enact a congressional map with two majority-Black districts, and the *Robinson* plaintiffs would suffer irreparable harm if a congressional election were held using a map with only one majority-Black district. *Robinson I*, 605 F. Supp. 3d at 766; *Robinson* v. *Ardoin*, 37 F.4th 208, 228–32 (5th Cir. 2022) ("*Robinson II*")*; Robinson III*, 86 F. 4th at 583. That harm has already occurred once when the Middle District's preliminary injunction was stayed, and the 2022 congressional election was held using the previously enacted map. Thereafter, the Supreme Court and the Fifth Circuit merits panel instructed that the violation be remedied in advance of the 2024 congressional election. *See, e.g.*, *Ardoin* v. *Robinson*, 143 S. Ct. 2654 (2023) (dismissing writ of certiorari dismissed as improvidently granted and vacating stay to "allow the matter to proceed . . . in advance of the 2024 congressional elections in Louisiana"); *Robinson III*, 86 F. 4th at 600–02. The Legislature proceeded to enact a map with a second majority-Black congressional district, which was the remedy that *Robinson* Intervenors had sought through years of litigation and advocacy. Permitting SB8 to be struck down would reverse

[1] The Court's injunction erred in other respects as well. Among other things, the Court's reliance on the *Hays* decisions from the 1990s is misplaced given the substantial demographic changes in Louisiana since those cases were decided and the fact that—in contrast to the extensive record evidence here that SB8 was driven by political considerations—the map drawer in *Hays* acknowledged that he "considered essentially no other factor" apart from race. *Hays* v. *State*, 936 F. Supp. 360, 368 (W.D. La. 1996). The Court also failed to address the extensive testimony by Mayor Glover, Pastor Harris, Ms. Shelton, and Commissioner Lewis—all lifetime residents of Louisiana—attesting to the communities of interest tied together in CD6.

the opportunity Louisiana has finally afforded after years of litigation for Black Louisianians to have an equal choice in their representatives to Congress.

Simply put, without SB8 in place, there is a significant risk—accounting for the time it will take for any remedial proceedings to occur and for appeals to be litigated to conclusion—that a VRA-compliant map will not be in place for the 2024 elections. That outcome irreparably harms *Robinson* Intervenors and contravenes the Supreme Court and Fifth Circuit's expectation that a map compliant with Section 2 will be in place ahead of the 2024 elections.

III. The Balance of Equities and Public Interest Clearly Favor the Issuance of a Stay.

The harm to the State's interest in enforcing its laws, the minimal harms to Plaintiffs' interest, and the public's interest in the resolution of this litigation all weigh in favor of the issuance of a stay. A stay is justified because a stay will substantially injure neither the Plaintiffs' interest nor the State's interest and because the public interest is plainly served by permitting the plan enacted by the State's Legislature to remain in place and by ending the uncertainty surrounding Louisiana's congressional map while this case makes its way through the appellate process.

Nor are Plaintiffs harmed by the issuance of a stay. Plaintiffs presented no evidence at trial—nor could they—that they were injured by SB8. Most do not even live in the challenged district. Unlike *Robinson* Intervenors, none of the Plaintiffs testified about the harm they faced as a result of SB8. None testified or otherwise entered evidence into the record about their racial identity. *See* ECF No. 198 at 61, n.1 (Stewart, J., dissenting). Plaintiffs cannot be irreparably injured by allowing SB8 to remain in effect pending appellate review when they failed to prove that SB8 had a discriminatory effect on them because of their race. *Id.*

Lastly, the public interest is undoubtedly served by the issuance of a stay. As a result of this litigation and the extensive *Robinson* litigation, if this Court's injunction of SB8 is not stayed

pending appeal, Louisianans will be deprived of the congressional district plan approved by their Legislature and their newly elected Governor. As a result of the Court's order, there is currently no map in place, resulting in uncertainty and confusion for voters, voter advocacy organizations, political candidates, and election officials alike. A stay would serve the public interest because it would afford Louisiana's voters certainty about the congressional map in advance of the 2024 congressional election while this proceeding works its way through the appellate process.

CONCLUSION

The Court should stay its April 30, 2024, Order pending appeal to the United States Supreme Court.

DATED: May 1, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which provides electronic notice of filing to all counsel of record, on this first day of May, 2024.

/s/ *Stuart Naifeh*
Stuart Naifeh

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	Case No. 3:24-cv-00122-DCJ-CES-RRS
v.	)	District Judge David C. Joseph Circuit Judge Carl E. Stewart District Judge Robert R. Summerhays
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	Magistrate Judge Kayla D. McClusky
Defendant.	)	

PLAINTIFFS' RESPONSE IN OPPOSITION TO
<u>ROBINSON INTERVENORS' MOTION TO STAY PENDING APPEAL</u>

The Robinson Intervenors' Motion to Stay is effectively a Motion to Reconsider the Order this Court entered just two days ago enjoining enforcement of a blatantly unconstitutional gerrymander. Rather than preserving the status quo "pending appeal," a stay would virtually ensure that SB8 rises from the ashes to control the 2024 election. Millions of voters would be forced to cast ballots in districts in which they have been grouped predominantly by race—a morally repugnant classification. The Robinson Intervenors seek to gain the fruits of victory not by pointing to some major oversight, but instead by quibbling around the edges of this Court's decision, distorting the record and law. This Court's Order was amply supported, and the Robinsons cannot hope to prevail on appeal. Indeed, *they cannot even hope to appeal*, as they lack standing on the merits, and the United States Supreme Court cannot review the several non-merits orders of which they complain. This latest effort to delay Plaintiffs' relief must be rejected.

I. Legal Standard

To determine whether a party is entitled to a stay pending appeal, courts apply four factors: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken v. Holder*, 556 U.S. 418, 433-34 (2009) (quotation omitted). The burden to meet each of these factors rests on the movant. *Whole Woman's Health v. Jackson*, 595 U.S. 30 (2021). And even if the movant meets this burden, the court retains discretion to deny a stay:

> A stay is not a matter of right, even if irreparable injury might otherwise result." *Virginian R. Co.*, 272 U. S., at 672. It is instead "an exercise of judicial discretion," and "[t]he propriety of its issue is dependent upon the circumstances of the particular case." *Id.*, at 672–673. . . . The party requesting a stay bears the burden of showing that the circumstances justify an exercise of that discretion.

Nken, 556 U.S. at 434 (citation omitted). Critically, courts grant stays "only in extraordinary circumstances." *All. for Hippocratic Medicine v. FDA*, No. 23-10362, 2023 WL 2913725, at *3 (5th Cir. Apr. 12, 2023) (per curiam). This rule reflects the fact that "a stay is not a matter of right, even if irreparable injury might otherwise result." *Id.* (quoting *Virginian Ry. Co. v. United States*, 272 U.S. 658, 672 (1926)). A "decree creates a strong presumption of its own correctness," which often counsels against a stay. *Id.* (quoting *Virginian Ry. Co.*, 272 U.S. at 673). But the Court need not even reach the question of whether to exercise such discretion because Robinson Intervenors have not satisfied their burden to meet the *Nken* factors to warrant this extraordinary relief.

II. Application of *Nken* Factors

a. The Robinsons have not made a strong showing of likely success on merits.

First, the Court should reject the stay application because Robinson Intervenors have not made a "strong showing" that they are likely to succeed on the merits. *Nken*, 556 U.S. at 434. This

is one of the "most critical" preconditions for a stay. *Id*. The Court need not look further than its own April 30 Order (the "Order"), where it held in permanently enjoining SB8 that Defendants and Defendant-Intervenors did *not* succeed on the merits. **Doc. 198**. In challenging that final order where the merits have already been "conclusively determined," Robinson Intervenors' Motion for a Stay really operates as a Motion for Reconsideration rather than a traditional stay. *Nken*, 556 U.S. at 428. Thus, this Court should hold Robinson Intervenors to the higher standard of showing actual success on the merits to overturn a permanent injunction. *Crown Castle Fiber, L.L.C. v. City of Pasadena, Tex.*, 76 F.4th 425, 441 (5th Cir. 2023), *cert. denied*, 144 S. Ct. 820 (2024). Regardless, Robinson Intervenors have not made a strong showing of a likelihood of success on the merits.

Robinson Intervenors three allegations of error fail on the law and facts. Even were their qualms valid, they are too trivial to meet their heavy burden to effectively overturn the Order.

i. Court correctly applied the *Gingles* standard.

First, Robinson Intervenors allege that the Court erred in looking to the *Thornburg v. Gingles*, 478 U.S. 30 (1986), factors to determine whether the State had a strong basis in evidence. To create an alleged remedial district to comply with the VRA, the State must first determine that there is a VRA violation and that the newly created district will remedy that violation. *Cooper v. Harris*, 581 U.S. 285, 306 (2017); *Shaw v. Hunt* (*Shaw II*), 517 U.S. 899, 916 (1996). The only way for the State to do so is by analyzing the *Gingles* factors. *Wis. Legislature v. Wis. Elecs. Comm'n*, 595 U.S. 398, 403 (2022) (per curiam); *Cooper*, 581 U.S. at 302; *Bush v. Vera*, 517 U.S. 952, 978 (1996) (plurality). The State must "carefully evaluate" whether the *Gingles* preconditions and totality-of-circumstances are met based on "evidence at the district level." *Wis. Legislature*, 595 U.S. at 404-405. The State may not "improperly rel[y] on generalizations to reach the conclusion that the preconditions were satisfied." *Id*. at 404. And *Gingles* is not just a test for a

VRA claim; *Gingles* is the standard by which to evaluate the State's burden to show a strong basis in evidence for believing the VRA demanded such a district in response to a Fourteenth Amendment claim. *Wis. Legislature*, 595 U.S. at 401-02; *see also Cooper*, 581 U.S. at 302 ("If a State has good reason to think that all the "*Gingles* preconditions" are met, then so too it has good reason to believe that § 2 requires drawing a majority-minority district. *See Bush v. Vera*, 517 U.S. 952, 978 (1996) (plurality opinion). But if not, then not."). That requires analysis and evidence that a § 2 plaintiff could demonstrate *each Gingles* factor and the totality of the circumstances in *each* particular remedial district. *Wis. Legislature*, 595 U.S. at 404-405; *Cooper*, 581 U.S. at 302; *Bush*, 517 U.S. at 978; *Gingles*, 478 U.S. at 79. The State concededly failed to conduct such an analysis and adduce such evidence, instead drawing this gerrymandered district based on generalizations. **Trial Tr. 1**, 25:8-26:10 (opening); **Trial Tr. 3**, 624:5-625:1 (closing). Accordingly, its racially gerrymandered map fails strict scrutiny. *Wis. Legislature*, 595 U.S. at 404-405.

