IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS, Plaintiff, v. UNITED STATES OF AMERICA and ERIC H. HOLDER, JR., in his official capacity as Attorney General of the United States, Defendants. WENDY DAVIS, *et al.*, Defendant-Intervenors, MEXICAN AMERICAN LEGISLATIVE CAUCUS, Defendant-Intervenor, GREG GONZALES, *et al.*, Defendant-Intervenors, TEXAS LEGISLATIVE BLACK CAUCUS, Defendant-Intervenor, TEXAS LATINO REDISTRICTING TASK FORCE, Defendant-Intervenor, TEXAS STATE CONFERENCE OF NAACP BRANCHES *et al.*, Defendant-Intervenors.	Civil Action No. 1:11-cv-1303 (RMC-TBG-BAH) Three-Judge Court

SUMMARY OF THE EXPERT TESTIMONY OF DR. LISA R. HANDLEY

Dr. Lisa R. Handley has provided the expert opinion that the proposed redistricting plans for the Texas House of Representatives and the Texas delegation to the U.S. Congress are retrogressive in that they diminish minority citizens' ability to elect their preferred candidates of choice. Tr. at 10:11-21, 14:11-15:1 (Jan. 26 a.m.) (Handley). Dr. Handley is a recognized expert on voting rights, minority representation, electoral system design, and redistricting. DX 326 at 1-2 (Handley House Rep.); DX 327 at 1-2 (Handley Congress Rep.). She has served as a consultant or expert witness in over 50 cases under the Voting Rights Act, including multiple preclearance actions under Section 5 and two decades of Texas redistricting. ECF No. 64-1 at 1-2. Dr. Handley employed the same methods in this case that she has previously applied in her academic work, professional consulting, and prior litigation testimony. These methods are consistent with analysis previously applied by federal courts and by the Department of Justice in administrative proceedings. DX 326 at 2; DX 327 at 3.

Dr. Handley reached her conclusions by analyzing a great deal of empirical data. Most of this data came from the Texas Legislative Council (TLC), the Office of the Attorney General of Texas (OAG), or the U.S. Census Bureau, and virtually all of it was available to the legislature and to staff members involved in drawing the various redistricting plans. The data included: (1) population and citizenship data by race and ethnicity collected by the Census Bureau and reported by the TLC; (2) Spanish-surname voter registration (SSVR) data reported by the TLC; (3) racially polarized voting analyses, which included estimates of voting behavior and turnout by race and ethnicity, prepared by the OAG; (4) reconstituted election results prepared by the TLC; (5) various "Red" reports produced by the TLC; and (6) TLC publications explaining the available redistricting data and the methodology used to produce it. Tr. at 6:25-8:5; DX 326 at 4-5; DX 327 at 3-4; DX 794 at 6-8 (Handley Supp. Rep.). Many of the experts in this litigation,

including Dr. John Alford – the expert retained by the State of Texas – used the same data. *E.g.*, DX 319 at 13-26 (Alford Report).

I. A Functional Analysis of Retrogression

Dr. Handley's analysis of retrogression has three simple steps. First, she determines the number of districts in the benchmark plan in which minority voters have the ability to elect their preferred candidates of choice to the office at issue. Second, she determines the number of districts in the proposed plan in which minority voters will have that ability to elect. Third, she compares the number of ability-to-elect districts in each plan. Dr. Handley considers a proposed plan to be retrogressive if it contains fewer ability districts than the benchmark plan. Tr. at 5:12-16; DX 326 at 13-14; DX 327 at 10-11.

Dr. Handley also considers a proposed plan retrogressive, however, if it diminishes minority voting strength relative to majority voting strength. As a result, she considers not only the number of districts in which minority voters have the ability to elect but also the number of districts in which they do not. When the total number of districts in a proposed plan is not the same as the total number of districts in a benchmark plan, as is the case here with the State's Congressional plan, Dr. Handley considers a proposed plan to be retrogressive if it decreases the degree of minority representation (and therefore increases the degree of majority representation) by one or more districts. DX 794 at 7-8.

Dr. Handley's guidepost in determining whether there has been a change in the degree of minority representation is proportionality -- the number of districts that minority voters would control if they were represented in proportion to their share of the eligible voting population. A proposed plan decreases the degree of minority representation if minority voters would be farther from proportionality than they are in the benchmark plan. Tr. at 14:11-15:1; DX 327 at 6, 11;

DX 794 at 7-8.

