IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS, Plaintiff, v. UNITED STATES OF AMERICA; ERIC HOLDER in his official capacity as Attorney General of the United States, Defendants, *et al*.	Civil Action No. 1:11-cv-1303 (RMC-TBG-BAH)

TEXAS STATE CONFERENCE OF BRANCHES OF THE NAACP, ET AL., AND TEXAS LEGISLATIVE BLACK CAUCUS JOINT PROPOSED FINDINGS OF FACT

COME NOW Defendant-Intervenors the Texas State Conference of Branches of the NAACP, et al., and the Texas Legislative Black Caucus, and respectfully request the Court to adopt the following proposed Findings of Fact:

A. Population Numbers

1. According to the 2000 Census, the State of Texas had a voting-age population of 14,965,061 persons, including 8,426,166 non-Hispanic White persons (56.3%) 4,282,901 Hispanic persons (28.6%) 1,639,173 non-Hispanic Black persons (11.0%) and 437,215 Asian persons (2.9%). .P.L. 94-141, sent to the State of Texas on February 17, 2011, available at ftp://ftpgis1.tlc.state.tx.us/2011_Redistricting_Data/2010Census (last accessed February. 2, 2012).

2. According to the 2010 Census, the State of Texas has a total population of 25,145,561 persons, including 11,397,345 non-Hispanic White persons (45.3%) 9,460,921 Hispanic persons (37.6%); 2,975,739 non-Hispanic Black persons (11.8%) and 1,027,956 Asian persons (4.1%). *Id.*
3. According to the 2010 Census, the State of Texas has a voting-age population of 18,279,737, including 9,074,684 non-Hispanic White persons (49.6%); 6,143,144 Hispanic persons (33.6%); 2,102,474 non-Hispanic Black persons (11.5%); and 758,636 Asian persons (4.2%). *Id.*
4. According to the 2000 Census, Texas had a citizen voting-age population of 13,299,845 persons, including 8,305,993 non-Hispanic White persons (62.5%); 2,972,988 Hispanic persons (22.4%); 1,606,131 Black persons (12.1%); and 228,529 Asian persons (1.7%). *Id.*
5. According to the 2010 American Community Survey 1-year estimates, the State of Texas has a citizen voting-age population of 15,854,093 persons, including 8,952,806 non-Hispanic White persons (56.5%); 4,180,024 Hispanic persons (26.4%); 2,048,450 Black persons (12.9%); and 463,558 Asian persons (2.9%). *Id.*
6. Between the 2000 Census and the 2010 Census, the State's non-Hispanic Black population increased by 576,656 persons, an increase of 24.0%. *Id.*
7. Between the 2000 Census and the 2010 Census, the non-Hispanic Black proportion of the State's total population increased from 11.5% to 11.8%. *Id.*
8. Between the 2000 Census and the 2010 Census, the State's non-Hispanic Black voting-age population increased by 463,301 persons, an increase of 28.3%. *Id.*
9. Between the 2000 Census and the 2010 Census, the non-Hispanic Black proportion of the State's voting-age population increased from 11.0% to 11.5%. *Id.*
10. Between the 2000 Census and the 2010 Census, the State's non-Hispanic Asian population increased by 433,024 persons, an increase of 72.8%. *Id.*

11. Between the 2000 Census and the 2010 Census, the non-Hispanic Asian proportion of the State's total population increased from 2.8% to 4.1%. *Id.*

12. Between the 2000 Census and the 2010 Census, the State's non-Hispanic Asian voting-age population increased by 321,421 persons, an increase of 73.5%. *Id.*

13. Non-Hispanic Black persons made up 13.4% of the increase in the State's total population and 14.0% of the increase in the State's voting-age population between the 2000 Census and the 2010 Census. *Id.*

14. Non-Hispanic Asian persons made up 10.1% of the increase in the State's total population and 9.7% of the increase in the State's voting-age population between the 2000 Census and the 2010 Census. Id

i. Harris County

15. According to the 2000 Census, Harris County, Texas, had a total population of 3,400,578 persons, including 1,432,264 non-Hispanic White persons (42.1%); 1,119,751 Hispanic persons (32.9%); 624,751 non-Hispanic Black persons (18.4%); and 181,622 Asian persons (5.3%). P.L. 94-141, sent to the State of Texas on February 17, 2011, available at ftp://ftpgis1.tlc.state.tx.us/2011_Redistricting_Data/2010Census (last accessed February 2, 2012).

16. According to the 2000 Census, Harris County, Texas, had a voting-age population of 2,416,022, including 1,108,078 non-Hispanic White persons (45.9%); 716,111 Hispanic persons (29.6%); 426,224 non-Hispanic Black persons (17.6%); and 135,600 Asian persons (5.6%) *Id.*

17. According to the 2010 Census, Harris County, Texas, has a total population of 4,092,459 persons, including 1,349,646 non-Hispanic White persons (33.0%); 1,671,540 Hispanic persons (40.8%); 766,672 non-Hispanic Black persons (18.7%); and 264,231 Asian persons (6.5%). *Id.*

18. According to the 2010 Census, Harris County, Texas, has a voting-age population of 2,944,624 persons, including 1,085,630 non-Hispanic White persons (36.9%); 1,082,570 Hispanic persons (36.8%); 545,519 non-Hispanic Black persons (18.5%); and 202,752 Asian persons (6.9%). *Id.*

19. According to the 2010 American Community Survey 1-year estimates, Harris County, Texas, has a citizen voting-age population of 2,315,362 persons, including 1,045,360 non-Hispanic White persons (45.1%); 591,194 Hispanic persons (25.5%); 532,587 Black persons (23.0%); and 123,235 Asian persons (5.3%). *Id.*

ii. Dallas County

20. According to the 2000 Census, Dallas County, Texas, had a total population of 2,218,899 persons, including 983,317 non-Hispanic White persons (44.3%); 662,729 Hispanic persons (29.9%); 449,888 non-Hispanic Black persons (20.3%); and 92,225 Asian persons (4.2%). *Id.*

21. According to the 2000 Census, Dallas County, Texas, had a voting-age population of 1,599,686 persons, including 783,669 non-Hispanic White persons (49.0%); 421,900 Hispanic persons (26.4%); 303,939 non-Hispanic Black persons (19.0%); and 68,341 Asian persons (4.3%). *Id.*

22. According to the 2010 Census, Dallas County, Texas, has a population of 2,368,139 persons, including 784,693 non-Hispanic White persons (33.1%); 905,940 Hispanic persons (38.3%); 527,116 non-Hispanic Black persons (22.3%); and 124,466 Asian persons (5.3%). *Id.*

23. According to the 2010 Census, Dallas County, Texas, has a voting-age population of 1,713,876 persons, including 657,889 non-Hispanic White persons (38.4%); 569,832 Hispanic persons (33.2%); 373,314 non-Hispanic Black persons (21.8%); and 94,108 Asian persons (5.5%). *Id.*

24. According to the 2010 American Community Survey 1-year estimates, Dallas County, Texas, has a citizen voting-age population of 1,347,955 persons, including 645,263 non-Hispanic White

persons (47.9%); 268,718 Hispanic persons (19.9%); 356,532 Black persons (26.4%); and 54,984 Asian persons (4.1%). *Id.*

iii. Tarrant County

25. According to the 2000 Census, Tarrant County, Texas, had a total population of 1,446,219 persons, including 895,253 non-Hispanic White persons (61.9%); 285,290 Hispanic persons (19.7%); 186,105 non-Hispanic Black persons (12.9%); and 55,912 Asian persons (3.9%). *Id.*

26. According to the 2000 Census, Tarrant County, Texas, had a voting-age population of 1,039,747 persons, including 681,298 non-Hispanic White persons (65.5%); 179,185 Hispanic persons (17.2%); 123,199 non-Hispanic Black persons (11.8%); and 39,914 Asian persons (3.8%). *Id.*

27. According to the 2010 Census, Tarrant County, Texas, has a total population of 1,809,034 persons, including 937,135 non-Hispanic White persons (51.8%); 482,977 Hispanic persons (26.7%); 271,513 non-Hispanic Black persons (15.0%); and 91,166 Asian persons (5.0%). *Id.*

28. According to the 2010 Census, Tarrant County, Texas, has a voting-age population of 1,301,973 persons, including 736,930 non-Hispanic White persons (56.6%); 298,169 Hispanic persons (22.9%); 183,493 non-Hispanic Black persons (14.1%); and 65,446 Asian persons (5.0%). *Id.*

29. According to the 2010 American Community Survey 1-year estimates, Tarrant County, Texas, has a citizen voting-age population of 1,145,955 persons, including 728,246 non-Hispanic White persons (63.5%); 176,948 Hispanic persons (15.4%); 177,399 Black persons (15.5%); and 44,775 Asian persons (3.9%). *Id.*

B. Racially Polarized Voting

30. The Black Congressional Intervenors in *Perez v. Perry* retained Dr. Richard Murray to review C185 and speak about voting patterns in the state of Texas. Testimony of Dr. Richard Murray.

Trial Tr. 20:13-21:7. January 20th, 2012 PM. Dr. Murray is an expert in political science and racially polarized voting. Ex. DX-347, Murray Report. *Id.* at 19:6-21:7.