Additionally, the Court correctly analyzed the application of traditional redistricting principles to determine that SB8 was not narrowly tailored to comply with the VRA. A state legislature must always satisfy traditional redistricting principles to comply with the VRA. *Allen v. Milligan*, 599 U.S. 1, 30 (2023); *LULAC v. Perry*, 548 U.S. 399, 431 (2006); *Bush*, 517 U.S. at 979. The Court rightly recognized that SB8 does not and struck it down.

Moreover, this Court correctly concluded that decisions in *Robinson v. Ardoin* cannot save the gerrymandered map. Robinson Intervenors argue that *Robinson's* analysis of *Gingles I* is dispositive here, and that the Court does not adequately "dispute these findings." **Doc. 201-1, at 5**. But the *Gingles* analysis is "an intensely local appraisal," so discussion of other potential remedial districts in the *Robinson* litigation cannot provide the requisite *Gingles* analysis for SB8's districts, particularly where SB8 creates an allegedly remedial district in another part of the state

with a different population than at issue in *Robinson*. *Gingles*, 478 U.S. at 79; *see also Wis. Legislature*, 595 U.S. at 404. Even if the State has some inkling that a VRA violation exists somewhere, it cannot draw a remedial district just anywhere. *LULAC*, 548 U.S. at 431; *Bush*, 517 U.S. at 979; *Shaw v. Hunt* (*Shaw II*), 517 U.S. at 916-17. The *Gingles* factors do not apply state-wide. *Wis. Legislature*, 595 U.S. at 404. Moreover, it is not the Court's burden to show the *Gingles* factors were *not* met; it was the State's burden alone to show that these factors *were* met—a burden the State did not, or even try to, satisfy. Accordingly, the Court's analysis was more than sufficient.

ii. Court gave the State sufficient breathing room.

Second, Robinson Intervenors claim the Court gave the State insufficient breathing room. While states have some breathing room, "[s]trict scrutiny remains, nonetheless, strict." *Bush*, 517 U.S. at 978. The State blasted far past any "room" needed for breathing when it refused to conduct *any* pre-enactment *Gingles*-factor analysis and cynically used race to gerrymander a noncompact district using different voters in another part of the state. *Cooper*, 581 U.S. at 293; *Wis. Legislature*, 595 U.S. at 404. The Court properly exercised its Article III authority.

iii. The Court correctly determined that the State acted with racial predominance, not mere racial consciousness.

Third, Robinson Intervenors wrongly claim the State was conscious of race, but race did not predominate. Race consciousness can quickly become predominance, given that the "moral imperative of racial neutrality is the driving force of the Equal Protection Clause." *Bartlett v. Strickland*, 556 U.S. 1, 21-22 (2009) (plurality) (quoting *Richmond v. J.A. Croson Co.*, 488 U.S. 469, 518, 519 (1989) (Kennedy, J., concurring in part and concurring in judgment)). Here, racial predominance, not mere consciousness, was clear. The Court properly weighed the mountain of evidence of racial predominance and determined that the State veered far into unconstitutional territory. **Doc. 98, at 34** ("Race consciousness, on its own, does not make a district an

unconstitutional racial gerrymander or an act of impermissible race discrimination."); ***id.* at 35-45** (analyzing facts and reaching the unavoidable conclusion of racial predominance).[1]

Robinson Intervenors wrongly rely on *Robinson* and legislative remarks about that case as showing mere race consciousness. "[R]ace-based redistricting, even that done for remedial purposes, is subject to strict scrutiny" *because it shows* racial predominance. *Clark v. Calhoun County, Miss.*, 88 F.3d 1393, 1405 (5th Cir. 1996); *Shaw v. Reno*, 509 U.S. 630, 657 (1993) ("Racial classifications with respect to voting carry particular dangers. Racial gerrymandering, even for remedial purposes, may balkanize us into competing racial factions; it threatens to carry us further from the goal of a political system in which race no longer matters—a goal that the Fourteenth and Fifteenth Amendments embody, and to which the Nation continues to aspire."). The State's *motives* for racial gerrymandering have no bearing on the racial predominance analysis. Even had the State truly desired to comply with the court order and truly thought it had violated the VRA, its action would still be subject to strict scrutiny. *Clark*, 88 F.3d at 1407.

Regardless, this gripe applies to just one source of evidence of racial predominance (*i.e.*, legislators' remarks about *Robinson*). The Robinsons' passing scowl at an anthill ignores the remaining mountain of direct and circumstantial evidence of racial predominance. Nor does it meet their burden to make a strong showing of likely success on the merits. *Nken*, 556 U.S. at 434.

b. The Robinson Intervenors fail to show irreparable injury.

Primarily, the Robinson Intervenors claim irreparable harm if a "VRA-compliant map [is not] in place for the 2024 elections." **Doc. 201-1, at 9**. This allegation hinges on two misguided

[1] Contrary to Robinson Intervenors' position, the evidence of racial predominance went far beyond "statements by legislators that they sought to draw a second majority-Black district in order to comply with the Middle District and Fifth Circuit's orders." **Doc. 201-1, at 7**.

notions: (1) that this Court will be unable to swiftly adjudicate the remedial phase of this case; and (2) that even if this Court does timely impose a remedial map, it will not comply with the VRA.

Addressing the first notion, this Court, conscious of the time constraints regarding the 2024 election, has moved expeditiously throughout this litigation, in spite of the Robinson Intervenor's multiple attempts at delay. *See e.g.*, **Doc. 161** (Robinson Intervenors' Motion to Continue Trial), **Doc. 200** (Robinson Intervenors' Notice of Appeal challenging, among other things, this Court's Scheduling Order and this Court's Order Denying Motion to Continue). These repeated and unfounded attempts to delay judicial proceedings belie the Robinson Intervenors' sudden supposed fear that a constitutional map will not be in place for the 2024 election.

Second, the Robinson Intervenors provide no reason, and none exists, to believe that a map from this Court will violate the VRA. This purely speculative harm cannot support a stay. *Holland Am. Ins. Co. v. Succession of Roy*, 777 F.2d 992, 997 (5th Cir. 1985) ("Speculative injury is not sufficient; there must be more than an unfounded fear on the part of the applicant.").

c. The issuance of a stay would cause Plaintiffs substantial harm.

As a preliminary matter, the Robinson Intervenors assert the third stay factor is the balance of equities and the public interest. **Doc. 201-1, at 9**. This is wrong for two reasons. First, the third prong evaluates the harm to other parties, not the balance of equities. *Nken*, 556 U.S. at 435. Second, the third and fourth stay factors do not merge because the Government is not an opposing party to this appeal. *Id.* The Court must consider the third and fourth stay factors separately.

With regard to the third factor (harm to other parties), issuance of a stay will seriously harm Plaintiffs and other parties. This Court already found that Plaintiffs are *irreparably* harmed absent an injunction. **Doc. 198, at 59**. Plaintiffs and other non-party voters will at least be *substantially* harmed (a lesser standard) if that injunction is now stayed because a blatant gerrymander will rise from the ashes, even if technically just "pending appeal." The inevitable delay in adjudication

would nearly ensure that the State could not pass a remedial map in time for the 2024 election—effectively reinstating the gerrymander and preventing relief to the prevailing party. This Court should be reluctant to grant a stay with the effect of "giv[ing] appellant the fruits of victory whether or not the appeal has merit." *Jimenez v. Barber*, 252 F.2d 550, 553 (9th Cir. 1958). *See also BST Holdings, LLC v. OSHA*, 17 F.4th 604, 618. (5th Cir. 2021).

Finally, the Robinson Intervenors claim that because no Plaintiff testified at trial, they were unharmed in the first place and ipso facto are unharmed by a stay. **Doc. 201-1, at 9**. This is wrong. Each Plaintiff is harmed *as a matter of law* because they are subject to a racial gerrymander under SB8. *See North Carolina v. Covington*, 138 S. Ct. 2548, 2552-54 (2018) (per curiam) (holding that plaintiffs can establish a cognizable injury by showing "they had been placed in their legislative districts on the basis of race"); *see also Miller v. Johnson*, 515 U.S. 900, 911 (1995); *United States v. Hays*, 515 U.S. 737, 744-45 (1995); *Shaw v. Reno (Shaw I)*, 509 U.S. 630, 650 (1993); *Harding v. Cnty. of Dallas, Tex.*, 948 F.3d 302 (5th Cir. 2020). Contrary to the Robinson Intervenors' purely speculative harm, if Plaintiffs are forced to vote under SB8, a map this Court already found is unconstitutional, their harm would be real and imminent.