A. Determining the Number of Minority Ability Districts in the Benchmark Plans

To determine the number of minority ability districts in the benchmark plan, Dr. Handley began with the most probative evidence: election results for the office at issue. These "endogenous" elections provide direct evidence of minority voters' ability to elect their preferred candidates of choice in a district over the last decade, and Dr. Handley opined that, from a social-science perspective, these elections are the most probative of minority electoral ability. Focusing on election results, moreover, ensures that her assessment of minority electoral ability is functional and not merely theoretical. Tr. at 9:4-10, 40:15-21; DX 794 at 3 n.3.

Dr. Handley compiled the endogenous election results in each district between 2002 and 2010 into a 100-point index, with a perfect score denoting consistent victories for the minority-preferred candidates for the office at issue over the course of the decade. DX 326 at 3-4 & tbl.1; DX 327 at 3-4 & tbl. 23. Dr. Handley considered the entire decade because it provides a broad base for her analysis, because that is the usual practice among redistricting experts (at least when that much data is available), and because the Supreme Court has indicated that minority voting strength is something to be measured "over a period of time." *Thornburg v. Gingles*, 478 U.S. 30, 57 (1986).

In compiling her index, moreover, Dr. Handley did not simply assume that the Democratic general-election candidate was the preferred candidate of each minority group. Rather, she performed her own racial bloc voting analyses of a number of endogenous contests. Tr. 7:6-9; DX 326 at 6 n.8, app. D; DX 327 at 8 n.13, app. D; DX 794 at 1. She determined, for example, that Anglo candidate Lon Burnham was the Hispanic-preferred candidate in District 90. DX 326 at 33. She also determined, for example, that Asian candidate Hubert Vo was the

preferred candidate of Black, Hispanic, and Asian voters in House District 149. DX 326 at 7, 12-13 n.20.

Dr. Handley also examined election results for other offices that are not at issue. These are the "exogenous" elections, and they provide circumstantial evidence of minority voters' ability to elect candidates of their choice to the office at issue in the benchmark plan. Exogenous elections reflect actual levels of minority and majority registration, turnout, and cohesion in a district and provide a way to compare the electoral performance of districts in the benchmark and proposed plans. Tr. at 5:17-6:23; DX 326 at 3, 5 n.7; DX 327 at 4, 6 n.9.

Dr. Handley compiled the exogenous election results in each benchmark district into another 100-point index, with a perfect score denoting that the minority-preferred candidates consistently received the most votes within the district. DX 326 at 3-4 & tbl.1; DX 327 at 3-4 & tbls. 2-3. Dr. Handley included in her exogenous index the top racially-contested statewide contest in each general election between 2002 and 2010 in which minority voters preferred the minority candidate. DX 326 at 3; DX 327 at 4; *see also* Tr. 38:21-24, 73:11-24 (explaining relevance of minority voters' ability to elect a minority candidate); DX 326 app. B (determining preferred candidate); DX 327 app. B (same). She did so because using a single contest from each election cycle ensured that no single election would sway the analysis. DX 794 at 3-4. Before selecting a particular exogenous contest to include in her index, moreover, Dr. Handley verified that her choice of the top racially-contested election, as opposed to a lower-ballot contest, would not substantially alter the index. Tr. 7:20-8:20, 9:11-10:8; DX 794 at 1.

Dr. Handley then examined all of the available data for each benchmark district and made her determination. As a filter, Dr. Handley first eliminated districts with a minority voting age population below 50% because she had determined that no district below that figure had elected

a minority-preferred candidate. Tr. at 61:21-25, 71:16-72:14; DX 326 at 3, 6 n.9; DX 327 at 3-4, 6 n.10. She then considered the endogenous index alone because of its high probative value. DX 326 at 5; DX 327 at 5-6. Next she considered an average of the endogenous index and the exogenous index, a weighting scheme that she devised to adjust for differences in performance between endogenous and exogenous elections. DX 326 at 5; DX 327 at 6 n.9; DX 794 at 1. Finally, she considered other factors in an effort to check the validity of the election indices in particular districts, including demographic characteristics and changes over time, citizenship rates, minority turnout rates, racial bloc voting, and the degree of "roll-off" (*i.e.*, the failure to vote for offices toward the bottom of the ballot). Tr. 5:17-8:5, 40:11-21, 72:15-17; DX 326 at 3-4, 6; DX 327 at 3-4; DX 794 at 1-2.