31. The NAACP Plaintiffs in *Perez v. Perry* retained Dr. Orville Vernon Burton to review the history of discrimination in Texas for this litigation. Ex. DX-372, Lichtman Expert Report, 1-2.
32. Dr. Burton is a judicially recognized expert in the fields of redistricting, reapportionment, and racial voting patterns and behavior in elections in the United States. Ex. DX-12, TLC Report: C100_2004_General_RED225, 3-11.
33. The Homogeneous Precinct Analysis performed by Dr. Murray indicated the presence of racially polarized voting in Dallas County. Ex. DX-347, Murray Report, 33.
34. That analysis showed a high level of political cohesion between African-American and Latino voters in Dallas County. *Id.*
35. That analysis also indicated that Anglos vote as a bloc against the minority-preferred candidate. *Id.*
36. The second Homogeneous Precinct Analysis performed by Dr. Murray indicated the presence of racially polarized voting in Harris County. Ex. DX-347, Murray Report, 20.
37. That analysis showed a high level of political cohesion between African-American and Latino voters in Harris County. *Id.*
38. That analysis also indicated that Anglos vote as a bloc against the minority-preferred candidate. *Id.*
39. An ecological regression analysis performed by Dr. Allan Lichtman of 5 general statewide elections from 2008 and 2010 showed universal and substantial joint voter cohesion between African-American and Latino voters, and that only 22 percent of Anglo voters supported the candidates of choice of African-American and Latino voters. Ex. DX-372, Lichtman Report, 7.

40. Dr. Stephen Ansolabehere performed an ecological regression analysis and a homogeneous precinct analysis of statewide elections. Both analyses showed overwhelming political cohesion between Latino and African-American voters, and showed high polarization rates: roughly 50 points between Anglos and Latinos, and more than 60 points between Anglos and African-Americans. Ex. DX-724, Ansolabehere Report, 33.

41. Dr. Morgan Kousser found that in general elections, African-American, Latino, and Asian American voters are political cohesive in support of Latino candidates. Ex. DX-5, Kousser Report, ¶1.

42. Dr. Kousser found that the general election contests of 2010 in Texas were markedly racially polarized. Ex. DX-5, Kousser Report ¶29.

43. Racially divergent voting behaviors are not best explained by partisan affiliation. Ex. DX-347, Murray Report, 19-22.

44. Campaign materials circulated in the 2010 House race for District 96 sent out by Republican candidate Bill Zedler were clearly intended to conjure up racial fears and stereotypes among the Anglo voters who received them. In one ad, he pictured Mr. Turner with an image of President Obama and a blue Cadillac with a caption stating , "He [Mr. Turner] voted to allow Cadillac drivers to receive welfare." Ex. DX-802. Sworn Statement of Chris Turner. Docket No. 317-1, 43.

45. The racially polarized voting expert employed by the state, Dr. John Alford, used a statewide functional approach to analyzing retrogression that did not appear in his original report. Tr. Test. of Dr. John Alford, 46:24-25; 47:1, January 24, 2012.

46. The summing approach used in that new analysis does not appear in any peer-reviewed journals. Tr. Test. of Dr. John Alford, 48:22-25, 49:1-6, January 24, 2012.

47. No other experts in Section 5 cases have ever used this summing approach. Tr. Test. of Dr. John Alford, 49: 16-20, January 24, 2012.

48. The effective election to examine in conducting cohesion analysis under the Voting Rights Act is the general election, not the primary election. Ex. DX-348, 5.

C. History of Discrimination in Voting in Texas

49. One of the founders of the League of United Latin American Citizens in 1929, M. C. Gonzalez, included among adverse conditions in Texas for Latinos in the decade of the 1920s, "the establishment of 'white man's'primaries to prevent blacks and Mexican Americans from exercising their right to vote." Ex. DX-832, Burton Report, 18.

50. Beginning in the 1890s and lasting for many decades, lynching became a standard form of racial intimidation in Texas. Between 1890 and the 1920s, Texans lynched 309 men, more than any other state. Of these, 249 were African American. Ex. DX-832, Burton Report, 19.

51. As Mexican immigration to Texas increased, Jim Crow laws found their way into Latino society. Ex. DX-832, Burton Report, 20.

52. In 1920, the sole Latino member of the state legislature, J.T. Canales, who had called attention to abuses of Latinos by the celebrated Texas Rangers, left politics. The next time a Latino was elected to the state legislature was in 1956, when Henry B. Gonzales of San Antonio was elected. Ex. DX-832, Burton Report, 20.

53. This history of discrimination has fostered a community of interest between Texas African Americans and Hispanics. Ex. DX-832, Burton Report, 20.

54. Beginning in 1902, a series of acts sought to disfranchise several groups including African Americans, Latinos, and poor whites. The major disfranchising device in Texas was the use of a poll tax as a prerequisite for voting. Ex. DX-832, Burton Report, 22.

55. Because both African Americans and Latinos were disproportionately poor, the cost of paying the poll tax helped keep minority registration and turnout low for much of the first half of the twentieth century. Ex. DX-832, Burton Report, 22.

56. The Voting Rights Act of 1965 authorized the United States Attorney General to challenge the use of the poll tax in state elections, and a federal court promptly struck the poll tax down as unconstitutional, in part, because it had been adopted in 1902 for the purpose of disfranchising African American voters. Ex. DX-832, Burton Report, 22.

57. Without a poll tax to hinder minority voters, the Texas legislature imposed a restrictive voter registration system requiring annual registration of all voters months before elections were to be held. This system, which a federal court found to have a substantial disfranchising effect, was struck down in *Beare v. Smith*, 321 F. Supp. 1100 (S.D. Tex. 1971); aff'd sub nom *Beare v. Briscoe*, 498 F.2d 244 (5th Cir. 1974). Ex. DX-832, Burton Report, 23.

58. The following year, the state enacted a new purge law that would have required reregistration of the entire state electorate. These kinds of purges tend to eliminate minority voters from the rolls. Ex. DX-832, Burton Report, 23.

59. The extension of the preclearance requirement of the Voting Rights Act to Texas in 1975, however, prompted the Department of Justice to object to implementation of the new purge law, which a federal court then enjoined. By 1975, the attempts to hinder voting in Texas had become so obvious that the United States Congress extended Section 5 of the Voting Rights Act to cover Texas. Ex. DX-832, Burton Report, 23.

60. Between 1975 and 1990, the Department of Justice "interposed 131 objections to voting procedures" embracing the full range of "illegal procedures: racial gerrymandering, discriminatory purges of registered voters, imposition of numbered posts and the majority runoff requirement, annexations that diluted minority votes, a faulty bilingual oral assistance program, reduction in the number of elected officials, transfer of duties from one official to another, and unfair changes in election dates." Ex. DX-832, Burton Report, 23.
61. Between 1982-2005, Texas failed to submit numerous changes for Section 5 review and 29 of the 105 successful Section 5 enforcement actions were from Texas – more than from any other state. Ex. DX-832, Burton Report, 23.
62. There were also several Texas vote dilution cases in which prior federal courts found intentional discrimination. *See Williams v. City of Dallas*, 743 F. Supp. 1317 (N.D. Tex. 1990); *LULAC v Midland Indep. School Dist.*, 648 F. Supp. 596 (W.D. Tex. 1986); *Political Civil Voters Org. v. City of Terrell*, 565 F. Supp. 338 (N.D. Tex. 1983) Ex. DX-832, Burton Report, 24.
63. Texas began to use the white primary as a means of *de facto* disfranchisement after adoption of the Terrell Election laws in 1903 and 1905. Ex. DX-832, Burton Report, 24.
64. Those voting in the party primary had to affirm, "I am a white and I am a Democrat." Ex. DX-832, Burton Report, 24.
65. The author of the "Terrell Election Law," which established a direct primary and required the payment of a poll tax between October and February, clearly stated that the purpose of the law was to prevent opening "the flood gates for illegal voting as one person could buy up the Mexican and Negro votes." Ex. DX-832, Burton Report, 24.

66. Proponents of the Terrell legislation also noted that Mexicans and blacks would either fail to pay so far in advance or lose their receipts when election time came around. Ex. DX-832, Burton Report, 24.

67. In 1918, African Americans successfully challenged a white primary in Waco, Texas, and gained access to voting privileges there. Ex. DX-832, Burton Report, 24.

68. In response, the Texas State Legislature outlawed the participation of African Americans in Democratic primaries statewide. Ex. DX-832, Burton Report, 24-25.

69. In 1918, the Texas Legislature passed a law eliminating the interpreter at the voting polls and stipulating, moreover, that no naturalized citizens could receive assistance from the election judge unless they had been citizens for twenty-one years. Ex. DX-832, Burton Report, 25.

70. In 1923, the Texas Legislature enacted a law declaring that "in no event shall a negro be eligible to participate in a Democratic primary election held in the State of Texas." Ex. DX-832, Burton Report, 25.

71. The State Democratic Executive Committee then resolved to "limit primary participation to white Democrats … and none others." Ex. DX-832, Burton Report, 25.

72. Although this law was successfully challenged in the Supreme Court, the Texas Democratic Party made slight adjustments to the rule until, in *Grovey v. Townsend* (1935); it was unanimously held that if the Democratic Convention decides to exclude African Americans it was constitutionally acceptable to do so. Ex. DX-832, Burton Report, 25.