Delay in implementing a remedy would also harm other parties. The Secretary of State's *only* interest is in the proper and timely administration of the 2024 election. *See* Doc. 82 (Defendant Secretary of State's Response to Plaintiffs' Motion for Preliminary Injunction). Any needless delay in imposing a remedial map will necessarily harm the Secretary and voters.

The State, for its part, has no interest in enforcing an unconstitutional law; the Robinson Intervenors have no valid interest in voting under an unconstitutional scheme. *BST*, 17 F.4th at 618 ("Any interest . . . in enforcing an unlawful (and likely unconstitutional) [law] is illegitimate.").

This Court should not award the Robinson Intervenors "the fruits of victory" mere days after ruling against them on the merits, especially after they made every attempt to stall proceedings.

d. The public interest weighs against a stay.

Finally, the public interest weighs heavily against a stay. The harm to Plaintiffs is shared by every Louisiana voter. Once a scheme is found unconstitutional, "it would be the unusual case in which a court would be justified in not taking appropriate action to ensure that no further elections are conducted under the invalid plan." *Reynolds v. Sims*, 377 U.S. 533, 585 (1964). This is no such case; no equitable considerations justify the withholding of immediate relief. *Id.*

The Robinson Intervenors allude to the principle that the public interest is best served when a state legislature draws congressional districts. **Doc. 201-1, at 9-10**. Yet this Legislature used its available time and resources to pass a map that was clearly unconstitutional and was prepared with no *Gingles* analysis of any kind. It is too late for a third bite at the apple.

III. Court should deny a stay because Robinson Intervenors cannot appeal the Order.

Moreover, the Court should deny a stay because it would be futile. Robinson Intervenors solely plan to appeal the Order to the U.S. Supreme Court. **Doc. 201-1, at 2**. But Robinson Intervenors are merely permissive intervenors, **Doc. 198, at 16**, and lack standing to appeal this Order, *Va. House of Delegates v. Bethune-Hill*, 139 S. Ct. 1945, 1951 (2019); *Hollingsworth v. Perry*, 570 U.S. 693, 705 (2013); *Louisiana v. Haaland*, 86 F.4th 663, 666 (2023).[2]

Hollingsworth v. Perry, 570 U.S. 693 (2013), decides this case. There, as here, private parties intervened as defendants alongside the State in the district court to defend a constitutional challenge to a state law. *Id*. at 705. There, as here, the court declared the law unconstitutional and

[2] Robinson Intervenors did not need to and did not establish standing when they permissively intervened. *Town of Chester, N.Y. v. Laroe Estates, Inc.*, 581 U.S. 433, 339 (2017); *see also Town of Chester*, 581 U.S. at 339. Thus, the issue of standing to appeal arises for the first time now.

enjoined enforcement. *Id*. There, as here, the private-party-intervenor-defendants were the only parties to appeal the order, even though "the District Court had not ordered them to do or refrain from doing anything." *Id*. There, as here, the private-party-intervenor-defendants claimed they had standing to appeal because they participated in the enactment of the law. *Id*. at 706-07 (noting that private-party-intervenor-defendants were "the official 'proponents'" of the measure that became law and was the subject of the litigation). There, as here, the private-party-intervenor-defendants nonetheless did not have standing. *Id*. at 706-07. The Court determined: "Their only interest in having the District Court order reversed was to vindicate the constitutional validity of a generally applicable [State] law," and "such a 'generalized grievance,' no matter how sincere, is insufficient to confer standing." *Id*. at 706. There, as here, private-party-intervenor-defendants "have no role—special or otherwise—in the enforcement of" the law, and "therefore have no 'personal stake' in defending its enforcement that is distinguishable from the general interest of every citizen." *Id*. at 707 (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560-61 (1992)).

For the same reasons as in *Hollingsworth*, Robinson Intervenors lack standing to appeal. Their grievances are generalized and do not belong to them alone. *Id*. at 706. Their participation in the *Robinson* litigation and testimony before the Louisiana Legislature does not give them the right to enforce the law nor does it give them a particularized grievance. *Id*. at 706-07; *id*. at 707 ("No matter how deeply committed petitioners may be to upholding [the state law] or how 'zealous [their] advocacy,' *post*, at 2669 (Kennedy, J., dissenting), that is not a 'particularized' interest sufficient to create a case or controversy under Article III."). Therefore, because Robinson Intervenors lack standing to appeal, this Court should deny their Motion to Stay Pending Appeal.

CONCLUSION

For the foregoing reasons, the Motion for Stay should be denied.

Dated this 2nd day of May, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that, on this 2nd day of May, 2024, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which gives notice of filing to all counsel of record.

/s/ Edward D. Greim
Edward D. Greim
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

PHILLIP CALLAIS ET AL	**CASE NO. 3:24-CV-00122-DCJ-CES-RRS**
VERSUS	**THREE-JUDGE COURT**
NANCY LANDRY	

SCHEDULING ORDER

Having issued our ruling on the merits, the Court now turns to an expedited schedule for the remedial phase of the case. "It is well settled that 'reapportionment is primarily the duty and responsibility of the State,'" *Miller v. Johnson*, 515 U.S. 900, 915 (1995); that "it is the domain of the States, and not the federal courts, to conduct apportionment in the first place," *Voinovich v. Quilter*, 507 U.S. 146, 156 (1993); that each State has a "sovereign interest in implementing its redistricting plan," *Bush v. Vera*, 517 U.S. 952, 978 (1996); that "drawing lines for congressional districts is one of the most significant acts a State can perform to ensure citizen participation in republican self-governance," *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 416 (2006) (citation omitted); and that because "the Constitution vests redistricting responsibilities foremost in the legislatures of the States and in Congress, a lawful, legislatively enacted plan should be preferable to one drawn by the courts." *Id.*

Even when a federal court finds that a redistricting plan violates federal law, Supreme Court precedent dictates that the state legislature have the first opportunity to draw a new map. *See, e.g., North Carolina v. Covington*, 138 S. Ct. 2548, 2554 (2018); *White v. Weiser*, 412 U.S. 783, 794–95 (1973). Only when "those with legislative responsibilities do not respond, or the imminence of a state election makes it impractical for them to do so, [does] it become[] the unwelcome obligation of the federal court to devise and impose a reapportionment plan pending later legislative action." *Wise*, 437 U.S. at 540 (opinion of White, J.).

The Court notes that the Louisiana Legislature is in session through June 3, 2024, and this Court provides it with the opportunity to enact a new Congressional map during that time period. However, given the time limitations outlined by the Secretary of State [Doc. 217], this Court must concurrently proceed with the "unwelcome obligation" of drawing a remedial map to ensure that a compliant map is in place in time for the 2024 congressional election. To be clear, the fact that the Court is proceeding with the remedial phase of this case does not foreclose the Louisiana Legislature from exercising its "sovereign interest" by drawing a legally compliant map.

The Court has considered the arguments from the Louisiana Secretary of State that May 15, 2024, is the deadline by which they must receive a congressional map in order to prepare for the November elections. However, the Court is aware that in

oral arguments in a related case,[1] the same counsel for the Louisiana Secretary of State stated that they could be adequately prepared for that same November election at issue herein if they received a map by approximately the end of May. As noted, the Louisiana Legislature is in session until June 3, 2024, and the Court finds it necessary to permit the Legislature a full opportunity to enact a new map while the Court simultaneously pursues the remedial phase. Accordingly, if the Louisiana Legislature fails to enact a new map by June 3, 2024, the Court intends to order the use of an interim remedial Congressional districting map on June 4, 2024. During the remedial phase, the Court may employ a Court-appointed technical advisor, which will be disclosed to the parties by separate order. After considering the positions of the parties, the Court imposes the following deadlines for the remedial phase of this litigation:

DEADLINE:

May 17, 2024	Each party, intervenor and amici may submit their proposal, which shall be limited to one map per party. The proposal shall include both evidence and argument supporting the map. The proposal and argument supporting the proposal shall be limited to twenty-five pages. Evidence in support of the proposal may be attached as exhibits.
May 24, 2024	Each party may file a single response, responding to one or more of the other parties' proposed maps. Each response shall be limited to twenty-five pages per party.

[1] *Robinson v. Ardoin*, Case Number 22-30333, oral argument before the Fifth Circuit Court of Appeals held on October 6, 2023.

May 30, 2024, at 10:00 a.m.	The Court will hold a hearing in Courtroom 1, in Lafayette, Louisiana. No evidence will be introduced at the hearing, but parties may make arguments in support of their proposal and against any other party's proposal. Argument will be limited to forty-five minutes per party.

THUS DONE in Chambers on this 7th day of May, 2024.

/s/ Carl E. Stewart

CARL E. STEWART
UNITED STATES CIRCUIT JUDGE

ROBERT R. SUMMERHAYS
UNITED STATES DISTRICT JUDGE

DAVID C. JOSEPH
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	
v.	)	Case No. 3:24-cv-00122
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	
Defendant.	)	

THE STATE OF LOUISIANA'S AND THE SECRETARY OF STATE'S JOINT MOTION FOR A STAY PENDING APPEAL

The State of Louisiana, by and through Elizabeth Murrill, the Attorney General of Louisiana, joined by the Louisiana Secretary of State, moves this Court for a stay pending appeal of the April 30, 2024 injunction, ECF No. 198, as implemented by the Court's subsequent scheduling order, ECF No. 219. The bases for the motion are set forth in the accompanying memorandum of law, which is incorporated herein by reference. For the reasons stated in that memorandum, this motion should be granted.

The State and the Secretary respectfully request a ruling on this motion by 12:00 p.m. Central Time on May 9 to permit the State and the Secretary to file an application for a stay in the Supreme Court that evening if this Court denies this

motion. If this Court does not rule on this motion by noon on May 9, the State will file a motion for a stay pending appeal by the end of that day.