Dr. Handley concluded, based on her review of the available data, that minority voters currently have the ability to elect their preferred candidate of choice to the offices at issue in every district with (1) a minority voting age population of at least 50% and (2) both (a) a score of 50 or greater on the endogenous election index and (b) an average score of 50 or greater across the endogenous and exogenous indices. Tr. at 61:21-24; DX 326 at 5-6; DX 327 at 5-6 & n.10.

B. Determining the Number of Minority Ability Districts in the Proposed Plans

Dr. Handley conducted a similar analysis to determine the number of minority ability districts in the proposed plans. The State has held no elections in the proposed plans, though, so there were no endogenous elections to analyze. That left exogenous elections as the only functional measure of performance. DX 326 at 8; DX 327 at 7.

To analyze exogenous elections in a proposed district, the election results must be "reconstituted" by aggregating the vote totals in the precincts covered by the proposed district. The process of reconstituting exogenous election returns in a proposed plan is complicated when

the boundaries of a proposed district split precincts. Vote totals from a whole precinct must be allocated to each portion of the now-divided precinct, and this allocation process can introduce error. When a proposed district contains many split precincts, or when the population of the split precincts constitutes a substantial portion of a proposed district's voters, reconstituted election results can be unreliable. Tr. at 11:7-13, 50:19-23, 74:10-75:25; DX 326 at 10-11 & tbl. 4.

In this case, Dr. Handley used the reconstituted election returns prepared by the TLC. The TLC's allocation process assumes that all portions of a split precinct exhibit the same voting behavior -- which is not likely to be the case. DX 874 at 18 (TLC Data). That assumption can further undermine the reliability of reconstituted election results, particularly when there is evidence that the assumption is false and the outcome of a reconstituted election is close. Tr. at 11:7-13, 50:19-23, 74:10-75:25; DX 326 8-10.

As she had done with the benchmark plan, Dr. Handley compiled the exogenous election results in each proposed district into a 100-point exogenous index, with a perfect score denoting that the minority-preferred candidates consistently received the most votes within the district. She used the same five elections that she had used in the benchmark exogenous index. DX 326 at 8; DX 327 at 7.

Dr. Handley then examined all of the available data for each proposed district and made her determination. As a filter, Dr. Handley again eliminated districts with a minority voting age population below 50%. DX 326 at 8-13; DX 327 6-9. She then considered the exogenous index alone and in relation to the benchmark exogenous index. DX 326 at 8; DX 327 at 7. Finally, she relied on the same secondary factors to check the validity of her exogenous index, including demographic characteristics and changes over time, citizenship rates, minority turnout rates, racial bloc voting, and the degree of "roll-off" (*i.e.*, the failure to vote for offices toward the

bottom of the ballot). Tr. 5:17-8:5, 40:11-21, 72:15-17; DX 326 at 3-4, 6; DX 327 at 3-4; DX 794 at 1-2.

Dr. Handley then made an individualized assessment of minority electoral ability in each proposed district that included the following factors: (a) whether the exogenous index had increased or decreased from the benchmark plan, (b) whether the exogenous index had crossed 50, (c) whether the district included a minority-preferred or a non-preferred incumbent, (d) whether the district had previously performed, and (e) whether demographics and minority registration rates had changed. Tr. at 29:5-30:9, 72:15-73:10; DX 326 at 8-13; DX 327 at 6-9.

II. The Proposed Redistricting Plan for the Texas House of Representatives: H283

Dr. Handley concluded that the proposed redistricting plan for the Texas House of Representatives, when compared to the benchmark plan, decreases the number of districts in which minority voters will have the ability to elect candidates of their choice and is therefore retrogressive. She found that minority voters currently have the ability to elect candidates of their choice to the Texas House of Representatives in 50 districts in the benchmark plan.[1] DX 326 at 1, 4-5, 7. Under the proposed plan, however, she found that minority voters will have the ability to elect candidates of their choice in only 45 or 46 districts.[2] Tr. 10:11-21; DX 326 at 1, 8, 13-14.

Dr. Handley reached a firm conclusion that minority voters will no longer have the ability to elect candidates of choice in proposed House Districts 33, 35, 117, and 149. Tr. at 10:22-11:2; DX 326 at 9, 13 n.20. Each of those districts met her performance standards in the

[1] Districts 22, 27, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 46, 51, 74, 75, 76, 77, 79, 80, 90, 95, 100, 103, 104, 109, 110, 111, 116, 117, 118, 119, 120, 123, 124, 125, 131, 137, 139, 140, 141, 142, 143, 145, 146, 147, 148, and 149. U.S. Proposed Findings of Fact ¶¶ 2-5 [hereinafter US PFOF].