73. This standard was not overturned until the landmark 1944 Supreme Court decision *Smith v. Allwright* that held the "white primary" to be unconstitutional. Ex. DX-832, Burton Report, 25.

74. Texas has continued to hinder minority voting with the use of vote dilution techniques. For example, since the 1960s there have been constant legal challenges to the system of election districting in Texas. Ex. DX-832, Burton Report, 25.

75. Kicking off the set of legal challenges to voting districting in Texas was the *Graves v. Barnes* (1972) decision that became the important *White v. Regester* (1973) decision, which outlawed multimember districts as unfair to minorities. Ex. DX-832, Burton Report, 25-26.

76. The move away from district and ward elections for local jurisdictions in Texas to dilute the minority vote is well documented by Brishetto. For example, in 1953 the City of Austin went to a majority run-off in the at-large election system and opposed single shot voting. *Id.* at 31.

77. In Dr. Burton's report on redistricting and in his testimony in court on Texas for 2003 he discussed the state's attempts to crack, pack, and break minority voting districts. *Id.* at 32.

78. Since at least 1991, Benjamin Ginsberg, an attorney for the Republican National Committee, devised a plan to use the Voting Rights Act itself to further racially polarize politics. He deliberately set out a strategy for Republicans to advocate for "bleaching" white districts and "packing" minority districts, especially African American districts. *Id.*

79. Although Dr. Burton's report is not about the Texas State Senate, he notes that there appears to be at least two of those state district plans which are the result of this policy of packing to diminish the influence of African American voters and to also reduce African American influence districts. Ex. DX-832, Burton Report, 32.

80. African Americans in particular were excluded from the Democratic Party, which was the dominant political party until the 1944 elimination of the white primary. For a long time it was difficult for African Americans to be selected by the Party as candidates. Ex. DX-832, Burton Report, 32.

81. Now African Americans and Latinos have influence in the Democratic Party, but less so in the Republican Party. Since the mid-1990s, the Republican Party has slated both African American and Latino candidates, but the slated candidates generally have not been able to win. Ex. DX-832, Burton Report, 32-33.
82. For example, in the 1994 statewide Republican Primary for State Treasurer, African American Grady Yarborough received a plurality but lost in a run off when his opponent publicized Yarborough's picture as part of racial politics. Ex. DX-832, Burton Report, 33.
83. In 2000 and 2001, the NAACP held hearings and gathered testimony in Houston, Fort Worth and Texarkana about problems such as voter intimidation, the challenging of African Americans at the poll and the purging of African American voters from the rolls. Ex. DX-832, Burton Report, 59.
84. In each instance, witnesses testified to abuses in their attempts to register and to vote. People were very confused by the moving of so many precincts at the last moment. Ex. DX-832, Burton Report, 59.
85. Several African Americans reported harassment and misinformation from white poll watchers. In at least one instance, a TV station reporter covered the lack of responsiveness of Anglos at the polls to African American attempts to vote. Ex. DX-832, Burton Report, 59.
86. In Dr. Burton's report in 2003, he also cited two other examples to illustrate both the state's lack of response and state efforts at restricting voting. One, with help from the NAACP, the Texas legislature passed a bill that would post voters rights at each polling place, but then the governor vetoed it. Ex. DX-832, Burton Report, 59.

87. In the second example, the legislature passed House Rule 54, which has been enacted into law; this bill makes it easier to prosecute an individual who might help someone elderly vote. Ex. DX-832, Burton Report, 59.

88. Dr. Dwight Steward had been conducting studies of racial profiling and racial disparities in the Criminal Justice system; he documented different treatments of minorities (African Americans and Latinos) from Anglos. The report on racial profiling, *A Statistical Examination of Racial Profiling*, showed that African Americans were significantly more likely, even after taking into account all driver and traffic related factors, to be searched by police than Anglos. Ex. DX-832, Burton Report, 59-60.

89. Waller County is home to Prairie View A&M, a historically black college that is affiliated with the predominately white college, Texas A&M. Ex. DX-832, Burton Report, 61. For at least forty years, Waller County has consistently tried to prevent African American Prairie View A&M students from voting in local elections. Ex. DX-832, Burton Report, 61.

90. In a fairly recent case, *Prairie View Chapter of NAACP v. Kitzman; Prairie View Chapter of NAACP v. Waller County, Texas*, the Houston Division of the Texas district courts established the following facts in a settlement agreement for that case: 1) District Attorney Kitzman wrote a letter published in the *Waller Times* expressing a willingness to prosecute people for "illegal voting" on the grounds of "improper domicile" if one did not meet his particular definition of domicile; 2) PVAMU students are the only group in Waller County who Kitzman specifically refers to as not meeting his definition of domicile; 3) PVAMU students attend a historically black university, and understood the letter to mean that the District Attorney would prosecute them if they were to exercise their right to vote. Ex. DX-832, Burton Report, 61-62.

91. More recently, *United States v. Waller County, TX (S.D. Tex. 2008);* involved officials in Waller County, Texas, who implemented questionable practices that discouraged voting. Waller County implemented its new voting practices without first obtaining Section 5 preclearance as mandated by the Voting Rights Act. Ex. DX-832, Burton Report, 62.

92. Socioeconomic factors have a direct influence on voting. Citizens of higher social and economic status participate more in politics. In the South, the disparity between the rich and the poor and between the educated and uneducated is even more pronounced. These factors have a disparate racial impact since African Americans and Latinos remain grouped in the ranks of lower social, educational, and economic status. *Id.* at 33-34.

93. In Texas, the disparities between White, African-American, and Latino socioeconomic positions are considerable. On the whole, white Texans show significantly higher levels of important socioeconomic indicators, such as education and economic prosperity, than do their African-American and Latino counterparts. These socioeconomic disadvantages experienced by African Americans and Latinos constitute a clear hindrance to the effective participation of those groups in the political process. *Id.* at 36.

94. In Texas, there is a clear divide between the different racial and ethnic groups on all levels of the economic spectrum. During 2009, just 8.8% of whites had income below the poverty line, while 24.0% of African Americans and 25.8% of Latinos were below the poverty line. During 1999, 7.7% of whites had income below the poverty line, while 23.3% of African Americans and 25.3% of Latinos were below the poverty line. *Id.* at 36-37.

D. Texas' Population Growth

i. Overview

95. The State of Texas projects that the rapid increase in the minority share of population in the state is ongoing and will continue, so that the Anglo majority will continue to shrink in the future. Ex. DX-1014, Decl. of Rogelio Saenz, 2-4, 4-6; Ex. DX-734, Supplemental Report and Direct Testimony of Rogelio Saenz, 4-6; Ex. DX-1010, News Article: Texas Gains the Most in Population Since the Census.

96. The growth in minority population is due primarily to the age profile of minority citizens, including particularly Hispanic persons, as compared to white non-Hispanic persons, and the resulting higher minority fertility rates. Decl. of Rogelio Saenz, 2-4.

97. Since at least 1990, a majority of children born in Texas (all US citizens) have been minorities, and the minority proportion has been increasing and will continue to increase. Ex. DX-1014, Attachments from Opposition to Summary Judgment Motion by TLBC, NAACP, and LULAC, Exhibit 10.

98. Within urban areas, the minority population grew through the expansion of existing minority enclaves into neighboring areas, so that the growth has created new areas where minorities predominate; that is, new areas sufficient to form legislative districts in which minority citizens comprise a majority of the population thus have arisen organically. Ex. DX-734. Supplemental Report and Direct Testimony of Rogelio Saenz, 11-12.

99. Rogelio Saenz is a sociologist and demographer. He is an expert in the areas of demography, social inequality, sociology of Latino/as, and immigration. Ex. DX-734, Decl. of Rogelio Saenz, 1. He performed an analysis of the demographic trends and projected population changes in certain legislative districts in the State of Texas. *Id.*

100. The growth in the Texas population between 2000 and 2010 was due almost exclusively to the nonwhite segment of the population. *Id* at 2.

101. Of the nearly 4.3 million people added to Texas' population, nonwhites accounted for approximately nine of every ten people added. *Id.*

102. The nonwhite population increased by more than 3.8 million compared to a growth of only 464,000 among the white population. *Id.*

ii. Dallas

103. The non-white population grew by 28 percent in Dallas County between 2000-2010, accounting for 100 percent of the population growth. The white population declined by 20 percent. *Id.* at 5-6.

104. Between 2010 and 2020, the nonwhite population is expected to grow dramatically and account for all of the population growth in Dallas County. *Id.*at 6.

105. Much of the county's population growth was reflected in natural minority expansion in two House districts, 101 and 106. From 2000 to 2010, district 101 had increased from 36.0 percent to 59.7 percent minority in total population while district 106 had increased from 51.9 percent to 70 percent minority in total population. Ex. DX-734. Supplemental Report and Direct Decl. of Rogelio Saenz, Appendix B, Table 2. Ex. DX-4, 2003 House Submission Population Data, Ex. DX-1012, RED-100 Report for H100, Ex. DX-1013, RED-M201 Report for Plan 01369H.

