

No. 21A814

IN THE SUPREME COURT OF THE UNITED STATES

KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS THE LOUISIANA
SECRETARY OF STATE, *et al.*,

Applicants,

v.

PRESS ROBINSON *et al.*,

Respondents.

GALMON RESPONDENTS'
SUPPLEMENTAL APPENDIX

Darrel J. Papillion
Renee C. Crasto
Jennifer Wise Moroux
WALTERS, PAPHILLION, THOMAS,
CULLENS, LLC
12345 Perkins Road,
Building One
Baton Rouge, Louisiana 70810
(225) 236-3636

Abha Khanna
Counsel of Record
Jonathan P. Hawley
ELIAS LAW GROUP LLP
1700 Seventh Avenue,
Suite 2100
Seattle, Washington 98101
(206) 656-0177
AKhanna@elias.law

Lalitha D. Madduri
Olivia N. Sedwick
Jacob D. Shelly
ELIAS LAW GROUP LLP
10 G Street NE,
Suite 600
Washington, D.C. 20002
(202) 968-4490

Counsel for the Galmon Respondents

TABLE OF CONTENTS

Expert Report of William Cooper and accompanying Exhibit C-1	1
<i>Galmon</i> Plaintiffs' Preliminary-Injunction Hearing Exhibit 32 (Findings of Fact, Conclusions of Law, & Proposed Judgments on Behalf of Intervenors, Louisiana House of Representatives Speaker Clay Schexnayder & Louisiana Senate President Patrick Page Cortez, <i>Bullman v. Ardoin</i> , No. C-716690 (La. 19th Jud. Dist. Ct. Mar. 25, 2022)).....	43
Excerpts from May 10, 2022, Preliminary-Injunction Hearing Transcript	55
Excerpts from May 12, 2022, Preliminary-Injunction Hearing Transcript	61
Excerpts from May 13, 2022, Preliminary-Injunction Hearing Transcript	67

April 15, 2022

Robinson, et al. v. Ardoin, No. 3:22-cv-00211-SDD-SDJ
Galmon, et al. v. Ardoin, No. 3:22-cv-00214-SDD-SDJ

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF LOUISIANA

EXPERT REPORT
OF
WILLIAM COOPER

A handwritten signature in cursive script that reads "William Cooper". The signature is written in black ink and is positioned above a horizontal line.

William Cooper

DECLARATION OF WILLIAM S. COOPER

WILLIAM S. COOPER, acting in accordance with 28 U.S.C. § 1746, Federal Rule of Civil Procedure 26(a)(2)(B), and Federal Rules of Evidence 702 and 703, does hereby declare and say:

I. INTRODUCTION

1. My name is William S. Cooper. I have a B.A. in Economics from Davidson College. As a private consultant, I currently serve as a demographic and redistricting expert for the Plaintiffs. I am compensated at a rate of \$150 per hour.

A. Redistricting Experience

2. I have testified at trial as an expert witness on redistricting and demographics in federal courts in about 50 voting rights cases since the late 1980s. Five of these lawsuits resulted in changes to statewide legislative boundaries: *Rural West Tennessee African-American Affairs v. McWherter*, *Old Person v. Cooney*, *Bone Shirt v. Hazeltine*, *Alabama Legislative Black Caucus v. Alabama*, and *Thomas v. Bryant*. Approximately 25 of the cases led to changes in local election district plans.¹

¹ I have also served as an expert witness on demographics in trials relating to issues other than voting and redistricting. For example, in an April 2017 opinion in *Stout v. Jefferson County Board of Education* (Case no.2:65-cv-00396-MHH), a school desegregation case involving the City of Gardendale, Alabama, the court made extensive reference to my testimony.

3. In 2022, I have testified at trial as an expert in redistricting and demographics in four cases challenging district boundaries under Section 2 of the Voting Rights Act: *Caster v. Merrill*, No. 21-1356-AMM (N.D. Ala.), *Pendergrass v. Raffensperger*, No. 21-05337-SCJ (N.D. Ga.), *Alpha Phi Alpha Fraternity v. Raffensperger*, No. 21-05339-SCJ (N.D. Ga.), and *NAACP v Baltimore County*, No. 21-cv-03232-LKG (Md.). I also testified at trial as an expert in demographics in *NAACP v. Lee*, No. 4:21cv187-MW/MAF (N.D. Fla.).

4. I have served as a redistricting and demographics consultant or expert in several voting cases in Louisiana. In 1993, I developed police jury election plans for the parishes of East Carroll, Madison, West Feliciana, and Point Coupee.² In 1994 and 1995, I developed school board plans for the parishes of Bossier, East Carroll, West Carroll, and Iberville.³ In 1996, I served as an expert for the plaintiffs and developed an illustrative *Gingles* 1 plan for the town council in St. Francisville.⁴ In 1998, I developed an illustrative plan for the 23rd Judicial District.⁵

² *Rodney v. McKeithen*, No. 3:1992-CV-735 (M.D. La.).

³ *Knight v. McKeithen*, No. 3:1994-cv-00848 (M.D. La.) and *Reno v. Bossier Parish School Board*, 528 U.S. 320 (2000).

⁴ *Wilson v. St. Francisville*, No. 92-765 (M.D. La.).

⁵ *Prejean v. Foster*, No. 02-31065 (5th Cir. 2003).

5. In 2005, I served as an expert for the plaintiffs and developed an illustrative *Gingles* 1 plan for the school board in St. Landry Parish.⁶ In the 2010 redistricting cycle, I served as the *Gingles* 1 expert for the plaintiffs in a Section 2 lawsuit involving the 32nd Judicial District in Terrebonne Parish.⁷

6. For additional historical information on my testimony as an expert witness and experience preparing and assessing proposed redistricting maps for Section 2 litigation, see a summary of my redistricting work attached as **Exhibit A**.

B. Purpose of Report

7. The attorneys for the Plaintiffs in this case have asked me to determine whether the African-American population in Louisiana is “sufficiently large and geographically compact”⁸ to allow for the creation of two U.S. House majority-Black districts.

8. In addition, the attorneys have asked me to review historical and current demographics reported in the decennial census published by the U.S. Census Bureau, as well as socioeconomic characteristics reported in the annual releases of

⁶ *NAACP v. St. Landry Parish*, VR-LA-0097. Docket / Court, 6:2003cv00610 (W.D. La.).

⁷ *Terrebonne Parish NAACP v. Jindal*, No. 3:14-cv-00069 (M.D. La.).

⁸ *Thornburg v. Gingles*, 478 U.S. 30, 50 (1986).

the American Community Survey (“ACS”) for African Americans and non-Hispanic Whites.⁹

9. **Exhibit B** describes the sources and methodology I employed in the preparation of this report.

C. Expert Summary Conclusions

10. African Americans in Louisiana are sufficiently numerous and geographically compact to allow for two majority-Black U.S. House districts in a six-district plan.

11. As reported by the Census Bureau in the 1-Year *2019 American Community Survey (“2019 ACS”)*, in Louisiana, non-Hispanic Whites significantly outpace African Americans across most key indicators of socio-economic well-being. These disparities are also found at the regional and local level as reported in the *2019 ACS* and the 5-Year *2015-2019 ACS*.

D. Organization of Report

12. The remainder of this declaration is organized as follows: **Section II** reviews state and parish demographics from 1990 to 2020; **Section III** reviews historical congressional plans in Louisiana from the 1980s to the 2010s. **Section IV** reviews the 2011 Plan and the Enacted 2022 Plan (“2022 Plan”); **Section V**

⁹ In this report, “Black” and “African American” are synonymous, as are “Latino” and “Hispanic.”

presents three *Gingles* 1 illustrative plans based on the 2020 Census, all of which include two voting-age majority-Black congressional districts; and **Section VI** reviews statewide and regional socioeconomic disparities by race.

II. DEMOGRAPHIC PROFILE OF LOUISIANA

A. Decennial Census -- Population Distribution

(a) 1990 to 2020 – Statewide Population by Race and Ethnicity

13. The table in **Figure 1** presents the population of Louisiana by race and ethnicity for the decennial censuses between 1990 and 2020.

Figure 1

**Louisiana – 1990 to 2020 Census
Population by Race and Ethnicity**

All Ages	1990	Percent of Total Population	2000	Percent of Total Population	2010	Percent of Total Population	2020	Percent of Total Population
Total Population	4,219,973	100.00%	4,468,976	100%	4,533,372	100%	4,657,757	100.00%
NH White*	2,776,022	65.78%	2,794,391	62.53%	2,734,884	60.33%	2,596,702	55.75%
Total Minority Pop.	1,443,951	34.22%	1,674,585	37.47%	1,798,488	39.67%	2,061,055	44.25%
Latino	93,044	2.20%	107,738	2.41%	192,560	4.25%	322,549	6.92%
NH Black*	1,291,470	30.60%	1,443,390	32.30%	1,442,420	31.82%	1,452,420	31.18%
NH Asian*	39,302	0.93%	54,256	1.21%	69,327	1.53%	85,336	1.83%
NH Hawaiian and PI*#	NA	NA	24,129	0.54%	28,092	0.62%	1,706	0.04%
NH American Indian and Alaska Native	17,539	0.42%	1,076	0.02%	1,544	0.03%	25,994	0.56%
NH Other*~	2,596	0.06%	4,736	0.11%	6,779	0.15%	16,954	0.36%
NH Two or More Races#	NA	NA	39,260	0.88%	57,766	1.27%	156,096	3.35%
SR Black (Single-race Black)	1,299,281	30.79%	1,451,944	32.49%	1,452,396	32.04%	1,464,023	31.43%
AP Black (Any Part Black)	NA	NA	1,468,317	32.86%	1,486,885	32.80%	1,543,119	33.13%

* Single-race, non-Hispanic.

In 1990, “Asian” included Hawaiian and Pacific Islander.

~ In 1990, “Other” included persons of two or more races.

NA means not available in 1990.

14. According to the 2020 Census, non-Hispanic Whites comprise 55.75%

of the population in Louisiana. African Americans are the next largest racial/ethnic category, representing 33.13% of the population in 2020—the second highest proportion of any state in the nation.

15. As shown in **Figure 1**, the statewide single-race Black (“SR Black”) percentage increased from 30.79% in 1990 to 31.43% (33.13% Any Part Black (“AP Black”)) in 2020.¹⁰ The minority population climbed from 34.22% in 1990 to 44.25% in 2020, with a corresponding drop in the non-Hispanic White (“NH White”) population from 65.78% to 55.75%.

16. **Figure 2** reports the statewide voting age population (“VAP”) by race and ethnicity for 1990 to 2020.

17. Reflecting a younger and growing population, the statewide 2020 Black voting age population (“BVAP”) is 31.25% (1.88 points lower than the overall Black population percentage). By contrast, the NH White VAP is 62.88% (2.56 points higher than the corresponding percentage for the overall NH White population).

18. As shown in **Figure 2**, the statewide SR BVAP increased from 27.87% in 1990 to 30.07% (and to 31.25% AP Black VAP) in 2020. During that same

¹⁰ In this declaration, “African American” or “Black” refers to persons who are Any Part Black (i.e., persons of one or more races that are some part Black), including Hispanic Black, unless otherwise specified. It is my understanding that following the U.S. Supreme Court decision in *Georgia v. Ashcroft*, 539 U.S. 461 (2003), the “Any Part” definition is the appropriate Census classification to use in Section 2 cases.

time period, the NH White VAP dropped more than ten percentage points, from 68.79% in 1990 to 58.31% in 2020.

Figure 2

**Louisiana – 1990 to 2020 Census
Voting Age Population by Race and Ethnicity**

Voting Age	1990	Percent of Voting Age Population	2000	Percent of Voting Age Population	2010	Percent of Voting Age Population	2020	Percent of Voting Age Population
Voting Age Population	2,992,704	100.00%	3,249,177	100.00%	3,415,357	100.00%	3,570,548	100.00%
NH White*	2,058,777	68.79%	2,128,485	65.51%	2,147,661	62.88%	2,082,110	58.31%
Total Minority Pop.	933,927	31.21%	1,120,692	34.49%	1,267,696	37.12%	1,488,438	41.69%
Latino	66,242	2.21%	77,083	2.37%	138,091	4.04%	223,662	6.26%
NH Black*	828,866	27.70%	959,622	29.53%	1,019,582	29.85%	1,066,511	29.87%
NH Asian*	25,731	0.86%	39,702	1.22%	53,638	1.57%	67,983	1.90%
NH Hawaiian and PI*#	NA	NA	800	0.02%	1,152	0.03%	1,322	0.04%
NH American Indian and Alaska Native	11,376	0.38%	16,315	0.50%	19,952	0.58%	19,531	0.55%
NH Other*~	1,712	0.06%	2,803	0.09%	4,526	0.13%	11,524	0.32%
NH Two or More Races#	NA	NA	24,367	0.75%	30,755	0.90%	97,905	2.74%
SR Black (Single-race Black)	833,938	27.87%	965,052	29.70%	1,026,233	30.05%	1,073,754	30.07%
AP Black (Any Part Black)	NA	NA	973,149	29.95%	1,040,701	30.47%	1,115,769	31.25%

* Single-race, non-Hispanic.

In 1990, “Asian” included Hawaiian and Pacific Islander.

~ In 1990, “Other” included persons of two or more races.

NA means not available in 1990.

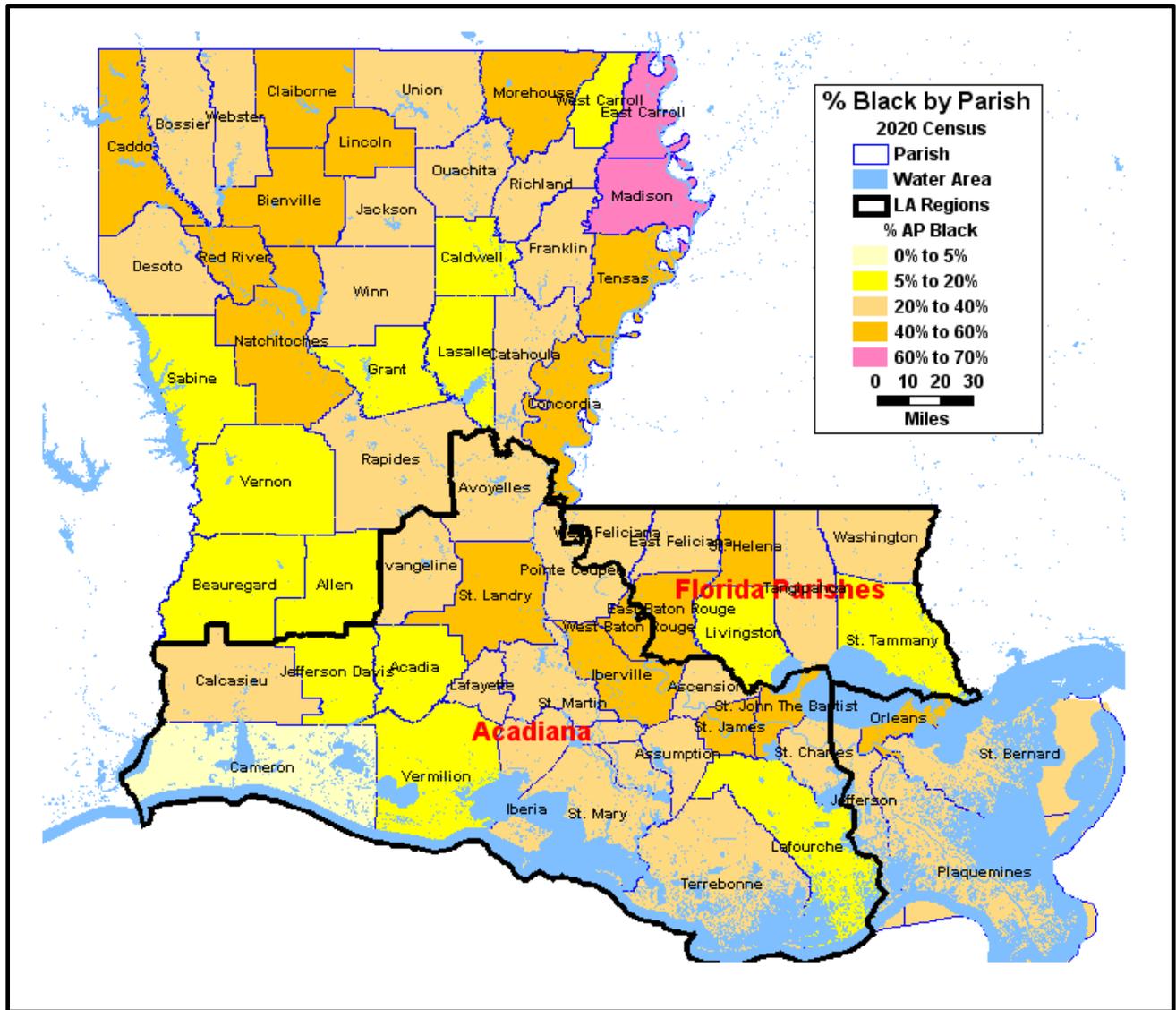
(b) 1990-2020 Parish-Level Population by Race and Ethnicity

19. The map in **Figure 3** shows the 2020 Black population percentage by parish. The bold boundary lines demarcate two key multi-parish cultural regions—the 22 parishes of Acadiana (as designated by the state of Louisiana in 1971)¹¹ and the eight parishes that comprise the Florida Parishes.¹²

¹¹ The 22 Parishes of Acadiana are Acadia, Ascension, Assumption, Avoyelles, Calcasieu, Cameron, Evangeline, Iberia, Iberville, Jefferson Davis, Lafayette, Lafourche, Pointe Coupee, St. Charles, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, Terrebonne, Vermilion,

Figure 3

2020 Percent Black by Parish



and West Baton Rouge. See Acadiana Legislative Delegation, <https://belsians.org/acadiana/>. Lafayette, Acadia, Iberia, St. Landry, St. Martin, Vermilion, Evangeline, and St. Mary are the “Cajun Heartland” which makes up about a third of the entire Acadiana region. See *id.*

¹² The eight Florida Parishes are East Baton Rouge, East Feliciana, Livingston, St. Helena, St. Tammany, Tangipahoa, Washington, and West Feliciana. See Florida Parishes, Se. La. Univ http://www.southeastern.edu/acad_research/programs/cs/sl/parishes/id_x.html.