Dated: May 8, 2024

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on May 8, 2024, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF participating attorneys.

/s/ Morgan Brungard
Morgan Brungard

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA—MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	)	
Plaintiffs,	)	
v.	)	Case No. 3:24-cv-00122
NANCY LANDRY, IN HER OFFICIAL CAPACITY AS LOUISIANA SECRETARY OF STATE,	)	
Defendant.	)	

THE STATE OF LOUISIANA'S AND THE SECRETARY OF STATE'S MEMORANDUM IN SUPPORT OF THEIR JOINT MOTION FOR A STAY PENDING APPEAL

INTRODUCTION

The State of Louisiana and the Secretary of State[1] respectfully move for a stay pending appeal of this Court's April 30, 2024 injunction, ECF No. 198, as implemented by the Court's subsequent scheduling order, ECF No. 219. As the Secretary of State explained in her brief and supporting declaration regarding internal and external election deadlines (including May 15), *see* ECF No. 217, the *only* maps that could feasibly be used for the 2024 election cycle at this stage are (1) SB8 if the injunction is stayed by May 15, (2) any other map ordered by the court by May 15, and (3) HB1. And if the State is not permitted or ordered to use any of those maps by May 15, election chaos will ensue. *See id.* Given the Court's scheduling order, however, Louisiana will not have a congressional map in place until June—and even then, the order suggests that some map other than SB8 or HB1 will be ordered, which the Secretary has made clear is not feasible. A stay is thus necessary to avoid further election chaos.

The State and the Secretary have a right to appeal this Court's injunction under 28 U.S.C. § 1253. And the Supreme Court has repeatedly reiterated the point that "federal courts ordinarily should not enjoin a state's election laws in the period close to an election." *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring), *vacated*, 143 S. Ct. 2607 (2023). The Supreme Court "often stay[s] lower

[1] The Secretary of State joins the State in seeking a stay of the injunction pending appeal because the May 15, 2024 deadline is a firm and immovable deadline. As the Secretary of State, it is this Office's position that it will follow the orders of this Court and the Supreme Court. Any order to change the map currently programmed in the system must be received by the Secretary's Office by May 15, 2024. HB1 is the map currently programmed and would cause the least election-administration disruption. But if the Secretary is going to be permitted or ordered to implement any map other than HB1, it must have an order to do so by May 15—full stop.

federal court injunctions that contravene[] that principle." *See id.* (citing *Merrill v. People First*, 141 S. Ct. 25, 25 (2020); *Andino v. Middleton*, 141 S. Ct. 9, 9 (2020); *Merrill v. People First*, 141 S. Ct. 190, 190 (2020); *Clarno v. People Not Politicians Or.*, 141 S. Ct. 206, 206 (2020); *Little v. Reclaim Idaho*, 140 S. Ct. 2616, 2616 (2020); *RNC v. DNC*, 140 S. Ct. 1205 (2020) (per curiam); *DNC v. Wis. State. Legis.*, 141 S. Ct. 28, 28 (2020)).

This motion provides this Court an opportunity to prevent the irreparable harm to the State, the Secretary, and all Louisiana citizens that will result from this Court's injunction, as currently issued, and the likelihood that it will require implementation of a map that cannot practically be used for the 2024 elections. This request for a stay is limited to the 2024 elections because there is adequate time to prepare for additional maps for subsequent congressional elections and because any appeal is likely to be resolved in time for the resulting map to be used for the 2026 election cycle.

Federal Rule of Appellate Procedure 8(a)(1)(A) generally requires a party seeking a stay pending appeal to seek such relief in the district court first. That Rule "fairly contemplate[s]" that "tribunals may properly stay their own orders when they have ruled on an admittedly difficult legal question and when the equities of the case suggest that the status quo should be maintained." *Wash. Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 844–45 (D.C. Cir. 1977).

Because of the exigencies presented here, the State and the Secretary respectfully request that this Court resolve this issue expeditiously. The State and

the Secretary respectfully request a ruling by 12:00 p.m. Central Time on Thursday, May 9, to permit them to file an application with the Supreme Court, if necessary, later that day. Absent a decision by this Court by that time, the State and the Secretary plan to file an emergency application for a stay pending appeal in the Supreme Court by the end of that day.

ARGUMENT

Under the "traditional" standard for a stay pending appeal, a court considers four factors: "(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies." *Nken v. Holder*, 556 U.S. 418, 426 (2009) (citation omitted). These factors are not to be applied "in a rigid or mechanical fashion." *Campaign for S. Equal. v. Bryant*, 773 F.3d 55, 57 (5th Cir. 2014) (alterations accepted). A movant "need only present a substantial case on the merits when a serious legal question is involved and show that the balance of equities weighs heavily in favor of granting the stay." *United States v. Baylor Univ. Med. Ctr.*, 711 F.2d 38, 39 (5th Cir. 1983) (citation omitted).

As the Supreme Court "has often indicated, however, that traditional test for a stay does not apply (at least not in the same way) in election cases when a lower court has issued an injunction of a state's election law in the period close to an election." *Merrill*, 142 S. Ct. at 880 (Kavanaugh, J., concurring). "That principle—known as the *Purcell* principle—reflects a bedrock tenet of election law: When an election is close at hand, the rules of the road must be clear and settled. *Id.* at 880–

81. There is also an arguable "relaxed" interpretation of the rule, requiring "a *plaintiff* [to] establish[] at least the following: (i) the underlying merits are entirely clearcut in favor of the plaintiff; (ii) the plaintiff would suffer irreparable harm absent the injunction; (iii) the plaintiff has not unduly delayed bringing the complaint to court; and (iv) the changes in question are at least feasible before the election without significant cost, confusion, or hardship." *Id.* (emphasis added). A stay is warranted under these standards.

I. THE STATE AND THE SECRETARY WILL SUFFER IRREPARABLE HARM ABSENT A STAY PENDING APPEAL AND SUCH A STAY IS IN THE PUBLIC INTEREST.

This Court's injunction imposes irreparable harm per se by enjoining a duly enacted State law. *See Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers). Enjoining a "State from conducting [its] elections pursuant to a statute enacted by the Legislature . . . seriously and irreparably harm[s] the State." *Abbott v. Perez*, 138 S. Ct. 2305, 2324 (2018). "If the district court judgment is ultimately reversed, the State cannot run the election over again, this time applying" the plan enacted by the Louisiana legislature. *Veasey v. Perry*, 769 F.3d 890, 896 (5th Cir. 2014) (issuing stay pending appeal). This is per se a harm to the public interest. *See, e.g., Monumental Task Comm., Inc. v. Foxx*, 157 F. Supp. 3d 573, 605 (E.D. La. 2016), *aff'd sub nom. Monumental Task Comm., Inc. v. Chao*, 678 F. App'x 250 (5th Cir. 2017).

The *Purcell* principle establishes here that the State and the Secretary do not have enough time to formulate and implement another congressional map this late in the game. It is a bedrock principle of election law that federal courts should not

muddy the electoral waters when an election is in close proximity. *See Merrill*, 142 S. Ct. at 880–81 (Kavanaugh, J., concurring). Louisiana "indisputably has a compelling interest in preserving the integrity of its election process." *Purcell v. Gonzalez*, 549 U.S. 1, 4 (2006) (citation omitted). And "[c]onfidence in the integrity of our electoral process is essential to the functioning of our participatory democracy." *Id.*

When considering whether to issue injunctive relief close to an election, courts are "required to weigh, in addition to the harms attendant upon issuance or nonissuance of an injunction, considerations specific to election cases and its own institutional procedures." *Id.* at 4. This is because "[c]ourt orders affecting elections . . . can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, *that risk will increase*." *Id.* at 4–5 (emphasis added).

The Secretary of State stated in her brief that "she needed an approved congressional plan no later than May 15, 2024, in order to have sufficient time and resources needed to administer the 2024 elections pursuant to federal and state law." ECF No. 217 at 6; *see also Veasey*, 769 F.3d at 893 (explaining that federal courts have emphasized the need to consider the mechanics and complexities of administering state election law). At this point, only HB1 is entered into the election system and is the only map that could presently be used. ECF No. 217-1 at 4. SB8 or some other map ordered by the court could alternatively be used so long as the Secretary could begin entering it into the election systems by May 15—but this

Court's injunction prevents her from doing so. *Id.* at 5. Indeed, after May 15, HB1 is the only map that feasibly could be used. *See id.* at 4–5. No other maps are feasible.

In issuing its remedial scheduling order, ECF No. 219, this Court seems to have ignored that the May 15, 2024 date is predicated on the fact that the Secretary must implement not one, but *two*, statewide redistricting plans before the June 19, 2024 deadline for would-be candidates to qualify by petition to run in the Fall 2024 elections. *See* ECF No. 217 at 3. On May 1, 2024—just seven days ago—a new statewide map for Louisiana Supreme Court voting districts became law, which requires the Secretary to move over two million Louisianans (approximately forty-three percent of Louisiana's population) into new districts for the Fall 2024 elections. Notably, the Louisiana Supreme Court redistricting bill (SB 255) was not introduced in the Legislature until March 1, 2024, and was not signed into law until May 1, 2024.[2] Thus, any previous representation made during the October 2023 *Robinson* oral argument before the Fifth Circuit about an end-of-May-2024 deadline for new Congressional maps did not, and could not, take into account the current reality that the Secretary also now must implement significant, statewide changes to an entirely different map—the voting districts for the Louisiana Supreme Court.[3]

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[2] The legislative history of SB 255 can be found here: https://legiscan.com/LA/bill/SB255/2024. The Court may take judicial notice of the legislative history, including the date the bill was filed and signed into law. *See Territory of Alaska v. Am. Can Co.,* 358 U.S. 224, 227 (1959).