106. The exodus of Anglo population and the entry of minority residents constituted a shift of over 6,600 persons each year in district 101 and over 7,000 persons each year in district 106. *Id.*

107. The population shifts in Dallas County also created a compact concentration of minority population that emerged naturally in northeastern Dallas; the concentration corresponds to House district 107 in the *Perez* court's interim map and has a substantial minority majority. DX 585, Perez v. Perry Remedial/Interim Map Hearing Transcripts: Day 2, at 256; DX 346, Maps and

Data for H202, 1. 4; *Perez v. Perry*, Doc. No. 528, 14-15 (W.D. TX. Nov. 23, 2011) (order adopting Plan H302 as interim plan); Ex. DX-734. Supplemental Report and Direct Testimony of Rogelio Saenz, 11-12, 39-40. DX: 346: Maps and Data for H202.

108. Natural growth in the southeastern position of the county increased the minority share of population in House district144 where so that minorities comprised 69.3 percent of the total population. Perez supp, 13-14; Perez v. Perry, Doc. No. 549, 13-14 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders); Ex. DX-734. Supplemental Report and Direct Testimony of Rogelio Saenz, table 2, DX 4, 2003 House Submission Population Data, Ex. DX-1013, RED-M201 Report for Plan 01369H.

iii. Fort Bend

109. The non-white population grew three times faster than the white population in Fort Bend County between 2000-2010 and accounted for 79% of the population growth. *Id.* at 5-6.

110. Population growth in Fort Bend County was reflected in House district 26 which increased from 44 percent minority in 2000 to 60.6 percent minority in 2010. Ex. DX-734, Supplemental Report and Direct Testimony of Rogelio Saenz, Table 2; Ex. DX-4, 2003 House Submission Population Data, Ex. DX-1013, RED-M201 Report for Plan 01369H.

111. The exodus of Anglo population and the entry of minority residents constituted a shift of over 6,200 persons each year in district 26. *Id.*

iv. Harris County

112. The non-white population grew by 39 percent in Harris County between 2000-2010, accounting for 100 percent of the population growth. The white population declined by 6 percent. Ex. DX-734, Decl. of Rogelio Saenz, 5-6.

113. Between 2010 and 2020, the nonwhite population is expected to grow dramatically and account for all of the population growth in Harris County. Ex. DX-734, Decl. of Rogelio Saenz, 6.

114. The exodus of Anglo population and the entry of minority residents constituted a shift of over 6,200 persons each year in district 144. *Id.*

v. Bell County

115. The non-white population grew three times faster than the white population in Bell County between 2000-2010, accounting for 71% of the population growth. Ex. DX-734, Decl. of Rogelio Saenz, 5-6.

116. In Bell County the growth of the population was reflected in a predominantly minority urban concentration in an otherwise slow-growing rural area. Perez v. Perry, Doc. No. 549, 18 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders).

117. In each of these areas residents have common economic and other interests so that each area constitutes a community of interest. Ex. DX-734. Supplemental Report and Direct Testimony of Rogelio Saenz p. 10.

vi. Tarrant County

118. The non-white population grew 12 times faster than the white population in Tarrant County between 2000-2010, accounting for 89 percent of the population growth. Ex. DX-734, Decl. of Rogelio Saenz, 5-6.

119. Between 2010 and 2020, the nonwhite population is expected to grow dramatically and account for all of the population growth in Tarrant County. Ex. DX-734, Decl. of Rogelio Saenz, 6.

120. In Tarrant County, the natural population was reflected in the expansion of minority areas so as to unite the central core minority communities with previously scattered minority communities in the eastern portion of the county. Ex. DX-734, Supplemental Report and Direct Testimony of Rogelio Saenz, Attachment 1.

121. The united minority population of Tarrant County is of sufficient size to provide for a compact district in the Texas Senate and a compact congressional district. Ex. DX 153, Map and Statistics PLANS120; Ex. DX-154, Map and Statistics PLANS121; Ex. DX-345, Maps and Data for C193.

E. Citizen Voting Age Population

122. The ***Red Appl system*** data presented by the State showing citizen voting age population (CVAP) for the various districts in each plan were derived from the American Community Survey (ACS) 2005-2009 rolling average survey. This survey reports CVAP as of 2007. Ex. DX-734. Supplemental Report and Direct Testimony of Rogelio Saenz p. 26-27; Ex. DX 724 Expert Reports of Stephen Ansolabehere14-16, 35.

123. The five-year rolling average has substantially greater accuracy for the discrete period reported than the survey results for individual years, and is used, inter alia, for determinations under section 203 of the Voting Rights Act in preference to more recent single-year data. *Id.*

124. The ***2005-2009*** ACS CVAP data ***in the Red Appl system*** do not account for the growth of Hispanic and other CVAP for 2007-2010 or 2007 to the present (2012). Ex. DX-734. Supplemental Report and Direct Testimony of Rogelio Saenz p. 26-27.

125. Dr. Rogelio Saenz is the Dean of the College of Public Policy at the University of Texas at San Antonio, site of the Texas state Data Center, and an expert in Demography and Sociology;

his expertise is unchallenged. Ex. D-734.Supplemental Report and Direct Testimony of Rogelio Saenz, p 1.

126. Dean Saenz has calculated the 2010 and 2012 CVAP percentages for selected districts for 2010 and 2012 as set forth below together with the 2000 CVAP:

	2000	2007	2010	2012
26	62.3	53.5	49.5	46.8
101	72.3	61.3	56.1	52.5
106	63.6	52.0	46.8	43.4
144	65.2	51.4	45.2	41.2

127. Dean Saenz projects a minority CVAP majority in district 101 in 2014 Ex. DX-734, Supplemental Report and Direct Testimony of Rogelio Saenz, 25-40, Appendix A, Table 3.

128. The calculations by Dean Saenz were made using standard demographic techniques and are un-rebutted on this record. The federal courts have accepted use of ACS data to project post-census minority CVAP. See *Benavides v. City of Irving*, 638 F.Supp. 2d. 709, 714-715, 739-730 (N.D. Tex. 2009). 2014 Ex. DX-734. Supplemental Report and Direct Testimony of Rogelio Saenz, 25-26.

F. Election returns

129. The Republican incumbent in district 106 switched to the Democratic Party after a close election in 2006. Ex. DX 24, TLC Report: H100_2006_General_RED225; Ex. DX-25, TLC Report: H100_2008_General_RED225.

130. In 2010, the Anglo Republican candidates for the legislature won by margin of 928 votes (51-48) in district 101 and by a margin of 204 votes (49-48) in district 106. Ex. DX- 26, TLC Report: H100_2010_General_RED225.

131. The Democratic candidate at the top of the ballot carried districts106 and 144 in both 2008 and 2010 after losing by substantial margins in 2002, 2004 and 2006. Ex. DX -22, TLC Report: H100_2002_General_RED225; Ex. DX-23 TLC Report:H100_2004_General_RED225; Ex. DX-24, TLC Report: H100_2006_General_RED225; Ex. DX-25, TLC Report: H100_2008_General_RED225; Ex. DX-26, TLC Report: H100_2010_General_RED225.-26

132. The margin in both districts was well below the annual change net change in minority population in 101 and 106 as set forth in paragraphs 127 and 128 above.

133. In 106 and 144, the Democrat at the top of the ticket won within the district in both 2008 and 2010. Ex. DX-25, TLC Report: H100_2008_General_RED225; Ex. DX-26, TLC Report: H100_2010_General_RED225.DX 25.

134. In the Legislature's plan for districts 106 and 144, the Democrat at the top of the ticket lost in 2008 and 2010, receiving in District 106 35.5% of the votes in 2008 and 30,1% in 2010 and receiving in District 144 36.8% of the votes in 2008 and 39.3% of the votes in 2010. Ex. DX-30, TLC Report: H283_2008_General_RED225; Ex. DX-31. TLC Report: H283_2010_General_RED225.

135. The southwestern and southeastern portions of District 10 are heavily Anglo in population, and offered alternative areas to add to Senate District 22 that would have lessened the reduction in minority population in Senate District 10. Ex. DX-140, Demographic Shade Maps for S148.

136. Numerous areas added to the northern border of redrawn Senate district 10 could have been retained in Senate District 12 instead of removing the heavily Hispanic stockyard area from Senate District 10.

137. District 26 needed to lose population but added new predominantly Anglo and removed heavily minority areas. Ex. DX-734, Supplemental Report and Direct Testimony of Rogelio Saenz, Table 2 (showing populations by district by race)*; Ex. DX 4*, 2003 House Submission Population Data, *Ex. DX-Ex. DX-1013, RED-M201 Report for Plan 01369H,* RED-M201 Report for Plan 01369H.

138. As noted by the *Perez* court the Legislature's House District 26 is bizarrely shaped, with fingers that reach out to include Anglo areas and exclude minority areas. *Perez v. Perry, Doc. No. 528, 11(W.D. TX. Nov. 23, 2011) (order adopting Plan H302 as interim plan).*

139. The State eliminated District 101 completely and transferred it out of Dallas County. Perez v. Perry, Doc. No. 549, 14 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders).

140. The new districts in the areas of district 101 fragment minority concentrations and communities of interest. Ex. DX-734, Supplemental Report and Direct Testimony of Rogelio Saenz p. 11-12.

141. The State plan eliminated District 106 completely and transferred it out of Dallas County. Perez v. Perry, Doc. No. 549, 14 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders).