20. **Exhibit C-1** reports 2020 population by race and ethnicity for the 64 parishes. **Exhibits C-2** (2010), **C-3** (2000), and **C-4** (1990) report historical population by race and ethnicity for the 64 parishes.

C. 1990 to 2020 Population Change

(a) 1990 to 2020 – Statewide Population Change

21. As shown in **Figure 4**, Louisiana experienced modest population growth between 1990 and 2020—up 10.37% from 4.22 million to 4.66 million.

Figure 4

**Louisiana – 1990 to 2020 Census
Population Change by Race**

	Total Pop.	NH White	Total Minority	SR Black	AP Black
1990 Census	4,219,973	2,776,022	1,443,951	1,299,281	NA
2000 Census	4,468,976	2,794,391	1,674,585	1,451,944	1,468,317
2010 Census	4,533,372	2,734,884	1,798,488	1,452,396	1,486,885
2020 Census	4,657,757	2,596,702	2,061,055	1,464,023	1,543,119
1990 - 2000 Gain	249,003	18,369	230,634	152,663	NA
% 1990 - 2000 Gain	5.90%	0.66%	15.97%	11.75%	NA
% of Statewide 1990 - 2000 Gain	100.0%	7.4%	92.62%	61.31%	NA
2000 - 2010 Gain/Loss	64,396	-59,507	123,903	452	18,568
% 2000 - 2010 Gain/Loss	1.44%	-2.13%	7.40%	0.03%	1.26%
% of Statewide 2000 - 2010 Gain	100.0%	Net loss	192.4%	0.7%	28.8%
2010 to 2020 Gain/Loss	124,385	-138,182	262,567	11,627	56,234
% 2010 to 2020 Gain/Loss	2.74%	-5.05%	14.60%	0.80%	3.78%
% of Statewide 2010 - 2020 Gain	100%	Net loss	211.09%	9.35%	45.21%
1990 to 2020 Gain/Loss	437,784	-179,320	617,104	164,742	NA
% 1990 to 2020 Gain/Loss	10.37%	-6.46%	42.74%	12.68%	NA
% of Statewide 1990 - 2020 Gain	100%	Net loss	140.96%	37.63%	NA

22. The statewide population growth between 1990 and 2020 (blue shaded rows) can be attributed entirely to a 42.74% gain in the minority population. Over the three decades, the SR Black population increased by 164,742 (12.68%), representing nearly half of the total population gain of 437,784. By contrast, the NH White population fell by 179,320 (-6.46%) between 1990 and 2020.

III. Historical Congressional Plans

A. Census 2010 Redistricting

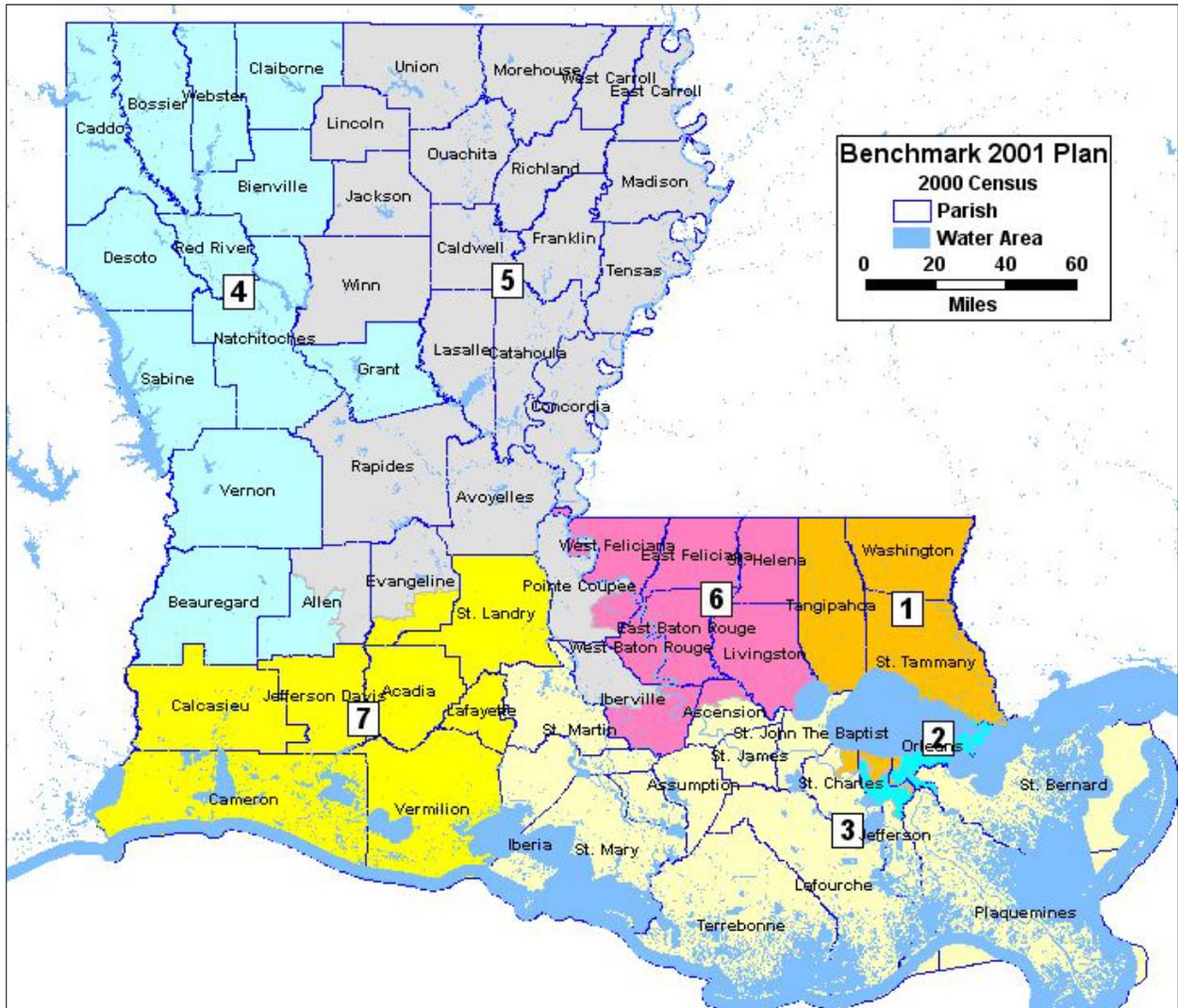
(a) 2001 Plan

23. In the 2010 reapportionment, Louisiana lost a congressional seat, going from seven to six districts, as a result of the tepid 1.44% increase in the statewide population between 2000 and 2010.

24. The map in **Figure 5** (below) depicts the seven-district 2001 Plan, which was in place for congressional elections held between 2002 and 2010.

Figure 5

Louisiana – 2001 Plan



25. For comparison, **Exhibit D-1** is a state-produced map depicting the 2001 Plan adopted by the Louisiana State Legislature. **Exhibit D-2** contains state-produced summary population statistics for the 2001 Plan, according to the 2000

Census.¹³ For additional historical comparisons, **Exhibits E-1 and E-2** and **Exhibits F-1 and F-2** contain maps of Louisiana’s congressional plans from 1984 to 2001.¹⁴

26. **Figure 6** shows 2010 summary population statistics by district for the 2001 Plan. According to the 2010 Census, under the 2001 Plan, majority-Black CD 2 had a BVAP of 56.22% which represented a 23.68 percentage point margin over the NH White VAP of 32.54%. The remainder of the 1.19 million African Americans who did not live in CD 2 (AP Black pop 295,158) were distributed across the other six districts.¹⁵

Figure 6

2001 Plan – 2010 Census						
District	Population	Dev.	% Dev.	18+ Pop	% 18+ Black	% 18+ NH White
1	686961	39336	6.07%	527745	14.75%	75.15%
2	493352	-154273	-23.82%	378758	56.22%	32.54%
3	637371	-10254	-1.58%	471568	25.88%	66.97%
4	667109	19484	3.01%	501489	32.65%	61.92%
5	644296	-3329	-0.51%	484081	33.10%	63.63%
6	727498	79873	12.33%	548994	33.33%	60.87%
7	676785	29160	4.50%	502722	24.05%	71.47%

¹³ See 2001 Redistricting Information, La. House, <https://web.archive.org/web/20060924052737/http://house.legis.state.la.us/hredist/redist-finalBESEplans.htm#FINAL%20CONGRESS>.

¹⁴ **Exhibit E-1** depicts the 8-district Court-ordered 1984 Plan. **Exhibit E-2** shows the 1996 Court-ordered Plan. **Exhibit F-1** is the map for the 103rd Congress that was ruled unconstitutional by the U.S. District Court of the Western District of Louisiana in 1994. **Exhibit F-2** shows the plan for the 104th Congress that was ruled unconstitutional by the same Western District court in 1996.

¹⁵ In **Section III** and **Section IV**, for population statistics cited from the 2010 and 2020 Census, “Black” means “Any Part Black.”

27. According to the 2010 Census, under the seven-district 2001 Plan, African Americans of voting age (465,275) in the contiguous area encompassed by CDs 3, 5, and 6 constituted 44.7% of the statewide Black voting age population.

28. Put another way, the 2010 Black population (all ages) in CDs 3, 5, and 6 was 666,096—enough to almost match the ideal district size of 755,562 in a six-district plan in the 2010 redistricting cycle.

(b) 2011 Plan

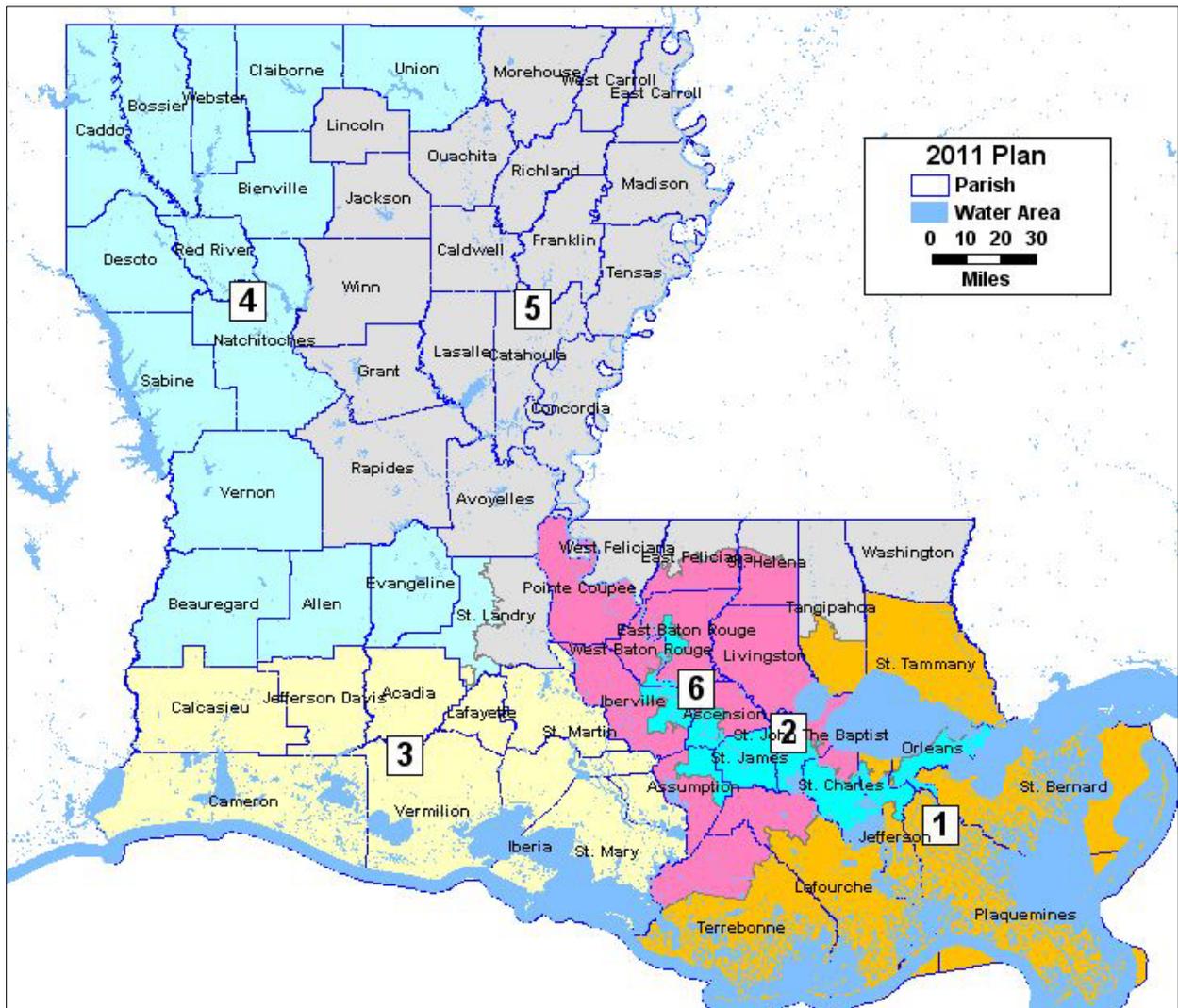
29. With the loss of a congressional seat in the 2010 reapportionment and significant population dislocations in the aftermath of Katrina, Louisiana was set for major changes in the new six-district congressional plan. The districts had to increase in geographic size in order to account for population loss in New Orleans and the increase in ideal district population size under a six-district plan.

30. In the 2011 Plan, African Americans were concentrated into CD 2 by stringing together predominantly Black precincts from New Orleans to Baton Rouge through parts of the River Parishes (St. Charles, St. John the Baptist, and St. John), then on to parts of Ascension, Assumption, and St. Gabriel, with a narrow corridor connection from Brusly to Port Allen in West Baton Rouge before crossing the Mississippi River via I-10 into Baton Rouge.

31. The BVAP of CD 2 climbed to 59.67%—up from 56.22% under the 2001 Plan. Similarly, the BVAP minus NH White VAP margin in CD 2 climbed to 27.9% – up from 23.68% under the 2001 Plan. The map in **Figure 7** depicts the 2011 Plan.

Figure 7

Louisiana U.S. House -- 2011 Plan



32. The 2011 Plan split nine of the ten parishes in CD 2. By contrast, under the 2001 Plan, CD 2 split just two parishes. Indeed, CD 2 under the 2011

Plan was so contorted that it ranked as the seventh least compact district in the nation, according to a 2012 study.¹⁶

33. As shown in **Figure 8**, the remainder of the Black population outside of CD 2 was distributed across five districts and, as in the 2001 Plan, not one of the five other districts had a BVAP above 34%.

Figure 8

2011 Plan – 2010 Census

District	Population	Dev.	18+ Pop	% 18+ Black	% 18+ Latino	% 18+ NH White
1	755445	-117	579661	12.19%	7.27%	76.63%
2	755538	-24	569601	59.67%	5.76%	31.77%
3	755596	34	561690	23.38%	2.84%	71.52%
4	755605	43	566830	32.65%	2.79%	62.24%
5	755581	19	567667	33.67%	1.87%	63.05%
6	755607	45	569908	21.52%	3.64%	71.96%

34. This fragmentation of the Black population across the five other districts was achieved by wrapping CD 6 around CD 2. CD 6 started on the south shore of Lake Pontchartrain in St. Charles Parish and meandered northwest to West Feliciana Parish before looping south into Terrebonne and Lafourche Parishes. Of the 13 parishes in CD 6, 11 were split.

¹⁶ See *Redistricting the Nation 2012 Whitepaper Addendum*, p. 2. https://cdn.azavea.com/com.redistrictingthenation/pdfs/Redistricting_The_Nation_Addendum.pdf.

35. The bizarre shape of CD 6 impacted CD 5, which extended from parishes along the Arkansas border in north Louisiana, then split the Florida Parishes of East Feliciana, West Feliciana, St. Helena, and Tangipahoa, and ended with the inclusion of Washington Parish on the Mississippi state line.

36. In sum, the 2011 Plan packed Black voters in CD 2 and cracked Black voters across the remaining districts, with repercussions for other traditional redistricting principles, such as compactness and political subdivision splits.

(c) Potential for Two Majority-Black Districts in the 2010s

37. As shown in the six-district illustrative plan described in **Exhibit G-1** (population summary), **Exhibit G-2** (map), and **Exhibit G-3** (parish splits), in 2010 the Black population was sufficiently numerous and geographically compact to allow for two majority-Black districts.¹⁷

C. Census 2020 Redistricting

(a) 2011 Plan

38. **Figure 9** updates the enacted 2011 Plan with 2020 Census data to show the malapportionment of the 2011 plan under the 2020 Census.

¹⁷ I developed the illustrative plan in the **Exhibit G** series, which was submitted to the Defendant while I served as the *Gingles* 1 expert for the plaintiffs in *Johnson v. Ardoin*, Civ. Action No. 18-625-SDD-EWD (M.D. La.).

Figure 9

2011 Plan – 2020 Census

District	Population	Dev.	18+ Pop	% 18+ Black	% 18+ Latino	% 18+ NH White
1	812,585	36,292	629,822	14.63%	10.55%	69.24%
2	775,292	-1,001	599,438	58.65%	7.89%	29.80%
3	785,824	9,531	593,570	24.47%	4.78%	67.03%
4	728,346	-47,947	554,876	33.37%	4.23%	58.26%
5	739,244	-37,049	567,681	32.97%	3.47%	60.38%
6	816,466	40,173	625,161	24.71%	6.14%	64.54%

(b) Enacted 2022 Plan

39. The 2022 Plan is a carbon copy of the 2011 Plan, insofar as CD 2 and CD 6 are concerned. Accordingly, in the 2022 Plan, from New Orleans to Baton Rouge and beyond, there are inexplicable twists and turns in CD 2 and adjacent wrap-around CD 6 (¶¶ 34-35 *supra*). As shown in **Exhibit H-7**, both CD 2 and CD 6 split 9 of 10 parishes. All told, 15 parishes are split in the 2022 Plan, replicating the deviations in the 2011 Plan, which also split 15 parishes.