[2] Districts 22, 27, 31, 34, 36, 37, 38, 39, 40, 42, 43, 46, 51, 74, 75, 76, 77, 79, 80, 90, 95, 100, 103, 104, 109, 110, 111, 116, 118, 119, 120, 123, 124, 125, 131, 137, 139, 140, 141, 142, 143, 145, 146, 147, and 148. US PFOF ¶¶ 6-9.

benchmark plan. In the proposed plan, House Districts 33 and 149 were simply moved to other parts of the state where they became Anglo-majority districts. Tr. at 10:22-25; DX 326 at 8 n.12, 13 n.20. The performance of proposed House Districts 35 and 117 decreased to such an extent that, in light of the other factors she considered, Dr. Handley could firmly conclude that Hispanic voters will no longer have the ability to elect their preferred candidates. Tr. at 10:22-11:2; DX 326 at 9.

Dr. Handley was unable to reach a definitive conclusion, however, with regard to proposed House District 41. That district splits a substantial number of precincts with substantial population and does so with a racial skew: the portions included in the district have higher Anglo concentrations than the portions excluded from the district. Because of those splits, and because two elections in her exogenous index were unusually close, Dr. Handley concluded that she could not rely on the reconstituted election results for that district. She was therefore unable to reach a firm conclusion as to the effectiveness of that proposed district. Tr. at 11:7-13, 50:19-23, 74:10-75:25; DX 326 at 9-11 & tbl. 4.

Dr. Handley also found that the proposed plan created no new effective minority districts to make up for the loss of these four or five ability-to-elect districts. DX 326 at 8 n.12; DX 794 at 4. Dr. Handley thus determined that when actual election performance is taken into account, the proposed House plan is retrogressive. DX 326 at 13-14.

III. The Proposed Redistricting Plan for the Texas Delegation to Congress: C185

Dr. Handley concluded that the proposed redistricting plan for the Texas Congressional delegation, when compared to the benchmark plan, decreases minority voting strength by one district and is consequently retrogressive. DX 794 at 7-8. She found that minority voters in Texas currently have the ability to elect candidates of their choice to the U.S. Congress in 10 out

of 32 districts. DX 327 at 5.[3] Under the proposed plan, however, she found that minority voters will have the ability to elect candidates of their choice in 10 out of 36 districts. DX 327 at 7.[4] Thus Dr. Handley found that, while the number of ability-to-elect districts remained unchanged, the number of districts in which minority voters lack the ability to elect increased by four. Tr. at 14:11-15:1; DX 327 at 4-11; DX 794 at 7-8.

In reaching her conclusion, Dr. Handley found that District 23 and District 27 provided minority voters with the ability to elect preferred candidates in the benchmark but did not provide the ability in the proposed plan. On the other hand, the proposed plan includes two new minority ability-to-elect districts with no incumbents, District 34 and District 35. DX 327 at 6-9.

Dr. Handley explained that when the number of districts in a plan changes, minority voting strength must be assessed as a relative measure that takes into account "not only on the number of districts that minorities are able to elect their preferred candidates, but the number of districts that they cannot." DX 794 at 7; Tr. 14:11-15:1. Dr. Handley then applied the functional measure of underrepresentation described above. She first noted that minority citizens made up 37% of the citizen voting age population of Texas according to the 2005-2009 American Community Survey.[5] She then determined that a proportional share of a 32-member plan would be 12 and that a proportional share of 36-member plan would be 13. Therefore, Dr. Handley found that the degree of minority underrepresentation increases by 1 district in the proposed plan. DX 794 at 7-8. Alternatively, Dr. Handley noted that minority voters have the ability to elect candidates of their choice in 31.3% of the districts in the benchmark plan but only 27.8% of districts under the proposed plan. DX 327 at 1.

[3] Districts 9, 15, 16, 18, 20, 23, 27, 28, 29, and 30.
[4] Districts 9, 15, 16, 18, 20, 28, 29, 30, 34, and 35.
[5] The United States relies on the 2010 American Community Survey 1-year estimates, which were not available at the time of Dr. Handley's analysis, but the two data sets yield the same result.