142. The State plan replaced the core area of District 106 with extremely contorted districts (103, 104 and 105) so as to fragment a growing minority concentration and community of interest. Ex. DX-734, Supplemental Report and Direct Testimony of Rogelio Saenz (map depicting Dallas County black and Hispanic population by VTD under PlanH283)

143. Alternative plans, including H202, eliminated instead two under-populated (-24.49% and -15.97% respectively) districts, 114 and 115; maintained Districts 101 and 106 substantially

intact; respected municipal boundaries; united the northeastern minority concentration; provided for compact districts; and more closely adhered to the State's redistricting guidelines than the State's own plan. Ex. DX-734, Supplemental Report and Direct Testimony of Rogelio Saenz (map depicting Dallas County black and Hispanic population by VTD under PlanH283); Ex. DX-346, Maps and Data for H202.

144. The State plan redrew district 144 so as to reduce the minority percentage. Ex. DX-605, Proposed House Plan (H283) Harris Zoom

145. The State plan avoiding the minority population in adjacent districts, including district 128, and under-populated the district rather than include heavily Hispanic population in other Harris County districts. *Id.*

146. The State plan eliminated District 149 and transferred it out of Harris County. *Id.*

147. The State was aware that District 149 was a minority district under the benchmark plan. Ex. DX 289. 2-17-11 Hannah email (to Davis)

148. District 54 as drawn by the State divides a compact community of interest and combines an urban concentration with rural/ranching areas. *Perez v. Perry*, Doc. No. 549, 17 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders).

149. The State plan lowers and divides the rising minority voting strength in the urban concentration between District 54 and District 55. The *Perez* court created a separate district, also numbered District 54, consistent with the state's stated criteria because it considered it a naturally occurring district. *Perez v. Perry*, Doc. No. 549, 16-18 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders).

150. House districts 101, 106, 144, and 149 were within acceptable population deviations and did not need to be redrawn at all to comply with the requirements of the 14th Amendment.

Senate district 10 also was within acceptable population deviations and did not need to be redrawn. Ex. DX-816, H100 Plan Packet.

151. Under H283, the Legislature eliminated districts 101, 106, and 149 completely and reduced the minority population share in districts 26 and 144. *Id.*; Ex. DX-817 H283 Plan Packet.

152. Among other areas, House districts 26, 106, and 144 in the benchmark plan are areas in which minority voters enjoy the present ability to elect representatives of their choice. *See* paragraphs 134, 135, 138, 139, 141, above.

153. Among other areas, House Districts 54 and 101 in the benchmark plan are areas in which minorities have an opportunity and foreseeably will have the ability to elect representatives of their choice. *See* paragraphs 136, 137, 145, 146, above.

154. The Texas State Demographer was present at hearings on redistricting to advise of the growth patterns and the Legislature was aware of population trends. Test. of Rep. Todd Hunter. Trial Tr. 55, 60 January 17, 2012 AM.

G. Precinct Splits

155. The State's proposed House Senate and congressional redistricting plans divide over 900 precincts between two or more districts. Perez v. Perry, Doc. No. 549, 21 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders); Ex. DX-533, Split VTDs by District (Congress); Ex. DX-534, Split VTDs by District (House); Ex. DX-535, Split VTDs by District (Senate).

156. As detailed in *Vera v. Richards*, 861 F. Supp. 1304, 1325, 1340 (S. D. TX 1994); the effect of contorted district lines and "splitting dozens of VTD's…was an electoral nightmare." The court noted that "voters were confused and frustrated. They did not know… the candidates

running for office. The boundaries had become so complex that the county clerk's office sent the wrong ballots to certain precincts and erroneously counted those votes within the wrong District... as a result of the complex new district lines." *Vera v. Richards,* 861 F. Supp. 1304, 1325, 1340 (S.D. Tex. 1994) aff'd sub nom. *Bush v. Vera*, 517 U.S. 952, (1996).

157. Prior to any election, all precinct splits must be reconciled with each other and with precinct splits by the various counties' redistricting plans; counties must reassign voters, identify and obtain new polling sites, and print and distribute new voter registration cards; and changes in precinct lines and polling places by the individual counties are subject to section 5 review. 42 U.S.C. 1973c.

158. Minority citizens labor under numerous disadvantages due to the effects of past discrimination including the effects of segregated schools: many lack reading and/or English language skills, internet skills and other resources for obtaining election information. Test. of George Korbel, Trial Tr. 61-62, January 19, 2012; Ex. DX-1114 Attachments from Opposition to Summary Judgment Motion by TLBC, NAACP, and LULAC, Exhibits12, 17-18, pp 122-125, 145-153.

159. The precinct splits occur primarily in predominantly minority districts and primarily affect minority voters. Ex. DX-1014, Attachments from Opposition to Summary Judgment Motion by TLBC, NAACP, and LULAC, 62-93 122-125

160. These tasks involve significant financial costs for the counties: Travis County projects an additional cost of $900,000 due to precincts split by the state plans within that county. Test. of George Korbel, Trial Tr. 32:5-8, January 19, 2012.

161. The splitting of precincts imposes burdens on individual voters, including difficulty locating their polling places. Test. of George Korbel, Trial Tr. 33:15:17, January 19, 2012.

162. Alternative plans rejected by the State split far fewer voting precincts and avoided disruption and fragmentation of vulnerable minority communities. *Perez v. Perry*, Doc. No. 549, 21 (W.D. TX. Nov. 23, 2011) (supplemental opinion clarifying legal issues in two prior orders).

163. The interim House and congressional plans adopted by the *Perez* court split a total of – precincts among the three plans as opposed to a total of 940 VTDs in the State's enacted House, Senate and Congressional plans.) *Perez v. Perry*, Doc. No. 549, 21 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders); Ex. DX-533, Split VTDs by District (Congress); Ex. DX-534, Split VTDs by District (House); Ex. DX-535, Split VTDs by District (Senate).

164. The court was able to craft a House plan with only 8 VTD cuts; in contrast, the enacted plan appears to have 412 VTD cuts. *Perez v. Perry*, Doc. No. 549, 11, 21 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders).

165. The court-drawn congressional plan contains three VTD cuts compared to 518 VTD cuts in the State's enacted plan. *Perez v. Perry*, Doc. No. 549, 21 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders); Ex. DX-533, Split VTDs by District (Congress).

166. Alternative plans rejected by the State split far fewer voting precincts and avoided disruption and fragmentation of vulnerable minority communities.

167. The interim plans adopted by the Perez court split a total of 8 precincts in the House plan as compared with 412 in the Legislature's plan. *Perez v. Perry*, Doc. No. 549, 11, 21 (W.D. TX. Dec. 2, 2011) (supplemental opinion clarifying legal issues in two prior orders).

H. Intentional Discrimination in the Congressional Plan (C185)

i. Overview

168. Dr. Theodore Arrington is an expert on redistricting and the effects of party and race on voting behavior. Ex. DX-739, Decl. of Theodore Arrington, ¶¶5-7, October 19, 2011.

169. He analyzed whether proposed Congressional plan C185 and proposed House Plan H283 were intentionally drawn to minimize, cancel out, or reduce the ability of Latino, Black, Asian and other minority voters to elect the candidate of their choice. *Id.* ¶2.

170. CD 185 was drawn with the intent to prevent any reflection of the explosive growth of the Hispanic population and the relative decline of the voting strength of Anglo voters since the 2000 census. *Id.* ¶3.

171. C185 created no additional Latino opportunity districts in the Dallas-Fort Worth area. Ex. J-8; Ex. DX-581: Test. of Dr. John Alford. Trial Tr. September 14, 2011, 1832-1834.

172. C185 created no additional African-American opportunity districts in the Dallas-Fort Worth area. Ex. J-8; Ex. DX-581: Test. of Dr. John Alford. Trial Tr. September 14, 2011, 1832-1834.

173. The Citizen Voting Age Population data relied upon by the state is produced by the American Community Survey. The ACS is a 5-year sampling. The ACS total enumeration data does not match the 2010 federal census total enumeration data. Ex. DX-578: Test. of Dr. Stephen Ansolobehere. Trial Tr. September 10, 2011, 1100:19-22.

174. CD 185 accomplished this by drawing exactly the number of districts necessary to procure preclearance while concentrating Hispanic voters in districts and reducing the ability of Hispanics to elect candidates of their choice in two congressional districts. Testimony of Theodore Arrington, Trial Tr. 114: 9 –19. January 23, 2012 AM.

175. Dr. Richard Murray noted that the process of developing this Congressional plan was unusually secretive and involved an unusually little amount of input from legislators and congress members. Tr. Test. of Dr. Murray, 22: 21-25, January 20, 2012.

176. Dr. Murray testified that the process of redrawing the congressional plan was unusual even compared with the very aggressive Congressional plan pushed through by Tom DeLay in 2003. *Id.* at 22:19-21.

177. Representative Sylvester Turner, chairman of the Texas Legislative Black Caucus, testified that when compared to his previous experience with redistricting in the Texas House of Representatives, this round was by far the most hasty, with insufficient time to receive input from constituents and provide feedback to the mapdrawers. *Perez* Tr. Test. of Sylvester Turner, 7:14-19, September 7, 2011.