40. As shown in **Figure 10**, the remainder of the Black population outside of CD 2 is distributed across five districts and, as in the 2011 Plan, not one of the five other districts has a BVAP above 34%.

Figure 10

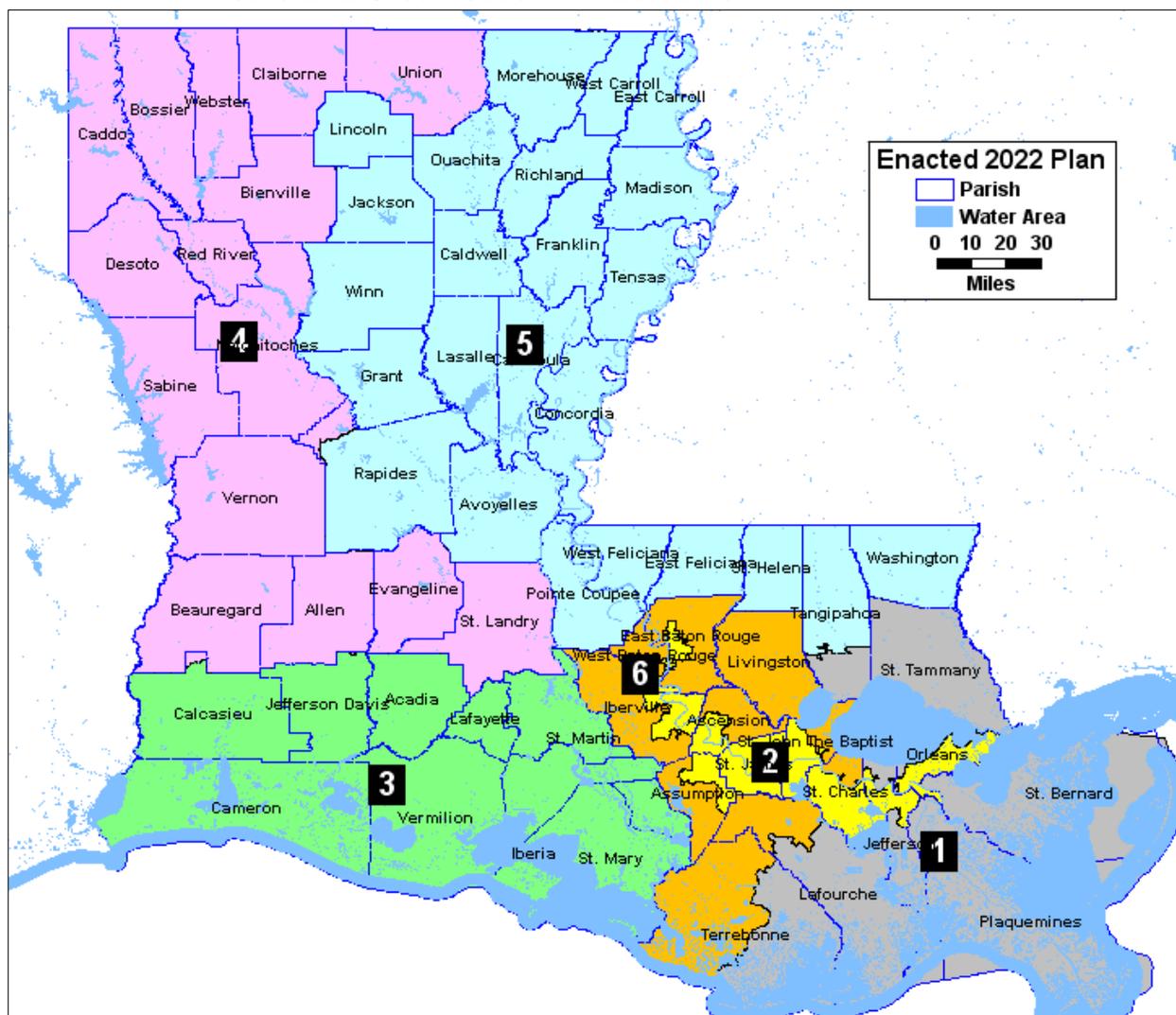
2022 Plan – 2020 Census

District	Population	Dev.	18+ Pop	% 18+ Black	% 18+ Latino	% 18+ NH White
1	776319	26	601744	13.43%	10.81%	70.06%
2	776328	35	600126	58.67%	7.93%	29.71%
3	776297	4	586509	24.58%	4.81%	66.89%
4	776200	-93	590852	33.80%	4.08%	58.11%
5	776295	2	597344	32.93%	3.57%	60.32%
6	776318	25	593973	23.95%	6.29%	65.02%

41. The BVAP minus NH White VAP margin in CD 2 inched up to 28.98%, from 27.9% under the 2011 Plan and 23.7% in the 2001 Plan, meaning the 2022 Plan packs even more Black Louisianians into CD 2 than it did under the 2011 Plan. The map in **Figure 11** (below) depicts the 2022 Plan.

Figure 11

Louisiana U.S. House -- Enacted 2022 Plan



42. Under one-third (31.5%) of Black persons of voting age in Louisiana live in majority-Black CD 2. By contrast, 91.5% of NH White persons of voting age live in the remaining five majority-White congressional districts.

43. In sum, like the 2011 Plan, the 2022 Plan cracks and packs Black voters, with repercussions for other traditional redistricting principles such as compactness and parish splits.

44. **Exhibit H-1** contains detailed 2020 population statistics by district for the 2022 Plan. To facilitate comparison with Plaintiffs’ illustrative plans, the map in **Exhibit H-2** is a higher resolution version of the **Figure 11** map. **Exhibit H-3** contains maps in sequential order that zoom in on each of the six congressional districts. **Exhibit H-4** zooms in on the New Orleans MSA, which is split between CD 1, CD 2, and CD 3. **Exhibit H-5** zooms in on the Baton Rouge MSA, which is split between CD 2, CD 5 and CD 6. **Exhibit H-6** identifies the parish-level population by district. **Exhibit H-7** identifies district splits by parish and VTD. **Exhibit H-8** identifies municipal splits by district. **Exhibit H-9** identifies regional district splits (Core Based Statistical Areas (“CBSAs”)) comprised of Metropolitan Statistical Areas (“MSAs”) and Micropolitan Statistical Areas.¹⁸

¹⁸ Metropolitan Statistical Areas are defined by the U.S. Office of Management and Budget and reported in historical and current census data produced by the Census Bureau. MSAs “consist of the county or counties (or equivalent entities) associated with at least one urbanized area of at least 50,000 population, plus adjacent counties having a high degree of social and economic

45. For reference, **Exhibit I-1** is a Census Bureau-produced map depicting the nine MSAs and ten Micropolitan Statistical Areas in Louisiana.

46. Also, for reference, two additional plans enacted in 2022 (Louisiana State Board of Elementary and Secondary Education and Public Service Commission) are shown in state-produced maps found in **Exhibit I-2** and **Exhibit I-3**.¹⁹

IV. PLAINTIFFS' ILLUSTRATIVE PLANS

A. Illustrative Plans – Summary Descriptions

(a) *Gingles* 1 and Traditional Redistricting Principles

47. The illustrative plans demonstrate the first *Gingles* precondition, i.e., the Black population is sufficiently numerous and geographically compact to allow for the creation of one additional majority-Black district.²⁰

48. There are a variety of ways to draw two majority-Black congressional districts in Louisiana while adhering to traditional redistricting principles.

49. The three illustrative plans I have developed comply with traditional redistricting principles, including one-person one-vote, compactness, contiguity,

integration with the core as measured through commuting ties.” A micropolitan area must have an urbanized area of at least 10,000 but less than 50,000 persons. *See* About, U.S. Census Bureau, <https://www.census.gov/programs-surveys/metro-micro/about.html>.

¹⁹ *See* Enrolled Bills and Maps from the First Extraordinary Session of 2022, <https://redist.legis.la.gov/EnrolledBills>.

²⁰ As noted, in **Section III** and **Section IV**, for population statistics cited from the 2020 Census, “Black” means “Any Part Black.”

the non-dilution of minority voting strength, and preservation of communities of interest.

50. The illustrative plans are drawn to follow, to the extent possible, parish and municipal boundaries. Where parishes and municipalities are split, this is done to comply with the one-person one-vote requirement, and I have generally used whole 2020 VTDs as sub-parish components.²¹ Where VTDs are split to comply with one-person one-vote, I have followed municipal boundaries, census block group boundaries, or census block boundaries.

(b) Joint Rule No. 1 Redistricting Criteria

51. I have reviewed the Legislature’s Census 2020 redistricting criteria as embodied in the Legislature’s Joint Rule No. 21 “Redistricting criteria” (“**JR 21**”).²² In my opinion, the illustrative plans fully comply with **JR 21**, specifically with respect to the following:

- *Sec. E(2) – The plan shall provide that each congressional district shall have a population as nearly equal to the ideal district population as practicable.*

52. It is not mathematically possible to draw six congressional districts in Louisiana with precisely the same population in each district. Accordingly, the

²¹ VTDs are 2020 precincts or precinct proxies defined by the Census Bureau in the PL94-171 redistricting file, with corresponding geographic shapefiles.

²² See Joint Rule No. 21, <https://www.legis.la.gov/Legis/Law.aspx?d=1238755>.

illustrative plans comply with the equal population principle as nearly as is practicable: five districts in each illustrative plan have populations that match the ideal district population size of 776,293, while a sixth district in each illustrative plan has a district population size of 776,292 (-1 person), accounting for the remainder of the divisor.

- *Sec. G(1) – To the extent practicable, each district within a redistricting plan submitted for consideration shall contain whole election precincts as those are represented as Voting Districts (VTDs).*

53. The illustrative plans limit populated VTD splits to as few as seven (Illustrative Plan 3).²³ I have included VTD splits only where necessary to ensure zero deviation to comply with one-person, one-vote requirements, but, with minor modifications, the three illustrative plans can be drawn with zero precinct splits. In doing so, district population deviations would remain *de minimis*.

- *Sec. H – All redistricting plans shall respect the established boundaries of parishes, municipalities, and other political subdivisions and natural geography of this state to the extent practicable. However, this criterion is subordinate to and shall not be used to undermine the maintenance of communities of interest within the same district to the extent practicable.*

54. The illustrative plans respect political subdivision and natural boundaries. Populated municipal splits are limited to as few as 23 (Illustrative Plan 1)—seven fewer municipal splits than the 2022 Plan. The illustrative plans

²³ A populated split divides population in a VTD or municipality into two or more districts. Generally, unpopulated splits involve splits due to bodies of waters or municipal boundaries.

limit parish splits to as few as 10 (Illustrative Plans 1 and 2), compared to 15 parish splits in the 2022 Plan.

55. The illustrative plans also respect multi-parish regional communities of interest defined as Core Based Statistical Areas (“CBSAs”) by the Office of Management and Budget and the U.S. Census Bureau and depicted in the map in **Exhibit I-1**. The 2022 Plan splits 18 CBSAs, compared to 14 splits in Illustrative Plan 1, 16 in Illustrative Plan 2, and 17 in Illustrative Plan 3.

(c) Illustrative Plans – Key Features

56. Key features of the three illustrative plans are summarized below:

- Under the illustrative plans, District 2 is anchored in the New Orleans MSA, including the River Parishes. District 5 is built around the Baton Rouge MSA, extending north to the Monroe MSA.
- Each illustrative plan contains two districts with a majority Black VAP, a majority of Black registered voters (as of July 2021),²⁴ and a majority of non-Hispanic Single-race Black citizens of voting age (2016-2020 ACS Special Tabulation).²⁵
- The illustrative plans are minimum-deviation plans. Five of the six districts have a perfect deviation of zero—exactly matching the ideal population size of 776,293—with a sixth district underpopulated by just 1 person.
- The plans split fewer parishes than the 2022 Plan, which splits 15. There are 10 split parishes in Illustrative Plan 1, 11 in Illustrative Plan 2, and 10 in Illustrative Plan 3.

²⁴ See Louisiana Voter Registration File at the VTD Level, Redistricting Data Hub, <https://redistrictingdatahub.org/dataset/louisiana-voter-registration-file-at-the-vtd-level/>.

²⁵ Citizen Voting Age Population by Race & Ethnicity, U.S. Census Bureau (Mar. 17, 2022), <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html>.

- The illustrative plans split the same number or fewer populated areas in municipalities. Of the 304 municipalities (cities, towns, and villages) identified in the 2020 Census, the 2022 Plan splits 30. Illustrative Plan 1 splits 24, Illustrative Plan 2 splits 30, and Illustrative Plan 3 splits 29.
- The illustrative plans adopt the modern era practice (starting with the 1984 court-ordered Plan) of joining District 1 in New Orleans with the North Shore of Lake Pontchartrain by way of the Causeway.
- All six incumbents reside in the district which corresponds to their current district number.
- The illustrative plans minimize populated VTD splits, while maintaining minimum population deviation. Illustrative Plan 1 splits 13 VTDs, Illustrative Plan 2 splits 7, and Illustrative Plan 3 splits 12.
- Despite the boundary changes necessary to create a second majority-Black district, each illustrative plan maintains a majority of the voting age population in CD 2 and CD 5 as drawn in the 2022 Plan. Core retention in the remaining four districts is even higher.

57. The following sections describe the illustrative plans, with a primary focus on the characteristics of the two majority-Black districts.

B. Illustrative Plans – Individual Details

(a) Illustrative Plan 1

58. The map in **Figure 12** (below) depicts Illustrative Plan 1. District 2 is 50.16% BVAP and District 5 is 50.04% BVAP.

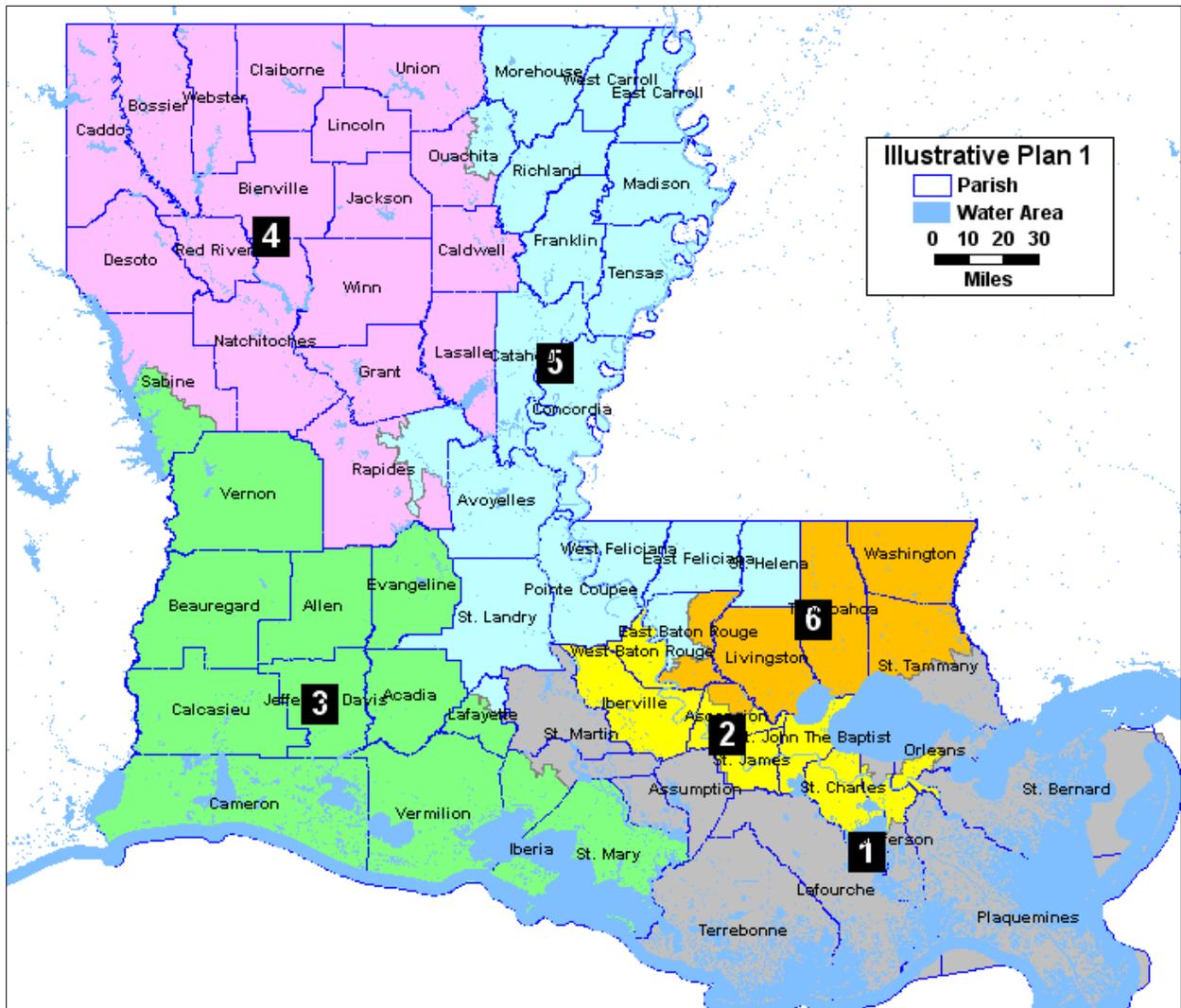
59. Majority-Black District 2 extends west from New Orleans to Iberville Parish and north to West Baton Rouge. Of the eight parishes in District 2, three are split: Ascension, Jefferson, and Orleans. (**Exhibit J-6**)

60. Majority-Black District 5 extends north from the Baton Rouge MSA to the Monroe MSA, west to the Parishes of St. Landry, Lafayette and Rapides, and east to majority-Black St. Helena Parish.