Dr. Handley noted that the additional Congressional seats to which Texas is entitled in 2012 result from the State's extraordinary minority population growth. She pointed out that the state's population grew by 4,293,741 between 2000 and 2010 and that the Hispanic population increased by 2,791,255. In other words, Hispanic population growth accounts for 65% of the population growth in Texas during the past decade. DX 327 at 1 n.1. Dr. Handley therefore described the failure to create additional districts in which minority voters have the ability to elect their preferred candidates of choice as "egregious." DX 327 at 11.

From Dr. Handley's perspective as a redistricting expert, the empirical realities outlined above mean that minority voters in Texas will find themselves worse off under the proposed Congressional plan than under the benchmark. DX 327 at 11; DX 794 at 7-8.

IV. Dr. Alford's First Analysis: Demographic Bright Line Tests

Dr. Handley also concluded that the bright-line demographic tests for determining minority electoral ability advanced by the State and its expert witness, Dr. John Alford, were both inadequate and inappropriate. When looking at districts where Hispanics are the principal minority group, the State characterized as effective minority districts those with a Hispanic voting age population (HVAP) greater than 60%, a Hispanic-citizen voting age population (HCVAP) above 50%, and an SSVR greater than 50%. Where African Americans are the principal minority group, the State characterized as effective minority districts those with a black voting age population (BVAP) greater than 40%, an arbitrary choice for which the state provides no rationale. Moreover, the State rejected the view that the Voting Rights Act protects minority coalition districts, even where the combined minority citizen voting age population is a majority within the district. DX 326 at 2-3; *see also* Alford Report at 4 (DX 319) ("With an outright majority of the registered voters, Hispanics in either district need only turn out and vote cohesively at levels equal to Anglo voters and their candidate of choice cannot be defeated by Anglo voters.").

Prior to this Court's rejection of that position as a matter of law, *see Texas v. United States*, No. 1:11-cv-1303, 2011 WL 6440006, at *12-18, Dr. Handley opined that as a political scientist the appropriate inquiry was a functional assessment of whether minority voters are usually able to elect their preferred candidates.

Dr. Handley first pointed out that the demographic composition of districts is a useful starting point for examination of redistricting plans – indeed she begins by examining each district's demographic composition. Tr. at 71:16-72:14; DX 326 at 3, 6 n.9; DX 327 at 3-4, 6 n.10. She explained, however, that the State's approach fails to take into account the actual voting performance of the districts. Whether minority voters in a district usually succeed in electing candidates of choice in a district over the course of a decade is in Dr. Handley's view critical to determining whether it is an ability-to-elect district. The data assembled by the TLC and the OAG before and during the redistricting process make clear that the State could have conducted the same sort of functional analysis that she performed, and emails disclosed just days before trial show that they did, in fact, conduct secret functional analyses of their proposed plans. DX 216. However, as a consequence of its initial decision to rely for this case on a set of minority percentage thresholds, the State included benchmark House District 78 as an effective district even though it rarely elects minority-preferred candidates and left out benchmark House Districts 27, 46, 51, 120, 137, 147, 148, and 149, all of which have consistently elected minority candidates of choice. DX 326 at 6, 9-10, 12-13; DX 327 at 3, 6, 11.

Dr. Handley also criticized the bright-line analysis that appeared in Dr. Alford's supplemental report. Specifically, Dr. Alford stated that District 117 should be considered a district in which Hispanic voters have the ability to elect candidates of choice based on his reading of the Court's opinion denying Texas's motion for summary judgment. DX 790 at 5.

Dr. Handley explained that the "65% Rule" is a vestige of a period before analytical techniques were available to determine actual voting ability. The percentage was arrived at merely by conjecture. DX 794. In recent decades political scientists have developed methods – including techniques that Dr. Handley has devised and written about in scholarly journals – that allow courts to determine (rather than speculate) what percentage is needed to provide minority voters with the ability to elect their preferred candidates on a district-specific basis. For example, estimates of district-specific participation rates and voting patterns by race can be used to calculate the percentage needed to provide an actual ability to elect. Reconstituted election results can also help to provide an answer to the demographic percentage needed for effective districts, because they reflect actual registration rates, turnout, cohesion and polarization in a particular district. DX 794 at 6.