178. C185 created no additional Latino opportunity districts in the Dallas-Fort Worth area. Ex. J-8; Ex. DX-581: Test. of Dr. John Alford. Trial Tr. September 14, 2011, 1832-1834.

179. C185 created no additional African-American opportunity districts in the Dallas-Fort Worth area. Ex. J-8; Ex. DX-581: Test. of Dr. John Alford. Trial Tr. September 14, 2011, 1832-1834.

180. Mr. Opeila sent an email to Mr. Interiano requesting a measure that could indicate which precincts have both relatively high Hispanic concentrations and relatively low Hispanic performance. Testimony of Theodore Arrington, Trial Tr. 115:17 – 116:1. January 23, 2012.

181. Mapmakers can maintain a district's Hispanic concentration but lowers its Hispanic voter participation by placing precincts with both relatively high Hispanic concentrations and relatively low Hispanic performance into target districts. *Id.* at 116:2 – 6.

182. Mr. Interiano stated that he wanted to maintain districts' Hispanic concentration while lowering its Hispanic voter participation by placing precincts with both relatively high Hispanic concentrations and relatively low Hispanic performance into target districts. *Id.* at 116:2 – 8.

183. Z scores demonstrating racial splits in split VTDs assessed by Dr. Arrington show that it is not credible that the statistical significance of the figures could be account for by such non-racial factors. *Id.* at. 29:12-30:14

ii. CD 9

184. In Harris County, African-American, Latino and Asian-American have demonstrably worked together to elect representatives responsive to their community. Ex. DX-721, Test. of Alexander Green, pre-filed direct, 3.

185. The existing 9th District is compact, encompassing south central Harris County and a small part of Fort Bend County, and contains near the required population, with a surplus of 35,508 people, or 5.05%, so that very little alteration was required. Ex. DX-347, Murray Report, 28.

186. C185 makes major changes, unnecessarily carving out the district's center and expanding the district into farther into Fort Bend County. These changes have a negative impact the effectiveness of the district as African American opportunity district as well as the effectiveness of its Congressional representative. Ex. DX-347, Murray Report, 28.

187. In Congressional Plan C185, changes were made to CD 9 that undermined its ability to continue performing as an African-American opportunity district over the next decade and to limit the influence of minority voters in the district. Ex. DX-347, Murray Report, 27-37; DX-579: Test. of Rep. Alexander Green. Trial Tr. September, 12, 2011, 1335:3-6, 1357:2-7; Ex. DX-348, Murray Supplemental Report, January 12, 2012, 3.

188. Traditional minority neighborhoods were replaced with upscale developments, and it is inevitable that growth in these areas will lead to the dilution of the CD 9's minority voting strength. Ex. DX-721, Test. of Alexander Green, pre-filed direct, 3.

189. The addition of a large and relatively undeveloped area in Fort Bend County likely to attract whites will weaken the voting power of the district's people of color over the coming decade. Ex. DX-347, Murray Report, 28; Ex. DX-577: Test. Richard Murray. Trial Tr.1048:15-16, September 9, 2011.

190. The changes included removing the minority incumbent's district office and removing economic generators from the district. Ex. DX-721, Test. of Alexander Green, pre-filed direct, 3. Ex. DX-347, Murray Report, 27-37; Ex. DX-579: Trial Tr. September, 12, 2011, 1335:3-6, 1357:2-7.

191. The district office provides a meaningful connection between a member and the people represented. Rep. Green's district office is in a location that is well-known to his constituents and has been in its present location since 2006. Ex. DX-721, Test. of Alexander Green, pre-filed direct, 4. It has easy access to major freeways, mass transit, and many of the important centers of business activity within the Ninth Congressional District such as the Texas Medical Center, the VA hospital, and the Astrodome complex. *Id.*

192. The Astrodome, Medical Center, Houston Baptist University and the rail line were all removed from CD 9. Ex. DX-721, Test. of Alexander Green, pre-filed direct, 3.

193. Removing economic generators from CD 9 diminishes the Congressional representative's ability to leverage such assets for the benefit of a district that contains a high percentage of persons below the poverty line and families without health insurance. Ex. DX-347: Murray Report, 28.

194. These changes can be explained in no other way besides impermissible racial discrimination. Ex. DX-347, Murray Report, 27-37; DX-579: Test. of Rep. Alexander Green. Trial Tr. September, 12, 2011, 1335:3-6, 1357:2-7. Ex. DX-721, Test. of Alexandr Green, pre-filed direct, 6; Ex. DX-348, Murray Supplemental Report, January 13, 2012,

iii. **CD 18**

195. The existing 18th district is moderately over-populated, with a surplus of 22,503 people, or 3.22%, requiring only minor changes to meet the one-person/one-vote requirement. Ex. DX-347, Murray Report, 29.

196. In spite of this, C185 makes major disruptive changes to the district. Ex. DX-347: Murray Report, 29.

197. In Congressional Plan C185, changes were made to CD 18 that undermined its ability to continue performing as an African-American opportunity district over the next decade and to limit the influence of minority voters in the district. Ex. DX-347, Murray Report, 27-37; Ex. DX-579, Test. of Rep. Sheila Jackson-Lee. Trial Tr. September, 12, 2011, 1515:18-19, 1517:4-7.

198. The changes included removing the minority incumbent's district office, removing economic generators from the district, and splitting from the district African-American communities that have been longstanding parts of the district. Ex. DX-347: Murray Report, 29.

199. The downtown business district has traditionally been the economic engine of the 18th District, now represented by Rep. Jackson-Lee since it was drawn in the 1960s. *Id.*

200. C185 removed the business district from the 18th District, as well as Rep. Jackson-Lee's Congressional office. Test. of Rep. Sheila Jackson-Lee. Trial Tr. 13:13–14:5, January 23, 2012.

201. Rep. Jackson-Lee's district office had been used by the previous two representatives of the 18th District. Constituents in the district knew where the office was and would go to it to seek services. *Id.* at. 13:13–14:11.

202. The business district was also vital to the 18th District, as corporations provided funding for constituent initiatives, like hosting job fairs, keeping public pools open and partnering with local primary schools, secondary schools and colleges. *Id.* at 13:13-15:22.

203. Under C185, District 18 extends a corridor into the Fondren Southwest area that has nothing in common with existing district residents. Ex. DX-347: Murray Report, 29-30.

204. Additionally, C185 splits the Third Ward-MacGregor area, one of the most important traditional communities in Houston and home to many of Houston's African American opinion leaders, dividing a traditional black community that has been in the 18th District since the district's creation in 1972. *Id.*; Ex. DX-577, Test. Richard Murray. Trial Tr.1051:5-9, September 9, 2011.

205. Congresswoman Sheila Jackson Lee went to a public redistricting hearing to urge state lawmakers to respect communities of interest in the 18th Congressional District. That pleading was ignored, and those communities of interest were splintered. Test. of Rep. Sheila Jackson-Lee. Trial Tr. 10:17–11:1, January 23, 2012.

206. Congresswoman Sheila Jackson Lee, on her own initiative, traveled to Texas to meet with the chairs of the House and Senate Redistricting Committees, but her concerns were not taken seriously and those state lawmakers never followed up with the Congresswoman. *Id.* at 9:21-10:17

207. Splitting the Third Ward-MacGregor area, without reason or justification, shows disregard for its longtime residents and for preserving communities of interest in the black neighborhoods Ex. DX-347: Murray Report, 29-30.

208. Plan C185 adds a large group of fast-gentrifying precincts in the Montrose area, pushing up the Anglo VAP in the new district from 19.3% to 22.1% and the Asian/Other VAP to 6.2% from 4.1%. Ex. DX-347: Murray Report, 29-30.

209. Since inner city African American areas are likely to continue losing black residents over the next ten years, new territory with a growing Anglo population will contribute to a declining black population in the redrawn District 18. *Id.*

210. Thus, Plan C185 places District 18 at risk of no longer being an effective African American opportunity district over the course of the decade. *Id.*

211. These changes can be explained in no other way besides impermissible racial discrimination. Ex. DX-347, Murray Report, 27-37; EX-579, Test. of Rep. Sheila Jackson-Lee. Trial Tr. September, 12, 2011, 1515:18-19, 1517:4-7. Ex. DX-348:, Murray Supplemental Report, 3. January 13, 2012.

212. No Anglo Congressperson had their district office removed from their district. Test. of Rep. Sheila Jackson-Lee. Trial Tr. 14:12-15, January 23, 2012; Test. of Rep. Eddie Bernice Johnson. Trial Tr. 80: 12-18, January 18, 2012.

213. Anglo Congresspersons were accommodated for requests such as inclusion of country clubs and grandchildren's schools in their districts. Perez Ex. 311. (May 31, 2011; June 8, 2011 Marchant-Opiela email; June 8, 2011 Smith-Downton email).

iv. **CD 25 – Intentional Discrimination and Retrogressive Effect**

214. In Congressional Plan C185, the existing coalition district in CD 25 was dismantled with the intent to limit and diminish the electoral influence of minority voters in Travis County. Ex. DX-5, Kousser Report, 129; Ex. DX-802, "Sworn Statement of Dawnna Dukes," Dkt. No. 317-1, 32; Test. of Dawnna Dukes. Trial Tr. 101:21-102:11; Ex. DX-802, "Sworn Statement of Wilhelmina Delco," Dkt. No. 317-1, 42; Ex. DX-802, "Sworn Statement of Jeffrey Travillion," Dkt. No. 317-1, 19.