61. District 5 encompasses 17 parishes, splitting just four: East Baton Rouge, Ouachita, Rapides, and Lafayette. (**Exhibit J-6**).

Figure 12

Illustrative Plan 1



62. The table in **Figure 13** presents 2020 summary population statistics for Illustrative Plan 1.

Figure 13

Illustrative Plan 1 – 2020 Census

District	Population	Dev.	18+ Pop	% 18+ Black	% 18+ Latino	% 18+ NH White
1	776292	-1	599826	18.18%	10.05%	66.13%
2	776293	0	603092	50.16%	8.58%	37.40%
3	776293	0	586519	19.75%	5.23%	70.79%
4	776293	0	596695	31.82%	4.13%	59.89%
5	776293	0	592316	50.04%	3.40%	43.97%
6	776293	0	592100	17.24%	6.11%	72.10%

63. **Exhibit J-1** contains detailed 2020 population statistics by district for Illustrative Plan 1. The maps and statistical summaries in the **Exhibit J** series are in the same sequence and format as the **Exhibit H** series.

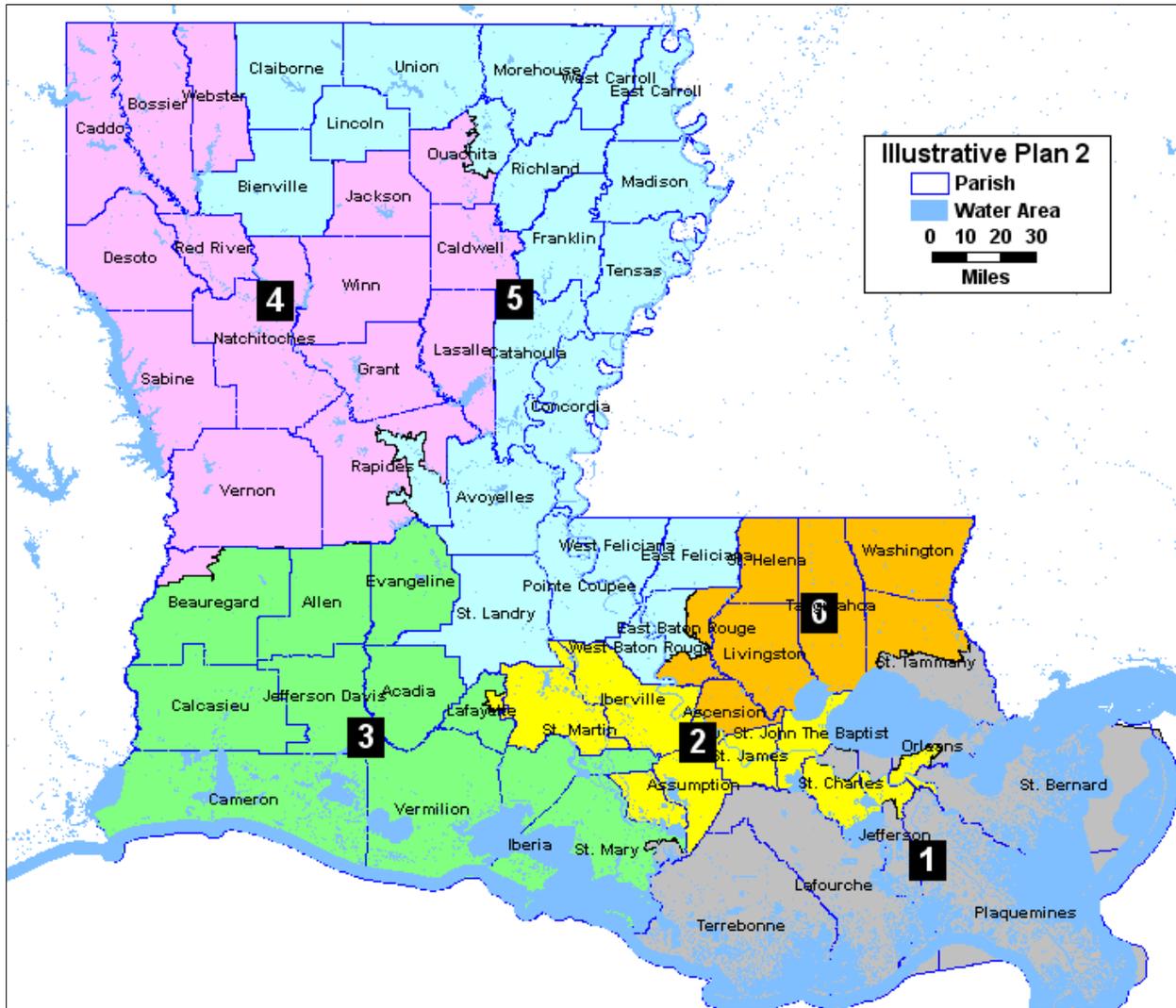
(b) Illustrative Plan 2

64. The map in **Figure 14** (below) depicts Illustrative Plan 2. District 2 is 50.65% BVAP and District 5 is 50.04% BVAP.

65. Majority-Black District 2 is anchored in New Orleans. West Baton Rouge Parish, which is in District 2 under Illustrative Plan 1, is swapped out of District 2 and replaced with the Parishes of St. Martin and Assumption and part of Lafayette. District 2 splits five of ten parishes: Ascension, Jefferson, Lafayette, Orleans, and St. Charles. (**Exhibit K-6**)

Figure 14

Illustrative Plan 2



66. Majority-Black District 5 is anchored in Baton Rouge. In contrast to District 5 in Illustrative Plan 1, District 5 extends further west from Monroe to add four parishes in north Louisiana (Union, Lincoln, Claiborne, and Bienville). District 5 is comprised of 19 parishes, with three parish splits. (Exhibit K-6)

67. The table in Figure 15 shows 2020 summary population statistics for Illustrative Plan 2.

Figure 15

Illustrative Plan 2 – 2020 Census

District	Population	Dev.	18+ Pop	% 18+ Black	% 18+ Latino	% 18+ NH White
1	776293	0	598980	16.51%	10.91%	66.74%
2	776293	0	606036	50.65%	7.72%	37.92%
3	776293	0	585553	21.59%	5.06%	69.44%
4	776293	0	592745	28.65%	4.36%	62.34%
5	776293	0	593183	50.04%	3.40%	44.06%
6	776292	-1	594051	19.67%	6.05%	69.87%

68. **Exhibit K-1** contains detailed 2020 population statistics by district for Illustrative Plan 2. The maps and statistical summaries in the **Exhibit K** series are in the same sequence and format as the **Exhibit H** series.

(c) Illustrative Plan 3

69. The map in **Figure 16** (below) depicts Illustrative Plan 3. District 2 is 50.16% BVAP and District 5 is 51.63% BVAP. The table in **Figure 17** presents 2020 summary population statistics for Illustrative Plan 3.

70. Majority Black District 2 is identical to District 2 in Illustrative Plan 1.

71. In contrast to Illustrative Plans 1 and 2, majority-Black District 5 extends further east to include eastern Tangipahoa Parish. District 5 is comprised of 19 parishes, with five parish splits. (**Exhibit L-6**)

Figure 16

Illustrative Plan 3

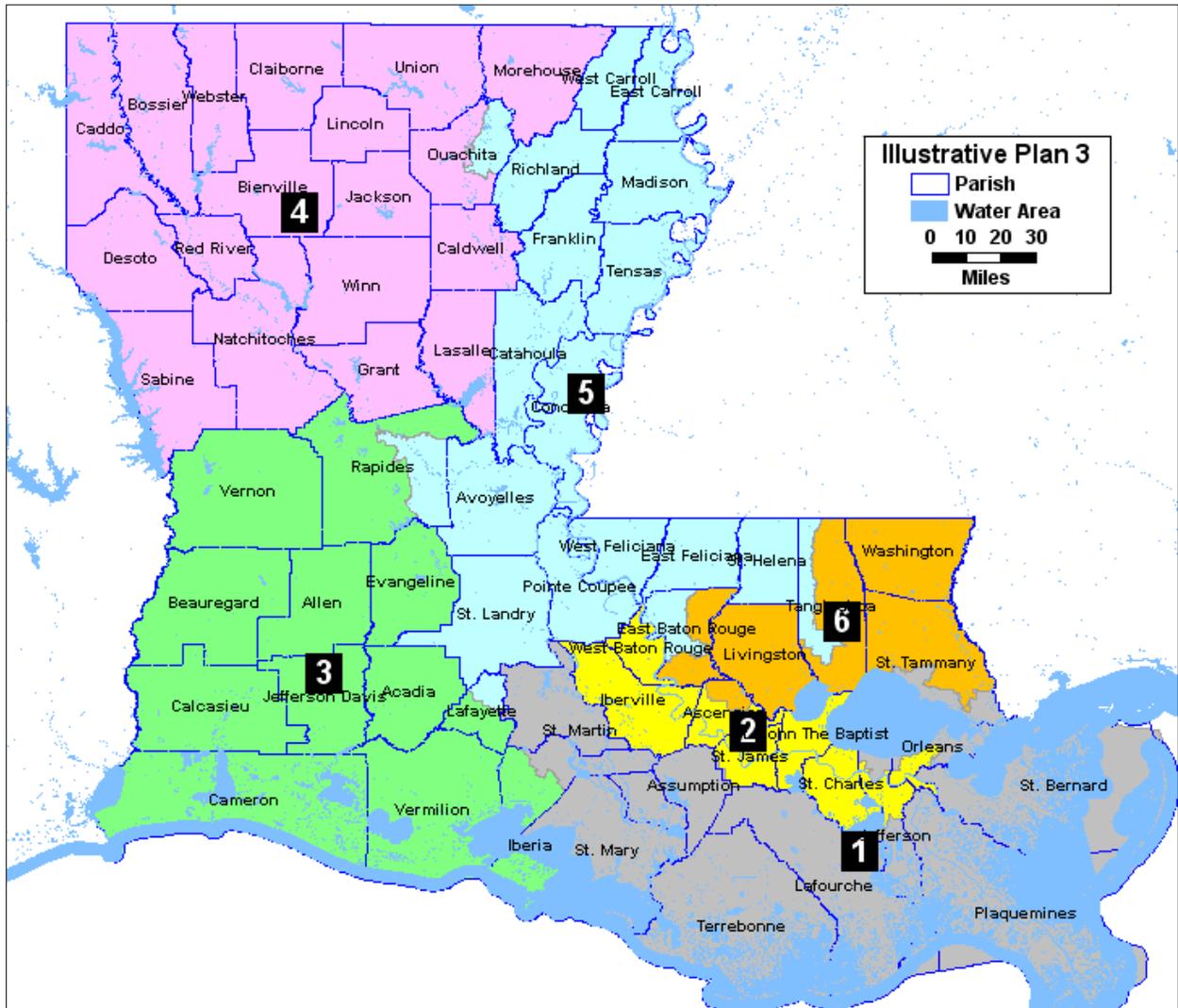


Figure 17

Illustrative Plan 3 – 2020 Census

District	Population	Dev.	18+ Pop	% 18+ Black	% 18+ Latino	% 18+ NH White
1	776293	0	599586	18.52%	10.08%	65.79%
2	776293	0	603092	50.16%	8.58%	37.40%
3	776293	0	586927	17.98%	4.93%	72.74%
4	776293	0	597083	32.96%	3.98%	59.03%
5	776293	0	589070	51.63%	3.67%	42.31%
6	776292	-1	594790	16.09%	6.25%	72.88%

C. Additional Plan Information

(a) Compactness Measures

72. The districts in the illustrative plans are reasonably shaped and compact. **Exhibit M** reports district-by-district compactness scores generated by Maptitude for the Illustrative Plans (**Exhibits M-1, M-2, and M-3**) and the 2022 Plan (**Exhibit M-4**).

73. Each exhibit reports three compactness scores: Reock, Polsby-Popper, and Convex Area/Hull.²⁶ Higher scores indicate higher compactness.

74. The table in **Figure 18** (below) summarizes the Reock and Polsby-Popper scores (the two most commonly referenced measures) for the three

²⁶ “The Reock test is an area-based measure that compares each district to a circle, which is considered to be the most compact shape possible. For each district, the Reock test computes the ratio of the area of the district to the area of the minimum enclosing circle for the district. The measure is always between 0 and 1, with 1 being the most compact. The Reock test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan.” *Maptitude For Redistricting* software documentation (authored by the Caliper Corporation).

The Polsby-Popper test computes the ratio of the district area to the area of a circle with the same perimeter: $4pArea / (Perimeter^2)$. The measure is always between 0 and 1, with 1 being the most compact. The Polsby-Popper test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan. *Id.*

The Area/Convex Hull test computes the ratio the district area to the area of the convex hull of the district (minimum convex polygon which completely contains the district). The measure is always between 0 and 1, with 1 being the most compact. The Minimum Convex Polygon test computes one number for each district and the minimum, maximum, mean and standard deviation for the plan. *Id.*

illustrative plans, alongside scores for the 2022 Plan and other statewide plans adopted by the Louisiana Legislature in 2022.

Figure 18

Compactness Scores – Illustrative Plans vs Adopted 2022 Plans

	Reock				Polsby-Popper		
		Low	High			Low	High
2022 Plan							
All Districts (mean avg.)	.37	.18	.50		.16	.06	.34
CD 2	0.18				0.06		
2022 BOE Plan							
All Districts (mean avg.)	.40	.21	.54		.19	.08	.32
2022 Public Service Plan							
All Districts (mean avg.)	.39	.21	.53		.16	.07	.24
2022 State Senate Plan							
All Districts (mean avg.)	.36	.11	.59		.19	.05	.35
2022 State House Plan							
All Districts (mean avg.)	.40	.14	.64		.29	.06	.63
Illustrative Plan 1							
All Districts (mean avg.)	.36	.23	.54		.19	.09	.29
District 2	0.23				0.15		
District 5	0.33				0.09		
Illustrative Plan 2							
All Districts (mean avg.)	.41	.23	.53		.19	.09	.27
District 2	0.23				0.12		
District 5	0.33				0.09		
Illustrative Plan 3							
All Districts (mean avg.)	.38	.23	.52		.18	.08	.31
District 2	0.23				0.15		
District 5	0.30				0.08		

75. Compared to the mean Reock score for the 2022 Plan (.37), Illustrative Plans 2 has a higher mean average (.41), and Illustrative Plans 1 (.36) and 3 (.38) are about the same. In all instances, the Reock scores of the two majority-Black districts under the illustrative plans are higher than the .18 Reock score in CD 2 under the 2022 Plan.

76. Compared to the mean Polsby-Popper score for the 2022 Plan (.16), all three illustrative plans score higher. Moreover, under all three illustrative plans, the Polsby-Popper scores of the two majority-Black districts are higher than the .06 Polsby-Popper score for CD 2 and adjacent CD 6 (.07) under the 2022 Plan.

77. Also, as shown in **Figure 19**, the compactness scores for the majority-Black districts in the 1990s congressional plans (103rd and 104th Louisiana U.S. House) that were ruled unconstitutional are far below the corresponding illustrative plan scores. (See maps in **Exhibit F-1** and **Exhibit F-2**.)

Figure 19

Compactness Scores – 1990s Plans

	Reock				Polsby-Popper		
		Low	High			Low	High
103rd Congress							
All Districts (mean avg.)	.34	.13	.51		.11	.01	.22
District 2	.19				.06		
District 4	.13				.01		
104th Congress							
All Districts (mean avg.)	.35	.13	.54		.14	.04	.22
District 2	.27				.07		
District 4	.13				.04		
1996 Court-ordered Plan							
All Districts (mean avg.)	.44	.28	.56		.26	.10	.50
District 2	.28				.10		

(b) Political Subdivision Splits

78. The table in **Figure 20** compares district splits by parish and 2020 VTDS (**H-7** and corresponding illustrative series), municipalities (**H-8** and corresponding

illustrative series), and CBSAs (**H-9** and corresponding illustrative series) under the 2022 Plan and illustrative plans.

Figure 20

Political Subdivision Splits

	Parish Splits	Populated 2020 VTD Splits	Populated Municipal Splits	Single-Parish Populated Municipal Splits*	CBSA splits
2022 Plan	15	0	30	25	18
Illustrative Plan 1	10	13	24	18	14
Illustrative Plan 2	11	7	30	22	16
Illustrative Plan 3	10	12	29	23	17

* **Excludes** splits in 12 municipalities where the splits are a result of municipal lines crossing into an adjacent parish.

79. As **Figure 20** reveals, the illustrative plans are across-the-board superior to the 2022 Plan in terms of parish splits, municipal splits, and CBSA splits.

80. The illustrative plans split populated areas in only a handful of the 3,540 VTDs.²⁷ Precinct splits are inevitable at this stage because *Gingles* 1 illustrative plans should be drawn to meet absolute population equality, *i.e.*, +/- 1 person from the ideal district size.

81. The 2022 Plan did not split any of the 3,540 VTDs defined in the 2020 PL94-171 file because the Louisiana Legislature did not require that the adopted plan meet absolute population equality. The 2022 Plan has a population deviation

²⁷ A populated split divides population in a VTD or municipality into two or more districts. Generally, unpopulated splits involve splits due to bodies of waters or municipal boundaries.

of 128 persons (the smallest district is 93 people below idea and the largest district is 35 people above).

82. To reiterate, the three illustrative plans contain precinct splits only in service of the goal of minimizing populations deviations. If *de minimis* district deviations from the ideal district size were permitted, the three illustrative plans could easily be modified in a manner that would eliminate precinct splits.