[3] Moreover, the comment made by Jason Torchinsky (counsel for the State in both *Robinson* and here) during the October 2023 *Robinson* oral argument in the Fifth Circuit was made in the last few minutes of rebuttal time, in response to a direct question from Judge Elrod. A recording of that argument can be found here: ca5.uscourts.gov/OralArgRecordings/22/22-30333_10-6-2023.mp3 (at 1:20:59-1:21:29). No staff member from the Secretary's Office was available for consult in the last few minutes of argument. Nor, as mentioned above, was the prospect of implementing a new statewide map for Louisiana Supreme Court voting districts, especially one that moves such a significant amount of

As the Secretary of State has emphasized, "[r]ushing the voter assignment and ballot printing process creates an unacceptable risk of error that can lead to flawed elections." *See* ECF No. 217 at 5. Simply put, the truncated process that would result from trying to implement a completely new congressional map before the 2024 election would result in potential errors, negatively impacting the electoral process and voters' trust in that process.

In addition, the Court's injunction, ECF No. 198, and scheduling order, ECF No. 219, do not allow the State a fair and reasonable opportunity to fulfill its constitutional duty and enact a remedial map. "Redistricting is primarily the duty and responsibility of the state and federal-court review of districting legislation represents a serious intrusion on the most vital of local functions." *Abbott*, 138 S. Ct. at 2324 (internal citation and quotation marks omitted). And the State is entitled to a reasonable opportunity to adopt a remedial map instead of the federal court devising its own plan. *See In re Landry*, 83 F.4th 300, 303 (5th Cir. 2023) (citing *Wise v. Lipscomb*, 437 U.S. 535, 540 (1978)). The State must be given a non-illusory amount of time to accomplish this. *See id.* at 306 (stating that five legislative days was "an impossibly short timetable for [remedial] state legislative action" and noting that, in an Alabama redistricting case, a three-judge panel granted that state legislature six weeks to propose a new map).

As explained by the State, the Legislature does not feasibly have time to adopt a new map by May 15. *See* ECF No. 218. Yet this Court's scheduling order does not

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Louisiana's population, on anyone's mind in October 2023—five months prior to the introduction of SB 255.

allow for any remedial map to be in place until June 4—well after the May 15 deadline. *See* ECF No. 219 at 3. Accordingly, the State and the Secretary jointly seek a stay pending appeal for purposes of the 2024 elections.

II. THE STATE AND THE SECRETARY ARE LIKELY TO PREVAIL ON APPEAL.

As explained above, the Court's injunction leaves the Secretary with no map to implement by May 15, which creates grave risks of electoral confusion, chaos, and errors. Because that injunction runs afoul of the *Purcell* doctrine and well-established principles of equity, the State and the Secretary are likely to prevail on appeal. The current scheduling order indicates that this Court will impose a map on June 4, 2024, *see* ECF No. 219 at 3, which is 154 days before the November 5, 2024 election. In *Robinson*, the Supreme Court stayed the order enjoining the use of HB 1 that the Middle District issued on June 6, 2022, which was 155 days before the November 8, 2022 elections. The same result would likely follow here.

Additionally, for the reasons already articulated by the State in its post-trial brief and opposition to Plaintiffs' motion for a preliminary injunction, the State is likely to prevail on the underlying constitutional merits. *See* ECF No. 86; ECF No. 192.

CONCLUSION

For the foregoing reasons, this Court should grant a stay pending appeal.

Dated: May 8, 2024

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER,	Civil Action No. 3:24-cv-00122
Plaintiffs,	Judge David C. Joseph
v.	Circuit Judge Carl E. Stewart
NANCY LANDRY, in her official capacity as Secretary of State for Louisiana,	Judge Robert R. Summerhays
Defendant.	

ROBINSON AND _GALMON_ INTERVENORS' MOTION FOR CLARIFICATION AND RECONSIDERATION

Defendant-Intervenors Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National Association for the Advancement of Colored People Louisiana State Conference, and the Power Coalition for Equity and Justice (the "Robinson Intervenors") and Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard ("*Galmon* Intervenors") (collectively, "Intervenors"), respectfully move the Court for clarification regarding its May 7, 2024 Scheduling Order, ECF No. 219, to establish the scope of supporting evidence the Court requires to make its remedial determination. Additionally, Intervenors respectfully move for reconsideration to permit each party to propose two interim remedial plans for the Court's consideration, and for guidance regarding the criteria that the Court intends to apply to select Louisiana's remedial congressional

map. Intervenors enclose a memorandum in support of their motion, which sets forth the reasons for granting the motion.

Counsel for *Robinson* Intervenors has contacted counsel for the other parties. Plaintiffs and the Secretary of State have indicated they oppose both requests. Intervenor-Defendant State of Louisiana takes no position on either request.

DATED: May 9, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Daniel Hessel, counsel for the *Robinson* Intervenors, hereby certify that on May 9, 2024, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system, and that service will be provided through the CM/ECF system.

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IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF LOUISIANA, MONROE DIVISION

PHILLIP CALLAIS, LLOYD PRICE, BRUCE ODELL, ELIZABETH ERSOFF, ALBERT CAISSIE, DANIEL WEIR, JOYCE LACOUR, CANDY CARROLL PEAVY, TANYA WHITNEY, MIKE JOHNSON, GROVER JOSEPH REES, ROLFE MCCOLLISTER, *Plaintiffs*, v. NANCY LANDRY, in her official capacity as Secretary of State for Louisiana, *et al*,, *Defendants*.	Civil Action No. 3:24-cv-00122 Judge David C. Joseph Circuit Judge Carl E. Stewart Judge Robert R. Summerhays

ROBINSON AND _GALMON_ INTERVENORS' MEMORANDUM IN SUPPORT OF MOTION FOR CLARIFICATION AND RECONSIDERATION

This Court has directed the parties to propose interim remedial plans ahead of a court-ordered remedy on June 4, 2024 (assuming the Legislature does not pass a plan before its legislative session ends on June 3, 2024). *See generally* ECF No. 219. Under this schedule, each party, intervenor, and amicus may file a single proposed map by May 17, 2024, including "both evidence and argument supporting the map." *Id.* at 3. Each party may file a single response to the other parties' submissions by May 24, 2024. *Id*. The Court has announced that it will hold an oral argument on the proposals on May 30, 2024, in which each party "will be limited to forty-five minutes." *Id*. at 4.

Defendant-Intervenors Press Robinson, Edgar Cage, Dorothy Nairne, Edwin Rene Soule, Alice Washington, Clee Earnest Lowe, Davante Lewis, Martha Davis, Ambrose Sims, the National

Association for the Advancement of Colored People Louisiana State Conference, and the Power Coalition for Equity and Justice (the "*Robinson* Intervenors") and Edward Galmon, Sr., Ciara Hart, Norris Henderson, and Tramelle Howard ("*Galmon* Intervenors") (collectively, "Intervenors"), respectfully move the Court for clarification regarding its May 7, 2024 Scheduling Order, ECF No. 219, to establish the scope of supporting evidence the Court requires to make its remedial determination. Additionally, Intervenors respectfully move for reconsideration to permit each party to propose two interim remedial plans for the Court's consideration, and for guidance regarding the criteria that the Court intends to apply to select Louisiana's remedial congressional map.

I. Intervenors Request Clarification to Ensure the Court Has Sufficient Information to Make its Remedial Determination.

If it is forced to take on the "unwelcome obligation" of ordering a plan, *Connor v. Finch*, 431 U.S. 407, 415 (1977), this Court must ensure that the plan complies with federal constitutional and statutory requirements, including the Voting Rights Act, *see, e.g.*, *Abrams v. Johnson*, 521 U.S. 74, 79 (1997); JE2 (Joint Rule 21). The Court will benefit and be better positioned to meet its remedial obligations if the parties' submissions adhere to those requirements.

Intervenors seek clarification on whether this Court intends to adhere to the findings of the Middle District of Louisiana that the Voting Rights Act likely requires two congressional districts in which Black voters have the opportunity to elect their preferred candidates. *Robinson v. Ardoin*, 605 F. Supp. 3d 759, 766 (M.D. La.) ("*Robinson I*") ("The appropriate remedy [] is a remedial congressional redistricting plan that includes an additional majority-Black congressional district."). That conclusion was credited by a unanimous motions panel of the Fifth Circuit, *Robinson v. Ardoin*, 37 F.4th 208 (5th Cir. 2022) ("*Robinson II*"), and subsequently upheld by a unanimous merits panel of the Fifth Circuit, *Robinson v. Ardoin*, 86 F.4th 574 (5th Cir. 2023)

("*Robinson III*"). While this Court held that SB 8 does not comply with the Constitution, the Court's decision did not question the validity of the *Robinson* courts' holdings regarding § 2 of the Voting Rights Act.

Intervenors maintain that the conclusions from the *Robinson* case should be given effect in any remedial plan for Louisiana's congressional districts. *See, e.g.*, *Theriot* v. *Par. of Jefferson*, 185 F.3d 477, 490 (5th Cir. 1999) (holding that Black voters were not required to reestablish the *Gingles* preconditions at a remedial hearing arising from a racial gerrymandering challenge where the district had been drawn as a result of a court order finding a violation of Section 2). To avoid any doubt and to ensure that the parties' submissions assist the Court in adopting a remedial plan that complies with all requirements, Intervenors respectfully request that the Court confirm whether it intends to adhere to the *Robinson* decisions and require that any interim congressional plan "includes an additional majority-Black congressional district," *Robinson I*, 605 F. Supp. 3d at 766.