215. Congressional District 25 is represented by Congressman Lloyd Doggett. Ex. DX-802, Test. of Dawnna Dukes. Trial Tr. 115:2-4, January 19, 2012.

216. Lloyd Doggett is the candidate of choice of minority voters in CD 25. *Id.* at 101:8-23.

217. According to the NAACP Civil Rights Legislative Report Cards, Rep. Doggett received an A for consistently supporting the NAACP's position on key legislative votes from 2005 to 2010. Ex. DX-572, NAACP Report Cards.

218. There is an effective Tri-Ethnic coalition of Anglos, Latinos and African-Americans that has been effective in electing minorities to office in Travis County throughout the years. Ex. DX-802, Test. of Dawnna Dukes. Trial Tr. 85:2-87:25, January 19, 2012.

219. Under the benchmark plan, C100, African-American and Hispanic voters had the ability to elect the Congressional candidate of their choice. *Id.* at 101:4-16.

220. C185 diluted the influence of minority voters by dividing them into different districts. DX-802, Sworn Statement of Wilhelmina Delco, ¶13. Dkt. No. 317-1, 42.

221. Only in the eastern part of Travis County, where minorities reside, were communities of interest split, whereas the Anglos In West Austin were largely kept together as a community of interest. Ex. DX-802, "Sworn Statement of Dawnna Dukes," Dkt. No. 317-1, 33

222. Previously, the minority voters in CD 25 had been a clearly identifiable community that elected representatives responsive to their needs. *Id.* at ¶ 12-16.

223. Only in the eastern part of Travis County, where minorities reside, were communities of interest split, whereas the Anglos in west Austin were largely kept together as a community of interest. *Id.*

224. By splitting African-American areas, the mapmakers denied the community the opportunity to select the Congressperson of their choice and have largely isolated them into districts in which they will have no influence and with which they do not share community interest—for example, East Austin and Burnet County do not have any commonalities. *Id.*at 33.

225. Bexar County and Travis County have little in common, observe different festivals and dates of celebration, and do not share churches or schools. It would be very difficult for a Congressperson who represents a large number of Bexar County residents to meet the concerns of a small community in Travis County. A Congressional representative will be required to pick and choose between schools and other interests, and it is likely that the area with the smallest population will lose. *Id.* at 34

226. For more than 40 years, East Austin as a whole has had one Congressperson. In the 1940s, African-Americans were required to live east of I-35. It became a thriving by segregated community where African-American and Hispanic families lived. C185 completely breaks up this historic community. *Id.*

227. Under the proposed plan, C185, those voters will no longer have the ability to elect a candidate of their choice. *Id.* at 101:17-102:11.

v. **CD 30**

228. A coalition of minority voters has elected an African American District attorney, an Hispanic Sheriff, and numerous Judges on a county-wide basis. Test. of Eddie Bernice Johnson, Trial Tr. 72, January 18, 2012.

229. In Congressional Plan C185, changes were made to CD 30 that undermined its ability to continue performing as an African-American opportunity district over the next decade and to limit the influence of minority voters in the district. Ex. DX-347, Murray Report, 37; DX-579, Test. of Eddie Bernice Johnson. Trial Tr. September, 12, 2011, 1276:6-20. Test. of Eddie Bernice Johnson, Trial Tr. 76: 14-17, January 18, 2012.

230. The changes included removing the minority incumbent's district office and home and removing economic generators from the district. Ex. DX-347, Murray Report, 37; Ex. DX-579, Test. of Eddie Bernice Johnson. Trial Tr. September, 12, 2011, 1276:6-20. Test. of Rep. Johnson, Trial Tr. 79: 20-21. January 18, 2012

231. African-American, Latino and Asian constituents would come to Rep. Johnson's office from all over north Texas seeking assistance. Test. of Rep. Johnson, Trial Tr. 79: 20-80:11. January 18, 2012.

232. Every African-American Congressperson had their district office removed from their districts in C185. *Id.* at 80:12-16.

233. All the areas Rep. Johnson worked to improve, such as the American Center where the Mavericks play, transportation areas for the downtown park, and the arts district were removed from her district. *Id.* at 81:5-16.

234. In the benchmark plan, Congressional District 30 was 76.7% combined black and Hispanic voting age population. C100, Red-100.

235. In the proposed plan, Congressional District 30 is 81.5% combined black and Hispanic voting age population. C100, Red-100.

236. This increase in numbers results in a packed Congressional District 30. Tr. Test. of Eddie Bernice Johnson, 80:25, 81:1-6, January 18, 2012.

237. Congressional District 30 needed only minor changes, as it was only 7,891 people over the ideal population, or 1.14% overpopulated. C100, Red-100.

238. Despite this fact, significant changes were wrought to the district. Test. of Eddie Bernice Johnson. Trial Tr. 81:12-16, January 18, 2012.

239. These changes also included the addition of a large prison which artificially inflated the black population in the district. Ex. DX-579, Trial Tr. September, 12, 2011, 1276:6-20.

240. These changes can be explained in no other way besides impermissible racial discrimination. Ex. DX-347, Murray Report, 37; Ex. DX-579, Trial Tr. September, 12, 2011, 1276:6-20.

I. Intentional Discrimination in the State House Plan (H283)

i. Overview

241. H283 was drawn with the intent to prevent any reflection of the explosive growth of the Hispanic population and the relative decline of the voting strength of Anglo voters since the 2000 census. Ex. DX-739, Decl. of Arrington ¶3.

ii. Fort Bend County: House 26

242. House District 26, situated in Fort Bend County to the southwest of Houston, increased from 44 percent minority population to 60.6 percent minority between 2000 and 2010, becoming a majority minority district. Order (W.D.T.X) November 23, 2011.

243. District 26 and 149 are adjacent and share a similar demographic profile, and a tri-racial coalition has formed in district 26 similar to that in district 149. Test. of Sheila Jackson-Lee. Trial Tr 8-9, January 23, 2012. Test. of Rep. Alexander Green. Trial Tr. September, 12, 2011 130; Ex. DX 737.

244. There is an effective coalition between African Americans, Hispanics and Asians in Houston and Harris County. Test. of Sheila Jackson-Lee. Trial Tr. 7:5-9:8. January 23, 2012.

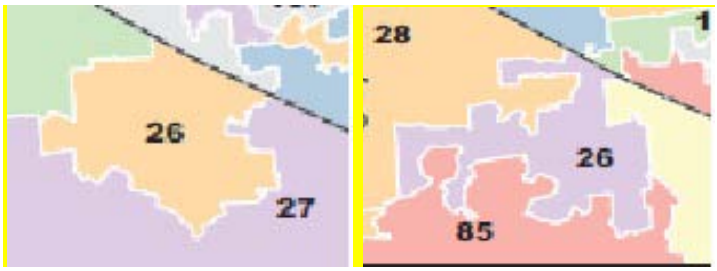
245. Vi Nguyen, a Vietnamese woman, has indicated an intent to run for this seat. Test. of Sheila Jackson-Lee. PM Trial Tr. 8:22-9:8. January 23, 2012.

246. Rep. Jackson-Lee has agreed to help Vi Nguyen and support her candidacy. Test. of Sheila Jackson-Lee. PM Trial Tr. 8:22-9:8. January 23, 2012.

247. Rep. Jackson-Lee is a six-term African-American congresswoman from Houston, so her endorsement will mean strong support from the African American community in Fort Bend. Test. of Sheila Jackson-Lee. PM Trial Tr. 8:22-9:8. January 23, 2012.

248. In H283, the emerging minority population was carved up to intentionally prevent it from being able to elect a candidate of the minority community's choice. Perez v. Perry, Doc. No. 528, 11(W.D. TX. Nov. 23, 2011) (order adopting Plan H302 as interim plan);Test. of Sheila Jackson-Lee. PM Trial Tr. 8:22-9:8. January 23, 2012.

249. HD 26 in H283 is bizarrely shaped, explainable only by an intent to fracture the minority population and keep them from being able to translate their growing population numbers into electoral success. C100, C185.



iii. Bell County: House 54

250. The non-white population grew three times faster than the white population in Bell County between 2000-2010, accounting for 71% of the population growth. Ex. DX-734, Decl. of Rogelio Saenz, 5-6.

251. Ernest Wilkerson, an African American, was supported by the Latinos in District 4 when he ran for the Bell County Commission. He had Latino campaign workers and the Latino community held fundraisers for him. Ex. DX-802, Sworn Statement of Phyllis Jones, ¶12.

252. Timothy Hancock, an African American candidate, ran against 4 Anglo candidates in the 2010 mayor's race and won. He was only able to win with the votes of Hispanic and Asian voters. Hispanic and African American community members worked in his campaign. Ex. DX-802, Sworn Statement of Phyllis Jones, ¶13.

Juan Rivers received African American support when he ran for the Killeen City Council from Precinct 3 in 2011 and won. Ex. DX-802, Sworn Statement of Phyllis Jones, ¶14.

253. Most of the Asian American population in Killeen is Korean and they will support black candidates. Ex. DX-802, Sworn Statement of Phyllis Jones, ¶15.