(d) Citizen Voting Age Population

83. As shown in **Figure 21** (below), estimates from the 5-year 2016-2020 Special Tabulation of the ACS confirm that the single-race non-Hispanic Black citizen voting age population (“BCVAP”) in Districts 2 and 5 under the illustrative plans is above 50% and higher than the 2020 Census BVAP percentages.²⁸ The BCVAP margin over the NH White CVAP ranges from 14.13 percentage points (District 2 in Illustrative Plan 2) to 4.75 percentage points (District 5 in Illustrative Plan 1).²⁹

²⁸ These figures are based on a disaggregation of block group level 2016-2020 CVPA estimates to 2020 census block-level VAP. See Citizen Voting Age Population by Race & Ethnicity, U.S. Census Bureau (Mar. 17, 2022), <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html>. The midpoint of the 2016-2020 survey period is July 1, 2018. Thus, estimates reported in the five-year ACS are nearly four years behind current 2022 citizenship rates. The ACS Special Tabulation does not provide an “any part” estimate, so the SR NH Black CVAP understates the AP Black CVAP.

²⁹ According to the 2016-2020 Special Tabulation of the ACS (with a July 1, 2018 survey), District 2 and District 5 are majority NH SR BCVAP in all three illustrative plans.

Figure 21

2016-2020 Citizen Voting Age Population by Plan

	% NH SR Black CVAP	% NH White CVAP	NH Black CVAP to NH White CVAP Margin	July 2021 Black Registered Voters
2022 Plan				
District 2	61.89%	31.34%	30.55%	61.52%
Illustrative Plan 1				
District 2	53.35%	39.31%	14.04%	52.33%
District 5	50.94%	46.19%	4.75%	51.84%
Illustrative Plan 2				
District 2	53.66%	39.53%	14.13%	52.72%
District 5	51.26%	45.92%	5.34%	51.53%
Illustrative Plan 3				
District 2	53.40%	39.31%	14.09%	52.33%
District 5	52.78%	44.86%	7.92%	53.35%

V. SOCIOECONOMIC PROFILE OF LOUISIANA

84. Non-Hispanic Whites significantly outpace African Americans in Louisiana across a broad range of socioeconomic measures, as reported in the 1-year 2019 ACS.³⁰ This disparity is summarized below and depicted with further

³⁰ See Selected Population Profile in the United States, U.S. Census Bureau, <https://data.census.gov/cedsci/table?text=s0201&t=-0A%20-%20All%20available%20non-Hispanic%20Origin%3A005%20-%20Black%20or%20African%20American%20alone%20or%20in%20combination%20with%20one%20or%20more%20other%20races&g=0400000US01%24500000,22&y=2019>

The 1-year 2019 ACS is the most current release available. The 2020 ACS was canceled due to the COVID-19 pandemic.

detail in charts in **Exhibit N-1** and the table in **Exhibit N-2**.³¹

(a) Income

- 29.4% of African Americans in Louisiana live in poverty, compared to 12.7% of Whites. (**Exhibit N-1 at p. 22 and Exhibit N-2 at p. 8**)
- 42.7% of African-American children live in poverty, compared to 15.0% of White children. (**Exhibit N-1 at p. 22 and Exhibit N-2 at p. 8**)
- African-American median household income is \$32,782, compared to the \$61,967 median income for White households. (**Exhibit N-1 at p. 14 and Exhibit N-2 at p.7**)
- Per capita income disparities in Louisiana track the disparities seen in median household income. African-American per capita income is \$19,381, compared to White per capita income of \$34,690. (**Exhibit N-1 at p. 17 and Exhibit N-2 at p. 8**)
- 27.0% of African-American households rely on food stamps (SNAP), triple the 8.6% SNAP participation rate of White households. (**Exhibit N-1 at p. 15 and Exhibit N-2 at p. 7**)

(b) Education

- Of persons 25 years of age and over, 17.8% of African Americans have not finished high school, compared to 11.1% of their White counterparts. (**Exhibit N-1 at p. 5 and Exhibit N-2 at p. 3**)
- At the other end of the educational scale, for ages 25 and over, 17.2% of African Americans have a bachelor's degree or higher, compared to 28.9% of Whites. (**Exhibit N-1 at p. 5 and Exhibit N-2 at p. 3**)

³¹ For statistics from the 1-year ACS, as elsewhere in this declaration, “White” refers to NH White. “Black” or “African American” refers to Any Part Black.

(c) Employment

- The Black unemployment rate (for the population over 16, expressed as a percent of the civilian labor force) is 8.0%, compared to a 4.2% White unemployment rate. (**Exhibit N-1 at p. 11 and Exhibit N-2 at p. 5**)
- Of employed African Americans, 26.5% are in management or professional occupations, compared to 40.4% rate of Whites. (**Exhibit N-1 at p. 13 and Exhibit N-2 at p. 6**)

(d) Housing

- In Louisiana, about half of African-American householders (49.0%) are homeowners, while three-fourths of White households (76.6%) are owner-occupied. (**Exhibit N-1 at p. 21 and Exhibit N-2 at p. 9**)
- Median home value for African-American homeowners is \$133,000, compared to the \$186,700 median home value for Whites. (**Exhibit N-1 at p. 25 and Exhibit N-2 at p. 10**)

(e) Transportation/Communication

- About one in six African-American households (16.4%) lacks access to a vehicle, while 4.7% of White households are without a vehicle. (**Exhibit N-1 at p. 23 and Exhibit N-2 at p. 9**)
- There is a 7-point Black-White gap in households with a computer – 84.3% versus 91.6%. (**Exhibit N-1 at p. 27 and Exhibit N-2 at p. 10**)
- With respect to broadband internet connections, African-American households trail White households – 72.6% versus 84.3%. (**Exhibit N-1 at p. 27 and Exhibit N-2 at p. 10**)

85. Also attached as exhibits are charts depicting socioeconomic disparities in the Baton Rouge MSA (**Exhibit O**) and New Orleans MSA (**Exhibit P**), which form the building blocks for the two majority-Black districts in the illustrative plans. Both exhibits are based on the 1-year 2019 ACS.

86. In addition, parish and municipal socioeconomic characteristics by race and ethnicity are available in charts that I have prepared, based on the 2015-19 ACS, via this link: http://www.fairdata2000.com/ACS_2015_19/Louisiana/.

#

I reserve the right to continue to supplement my reports in light of additional facts, testimony and/or materials that may come to light.

Executed on: April 15, 2021



WILLIAM S. COOPER

Exhibit C-1

Louisiana 2020 Population by Parish

Parish	Total	NH White	Latino	NH Black	SR Black	AP Black	% SR Black	% AP Black	% NH White	% Minority
Acadia	57,576	44,115	1,641	9,946	9,989	10,864	17.35%	18.87%	76.62%	23.4%
Allen	22,750	15,146	1,893	4,016	4,102	4,490	18.03%	19.74%	66.58%	33.4%
Ascension	126,500	79,645	10,383	30,296	30,521	32,216	24.13%	25.47%	62.96%	37.0%
Assumption	21,039	13,580	914	5,973	6,013	6,220	28.58%	29.56%	64.55%	35.5%
Avoyelles	39,693	25,236	1,485	10,649	10,706	11,678	26.97%	29.42%	63.58%	36.4%
Beauregard	36,549	29,039	1,271	4,082	4,111	4,649	11.25%	12.72%	79.45%	20.5%
Bienville	12,981	6,901	211	5,273	5,307	5,600	40.88%	43.14%	53.16%	46.8%
Bossier	128,746	78,982	10,237	29,868	30,099	32,551	23.38%	25.28%	61.35%	38.7%
Caddo	237,848	101,727	8,381	114,769	115,298	119,304	48.48%	50.16%	42.77%	57.2%
Calcasieu	216,785	137,110	11,384	54,825	55,263	59,386	25.49%	27.39%	63.25%	36.8%
Caldwell	9,645	7,551	221	1,528	1,534	1,632	15.90%	16.92%	78.29%	21.7%
Cameron	5,617	5,174	197	71	72	125	1.28%	2.23%	92.11%	7.9%
Catahoula	8,906	5,738	614	2,275	2,297	2,395	25.79%	26.89%	64.43%	35.6%
Claiborne	14,170	7,064	479	6,138	6,184	6,360	43.64%	44.88%	49.85%	50.1%
Concordia	18,687	10,157	459	7,477	7,518	7,725	40.23%	41.34%	54.35%	45.6%
Desoto	26,812	15,122	762	9,586	9,621	9,973	35.88%	37.20%	56.40%	43.6%
East Baton Rouge	456,781	191,355	30,551	205,552	206,681	213,398	45.25%	46.72%	41.89%	58.1%
East Carroll	7,459	2,034	115	5,164	5,188	5,272	69.55%	70.68%	27.27%	72.7%
East Feliciana	19,539	11,411	391	7,108	7,139	7,341	36.54%	37.57%	58.40%	41.6%
Evangeline	32,350	21,162	1,336	8,609	8,664	9,235	26.78%	28.55%	65.42%	34.6%
Franklin	19,774	12,430	276	6,508	6,554	6,802	33.14%	34.40%	62.86%	37.1%
Grant	22,169	16,678	1,333	3,060	3,108	3,335	14.02%	15.04%	75.23%	24.8%
Iberia	69,929	38,572	3,897	22,984	23,162	24,556	33.12%	35.12%	55.16%	44.8%
Iberville	30,241	14,632	1,418	13,313	13,377	13,730	44.23%	45.40%	48.38%	51.6%
Jackson	15,031	9,896	468	3,945	3,956	4,166	26.32%	27.72%	65.84%	34.2%
Jefferson	440,781	208,385	79,057	115,900	117,892	126,217	26.75%	28.63%	47.28%	52.7%
Jefferson Davis	32,250	24,855	734	5,130	5,148	5,837	15.96%	18.10%	77.07%	22.9%
Lafayette	241,753	150,475	15,983	60,677	61,086	65,136	25.27%	26.94%	62.24%	37.8%
Lafourche	97,557	70,722	5,672	14,532	14,640	15,855	15.01%	16.25%	72.49%	27.5%
Lasalle	14,791	11,263	1,402	1,283	1,299	1,422	8.78%	9.61%	76.15%	23.9%
Lincoln	48,396	25,672	1,754	18,626	18,729	19,364	38.70%	40.01%	53.05%	47.0%
Livingston	142,282	114,876	8,791	11,178	11,268	12,658	7.92%	8.90%	80.74%	19.3%
Madison	10,017	3,414	204	6,173	6,224	6,363	62.13%	63.52%	34.08%	65.9%
Morehouse	25,629	12,220	381	11,976	12,048	12,484	47.01%	48.71%	47.68%	52.3%

Louisiana 2020 Population by Parish

Parish	Total	NH White	Latino	NH Black	SR Black	AP Black	% SR Black	% AP Black	% NH White	% Minority
Natchitoches	37,515	18,898	1,490	14,857	14,948	15,725	39.85%	41.92%	50.37%	49.6%
Orleans	383,997	121,385	31,017	205,876	208,273	218,969	54.24%	57.02%	31.61%	68.4%
Ouachita	160,368	87,426	5,658	58,804	59,083	61,217	36.84%	38.17%	54.52%	45.5%
Plaquemines	23,515	13,764	2,236	4,863	4,920	5,428	20.92%	23.08%	58.53%	41.5%
Pointe Coupee	20,758	12,245	625	7,221	7,245	7,504	34.90%	36.15%	58.99%	41.0%
Rapides	130,023	76,323	5,090	40,261	40,484	42,592	31.14%	32.76%	58.70%	41.3%
Red River	7,620	4,150	188	2,952	2,965	3,106	38.91%	40.76%	54.46%	45.5%
Richland	20,043	11,667	400	7,303	7,336	7,603	36.60%	37.93%	58.21%	41.8%
Sabine	22,155	14,850	710	3,520	3,529	3,861	15.93%	17.43%	67.03%	33.0%
St. Bernard	43,764	23,165	6,010	11,370	11,507	12,309	26.29%	28.13%	52.93%	47.1%
St. Charles	52,549	32,708	4,141	13,024	13,133	13,928	24.99%	26.50%	62.24%	37.8%
St. Helena	10,920	4,494	216	5,846	5,861	6,031	53.67%	55.23%	41.15%	58.8%
St. James	20,192	9,917	343	9,486	9,523	9,762	47.16%	48.35%	49.11%	50.9%
St. John The Baptist	42,477	13,348	3,291	24,076	24,305	25,196	57.22%	59.32%	31.42%	68.6%
St. Landry	82,540	43,225	2,178	34,218	34,360	35,836	41.63%	43.42%	52.37%	47.6%
St. Martin	51,767	32,919	1,679	15,050	15,099	15,921	29.17%	30.76%	63.59%	36.4%
St. Mary	49,406	26,334	4,524	14,950	15,058	15,991	30.48%	32.37%	53.30%	46.7%
St. Tammany	264,570	192,144	20,844	33,969	34,356	38,643	12.99%	14.61%	72.63%	27.4%
Tangipahoa	133,157	79,825	7,242	39,770	40,039	41,879	30.07%	31.45%	59.95%	40.1%
Tensas	4,147	1,728	67	2,232	2,250	2,312	54.26%	55.75%	41.67%	58.3%
Terrebonne	109,580	68,802	7,358	21,059	21,253	23,147	19.39%	21.12%	62.79%	37.2%
Union	21,107	14,289	1,135	4,980	4,995	5,224	23.67%	24.75%	67.70%	32.3%
Vermilion	57,359	44,020	2,296	7,859	7,931	8,810	13.83%	15.36%	76.74%	23.3%
Vernon	48,750	33,599	4,175	6,325	6,491	7,611	13.31%	15.61%	68.92%	31.1%
Washington	45,463	29,588	1,410	12,758	12,858	13,434	28.28%	29.55%	65.08%	34.9%
Webster	36,967	22,554	688	12,142	12,185	12,679	32.96%	34.30%	61.01%	39.0%
West Baton Rouge	27,199	14,114	1,244	10,714	10,754	11,170	39.54%	41.07%	51.89%	48.1%
West Carroll	9,751	7,799	325	1,338	1,341	1,425	13.75%	14.61%	79.98%	20.0%
West Feliciana	15,310	10,585	651	3,589	3,618	3,740	23.63%	24.43%	69.14%	30.9%
Winn	13,755	8,498	1,023	3,518	3,525	3,727	25.63%	27.10%	61.78%	38.2%
Statewide	4,657,757	2,596,702	322,549	1,452,420	1,464,023	1,543,119	31.43%	33.13%	55.75%	44.2%

NINETEENH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NO. C-716690

SECTION 24

JAMES BULLMAN, *ET AL*

V.

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS
LOUISIANA SECRETARY OF STATE

*****CONSOLIDATED WITH*****

NO. C-716837

SECTION 25

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE
LOUISIANA STATE CONFERENCE, *ET AL*

V.

R. KYLE ARDOIN, IN HIS OFFICIAL CAPACITY AS
LOUISIANA SECRETARY OF STATE

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED JUDGMENTS ON
BEHALF OF INTERVENTORS, LOUISIANA HOUSE OF REPRESENTATIVES
SPEAKER CLAY SCHEXNAYDER AND
LOUISIANA SENATE PRESIDENT PATRICK PAGE CORTEZ**

NOW INTO COURT, through undersigned counsel, come Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate, (collectively, the “Legislative Intervenors”) who respectfully submit these findings of fact, conclusions of law, and proposed judgments in connection with the Petitions for Injunctive and Declaratory Relief (collectively, the “Petitions”) brought by Plaintiffs James Bullman, et al. (“Bullman Plaintiffs”), Intervenors Michael Mislove et al. (“Mislove Intervenors”), and by Plaintiffs National Association for the Advancement of Colored People, Louisiana State Conference et al. (“Louisiana NAACP Plaintiffs”):

FINDINGS OF FACT

I. The Redistricting Process

1. Each decade, following the release of the decennial census, the states are required to draw new congressional district plans to ensure that districts are “of equal population.” *Karcher v. Daggett*, 462 U.S. 725, 730 (1983); *see also Georgia v. Ashcroft*, 539 U.S. 461, 489 n.2 (2003).

2. Some states gain seats in the U.S. House of Representatives due to an increase in population, some states lose seats due to relatively low population growth or a loss in population. Most states retain the same number of seats.

3. Under the federal and Louisiana Constitutions, the Louisiana State Legislature—the “Legislature” of the State—is the body responsible for redistricting. *See* U.S. Const., Art. I, § 4, cl. 1 (the “Times, Places and Manner of holding Elections for Senators and Representatives [to Congress], shall be prescribed in each State by the Legislature thereof...”); La. Const. Art. III, § 1 (“The legislative power of the state is vested in a legislature”).

4. In Louisiana, congressional redistricting takes the form of ordinary legislation, passed by the Louisiana State Legislature through the same process as any other law—through a bill introduced during a legislative session, reported by a committee after a public hearing, and passed by majority vote of each chamber. *See* La. Const. Art. III, § 15; *see Smiley v. Holm*, 285 U.S. 355, 367 (1932) (“[T]he exercise of the authority must be in accordance with the method which the state has prescribed for legislative enactments.”).

5. Louisiana’s current congressional districts were enacted during the 2011 First Extraordinary Session of the Louisiana Legislature. *See* La. R.S. 18:1276.1).

II. The Louisiana State Legislature’s 2021-2022 Redistricting Efforts To Date

6. On April 26, 2021, the U.S. Census Bureau released the apportionment data for the 2020 decennial census, which reported Louisiana’s resident population as 4,657,757.

7. The census data showed an overall increase in population of 124,385 residents from 2010.

8. Although population increased within Louisiana, population declined in the northern parts of the state and increased in the southern parts of the state.

9. Based on the census results, Louisiana is entitled to six congressional seats for the next decade. The ideal population for each congressional district is 776,292.

10. On June 11, 2021, the Legislature adopted Joint Rule No. 21, setting forth the criteria for redistricting plans based on the 2020 decennial census results. *See* HCR 90, 2021 R.S., eff. June 11, 2021.

11. The redistricting criteria includes, *inter alia*, a requirement that the congressional plan contain districts with populations “as nearly equal to the ideal district population as practicable,” and 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.