Intervenors respectfully submit that, if the Court instead intends to revisit the Middle District and Fifth Circuit's determination of the Voting Rights Act question, its current remedial schedule does not provide the parties a sufficient opportunity to address that question. "Section 2 vote dilution dispute[s] are determinations 'peculiarly dependent upon the facts of each case' that require 'an intensely local appraisal of the design and impact of the contested electoral mechanisms.'" *NAACP v. Fordice*, 252 F.3d 361, 364–65 (5th Cir. 2001) (quoting *Gingles*, 478 U.S. at 79). In the *Robinson* litigation, for example, the Middle District heard testimony from 21 witnesses—including 14 experts—and entered into evidence 244 exhibits over a five-day preliminary injunction hearing. *See Robinson I*, 605 F. Supp. 3d at 766; Docket Entries 152, 154, 155, 167–69, *Robinson v. Ardoin*, Case No. 22-cv-211 (M.D. La. Mar. 30, 2022). *Nairne v. Ardoin*,

involving a separate Section 2 challenge to Louisiana's legislative plans, took seven days, including 20 witnesses and 258 exhibits. *See* 2024 WL 492688, at *1 (M.D. La. Feb. 8, 2024); Docket Entries 186, 189, 191, 193, 195, 202–03, *Nairne v. Ardoin*, Case No. 22-cv-178 (M.D. La. Mar. 14, 2022); *see also Alpha Phi Alpha Fraternity Inc. v. Raffensperger*, 2023 WL 7037537, at *5 (N.D. Ga. Oct. 26, 2023) (eight-day Section 2 trial with 20 live witnesses, including 11 experts, and an additional 22 witnesses via deposition). The Court's current schedule, which does not provide for discovery or an evidentiary hearing and instead contemplates a ruling based on an extremely limited written record, does not permit the detailed factual development and legal analysis that would be required to review *de novo* the questions addressed in *Robinson*.

II. Intervenors Request Reconsideration to Allow Each Party to Submit Two Maps and/or to Provide Guidance on Remedial Criteria.

Additionally, Intervenors move the Court to reconsider its decision limiting each party's remedial submission to one map. ECF No. 219, at 3. Intervenors respectfully submit that permitting additional maps will aid the Court as it undertakes the monumental task of imposing a remedial redistricting plan.

At the status conference on May 6, 2024, there was disagreement among the parties about which map should be considered the relevant baseline from which a remedial plan should start, and the State requested further guidance from the Court on the parameters and guiding principles for a proposed remedy. The Court declined to decide those issues in the context of a status conference. Allowing each party to submit an additional map will allow the Court to consider the issue with a full range of alternative maps.

Whether or not the Court permits additional maps, the parties' submissions are most likely to be helpful to the Court if the parties receive guidance on the criteria that the Court intends to evaluate when choosing between proposed maps, including guidance regarding the relative weight

the Court intends to apply to each criterion. For example, a range of potentially lawful maps could seek to maximize adherence to the Legislature's political priorities, or population equality, or district compactness and adherence to political boundaries. Because these various criteria are, to some degree, mutually exclusive, it would prejudice the parties—and disserve the Court—if map-drawers proceed to prepare their proposed maps with no guidance on or certainty as to the applicable rubric. Accordingly, Intervenors also request the Court instruct the parties about how it intends to evaluate the maps submitted by parties.

CONCLUSION

Intervenors respectfully request that the Court clarify whether it intends to adhere to the Voting Rights Act determination from the *Robinson* litigation, and to reconsider its Scheduling Order, ECF No. 219, to permit each party to submit up to two proposed remedial plans and/or to provide further guidance on the criteria that will govern the Court's decision-making.

DATED: May 9, 2024

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, ET AL.

VERSUS

KYLE ARDOIN

CIVIL ACTION

22-CV-211-SDD-SDJ

RULING

This matter comes before the Court on the *Motion to Dismiss*[1] filed by Intervenor-Defendant, the State of Louisiana (the "State"), and Nancy Landry, in her official capacity as Louisiana Secretary of State (collectively, the "Defendants"). The Robinson and Galmon Plaintiffs (collectively, the "Plaintiffs") filed *Oppositions*,[2] to which Defendants filed a *Reply*.[3] For the reasons discussed below, Defendants' Motion will be granted.

I. FACTS AND PROCEDURAL BACKGROUND

In March 2022, Plaintiffs brought suit against the Secretary of State challenging House Bill 1 ("H.B. 1"), which established district boundaries for Louisiana's 2022 congressional map.[4] The State of Louisiana, through the Attorney General, intervened in the suit.[5] The Plaintiffs claimed that that the 2022 congressional map provided less opportunity for Black Louisianans to participate in the political process and elect the candidates of their choice to Congress. The Plaintiffs claimed that the 2022 congressional map diluted the Black vote in violation of Section 2 of the Voting Rights Act (the "VRA").[6] They sought declaratory and injunctive relief, requesting that this Court (1) declare that

[1] Rec. Doc. 352.
[2] Rec. Docs. 357 and 358.
[3] Rec. Doc. 360.
[4] Rec. Doc. 1.
[5] Rec. Doc. 64.
[6] Rec. Doc. 1, p. 1.

the 2022 congressional map violates Section 2 of the VRA, (2) issue a preliminary and permanent injunction enjoining the Defendants from enforcing the boundaries of the congressional districts as adopted in the 2022 congressional map, and (3) order the adoption of a valid congressional redistricting plan for Louisiana that includes two districts in which Black voters have an opportunity to elect the candidates of their choice.[7] In June 2022, this Court found that Plaintiffs were substantially likely to succeed on the merits of their claims and granted a preliminary injunction enjoining the Defendants from conducting elections under the H.B. 1 map.[8] However, the Fifth Circuit vacated the preliminary injunction and remanded proceedings to this Court. The Fifth Circuit instructed that the Legislature have an opportunity to adopt a new districting plan, and if a new plan became effective, this plan could be subject to new challenges.[9] But if the Legislature failed to adopt a new plan, this Court was instructed to conduct a merits trial to decide the validity of H.B. 1 and "if necessary to adopt a different districting plan for the 2024 elections."[10] On November 27, 2023, the parties held a status conference before this Court. At the conference, Plaintiffs moved to convert the remedial hearing on the preliminary injunction set to begin February 5, 2024, to a trial on the merits.[11] Pursuant to the Fifth Circuit's instruction, the Court ordered that if the Defendants failed to produce a new enacted map on or before January 30, 2024, this matter would proceed to a trial on the merits on February 5th, but if a new enacted map was produced, a trial would

[7] *Id* at pp. 51–53.
[8] *Robinson v. Ardoin,* 605 F. Supp. 3d 759, 853 and 856 (M.D. La.), cert. granted before judgment, 142 S. Ct. 2892 (2022), and cert. dismissed as improvidently granted, 143 S. Ct. 2654 (2023), and vacated and remanded, 86 F.4th 574 (5th Cir. 2023).
[9] *Robinson v. Ardoin,* 86 F.4th 574, 601 (5th Cir. 2023).
[10] *Id* at 601–602.
[11] Rec. Doc. 315.

commence on March 25th.[12] On January 22, 2024, Senate Bill 8 ("S.B. 8"), which provides for the enactment of a new congressional map containing two majority-Black districts, was enacted.[13] The State asserted that the enactment of S.B. 8 makes this matter moot. Thereafter, the Galmon and Robinson Plaintiffs informed the Court that they did not oppose S.B. 8, but contended this case is not moot.[14] Specifically, Plaintiffs argued that the case is not moot primarily because of a pending case, *Callais v. Landry, et al*. in the Western District of Louisiana, which presents a constitutional challenge to S.B. 8 .[15] Defendants move to dismiss this case arguing that S.B. 8 renders this case moot. The Plaintiffs filed Oppositions, and in turn Defendants filed a Reply.[16]

II. LAW AND ANALYSIS

A. Rule 12(b)(6) Motion to Dismiss Standard

When deciding a Rule 12(b)(6) motion to dismiss, "[t]he 'court accepts all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff.'"[17] The Court may consider "the complaint, its proper attachments, documents incorporated into the complaint by reference, and matters of which a court may take judicial notice."[18] "To survive a Rule 12(b)(6) motion to dismiss, the plaintiff must plead 'enough facts to state a claim to relief that is plausible on its face.'"[19]

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[12] *Id*.
[13] Rec. Doc. 342.
[14] Rec. Docs. 346, p. 1 and 347, p. 2.
[15] *Callais v. Landry*, No. 3:24-cv-00122-DCJ-CES-RRS (W.D. La).
[16] Rec. Docs. 357, 358, and 360.
[17] *In re Katrina Canal Breaches Litig.*, 495 F.3d 191, 205 (5th Cir. 2007) (quoting *Martin K. Eby Constr. Co. v. Dallas Area Rapid Transit,* 369 F.3d 464, 467 (5th Cir. 2004)).
[18] *Wolcott v. Sebelius*, 635 F.3d 757, 763 (5th Cir. 2011).
[19] *In re Katrina Canal Breaches Litig.*, 495 F.3d at 205 (quoting *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 570 (2007)).