Applying Dr. Alford's interpretation of the rule to the facts of this case, Dr. Handley's analysis found that, for the most part, a 60% HCVAP district provides Hispanic voters with the ability to elect their preferred candidates. Nevertheless, she opined that proposed House District 117 demonstrates that this percentage is not always sufficient. The reconstituted election results show that the minority-preferred candidate only carried this proposed district in one of the five elections that Dr. Handley used in her exogenous index – and in only two of the ten contests in the OAG list of elections. Even though the HCVAP increased to over 60% in the proposed district, the exogenous index fell from 60 in the benchmark district to 20 in the proposed. Ignoring actual electoral behavior in favor of a demographic threshold can be misleading. DX 794 at 6-7.

V. Dr. Alford's Second Analysis: Exogenous-Only Analysis and the "Statewide Functional Approach"

Dr. Handley identified three serious flaws in the new analysis presented by Dr. Alford in

his supplemental report. DX 794 at 2. First, Dr. Alford ignored endogenous elections, which provide direct evidence of electoral ability in a district, and he focused instead on exogenous elections, which provide only circumstantial evidence of electoral ability. Tr. at 9:4-10, 11:14-19; DX 326 at 3, 5; DX 327 at 3-4; DX 794 at 2-3. Dr. Handley opined that endogenous elections are "the most essential piece of information" in determining whether minority voters have the ability to elect candidates of their choice to the office at issue. DX 794 at 3. She noted as an example that Dr. Alford's exclusive reliance on exogenous elections led him to an erroneous conclusion with respect to benchmark House District 74. While Dr. Alford's analysis suggests that Hispanic voters have not been able to elect their preferred candidates to the House from that district, the actual election results indicate that Hispanic voters elected their preferred candidate to the House in every election over the last decade. DX 794 at 3.

Second, Dr. Alford over-weighted the 2010 election and ignored elections prior to 2008 in his supplemental report on the theory that the Court should focus on the most recent elections. DX 794 at 3. Dr. Alford relied on three exogenous elections from 2010 and two from 2008. According to Dr. Handley, considering only the last two elections in the lifespan of a decade-long redistricting plan runs counter to the practices of most redistricting experts, who normally consider a decade the optimal length of time to observe the pattern of electoral behavior and assess the effectiveness of districts. Tr. 8:6-9:3. A narrow focus also increases the chance that an anomalous election will determine the outcome. In this case, using three elections from 2010 biased Dr. Alford's exogenous index against finding effective benchmark districts (particularly in benchmark House Districts 35 and 117), and thus decreased the chances of finding a retrogressive effect in the proposed plan. DX 326 at 9 nn.13-14, 32-35; DX 327 at 19; DX 794 at 3-4.

Third, Dr. Alford measured retrogression not by comparing the number of minority ability districts in the benchmark and proposed plans but by comparing the total number of wins for minority-preferred candidates in selected districts in the two plans. Dr. Alford dubbed this methodology the "statewide functional approach." This approach permits the State to decrease the number of effective minority districts by rewarding the State for "improving" minority districts that are already effective. This novel method of measuring retrogression would hide what Dr. Handley would find to be a plainly retrogressive effect. DX 794 at 4-6.

As an illustration of how Dr. Alford's approach conceals the real effects of the proposed plan for the state house, Dr. Handley set out a comparison of Districts 35 and 74 in the benchmark and proposed plans. District 35 in the benchmark has 54.6% HCVAP and 55.4% SSVR. Until 2010 this district was represented by a minority-preferred Hispanic Democrat. The proposed plan decreases the Hispanic percentages in this district to 52.5% HCVAP and 52.7% SSVR. In addition, Dr. Handley's exogenous effectiveness index for this district falls from 40 in the benchmark to 20 in the proposed plan. In District 74, which was represented by a Hispanic Democrat for the entire decade, the exogenous index score increased from 20 in the benchmark to 100 in the proposed plan. In Dr. Alford's calculations, this increase in District 74 cancels out the decline in District 35, with room to spare to offset the decline in the exogenous score for other districts as well. DX 794 at 5-6.

VI. Conclusion

Dr. Handley has provided the expert opinion that the proposed redistricting plans for the Texas House of Representatives and the Texas delegation to the U.S. Congress are retrogressive in that they diminish minority citizens' ability to elect their preferred candidates of choice. Tr. at 10:11-21, 14:11-15:1. Her credible opinion testimony provides a substantial basis for the Court to

deny the State of Texas's request for a declaratory judgment that the proposed House and Congressional plans do not have the effect of denying or abriding the right to vote on account of race, color, or language minority status.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2011, I served a true and correct copy of the foregoing via the Court's ECF system on the following counsel of record:

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