12. The Census Bureau delivered to Louisiana the 2020 redistricting data in legacy format (P.L. 94-171) on August 12, 2021, and released the data in easier-to-use formats on September 16, 2021.

13. Since the Census Bureau’s tardy publication of the 2020 census redistricting data on August 12, 2021, the Legislature has worked diligently to undertake redistricting work.

14. The Senate Committee on Senate and Governmental Affairs and the House Committee on House and Governmental Affairs (“Joint Committees”) held nine joint public meetings across the state from October 2021 to January 2022, where the Joint Committees presented information about the population and demographic trends in the 2020 census and the redistricting process and criteria, and heard public testimony and received public submissions.

15. The First Extraordinary Session of the Louisiana Legislature opened on February 1, 2022, for the purpose of enacting a congressional redistricting plan and a host of other offices including the Louisiana Board of Elementary and Secondary Education, Louisiana Public Service Commission, and Louisiana Supreme Court.

16. House Bill 1 by Speaker Schexnayder was introduced on February 1, 2022, setting forth a proposed congressional redistricting plan, and was reported favorably by the House Committee on House and Governmental Affairs on February 4, 2022.

a. On February 10, 2022, the House approved House Bill 1 by a vote of 70 to 33.

b. The Senate Committee on Senate and Governmental Affairs reported House Bill 1 favorably on February 15, 2022.

c. The Senate approved an amended version of House Bill 1 on February 18 by a vote of 27 to 10.

d. The House concurred in the Senate’s amendments the same day, by a vote of 62 to 27.

17. Senate Bill 5 by Senator Sharon Hewitt was introduced on February 1, 2022, setting forth a proposed congressional redistricting plan.

a. Senate Bill 5 was reported favorably by the Senate Committee on Senate and Governmental Affairs on February 4, 2022.

b. The Senate approved Senate Bill 5 on February 8, 2022, by a vote of 27 to 12.

c. The House Committee on House and Governmental Affairs reported Senate Bill 5 favorably on February 15, 2022.

d. The House approved an amended version of Senate Bill 5 on February 18, 2022, by a vote of 64 to 31.

e. The Senate concurred in the House’s amendments the same day, by a vote of 26 to 9.

18. The amendments to House Bill 1 and Senate Bill 5 resulted in the passage of the same congressional redistricting plan.

19. Governor John Bel Edwards vetoed both House Bill 1 and Senate Bill 5 on March 9, 2022.

20. Under the Louisiana Constitution, the Louisiana State Legislature will meet in veto session to consider House Bill 1 and Senate Bill 5 beginning on March 30, 2022, and continuing until April 3, 2022. La. Const. Art. III, § 18(C).

21. In addition, the 2022 Regular Legislative Session convened on March 14, 2022, and may be ongoing through June 6, 2022. La. Const. Art. III, § 2(A)(3)(a).

22. The Legislature’s Regular Session convened on March 14, 2022, and several bills proposing new congressional districts have been introduced and referred to committees. *See* Senate Bill 306, House Bill 712, and HB 608 of the 2022 Regular Session.

III. The 2022 Open Congressional Primary Election Calendar

23. Louisiana holds its congressional *primary* election on the first Tuesday in November—November 8, 2022, this year. La. R.S. 18:1272(A).

24. Accordingly, its election calendar is one of the latest in the nation.

25. The relevant dates for the 2022 Open Congressional Primary Election are as follows¹:

- a. Qualifying period for candidates: July 20 to July 22, 2022
- b. Deadline to register to vote in-person, by mail, or at a DMV location: October 11, 2022
- c. Deadline to register to vote online: October 18, 2022
- d. Early voting period: October 25, 2022, to November 1, 2022
- e. Deadline to request a mail ballot (except Military and Overseas voters): November 4, 2022
- f. Deadline for Registrar to receive voted mail ballot (except Military and Overseas voters): November 7, 2022
- g. Open Primary Election Day: November 8, 2022

CONCLUSIONS OF LAW

I. The Petitions Are Unripe And Nonjusticiable

1. The dispute is unripe and nonjusticiable.
2. All three Petitions hinge on the claim that the Louisiana State Legislature has reached an “impasse” with the Governor, who vetoed House Bill 5 and Senate Bill 1 earlier this month, and will not be able to redistrict the State in time for the November 8, 2022, Open Congressional Primary Election.
3. This concern is entirely speculative and contingent upon future events that may, or may not, occur—rendering the dispute unripe and nonjusticiable.
4. Courts only “administer justice in actual cases” and “will not act on feigned ones, even with the consent of the parties.” *St. Charles Par. Sch. Bd. v. GAF Corp.*, 512 So. 2d 1165, 1173 (La. 1987), *on reh’g* (Aug. 7, 1987). Indeed, “the jurisprudence of this court is well settled that, courts will not render advisory opinions.” *Louisiana Federation of Teachers v. State*, 2011-2226 (La. 7/2/12), 94 So. 3d 760, 763. “Cases submitted for adjudication must be justiciable, ripe for decision, and not brought prematurely.” *Id.* (citing *Prator v. Caddo Parish*, 04-794 (La.

¹ See La. Secretary of State, 2022 Election Dates Calendar, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/ElectionsCalendar2022.pdf>.

12/1/04), 888 So. 2d 812, 815). This is true whether the case seeks declaratory relief, *see id.*, or injunctive relief, *see Tobin v. Jindal*, 2011-0838 (La.App. 1 Cir. 2/10/12), 91 So. 3d 317, 321–322.

5. “[T]he ripeness doctrine is viewed as being both constitutionally required and judicially prudent.” *Matherne v. Gray Ins. Co.*, 95-0975 (La. 10/16/95), 661 So. 2d 432, 435. A constitutional challenge to a statute to be ripe if: “(1) the issues are fit for judicial decision; and (2) the parties will suffer hardship if the court withholds consideration.” *Louisiana Federation of Teachers*, 94 So. 3d at 763–64 (citations omitted); *see also Matherne*, 661 So. 2d at 435 (same).

6. The Petitions in this case fail both prongs of the ripeness inquiry, compelling dismissal.

7. Here, as the predicate for their claims, Plaintiffs and the Mislove Intervenors declare that the Louisiana State Legislature and Governor have reached impasse. *See, e.g.*, Bullman Petition ¶ 1 (declaring the districts “malapportioned”), 4 (describing the Governor’s veto as “signaling that the process is at an impasse”); Louisiana NAACP Petition ¶ 4 (due to the Governor’s veto, “the legislative process has reached an impasse”); Mislove Petition to Intervene at ¶ 4 (“There is no realistic chance that the political branches will enact new, constitutionally valid in time for the 2022 elections”). Due to this alleged impasse, Plaintiffs fear they will be forced to vote in “malapportioned” districts in the 2022 congressional elections and that their federal Equal Protection rights will be violated thereby.

8. Although their declarations of “impasse” are presented as irrefutable statements of fact, these claims are in truth speculative predictions about the *future*.

9. The Governor did veto House Bill 5 and Senate Bill 1, to be sure, but his veto is not a bar to the ability to pass a congressional redistricting plan into law in sufficient time for the November 8, 2022, Open Congressional Primary Election.

10. For one, a veto session will commence on the 40th day following adjournment of the 2022 First Extraordinary Session, which is March 30, 2022.

a. If the Governor’s veto is overridden, then Louisiana will in fact be redistricted in accordance with law and Plaintiffs and Mislove Intervenors’ claims will never become ripe.

b. Until the veto override process is exhausted, one cannot say that House Bill 5 and Senate Bill 1 cannot become law. And practically, given that the Bills passed with strong majorities in both the House and Senate, it is reasonably possible that the Governor's veto will be overridden.

11. Second, even if a veto override is not successful, there remains time for the Louisiana State Legislature to consider and pass a new redistricting bill in its Regular Legislative Session, which commenced March 14, 2022, and remains ongoing.

a. Multiple bills, *e.g.*, Senate Bill 306, House Bill 712, House Bill 823, and House Bill 608, have been pre-filed on the subject of congressional redistricting. *See* Mem. in Supp. of Secretary of State's Exceptions to Math/Science Petition to Intervene at 3 n.1.

b. The Legislature worked with diligence during the First Extraordinary Session and previously, and will continue their efforts to complete redistricting.

12. Third, even if a redistricting measure does not pass in the Regular Legislative Session, the Louisiana State Legislature is not left without options. It is within the power of the Louisiana State Legislature to call a second Extraordinary Session to address redistricting. La. Const. Art. III, § 2(B).

13. Plaintiffs and Mislove Intervenors' claims all demand this Court assume that a redistricting bill cannot become law—and that all the foregoing legislative options will fail before they have even been tried.

14. But where “[t]he injury...is not based on any actual facts or occurrences” but instead requires an assumption “that [the plaintiff] will suffer harm if certain hypothetical facts occur,” a claim is nonjusticiable. *Soileau v. Wal-Mart Stores, Inc.*, 19-0040 (La. 6/26/19), 285 So. 3d 420, 425.

15. Plaintiffs have not been harmed and cannot claim injury unless their guesses about a hypothetical future state of affairs come true.

16. Here, the only Petition to point to a specific deadline is the Mislove Petition to Intervene, which identifies the candidate qualification period for the November 8, 2022, Open Congressional Primary Elections to argue their hypothetical future injury is imminent. *Id.* at ¶ 37.

17. That period runs from July 20-22, 2022—nearly four months from the time of these filings.

18. Furthermore, the candidate qualification period could be moved back, if necessary, as other states have done this cycle, without impacting voters.

19. The election deadlines that actually impact voters do not occur until October 2022, like the deadlines for voter registration (October 11, 2022, for in-person, DMV, or by mail, and October 18, 2022 for online registration) and the early voting period (October 25 to November 1, 2022).²

20. Therefore, there remains several months on Louisiana’s election calendar to complete the process.

II. Plaintiffs and the Mislove Intervenors Fail to State a Right of Action Because They Lack Standing

21. Whether a “litigant has standing to assert a claim is tested via an exception of no right of action.” *Bradix v. Advance Stores Co., Inc.*, 17-0166 (La.App. 4 Cir. 8/16/17), 226 So. 3d 523, 528, citing La. C.C.P. art. 681 (“[e]xcept as otherwise provided by law, an action can only be brought by a person having a real and actual interest in what he asserts”).

22. The “function of an exception of no right of action is a determination of whether the plaintiff belongs to the class of persons to whom the law grants the cause of action asserted in the petition.” *Shepherd v. Baton Rouge Cardiology Ctr.*, 2019-0802 (La.App. 1 Cir. 3/12/20), 300 So. 3d 893, 896. A “litigant who is not asserting a substantial *existing* legal right is without standing in court.” *In re Matter Under Investigation*, 2007-1853 (La. 7/1/09), 15 So. 3d 972, 981 (emphasis added).

23. Where a litigant’s claim hinges on a “future possibility” of harm, the litigant lacks standing to bring the claim and peremptory exceptions should be sustained. *Haynes v. Haynes*, 2002-0535 (La.App. 1 Cir. 5/9/03), 848 So. 2d 35, 39 (finding claims grounded on contingent future events “too speculative for consideration”).

24. As shown above, Plaintiffs and the Mislove Intervenors have asserted claims grounded on hypothetical and speculative guesses about the potential of future harm should

² La. Secretary of State, 2022 Election Dates Calendar, <https://www.sos.la.gov/ElectionsAndVoting/PublishedDocuments/ElectionsCalendar2022.pdf>.

Louisiana’s political branches of government fail to complete the redistricting process in time for the November 8, 2022, Open Congressional Primary Election.

25. Those claims are unripe for the reasons stated, but under Louisiana law, it also means Plaintiffs and the Mislove Intervenors lack standing to bring them.

III. The Petitions Fail to State a Cause of Action

26. A peremptory exception of no cause of action tests “whether the law provides a remedy to anyone assuming that the facts plead in the petition will be proven at trial.” *Farmco, Inc. v. W. Baton Rouge Par. Governing Council*, 01-1086 (La. 6/15/01), 789 So. 2d 568, 569.

27. “An exception of no cause of action should be granted only when it appears beyond doubt that the plaintiff can prove no set of facts in support of any claim that would entitle him to relief.” *New Jax Condominium Ass’n, Inc. v. Vanderbilt New Orleans, LLC*, 16-0643 (La.App. 4 Cir. 4/26/17), 219 So. 3d 471, 479. *See also Industrial Cos., Inc. v. Durbin*, 2002-0665 (La. 1/28/03), 837 So. 2d 1207, 1213 (same, and acknowledging that “[t]he exception is triable on the face of the petition”).

28. Here, the Petitions each allege a violation of the one-person, one-vote principle of *Reynolds*. Bullman Petition at Count I; Mislove Petition to Intervene, Count I; Louisiana NAACP Petition at Count I.

29. Two of the Petitions also allege a violation of the right to free association under the Louisiana Constitution. Bullman Petition at Count II (“Violation of Article I, Sections 7 and 9 of the Louisiana Constitution, Freedom of Association”); Mislove Petition to Intervene, Count II (same).

30. But neither claim is viable.

31. Count I of the respective Petitions claim that Plaintiffs and the Mislove Intervenors’ equal protection rights will be violated by vote-dilution if the 2022 congressional elections are conducted using the prior decade’s redistricting plan, as the effect of the 2020 census is to confirm that those the prior decade’s districts have become unequal in population.

32. But as a matter of federal law, Plaintiffs are wrong to claim that they have suffered a cognizable equal protection injury even if the 2022 congressional elections are conducted using the prior decade’s plan.

33. Equal Protection does *not* demand a constant, minute-by-minute revision of district lines to ensure precisely equal populations. Rather, the “one-person, one-vote” standard is process-driven, requiring States to have only “a rational approach to readjustment of legislative representation” or, stated differently, a “reasonable plan for periodic revision.” *Reynolds v. Sims*, 377 U.S. 533, 583 (1964).

34. This process-driven standard recognizes that “[l]imitations on the frequency of reapportionment are justified by the need for stability and continuity in the organization of the legislative system, although undoubtedly reapportioning no more frequently than every 10 years *leads to some imbalance in the population of districts toward the end of the decennial period.*” *Id.* (emphasis added).

35. None of the Petitions allege that Louisiana lacks a rational approach to congressional redistricting. Rather, they simply allege the current districts are malapportioned following the release of the 2020 census. *See, e.g.*, Bullman Petition at ¶ 1; Mislove Petition to Intervene at 1; Louisiana NAACP Petition ¶¶ 1-2.

36. But these allegations merely describe the “imbalance...toward the end of the decennial period” that *Reynolds* deemed to be non-invidious.

37. Following *Reynolds*, “courts have recognized that no constitutional violation exists when an outdated legislative map is used, so long as the defendants comply with a reasonably conceived plan for periodic reapportionment.” *Garcia v. 2011 Legislative Reapportionment Comm’n*, 938 F. Supp. 2d 542, 550 (E.D. Pa. 2013), *aff’d* on other grounds, 559 F. App’x 128 (3d Cir. 2014); *see also, e.g.*, *Pol. Action Conf. of Illinois v. Daley*, 976 F.2d 335, 341 (7th Cir. 1992); *Graves v. City of Montgomery*, 807 F. Supp. 2d 1096, 1109 (M.D. Ala. 2011); *French v. Boner*, 940 F.2d 659 (6th Cir. 1991) (unpublished); *Mac Govern v. Connolly*, 637 F. Supp. 111, 114 (D. Mass. 1986); *Cardona v. Oakland Unified Sch. Dist., California*, 785 F. Supp. 837, 842 (N.D. Cal. 1992); *Clark v. Marx*, No. 11-2149, 2012 WL 41926, *9-10 (W.D. La. Jan. 9, 2012).

38. Given the four-and-a-half-month delay in the release of the 2020 Census redistricting data, *see, e.g.*, Bullman Petition ¶ 2 (recognizing publication of redistricting data on Aug. 12, 2021), delays in the redistricting process this cycle should not be a basis for this Court to seize control of the State’s redistricting process. *See French v. Boner*, 1991 WL 151016, *1, 940

F.2d 659 (6th Cir. 1991) (table case) (affirming district court refusal to enjoin upcoming elections under *Reynolds* because the “lateness of the census” that year meant the “Metropolitan government did not have an adequate opportunity to reapportion for the August 1, 1991 elections”).

39. Bullman Plaintiffs and the Mislove Intervenors also assert that any potential continued use of the 2011 congressional plan would violate their freedom of association under Article I, Sections 7 and 9 of the Louisiana Constitution by “impairing the exercise of their duties as citizens to assess candidate qualifications and policy positions; to organize and advocate for their preferred candidates; and to associate with like-minded voters.” Mislove Petition to Intervene at ¶ 47-48; *see also* Bullman Petition at ¶ 40-41 (same).

40. These parties claim that the freedom of association protected by those Sections is also protected by the First Amendment to the U.S. Constitution. *Id.*

41. But, as the U.S. Supreme Court has held, “there are no restrictions on speech, association, or any other [expressive or petitioning] activities in the districting plans at issue. The [Petitioners] are free to engage in those activities no matter what the effect of a plan may be on their district.” *Rucho v. Common Cause*, 139 S. Ct. 2484, 2504 (2019).

42. There is no authority to support the suggestion that the rights of petitioning and association include the concept of electoral convenience, or perhaps the convenience of knowing months before certain filing deadlines where congressional lines will fall.

43. Louisiana has a compelling interest in limiting “the frequency of reapportionment,” including its “need for stability and continuity in the organization of the legislative system.” *Reynolds*, 377 U.S. at 583.

44. Louisiana has paramount interests in seeing its legislative actors afforded a reasonable opportunity to redistrict, given that the primary responsibility and authority for drawing federal congressional legislative districts rests squarely with the state legislature.

45. “[A] state legislature is the institution that is by far the best situated to identify and then reconcile traditional state policies within the constitutionally mandated framework of substantial population equality,” whereas a court “possess[es] no distinctive mandate to compromise sometimes conflicting state apportionment policies in the people’s name.” *Connor v. Finch*, 431 U.S. 407, 414–15 (1977).