In *Twombly*, the United States Supreme Court set forth the basic criteria necessary for a complaint to survive a Rule 12(b)(6) motion to dismiss. "While a complaint attacked by a Rule 12(b)(6) motion to dismiss does not need detailed factual allegations, a plaintiff's obligation to provide the grounds of his entitlement to relief requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do."[20] A complaint is also insufficient if it merely "tenders 'naked assertions' devoid of 'further factual enhancement.'"[21] However, "[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged."[22] In order to satisfy the plausibility standard, the plaintiff must show "more than a sheer possibility that a defendant has acted unlawfully."[23] "Furthermore, while the court must accept well-pleaded facts as true, it will not 'strain to find inferences favorable to the plaintiff.'"[24] On a motion to dismiss, courts "are not bound to accept as true a legal conclusion couched as a factual allegation."[25]

B. Mootness

Article III restricts this Court's jurisdiction to cases and controversies. The Court is permitted "to adjudicate only live disputes."[26] If "the parties lack a legally cognizable interest in the outcome,"[27] the case is moot. Meaning, "'[t]here must be a case or controversy through all stages of a case'—not just when a suit comes *into* existence but

[20] *Twombly*, 550 U.S. at 555 (2007) (internal citations and brackets omitted).
[21] *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (internal citations and brackets omitted).
[22] *Id*.
[23] *Id*.
[24] *Taha v. William Marsh Rice Univ*., 2012 WL 1576099, at *2 (S.D. Tex. 2012) (quoting *Southland Sec. Corp. v. INSpire Ins. Sols., Inc.*, 365 F.3d 353, 361 (5th Cir. 2004)).
[25] *Twombly*, 550 U.S. at 555 (quoting *Papasan v. Allain*, 478 U.S. 265, 286 (1986)).
[26] *Hinkley v. Envoy Air*, *Inc*., 968 F.3d 544, 548 (5th Cir. 2020).
[27] *Already, LLC v. Nike, Inc*., 568 U.S. 85, 91 (2013) (citation and quotation marks omitted)

throughout its existence."[28] Thus, "any set of circumstances that eliminates actual controversy after the commencement of a lawsuit renders that action moot."[29]

There is an exception to mootness, however, that occurs when a defendant voluntary ceases the challenged practice. "'[A] defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice.'"[30] "In general, a defendant's voluntary conduct moots a case only if 'it is absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur.'"[31] But, government entities bear a "'a lighter burden'. . . in proving that the challenged conduct will not recur once the suit is dismissed as moot."[32] The Court presumes, that "state actors, as public representatives, act in good faith."[33] Consequently, unless there is evidence to the contrary, the Court assumes "'that formally announced changes to official government policy are not mere litigation posturing.'"[34] Moreover, the government's ability to "reimplement the statute or regulation at issue is insufficient to prove the voluntary-cessation exception."[35]

Defendants move to dismiss this case because S.B. 8 has superseded H.B. 1 and Plaintiffs' lack of opposition to S.B. 8 show that an actual controversy no longer exists. Moreover, Defendants argue that the case should be dismissed because the Legislature

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[28] *Yarls v. Bunton*, 905 F.3d 905, 909 (5th Cir. 2018) (emphasis added in original) (quoting *K.P. v. LeBlanc*, 729 F.3d 427, 438 (5th Cir. 2013)); *see also Lewis v. Continental Bank Corp*., 494 U.S. 472, 477 (1990) (explaining that jurisdiction must "subsist[ ] through all stages of federal judicial proceedings").
[29] *DeOtte v. Nevada*, 20 F.4th 1055, 1064 (5th Cir. 2021) (quoting *Center for Individual Freedom v. Carmouche*, 449 F.3d 655, 661 (5th Cir. 2006)).
[30] *Freedom From Religion Found., Inc. v. Abbott*, 58 F.4th 824, 833 (5th Cir. 2023) (quoting *Friends of the Earth, Inc. v. Laidlaw Environmental Services, Inc.*, 528 U.S. 167, 189 (2000)).
[31] *Id* (quoting *Sossamon v. Lone Star State of Texas*, 560 F.3d 316, 325 (5th Cir. 2009), aff'd sub nom. *Sossamon v. Texas*, 563 U.S. 277 (2011)).
[32] *Id* (quoting *Stauffer v. Gearhart*, 741 F.3d 574, 582 (5th Cir. 2014)).
[33] *Id* (internal citations omitted).
[34] *Id* (quoting *Sossamon*, 560 F.3d at 325).
[35] *Id* (internal citations omitted).

voluntarily discontinued the challenged practice and as government actors they should be afforded a presumption of good faith when carrying out this voluntary cessation.[36]

Plaintiffs argue that regardless of S.B. 8's enactment, the voluntary cessation doctrine does not deprive this Court of jurisdiction because Defendants' "words and actions demonstrate that the likelihood of recurrence is high."[37] Plaintiffs argue these actions defeat the presumption of good faith because (1) Defendants have not provided a controlling statement of their future intentions, (2) the timing of S.B. 8's enactment is suspicious, and (3) Defendants continue to defend H.B. 1.[38] Further, the Robinson Plaintiffs rely on *Perez v. Perry*, in which the Western District of Texas considered these similar factors and claim *Perez* is analogous.[39]

In *Perez*, a group of Texas voters sued the state claiming the state's redistricting plans violated the VRA. But, while the case was pending the Texas legislature voluntarily enacted a new set of maps. Thereafter, the state of Texas filed a motion to dismiss the case. The Western District of Texas held that the state's voluntary cessation of allegedly illegal conduct did not deprive the court from hearing the case because the defendants had not carried its burden to show that it would not resume its unlawful conduct once the case was dismissed.[40] Plaintiffs argue, that as in *Perez*, Defendants here have also failed

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[36] Rec. Doc. 352-1, pp. 5–8.
[37] Rec. Doc. 357, p. 14; The Galmon Plaintiffs argue that the voluntary cessation of the challenged practice herein does not make the case moot because Defendants have refused to acknowledge "the obligations that the VRA imposes on Louisiana's congressional map" and therefore their "rights remain vulnerable." The Galmon Plaintiffs, however, did not address the presumption of good faith placed on state actors. Rec. Doc 358, p. 9.
[38] Plaintiffs cite *Speech First, Inc v. Fenves*, 979 F.3d 319, 328 (5th Cir. 2020), in which "[t]he Fifth Circuit has recently held that the voluntary cessation doctrine applies, even for government actors, where there is (1) an absence of a controlling statement of future intention; (2) the timing of a mooting change is suspicious; and (3) where the Defendant continues its defense of the challenged policies." Rec. Doc. 357, p. 16.
[39] *Id* at pp. 13–15.
[40] *Perez v. Perry*, 26 F. Supp. 3d 612, 622 (W.D. Tex. 2014).

to show they can satisfy this burden.[41] Defendants have not asserted H.B. 1 is illegal and the State likely enacted S.B. 8 in part to end this litigation; these are facts similar to the state's actions in *Perez*. But, there are also meaningful distinctions between the two cases, leading the Court to find that the Defendants have met their burden to show the State will not resume any unlawful conduct if this Court dismisses the case.

First, in *Perez*, the new redistricting plans incorporated "identical portions" from the previous plans that were alleged to be illegal.[42] Here, Defendants assert that S.B. 8 "utterly eradicates" the alleged defect with H.B. 1 by providing two additional majority-Black districts to the congressional maps and there is no evidence suggesting S.B. 8 was heavily derived from H.B. 1.[43] Furthermore, the Plaintiffs in *Perez* complained that the "Legislature engaged in similar vote dilution conduct" with regard to the new redistricting plans.[44] "Thus, there [was] evidence that the Legislature ha[d] already engaged in both identical and substantially similar conduct."[45] Here, Plaintiffs argue that "not only have the Defendants continued to defend the lawfulness of [H.B. 1]; [Defendants] have wholly failed to defend [S.B. 8]."[46] But, Defendants counter that their intention to defend S.B. 8 is made clear with the State Attorney General's intervention in *Callais* so that the State can defend the legality of S.B. 8.[47]

The *Callais* case has been tried and S.B. 8 was vigorously defended by the State as Intervenor. The Court finds that the presumption of good faith applies here and

[41] Rec. Doc. 357, p. 14.
[42] *Perez*, 26 F. Supp. 2d at 621.
[43] Rec. Doc. 360, p. 3.
[44] *Perez*, 26 F. Supp. 2d at 621.
[45] *Id.*
[46] Rec. Doc. 357, p. 17
[47] Rec. Doc. 360, pp. 3–4.

Defendants have satisfied their burden in showing that the alleged illegal conduct is unlikely to recur.

C. Implication of *Callais* Litigation

The Robinson Plaintiffs also argue against a finding of mootness because even if there is no risk of recurrence, the allegations set forth in *Callais* "[make] it far from clear whether [S.B. 8] will ever be implemented" and therefore, Plaintiffs need "declaratory and injunctive relief."[48]

Addressing the need for injunctive relief first, the Fifth Circuit has explained that the standard for seeking injunctive relief "requires plaintiffs to show that they suffer or will suffer an injury-in-fact, and therefore would benefit from the [C]ourt's granting of such equitable relief. Plaintiffs must demonstrate that they face a palpable present or future harm, not harm that is 'conjectural or hypothetical.'"[49] "Past wrongs can be considered, however, as evidence of an actual threat of repeated injury."[50]

Plaintiffs' argument for injunctive relief is premised on the hypothetical circumstance that the *Callais* plaintiffs will prevail in their suit and the Western District of Louisiana will hold S.B. 8 unconstitutional. However, with the state's enactment of S.B. 8, there is currently no injury-in-fact. The Court cannot presume the outcome of a case outside of its jurisdiction to reach a particular conclusion for Plaintiffs.

With respect to Plaintiffs' request for declaratory relief, Defendants argue that if the Court were to provide an opinion on such relief, it would constitute an impermissible

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[48] Rec. Doc. 357, p. 19.
[49] *King v. Our Lady of the Lake Hosp., Inc.,* 455 F. Supp. 3d 249, 259–60 (M.D. La. 2020) (citing *Perez v. Drs. Hosp. at Renaissance, Ltd.*, 624 F. App'x 180, 183 (5th Cir. 2015) and *Armstrong v. Turner Indus., Inc.*, 141 F.3d 554, 563 n. 23 (5th Cir. 1998)).
[50] *Id* at 260 (citing *Henschen v. City of Houston*, 959 F.2d 584, 588 (5th Cir. 1992)).

advisory opinion because "the alleged wrong" of the "absence of two majority-minority districts" has been eliminated through S.B. 8.[51] "The Declaratory Judgment Act provides that, 'in a case of actual controversy within its jurisdiction. . .any court of the United States. . . may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought.'"[52] The Court must ask "(1) 'whether an 'actual controversy' exists between the parties' in the case; (2) whether it has authority to grant declaratory relief; and (3) whether 'to exercise its broad discretion to decide or dismiss a declaratory judgment action.'"[53] Moreover, a declaratory judgment "cannot be used to seek an opinion advising what the law would be on a hypothetical set of facts. . . ."[54] "Basically, the question in each case is whether the facts alleged, under all the circumstances, show that there is a substantial controversy, between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment."[55]

In the Complaint, Plaintiffs request that the Court "[d]eclare [that] the 2022 congressional map, [also known as H.B. 1], violates Section 2 of the Voting Rights Act."[56] But, Defendants state that S.B. 8 has "repeal[ed] H.B. 1."[57] Consequently, given this repeal, the Court finds that no substantial controversy remains to warrant a declaratory judgment. Accordingly, Plaintiffs' alleged need for injunctive and declaratory relief does not prevent mootness.

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[51] Rec. Doc. 360, p. 6.
[52] *Donelon v. Altman*, 2021 WL 4205654, at *3 (M.D. La. Sept. 15, 2021) (citing *Frye v. Anadarko Petroleum Corp.,* 953 F.3d 285, 293–94 (5th Cir. 2019)).
[53] *Id* (citing *Orix Credit All., Inc. v. Wolfe*, 212 F.3d 891, 895 (5th Cir. 2000)).
[54] *Id* (citing *Vantage Trailers, Inc. v. Beall Corp*., 567 F.3d 745, 748 (5th Cir. 2009)).
[55] *Id* (citing *MedImmune, Inc. v. Genentech, Inc.*, 549 U.S. 118, 127 (2007)).
[56] Rec. Doc. 1, p. 52.
[57] Rec. Doc. 360, p. 4.

The Galmon Plaintiffs also argue against dismissal because the capable-of-repetition doctrine applies to this case.[58] The Supreme Court has held that this doctrine applies in "exceptional situations" where "(1) the challenged action is in its duration too short to be fully litigated prior to its cessation or expiration, and (2) there [is] a reasonable expectation that the same complaining party would be subjected to the same action again."[59] The Galmon Plaintiffs state, that "if the *Callais* plaintiffs succeed in enjoining S.B. 8, the time before the 2024 elections will be too short for Plaintiffs to fully litigate their Section 2 rights anew, which creates a reasonable expectation that Plaintiffs will be subject to voting in unlawful districts again this year, just as they did in 2022."[60] The argument fails on two grounds. First, Plaintiffs' argument seems to suggest that the action at issue is S.B. 8 and the *Callais* Plaintiffs' challenge of it. But, H.B. 1, not S.B. 8, is the challenged action before this Court. And in a separate ruling this Court declined to apply the First-Filed Rule, which would have allowed the Court to consider the allegations brought forth in *Callais* and decide the constitutionality of S.B. 8.[61]

Second, there is not a reasonable expectation that the Plaintiffs will be subject to the congressional map set forth in H.B. 1 again. As noted earlier, Defendants have intervened in *Callais* in order to defend S.B. 8's enactment, have asserted H.B. 1 is repealed, and there is no evidence suggesting the enjoinment of S.B. 8 would result in H.B. 1's reenactment.

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[58] Rec. Doc. 358, p. 9.
[59] *Lewis v. Cont'l Bank Corp.,* 494 U.S. 472, 481 (1990) (internal citations and quotations omitted).
[60] Rec. Doc. 358, p. 9.
[61] Rec. Doc. 370.

D. Public's Interest in Litigation

Finally, the Robinson Plaintiffs argue against dismissal because of "the public's undeniable interest in voting under a congressional map that does not dilute the votes of a significant portion of the State's population."[62] Plaintiffs rely on *United States v. W.T. Grant Co.*, and quote the Supreme Court, stating "a public interest in having the legality of the [challenged] practices settled…mitigates against a mootness conclusion."[63] However, this quote does not take into account the Supreme Court's complete holding on this issue. While the Supreme Court held that the public's interest in having practices settled militates against a mootness conclusion, the Supreme Court reached this conclusion in the context of a voluntary cessation of the alleged illegal conduct at issue. The Supreme Court explained that when there is a voluntary cessation of allegedly illegal conduct, a case may not be moot because "[t]he defendant is free to return to his old ways."[64] This freedom "together with" the public's interest in resolving a matter is what militates against a mootness conclusion.[65] The Supreme Court then continues to state, "[t]he case may nevertheless be moot if the defendant can demonstrate that 'there is no reasonable expectation that the wrong will be repeated.'"[66] This Court has found that the Defendants demonstrated that there is not a reasonable expectation for the alleged wrong to be repeated. Accordingly, *W.T. Grant Co.* is applicable, but does not persuade the Court against a finding of mootness.

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[62] Rec. Doc. 357, pp. 21–22.
[63] *Id* at pp. 20–21.
[64] *United States v. W. T. Grant Co.*, 345 U.S. 629, 632 (1953) (internal citation omitted).
[65] *Id*.
[66] *Id* at 633 (quoting *United States v. Aluminum Co. of Am.*, 148 F.2d 416, 448 (2d Cir. 1945)).

Plaintiffs also rely on *Pierre v. Vazquez,* stating "that [in this case] even though the Texas Department of Public Safety made a post-appeal change of policy, the plaintiff['s] claims were not moot because 'there remain[ed] a public interest in determining the legality of Defendants' practices.'"[67] But, *Pierre* is distinguishable from this case. The plaintiff brought procedural due process claims against the Department of Public Safety ("DPS") after the Sex Offender Registration Bureau, a division of DPS, notified him that he was a "extrajurisdictional registrant" and thereby requiring him to register as a sex offender under federal law.[68] The plaintiff argued that this was a violation of both federal and state law because he was not provided notice or an opportunity to dispute his sex-offender determination. During the litigation, DPS ceased using the extrajurisdictional registrant policy, and thereafter argued the policy change rendered plaintiff's claims moot.[69]

The Western District of Texas found the plaintiff's request for injunctive and declaratory relief for "the original extrajurisdictional-registrant" determination moot because of the change in policy.[70] But, the Court declined to find the plaintiff's due process claims moot because (1) the policy change did not address the plaintiff's claims that the defendants failed to provide the plaintiff with notice or an opportunity to be heard in violation of his constitutional rights, (2) "th[e] type of alleged procedural-due-process violation ha[d] recurred in multiple cases," and (3) it was not "'absolutely clear' that [the] [d]efendants [would] provide adequate due process to those similarly situated to [the

[67] Rec. Doc. 357, p. 21.
[68] *Pierre v. Vasquez*, 2022 WL 3219421, at *1 (W.D. Tex. Aug. 9, 2022).
[69] *Id* at *2–3.
[70] *Id* at *4.

plaintiff]."[71] The Western District of Texas found that the defendants failed to point to "any policy change that would ensure procedural due process and demonstrate adherence to previous Fifth Circuit decisions. . . ."[72] Therefore, the court declined to find the case moot because of the procedure due process issues that remained in the defendants' practices even after the policy change.

The circumstances in *Pierre* are distinct from those in this case. First, this Court has explained that this Court must presume as government actors, Defendants are acting in good faith and Defendants are held to a more lenient standard than the "absolutely clear" standard usually used to analyze voluntary cessations. Second, with the repeal of H.B. 1 and the enactment of a new congressional map with two majority-Black districts, the Court finds that no issues remain.

In conclusion, the Court finds that with the voluntary enactment of S.B. 8 a live substantial controversy no longer exists and Defendants have sufficiently shown that the challenged conduct will not recur following the dismissal of this action. In conclusion, the Court will grant Defendants' motion.[73]

III. CONCLUSION

Accordingly, for the foregoing reasons, Defendants' Motion to Dismiss[74] is hereby **GRANTED.** The *Motion in Limine to Exclude the Proposed Expert Testimony of David A.*

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[71] *Id*.
[72] *Id*.
[73] In their response in Opposition to Defendants' motion, the Galmon Plaintiffs request that the Court stay proceedings in this matter pending the resolution of the motion to intervene and to transfer *Callais* to this Court in *Callais, et al. v. Landry*. Rec. Doc. 358, p. 13. At the time of the writing of this *Ruling*, the Robinson and Galmon Plaintiffs have successfully intervened in *Callais*, and the Robinson Plaintiffs withdrew their motion to transfer. Accordingly, the request to stay these proceedings are denied as moot.
[74] Rec. Doc. 352.

Swanson, Ph.D.[75] and the *Motion in Limine to Exclude the Proposed Expert Testimony the Proposed Expert Testimony of Dr. Douglas Johnson*[76] are **DENIED AS MOOT**.

IT IS SO ORDERED.

Signed in Baton Rouge, Louisiana, on this 25th Day, April, 2024.

SHELLY D. DICK
CHIEF DISTRICT JUDGE
MIDDLE DISTRICT OF LOUISIANA

[75] Rec. Doc. 339.
[76] Rec. Doc. 340.