46. Even if the legislative process does not produce the instantaneous results that these Plaintiffs demand, the State has a paramount interest in letting that process run its course before seeing a court draw the congressional lines.

47. Accordingly, the associational claims fail to state a cause of action and the exceptions thereto must be sustained.

PROPOSED JUDGMENTS

WHEREFORE, the Court hereby enters judgment declaring that these consolidated actions present premature (*i.e.*, unripe) and nonjusticiable controversies for adjudication; they are brought by plaintiffs who lack standing and thus a right of action; and they fail to state a cause of action.

The Court hereby SUSTAINS the Legislative Intervenors' exceptions, and DISMISSES the Petitions and the Mislove Intervenors' demands, all at the parties' respective cost.

CERTIFICATE OF SERVICE

I CERTIFY that the foregoing Findings of Fact, Conclusions of Law, and Proposed Judgments has been served upon counsel of record via e-mail pursuant to La. C.C.P. art. 1313 on March 25, 2022.



E. Mark Braden*
Katherine L. McKnight*
Richard B. Raile*
BAKERHOSTETLER LLP
1050 Connecticut Ave., N.W., Ste. 1100
Washington, D.C. 20036
(202) 861-1500
mbraden@bakerlaw.com
kmcknight@bakerlaw.com
rraile@bakerlaw.com
Patrick T. Lewis*
BAKERHOSTETLER LLP
127 Public Square, Ste. 2000
Cleveland, Ohio 44114
(216) 621-0200
plewis@bakerlaw.com

Erika Dackin Prouty*
BAKERHOSTETLER LLP
200 Civic Center Dr., Ste. 1200
Columbus, Ohio 43215
(614) 228-1541
eprouty@bakerlaw.com

* *Pro hac vice motions to be filed*

By Attorneys:



Sheri M. Morris, LA Bar No. 20937
Christina B. Peck, LA Bar No. 14302
DAIGLE, FISSE, & KESSENICH, PLC
8900 Bluebonnet Boulevard
Baton Rouge, LA 70810
Phone: (225) 421-1800 Fax: (225) 421-1792
Email: SMorris@DaigleFisse.com
CPeck@DaigleFisse.com

Counsel for Legislative Intervenors, Clay Schexnayder, in his Official Capacity as Speaker of the Louisiana House of Representatives, and of Patrick Page Cortez, in his Official Capacity as President of the Louisiana Senate

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, ET AL * CIVIL ACTION
*
VERSUS * NO. 22-211-SDD
*
KYLE ARDOIN, ET AL * CONSOLIDATED WITH
*
*
EDWARD GALMON SR., ET AL * NO. 22-214-SDD
*
VERSUS * MAY 10, 2022
*
KYLE ARDOIN, ET AL * VOLUME 2 OF 5
* * * * *

MOTION FOR PRELIMINARY INJUNCTION BEFORE
THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

FOR THE ROBINSON
PLAINTIFFS: NAACP LEGAL DEFENSE FUND AND
EDUCATIONAL FUND, INC.
BY: STUART NAIFEH, ESQ.
KATHRYN SADASIVAN, ESQ.
VICTORIA WENGER, ESQ.
SARA ROHANI, ESQ.
40 RECTOR STREET, FIFTH FLOOR
NEW YORK, NEW YORK 10006

ADCOCK LAW, LLC
BY: JOHN ADCOCK, ESQ.
3110 CANAL STREET
NEW ORLEANS, LOUISIANA 70119

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION VOTING RIGHTS PROJECT
BY: SARAH E. BRANNON, ESQ.
SAMANTHA OSAKI, ESQ.
915 15TH STREET N.W.
WASHINGTON, D.C. 20005

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PAUL, WEISS, RIFKIND, WHARTON &
GARRISON, LLP
BY: AMITAV CHAKRABORTY, ESQ.
RYAN RIZZUTO, ESQ.
ADAM SAVITT, ESQ.
1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019

FOR THE GALMON
PLAINTIFFS:

WALTERS, PAPIILLION, THOMAS,
CULLENS, LLC
BY: DARREL J. PAPIILLION, ESQ.
12345 PERKINS ROAD, BUILDING ONE
BATON ROUGE, LOUISIANA 70810

ELIAS LAW GROUP, LLP
BY: ABHA KHANNA, ESQ.
1700 SEVENTH AVE., SUITE 2100
SEATTLE, WASHINGTON 98101

ELIAS LAW GROUP, LLP
BY: JACOB D. SHELLY, ESQ.
OLIVIA N. SEDWICK, ESQ.
LALITHA D. MADDURI, ESQ.
10 G STREET N.E., SUITE 600
WASHINGTON, D.C. 20002

FOR KYLE ARDOIN,
IN HIS OFFICIAL
CAPACITY AS SECRETARY
OF STATE

SHOWS, CALI & WALSH, LLP
BY: JOHN C. WALSH, ESQ.
628 ST. LOUIS STREET
BATON ROUGE, LOUISIANA 70821

NELSON MULLINS RILEY AND
SCARBOROUGH, LLC
BY: PHILLIP STRACH, ESQ.
THOMAS A. FARR, ESQ.
4140 PARKLAKE AVENUE, SUITE 200
RALEIGH, NORTH CAROLINA 27612

FOR THE LOUISIANA
LEGISLATIVE BLACK CAUCUS:

STEPHEN M. IRVING, LLC
BY: STEPHEN M. IRVING, ESQ.
111 FLOUNDERS DRIVE, SUITE 700
BATON ROUGE, LOUISIANA 70810

JOHNSON LAW FIRM
BY: ERNEST L. JOHNSON, ESQ.
3313 GOVERNMENT STREET
BATON ROUGE, LOUISIANA 70806

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ARTHUR THOMAS & ASSOCIATES
BY: ARTHUR R. THOMAS, ESQ.
3313 GOVERNMENT STREET
BATON ROUGE, LOUISIANA 70806

FOR LEGISLATIVE
INTERVENORS CLAY
SCHEXNAYDER AND PATRICK
CORTEZ:

BAKERHOSTETLER, LLP
BY: PATRICK T. LEWIS, ESQ.
127 PUBLIC SQUARE, SUITE 2000
CLEVELAND, OHIO 44114

BAKERHOSTETLER, LLP
BY: E. MARK BRADEN, ESQ.
KATHERINE L. MCKNIGHT, ESQ.
1050 CONNECTICUT AVENUE, N.W.,
SUITE 1100
WASHINGTON, D.C. 20036

INTERVENOR DEFENDANT,
STATE OF LOUISIANA:

LOUISIANA'S OFFICE OF THE ATTORNEY
GENERAL
BY: JEFFREY M. WALE, ESQ.
ANGELIQUE D. FREEL, ESQ.
CAREY TOM JONES, ESQ.
1885 NORTH THIRD STREET
BATON ROUGE, LOUISIANA 70802

HOLTZMAN VOGEL BARAN TORCHINSKY &
JOSEFIAK, PLLC
BY: PHILLIP M. GORDON, ESQ.
15405 JOHN MARSHALL HIGHWAY
HAYMARKET, VIRGINIA 20169

OFFICIAL COURT REPORTER:

SHANNON L. THOMPSON, CCR
UNITED STATES COURTHOUSE
777 FLORIDA STREET
BATON ROUGE, LOUISIANA 70801
SHANNON_THOMPSON@LAMD.USCOURTS.GOV
(225)389-3567

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
COMPUTER-AIDED TRANSCRIPTION SOFTWARE

03:41 1 LEVEL, AT THE LEVEL OF THE ACTUAL RESULTS OF ELECTIONS.

2 Q. ULTIMATELY, DR. LICHTMAN, AS BETWEEN RACE AND PARTY, WHICH
3 DO YOU CONSIDER TO BE THE DRIVING CAUSAL MECHANISM OF
4 LOUISIANA'S POLARIZED VOTING?

5 A. THE DRIVING MECHANISM IS CLEARLY RACE, AS I EXPLAINED.
6 PARTY BY ITSELF DOESN'T EXPLAIN ANYTHING. AS I SAID, AT ONE
7 TIME RACIAL VOTING PATTERNS WERE REVERSED. IT IS BECAUSE OF
8 WHAT THE PARTIES REPRESENT THAT I DOCUMENT IN SO MANY WAYS
9 THAT'S DRIVING THE VOTING.

10 IN OTHER WORDS, BLACKS ARE VOTING DEMOCRATIC IN
11 LOUISIANA; WHITES ARE VOTING REPUBLICAN. AND THIS IS NOT
12 UNIQUE TO LOUISIANA, BY THE WAY. NOT IN SPITE OF RACE BUT
13 BECAUSE OF RACE. RACE IS AT THE CENTER OF ALL OF THIS.

14 I ALSO CITE A SCHOLARSHIP BY DR. GRUMBACH, EXPLAINING
15 HOW RACE IS AT THE CENTER OF REPUBLICAN POLITICAL STRATEGY THAT
16 COMES DOWN TO THE --

17 Q. YOU MENTIONED THAT YOU READ THE REPORTS SUBMITTED BY DR.
18 ALFORD IN THIS CASE. CORRECT?

19 A. CORRECT.

20 Q. DID ANYTHING IN DR. ALFORD'S REPORT CHANGE YOUR
21 CONCLUSIONS ABOUT RACIALLY POLARIZED VOTING IN LOUISIANA?

22 A. NO. IT STRENGTHENED IT. LET ME EXPLAIN. ALL OF THE
23 ANALYSES THAT DR. ALFORD PERFORMED SHOWED THE SAME THING MY
24 REPORT SHOWED: EXTREME POLARIZATION BETWEEN AFRICAN AMERICANS
25 AND WHITES IN TERMS OF BLACKS VOTING DEMOCRATIC; WHITES VOTING

03:43 1 REPUBLICAN IN VERY LARGE MAJORITIES.

2 NOW, DR. ALFORD STATES OR AT LEAST IMPLIES THAT THE
3 DRIVING FORCE IS PARTY, NOT RACE, BUT HE STOPS COLD THERE. HE
4 NEVER EXPLAINS OR ATTEMPTS TO JUSTIFY THAT CONCLUSION. HE
5 DOESN'T LOOK AT MY ANALYSIS HISTORY, DOESN'T LOOK AT MY
6 ANALYSIS OF LEADERS, DOESN'T LOOK AT MY ANALYSIS OF RANK AND
7 FILE, DOESN'T LOOK AT MY ANALYSIS OR ANY ANALYSIS IN THESE
8 AREAS OF THE ACTUAL RESULTS OF ELECTIONS.

9 IN FACT, WHAT'S INTERESTING AND TELLING IS DR. ALFORD
10 LOOKS AT, I BELIEVE, SOMETHING LIKE 28 REPUBLICAN CANDIDACIES
11 IN HIS ANALYSIS, AND NOT ONE OF THOSE REPUBLICAN CANDIDACIES
12 INVOLVED A BLACK CANDIDATE. DR. ALFORD ALSO IGNORES THAT PART
13 OF MY INITIAL REPORT THAT LOOKS AT WHETHER OR NOT RACE AND
14 INFLUENCE VOTING WHEN THE POLAR PARTY IS NOT AN ISSUE.

15 I LOOKED AT THE 2008 PRIMARY, DEMOCRATIC PRIMARY,
16 WHERE OVERWHELMINGLY BLACKS PARTICIPATE; AND THAT INVOLVED
17 BARACK OBAMA, THE AFRICAN AMERICAN, AGAINST HILLARY CLINTON,
18 THE WHITE CANDIDATE, AND A FEW OTHER MINOR CANDIDATES. AND
19 WHAT I FOUND WAS THAT AFRICAN AMERICANS VOTED 86 PERCENT FOR
20 OBAMA; ONLY 30 PERCENT OF WHITES VOTED FOR OBAMA. SO WITHIN
21 THE SAME PARTY IT WAS A SHARP RACIAL SPLIT.

22 I ALSO LOOKED AT THE SUBSEQUENT 2008 GENERAL
23 ELECTIONS AND FOUND THAT BLACK DEMOCRATS VOTED 98 PERCENT FOR
24 OBAMA, BUT WHITE DEMOCRATS ONLY VOTED 38 PERCENT FOR OBAMA. SO
25 WHEN THERE ISN'T THE CRITICALLY AND INEXTRICABLY INVOLVED

03:45 1 POLAR PARTY, YOU CAN SEE VOTERS RESPONDING ON RACE. AGAIN, DR.
2 ALFORD DOES NOT CONSIDER THOSE RESULTS OR PRESENT ANY
3 COMPARABLE RESULTS OF HIS OWN.

4 Q. MOVING TO SENATE FACTOR 3, DR. LICHTMAN, DOES LOUISIANA
5 EMPLOY ANY VOTING PRACTICES THAT ENHANCE THE OPPORTUNITY FOR
6 DISCRIMINATION?

7 A. IT DOES. IT EMPLOYES ONE OF THEM THAT'S EXPLICITLY
8 LISTED UNDER SENATE FACTOR 3; AND THAT IS, THE USE OF THE
9 MAJORITY-VOTE REQUIREMENT IN SUBSEQUENT RUNOFF ELECTIONS.

10 Q. WHAT AFFECT DOES THE MAJORITY-VOTE REQUIREMENT HAVE ON
11 BLACK AND BLACK-PREFERRED CANDIDATES?

12 A. WHAT IT MEANS IS EVEN IF A BLACK CANDIDATE GETS A
13 PLURALITY IN THE FIRST ROUND AS A RESULT OF A SPLIT AMONG MORE
14 THAN ONE AMBITIOUS WHITE CANDIDATE, THAT DOES NOT ELECT THAT
15 BLACK CANDIDATE BUT, RATHER, THAT BLACK CANDIDATE HAS TO FACE
16 OFF ONE-ON-ONE AGAINST A WHITE CANDIDATE. AND CLEARLY IN --
17 STATEWIDE IN LOUISIANA WHERE WHITE VOTERS DOMINATE, IN THAT
18 KIND OF CONTEST THE AFRICAN-AMERICAN CANDIDATE HAS LITTLE
19 CHANCE OF WINNING. AND I GAVE THREE EXAMPLES OF THAT IN MY
20 REPORT.

21 Q. WHAT ARE THOSE THREE RECENT EXAMPLES?

22 A. YEAH. WE HAVE THE 2015 ELECTION FOR LIEUTENANT GOVERNOR.
23 THE BLACK CANDIDATE WON THE FIRST ROUND BY THREE PERCENTAGE
24 POINTS, SO IT WAS CLOSE BUT NOT EYELASH, AND THE CANDIDATE LOST
25 55/45 IN THE RUNOFF.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, ET AL * CIVIL ACTION
*
VERSUS * NO. 22-211-SDD
*
KYLE ARDOIN, ET AL * CONSOLIDATED WITH
*
*
EDWARD GALMON SR., ET AL * NO. 22-214-SDD
*
VERSUS * MAY 12, 2022
*
KYLE ARDOIN, ET AL * VOLUME 4 OF 5
* * * * *

MOTION FOR PRELIMINARY INJUNCTION BEFORE
THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

FOR THE ROBINSON
PLAINTIFFS: NAACP LEGAL DEFENSE FUND AND
EDUCATIONAL FUND, INC.
BY: STUART NAIFEH, ESQ.
KATHRYN SADASIVAN, ESQ.
VICTORIA WENGER, ESQ.
SARA ROHANI, ESQ.
40 RECTOR STREET, FIFTH FLOOR
NEW YORK, NEW YORK 10006

ADCOCK LAW, LLC
BY: JOHN ADCOCK, ESQ.
3110 CANAL STREET
NEW ORLEANS, LOUISIANA 70119

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION VOTING RIGHTS PROJECT
BY: SARAH E. BRANNON, ESQ.
SAMANTHA OSAKI, ESQ.
915 15TH STREET N.W.
WASHINGTON, D.C. 20005

1		PAUL, WEISS, RIFKIND, WHARTON & GARRISON, LLP
2		BY: AMITAV CHAKRABORTY, ESQ. RYAN RIZZUTO, ESQ.
3		ADAM SAVITT, ESQ. JONATHAN H. HURWITZ, ESQ.
4		1285 AVENUE OF THE AMERICAS NEW YORK, NEW YORK 10019
5	FOR THE GALMON	
6	PLAINTIFFS:	WALTERS, PAPIILLION, THOMAS, CULLENS, LLC
7		BY: DARREL J. PAPIILLION, ESQ. 12345 PERKINS ROAD, BUILDING ONE
8		BATON ROUGE, LOUISIANA 70810
9		ELIAS LAW GROUP, LLP
10		BY: ABHA KHANNA, ESQ. JONATHAN P. HAWLEY, ESQ.
11		1700 SEVENTH AVE., SUITE 2100 SEATTLE, WASHINGTON 98101
12		ELIAS LAW GROUP, LLP
13		BY: JACOB D. SHELLY, ESQ. OLIVIA N. SEDWICK, ESQ.
14		LALITHA D. MADDURI, ESQ. 10 G STREET N.E., SUITE 600
15	FOR KYLE ARDOIN,	SHOWS, CALI & WALSH, LLP
16	IN HIS OFFICIAL	BY: JOHN C. WALSH, ESQ.
17	CAPACITY AS SECRETARY	628 ST. LOUIS STREET
18	OF STATE	BATON ROUGE, LOUISIANA 70821
19		NELSON MULLINS RILEY AND SCARBOROUGH, LLC
20		BY: PHILLIP STRACH, ESQ. THOMAS A. FARR, ESQ.
21		ALYSSA M. RIGGINS, ESQ. 4140 PARKLAKE AVENUE, SUITE 200
22	FOR THE LOUISIANA	RALEIGH, NORTH CAROLINA 27612
23	LEGISLATIVE BLACK CAUCUS:	STEPHEN M. IRVING, LLC
24		BY: STEPHEN M. IRVING, ESQ. 111 FLOUNDERS DRIVE, SUITE 700
25		BATON ROUGE, LOUISIANA 70810
		JOHNSON LAW FIRM
		BY: ERNEST L. JOHNSON, ESQ. 3313 GOVERNMENT STREET
		BATON ROUGE, LOUISIANA 70806

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ARTHUR THOMAS & ASSOCIATES
BY: ARTHUR R. THOMAS, ESQ.
3313 GOVERNMENT STREET
BATON ROUGE, LOUISIANA 70806

FOR LEGISLATIVE
INTERVENORS CLAY
SCHEXNAYDER AND PATRICK
CORTEZ:

BAKERHOSTETLER, LLP
BY: PATRICK T. LEWIS, ESQ.
ERIKA D. PROUTY, ESQ.
127 PUBLIC SQUARE, SUITE 2000
CLEVELAND, OHIO 44114

BAKERHOSTETLER, LLP
BY: E. MARK BRADEN, ESQ.
KATHERINE L. MCKNIGHT, ESQ.
1050 CONNECTICUT AVENUE, N.W.,
SUITE 1100
WASHINGTON, D.C. 20036

INTERVENOR DEFENDANT,
STATE OF LOUISIANA:

LOUISIANA'S OFFICE OF THE ATTORNEY
GENERAL
BY: JEFFREY M. WALE, ESQ.
ANGELIQUE D. FREEL, ESQ.
CAREY TOM JONES, ESQ.
1885 NORTH THIRD STREET
BATON ROUGE, LOUISIANA 70802

HOLTZMAN VOGEL BARAN TORCHINSKY &
JOSEFIAK, PLLC
BY: PHILLIP M. GORDON, ESQ.
15405 JOHN MARSHALL HIGHWAY
HAYMARKET, VIRGINIA 20169

OFFICIAL COURT REPORTER:

SHANNON L. THOMPSON, CCR
UNITED STATES COURTHOUSE
777 FLORIDA STREET
BATON ROUGE, LOUISIANA 70801
SHANNON_THOMPSON@LAMD.USCOURTS.GOV
(225)389-3567

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
COMPUTER-AIDED TRANSCRIPTION SOFTWARE

03:09 1 CORRECT?

2 A. THAT'S CORRECT, I DID NOT.

3 Q. AND YOU PROVIDE NO ANALYSIS OF ANY OF THE SENATE FACTORS,
4 OTHER THAN RACIALLY POLARIZED VOTING?

5 A. THAT'S CORRECT. I PROVIDE NO ANALYSIS ON THOSE FACTORS.

6 Q. AND YOU PROVIDE NO DIRECT RESPONSE TO DR. LICHTMAN'S
7 ANALYSIS OF RACIALLY POLARIZED VOTING?

8 A. THAT'S CORRECT.

9 Q. DID YOU READ DR. LICHTMAN'S EXPERT REPORT IN THIS CASE?

10 A. I HAVE NOT SEEN DR. LICHTMAN'S REPORT.

11 Q. AND DR. PALMER AND DR. HANDLEY BOTH CONCLUDED THAT VOTING
12 IN LOUISIANA IS RACIALLY POLARIZED. CORRECT?

13 A. YES, THAT'S CORRECT.

14 Q. YOU IDENTIFIED NO ERRORS IN THEIR METHODOLOGY OR THEIR
15 APPLICATION OF ECOLOGICAL INFERENCE. CORRECT?

16 A. CORRECT.

17 Q. I BELIEVE YOU TESTIFIED ON DIRECT THAT ECOLOGICAL
18 INFERENCE IS A RELIABLE METHODOLOGY TO EVALUATE RACIALLY
19 POLARIZED VOTING. IS THAT CORRECT?

20 A. YES.

21 Q. IN FACT, HAVE YOU PREVIOUSLY REFERRED TO ECOLOGICAL
22 INFERENCE AS THE GOLD STANDARD FOR ANALYZING RACIALLY POLARIZED
23 VOTING?

24 A. YES.

25 Q. AND YOU REPLICATED SELECTED RESULTS FROM DR. PALMER AND

03:10 1 DR. HANDLEY'S ECOLOGICAL INFERENCE ANALYSES. CORRECT?

2 A. CORRECT.

3 Q. AND YOUR REPLICATION RESULTS MATCHED VERY CLOSELY THE

4 ESTIMATES REPORTED BY DR. HANDLEY AND DR. PALMER?

5 A. YES, IT DID.

6 Q. AND YOU CONCLUDED THAT THERE WERE NO SUBSTANTIVE

7 DIFFERENCES ACROSS DR. PALMER'S DATA, DR. HANDLEY'S RESULTS,

8 AND YOUR REPLICATION RESULTS. CORRECT?

9 A. THAT'S CORRECT.

10 Q. YOU DO NOT DISPUTE DR. PALMER'S AND DR. HANDLEY'S

11 CONCLUSION THAT BLACK LOUISIANIANS COHESIVELY VOTE FOR THE SAME

12 CANDIDATES?

13 A. CORRECT.

14 Q. AND THAT IS TRUE BOTH STATEWIDE AND IN THE STATE'S SIX

15 CONGRESSIONAL DISTRICTS. CORRECT?

16 A. I WANT TO MAKE SURE WE'RE CLEARLY BECAUSE I DID -- WE DID

17 LOOK AT THOSE REPUBLICAN VERSUS REPUBLICAN CONTESTS. SO IN THE

18 PARTISAN CONTESTED ELECTIONS, I WOULD AGREE.

19 Q. AND YOU OFFER NOTHING TO DISPUTE DR. PALMER'S AND

20 DR. HANDLEY'S CONCLUSION THAT BLACK AND WHITE LOUISIANIANS

21 CONSISTENTLY PREFER DIFFERENT CANDIDATES?

22 A. AGAIN, THAT IS NOT TRUE WHEN THE CANDIDATES ARE THE SAME

23 PARTY, BUT IT IS TRUE WHEN THE CANDIDATES ARE OF DIFFERENT

24 PARTIES.

25 Q. AND YOU OFFER NOTHING TO DISPUTE THEIR CONCLUSION THAT

03:18 1 THE CANDIDATES.

2 Q. IN YOUR DISCUSSION WITH MR. JONES I BELIEVE YOU AGREED
3 THAT CURRENTLY, AT LEAST, THE TWO POLITICAL PARTIES ARE DUG
4 INTO THEIR RESPECTIVE POSITIONS. IS THAT CORRECT?

5 A. AGAIN, I THINK I WAS A LITTLE MORE SUBTLE THAN THAT, BUT
6 THEY ARE CERTAINLY DUG IN TO THEIR OPPOSITION TO EACH OTHER.
7 I'M ALWAYS SURPRISED AT HOW MUCH FLEXIBILITY THEY CAN FIND
8 POSITIONALLY WITH THEM BEING -- WITH THEM BEING DUG IN, IN
9 THEIR OPPOSITION TO EACH OTHER.

10 Q. WOULD THAT OPPOSITION TO EACH OTHER INCLUDE ISSUES
11 RELATING TO RACE?

12 A. (UNINTELLIGIBLE DUE TO TECHNICAL DIFFICULTIES.)

13 Q. I'M SORRY, DR ALFORD. COULD YOU REPEAT YOUR ANSWER?

14 A. IT CERTAINLY COULD.

15 Q. AND YOU AGREE THAT IT'S POSSIBLE FOR POLITICAL AFFILIATION
16 OF VOTERS TO BE MOTIVATED BY RACE. CORRECT?

17 A. POLITICAL AFFILIATION, VOTERS CAN BE MOTIVATED BY ANY
18 NUMBER OF THINGS.

19 Q. AND THAT WOULD INCLUDE RACE. CORRECT?

20 A. IT WOULD INCLUDE RACE, YES.

21 Q. THANK YOU. NO FURTHER QUESTIONS, DR. ALFORD.

22 THE COURT: IS THERE ANY REDIRECT, MR. JONES?

23 MR. JONES: I DON'T, YOUR HONOR. THAT'S ALL I HAVE
24 FOR DR. ALFORD.

25 THE COURT: DR. ALFORD, THANK YOU FOR YOUR ASSISTANCE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

PRESS ROBINSON, ET AL * CIVIL ACTION
*
VERSUS * NO. 22-211-SDD
*
KYLE ARDOIN, ET AL * CONSOLIDATED WITH
*
*
EDWARD GALMON SR., ET AL * NO. 22-214-SDD
*
VERSUS * MAY 13, 2022
*
KYLE ARDOIN, ET AL * VOLUME 5 OF 5
* * * * *

MOTION FOR PRELIMINARY INJUNCTION BEFORE
THE HONORABLE SHELLY D. DICK
UNITED STATES CHIEF DISTRICT JUDGE

APPEARANCES:

FOR THE ROBINSON
PLAINTIFFS: NAACP LEGAL DEFENSE FUND AND
EDUCATIONAL FUND, INC.
BY: STUART NAIFEH, ESQ.
KATHRYN SADASIVAN, ESQ.
VICTORIA WENGER, ESQ.
SARA ROHANI, ESQ.
40 RECTOR STREET, FIFTH FLOOR
NEW YORK, NEW YORK 10006

ADCOCK LAW, LLC
BY: JOHN ADCOCK, ESQ.
3110 CANAL STREET
NEW ORLEANS, LOUISIANA 70119

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION VOTING RIGHTS PROJECT
BY: SARAH E. BRANNON, ESQ.
SAMANTHA OSAKI, ESQ.
915 15TH STREET N.W.
WASHINGTON, D.C. 20005

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PAUL, WEISS, RIFKIND, WHARTON &
GARRISON, LLP
BY: AMITAV CHAKRABORTY, ESQ.
RYAN RIZZUTO, ESQ.
ADAM SAVITT, ESQ.
JONATHAN H. HURWITZ, ESQ.
1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019

FOR THE GALMON
PLAINTIFFS:

WALTERS, PAPIILLION, THOMAS,
CULLENS, LLC
BY: DARREL J. PAPIILLION, ESQ.
12345 PERKINS ROAD, BUILDING ONE
BATON ROUGE, LOUISIANA 70810

ELIAS LAW GROUP, LLP
BY: ABHA KHANNA, ESQ.
JONATHAN P. HAWLEY, ESQ.
1700 SEVENTH AVE., SUITE 2100
SEATTLE, WASHINGTON 98101

ELIAS LAW GROUP, LLP
BY: JACOB D. SHELLY, ESQ.
OLIVIA N. SEDWICK, ESQ.
LALITHA D. MADDURI, ESQ.
10 G STREET N.E., SUITE 600
WASHINGTON, D.C. 20002

FOR KYLE ARDOIN,
IN HIS OFFICIAL
CAPACITY AS SECRETARY
OF STATE

SHOWS, CALI & WALSH, LLP
BY: JOHN C. WALSH, ESQ.
628 ST. LOUIS STREET
BATON ROUGE, LOUISIANA 70821

NELSON MULLINS RILEY AND
SCARBOROUGH, LLC
BY: PHILLIP STRACH, ESQ.
THOMAS A. FARR, ESQ.
ALYSSA M. RIGGINS, ESQ.
4140 PARKLAKE AVENUE, SUITE 200
RALEIGH, NORTH CAROLINA 27612

FOR THE LOUISIANA
LEGISLATIVE BLACK CAUCUS:

STEPHEN M. IRVING, LLC
BY: STEPHEN M. IRVING, ESQ.
111 FLOUNDERS DRIVE, SUITE 700
BATON ROUGE, LOUISIANA 70810

JOHNSON LAW FIRM
BY: ERNEST L. JOHNSON, ESQ.
3313 GOVERNMENT STREET
BATON ROUGE, LOUISIANA 70806

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FOR LEGISLATIVE
INTERVENORS CLAY
SCHEXNAYDER AND PATRICK
CORTEZ:

ARTHUR THOMAS & ASSOCIATES
BY: ARTHUR R. THOMAS, ESQ.
3313 GOVERNMENT STREET
BATON ROUGE, LOUISIANA 70806

BAKERHOSTETLER, LLP
BY: PATRICK T. LEWIS, ESQ.
ERIKA D. PROUTY, ESQ.
127 PUBLIC SQUARE, SUITE 2000
CLEVELAND, OHIO 44114

BAKERHOSTETLER, LLP
BY: E. MARK BRADEN, ESQ.
KATHERINE L. MCKNIGHT, ESQ.
1050 CONNECTICUT AVENUE, N.W.,
SUITE 1100
WASHINGTON, D.C. 20036

INTERVENOR DEFENDANT,
STATE OF LOUISIANA:

LOUISIANA'S OFFICE OF THE ATTORNEY
GENERAL
BY: JEFFREY M. WALE, ESQ.
ANGELIQUE D. FREEL, ESQ.
CAREY TOM JONES, ESQ.
1885 NORTH THIRD STREET
BATON ROUGE, LOUISIANA 70802

HOLTZMAN VOGEL BARAN TORCHINSKY &
JOSEFIAK, PLLC
BY: PHILLIP M. GORDON, ESQ.
15405 JOHN MARSHALL HIGHWAY
HAYMARKET, VIRGINIA 20169

OFFICIAL COURT REPORTER:

SHANNON L. THOMPSON, CCR
UNITED STATES COURTHOUSE
777 FLORIDA STREET
BATON ROUGE, LOUISIANA 70801
SHANNON_THOMPSON@LAMD.USCOURTS.GOV
(225)389-3567

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY USING
COMPUTER-AIDED TRANSCRIPTION SOFTWARE

09:49 1 Q. AND YOU WON'T KNOW WHICH CANDIDATES WILL QUALIFY TO APPEAR
2 ON THE BALLOTS FOR CONGRESSIONAL ELECTIONS UNTIL JULY 29TH AT
3 THE EARLIEST?

4 A. THAT'S CORRECT.

5 Q. THE NUMBER OF BALLOTS THE STATE NEEDS FOR THIS NOVEMBER'S
6 ELECTIONS WON'T CHANGE BASED ON THE SHAPE OF THE CONGRESSIONAL
7 DISTRICTS. CORRECT?

8 A. NO. NO, IT SHOULD NOT BASED ON THE SHAPE OF THE
9 CONGRESSIONAL DISTRICTS. IT'S BASED ON THE NUMBER OF
10 CANDIDATES THAT QUALIFY, THE NUMBER OF CONSTITUTIONAL
11 AMENDMENTS. IN OTHER WORDS, YOU MAY HAVE A ONE-PAGE BALLOT OR
12 YOU COULD HAVE A THREE-PAGE BALLOT, DEPENDING ON WHO QUALIFIES.

13 Q. RIGHT. YOU DISCUSSED ABSENTEE ENVELOPES WITH MR. STRACH,
14 I BELIEVE. NO ABSENTEE BALLOTS HAVE GONE OUT YET. IS THAT
15 CORRECT?

16 A. NOT YET.

17 Q. AND THOSE WON'T NEED TO BE PRINTED UNTIL 45 DAYS BEFORE
18 THE ELECTION?

19 A. OH, NO. WE HAVE TO HAVE THEM PRINTED WAY IN ADVANCE.
20 LOUISIANA HAS A SPECIAL ENVELOPE. IT HAS AN AFFIDAVIT FLAP ON
21 IT. IT'S UNIQUE. THERE'S NOT -- TO MY KNOWLEDGE, THERE'S NO
22 OTHER STATE OR JURISDICTION IN THE UNITED STATES THAT HAS THE
23 DETAILED FLAP THAT WE HAVE. AND IT'S VERY DIFFICULT TO PRINT.

24 WHEN WE'VE PUT IT OUT TO BID IN THE PAST, ONLY THREE
25 COMPANIES IN THE NATION WERE ABLE TO PRINT THIS PARTICULAR

09:50 1 ENVELOPE IN THE WAY THAT IT'S MADE AND THE INFORMATION THAT'S
2 ON IT. AND IN ORDER TO HAVE THEM PRINT, PROOF, PRINT ALL OF
3 THEM THAT ARE NECESSARY FOR THE PRIMARY AND THE GENERAL AND
4 THEN HAVE THEM SHIPPED TO US, THEN BREAK IT DOWN AND DISTRIBUTE
5 THEM TO THE PARISHES, WE HAVE TO RECEIVE THOSE BY AUGUST 1ST.
6 WE CAN'T RECEIVE THEM ANY LATER THAN THAT OR WE WOULDN'T BE
7 ABLE TO GET THEM OUT TO THE LOCALS TO BE ABLE TO HAVE THEM TO
8 USE.

9 Q. THANK YOU.

10 THE NUMBER OF ABSENTEE BALLOT ENVELOPES WILL NOT
11 CHANGE DEPENDING ON THE SHAPE OF THE CONGRESSIONAL DISTRICTS.
12 CORRECT?

13 A. NO. THAT WILL DEPEND ON THE NUMBER OF PEOPLE THAT APPLY
14 FOR AN ABSENTEE BALLOT AND THE NUMBER OF PEOPLE THAT APPLY FOR
15 THE PROGRAMS LIKE THE OVER 65 PROGRAM OR THE DISABILITY
16 PROGRAM; THINGS LIKE THAT.

17 Q. YOU SUGGEST THAT THE PAPER SHORTAGE MIGHT AFFECT THE
18 PRINTING OF VOTER REGISTRATION CARDS. CORRECT?

19 A. IT COULD -- IT COULD AFFECT ANY ITEM THAT WE HAVE TO
20 PRINT. FOR EXAMPLE, THE PAPER ROLLS FOR THE VOTING MACHINES,
21 THE TAPES, THE CARDS OR ANY SUPPLY. IF YOU'VE GONE TO VOTE ON
22 ELECTION DAY AND YOU WANT TO CHANGE YOUR ADDRESS OR YOU WANT TO
23 VOTE BY AFFIDAVIT OR ANY OF THE SUPPLY ITEMS. ALSO, THE POLL
24 BOOK PAGES, WE USE PAPER POLL BOOK PAGES. WE DON'T USE E-POLL
25 BOOKS, SO EVERYTHING THAT IS PAPER-RELATED, WE'RE TRYING TO