254. At a candidate forum hosted by the local Korean community group, Four Winds, in 2008, there was widespread acknowledgement that the Korean attendees supported and intended to vote for Barack Obama. Ex. DX-802, Sworn Statement of Phyllis Jones, ¶15.

255. Latino, African American and Asian voters work together to support the minority candidate of choice in Bell County. Ex. DX-802, Sworn Statement of Phyllis Jones, ¶¶12-15.

iv. Dallas County: House 101/106/107

256. Dallas is a majority-minority county, with 920,395 white residents and 1,643,300 nonwhite residents in 2010. Ex. DX-734, Report of Rogelio Saenz, Table 3.

257. African Americans and Latinos work in multiracial coalitions in Dallas County in to elect the minority candidate of choice in local and national elections. Ex. DX-802, Sworn Statement of Anthony Bond, ¶¶10-14; Ex. DX-802, Sworn Statement of Bob Lydia 2; EX-802, Sworn Statement of Juanita Wallace ¶¶8-9; Ex. DX-804, Sworn Statement of Fedrico "Lico" Reyes ¶9-11; Ex. DX-804, Sworn Statement of Franklin Moss ¶¶6-16.

258. When Frederico "Lico" Reyes ran for the District 26 State House seat in 2004, he received African American support. Ex. DX-804, Sworn Statement of Frederico Reyes, , ¶ 10.

259. The Texas branches of the NAACP and LULAC met at the LULAC State Convention in 1999 to discuss a Memorandum of Agreements. Ex. DX-804, Sworn Statement of Frederico Reyes statement, ¶ 11.

260. H283 would provide for 8 Anglo voter controlled districts and 6 minority voter controlled districts. Ex. DX-508, Murray Expert Report, 32.

261. Hispanic voters, who will account for over 40% of the population by 2012, will only be effective in electing representatives of their choice in 14% of Dallas County's Districts. *Id.* at 31.

262. In the existing map, five districts containing mixed racial and ethnic neighborhoods have been growing in voting power grew over the past decade, approaching the point where minority voters could create effective minority coalition districts. *Id.* at 32-33.

263. H283 eliminated two of these, moving them to neighboring Tarrant and Denton Counties, assigned as many minority residents of the remaining three districts as possible to the six already existing protected minority districts, and moved the remaining minority voters into districts with high voter turnout of Anglos with a recent history of polarized voting. *Id.* at 33.

264. Failed to create a new opportunity seat in 107, despite proven ability to do so.

265. As a result, H283 is highly retrogressive, leaving black and Hispanic voters with far less voting power than they had under the 2001 map. Ex. DX-508, Murray Expert Report, 33.

v. Harris County: HD 144/149 – RETROGRESSIVE EFFECT AND INTENTIONAL DISCRIMINATION

266. Harris County is a majority-minority county, with 1,378,978 white residents and 2,568,749 nonwhite residents. Ex. DX-734, Report of Rogelio Saenz, Table 3.

267. There is an effective coalition between African Americans, Hispanics and Asians in Houston and Harris County. Test. of Sheila Jackson-Lee. Trial Tr. 7:5-9:8. January 23, 2012.

268. A broad swath of the community rallied around the candidacy of Adrian Garcia and elected him as Sheriff, making him the first Latino Sheriff in the 18th District. *Id.* at 8:5-10.

269. Commissioner Sylvia Garcia garnered enough community support in to be able to become the first elected women and Latino on the Harris County Commissioners' Court in 1990. *Id.* at. 8:11-14.

270. In the 1990s, Dan Morales became the first Latino Attorney General in the State of Texas. *Id.* at 8:14-19.

271. The primary at which Dan Morales's candidacy was voted on was a powerful coming together of African Americans and Latinos voting cohesively. *Id.*

272. Vi Nguyen, an Asian American, is running for state representative seat 26 and has collaborated with Congresswoman Sheila Jackson-Lee, an African American. *Id.* at 8:22-9:8.

273. In H100, House District 149 was a majority-minority coalition district that elected Hubert Vo, a Vietnamese American. Ex. Joint Maps J-21; Ex. D-805, Red-100; Ex. DX-879, Red-106; Ex. DX-36, Red-350.

274. A minority coalition in District 149 elected Hubert Vo to the Legislature in 2004, with Mr. Vo defeating the Chair of the House Appropriations Committee. Ex. DX-738, Testimony of Representative Scott Hochberg 112-14.

275. In order to pack minority voters into a small number of districts in Harris County, C185 uses artificially high standards for what percentages of minority voters are needed to create an effective minority opportunity district. Ex. DX-580, Murray Expert Report, 29-30.

276. The state set a standard that at least 50% of registered, non-suspense voters in Hispanic opportunity districts by "Spanish-surname"; however, existing District 148 is represented by a Hispanic candidate of choice, Jessica Farrar, and has only a Spanish-surname, non-suspense voter registration of 40.0%. Ex. DX-580, Murray Expert Report, 29. Packing 10% more Spanish-surname voters into District 148, as H283 would do, is an unnecessary augmentation of voters in that district. *Id.*

277. H283 packs large Hispanic majorities into just 4 of the 24 districts (Districts 140, 143, 145, and 148); leaving the county's Hispanic VAP of 36.7% with effective opportunities to elect a candidate of their choice in only 16.7% of districts. Ex. DX-580, Murray Expert Report, 29

278. One of these districts, HD145, is held together in the middle by a long, narrow strip only three blocks wide. *Id.*

279. The state seems to set the bar for black districts at 40% VAP or higher, in spite of the fact that 35% has always afforded black voters the opportunity to elect candidates of their choice, e.g., Sylvester Turner in District 139 in 1988. Ex. DX-580, Murray Expert Report, 29-30.

280. C185 packs African American voters into six existing protected districts (Districts 131, 138, 141, 142, 146, and 147). Ex. DX-580, Murray Expert Report, 27-28.

281. In State House Plan H283, the Harris County drop-in plan was designed with the intent to reduce minority representation in the county. Ex. DX-576: Test. of Sylvester Turner. Trial Tr. September 8, 2011, 819: 6-18; Ex. DX-577: Test. of Ryan Downton. Trial Tr. September 9, 2011, 933:16-25, 934:1-7; 1015:15, 1021:6; 1009:2-23.

282. Dividing the county population by the ideal population for a House seat based on the 2010 Census (167,637) yields 24.41. Ex. DX-580, Murray Expert Report, 26.

283. In 2000, Harris County was entitled to 24.41 districts based on Census data and the Legislature chose to draw 25. Ex. DX-739, Decl. of Arrington ¶40. In 2010, Harris County was entitled to 24.45 districts and chose to draw 24. *Id.*

284. Following a consistent rule regarding rounding up or down to determine the number of districts would have resulted in keeping a 25 member delegation this year. Ex. DX-580, Murray Expert Report, 25-26.

285. Keeping a 25 member delegation this year would have almost certainly resulted in an additional minority opportunity district. Ex. DX-580, Murray Expert Report, 27.

286. Under H100, Harris County had 12 minority election districts out of 25 districts. Ex. DX-739, Decl. of Arrington, *Id.* ¶39.

287. By rounding down, the Legislature had to pair two incumbents. *Id.* ¶41. The Legislature chose to pair two minority candidates of choice, Scott Hochberg, an Anglo Democrat in HD 137,

and Hubert Vo, an Asian Democrat in HD 149. *Id.* ¶41. Ex. DX-? Allison, we can't find exhibit number for September 19 trial testimony, Trial Tr. September 19, 2011, 49: 7-8.

288. Representative Hubert Vo, a Vietnamese American, has represented District 149 since 2004 with the support of a coalition of Vietnamese, African American, and Hispanic voters. Ex. DX-580, Murray Expert Report, 30.

289. The decision to pair two minority preferred incumbents shows discriminatory intent on the part of the Legislature. Ex. DX-739, Decl. of Arrington ¶¶40-43.

290. Districts were combined in the minority, fast-growing areas of Harris County, but not in the Anglo, slow-growing area of Harris County. Ex. DX-576, Test. of Richard Murray. Trial Tr. September 8, 2011, 892:3-25, 893:1-21.

291. The east side of Harris County, which encompasses districts represented by four Anglo males (Districts 127, 128 129, and 144); had the lowest growth rate in the county; about 10% compared to over 22% elsewhere, but districts in this area were not combined. Ex. DX-580, Murray Expert Report, 27.

292. C185 shifts mixed racial and ethnic precincts into districts with core constituencies consisting of Anglos with strong histories of opposing General Election candidates supported by Latinos and blacks (Districts 127, 128, 129, and 144); effectively denying minorities the opportunity to elect candidates of their choice in these mixed areas where minorities constitute a large and increasing majority. *Id.*

293. In H100, House District 137 was a majority-minority coalition district. Ex. Joint Maps J-21, EX-805, Red-100; EX-879, Red-106.

294. HD 149 was a minority performing district that developed an effective coalition of black, Latino and Asian-American voters who are continuing to grow in numbers in that geographic

area. That coalition was dismantled in the state enacted plan. Test. of Richard Murray. Trial Tr. 25:1-22, January 20, 2012.

HD 149 must be considered an ability-to-elect district in the benchmark plan. Tr. Test. of Dr. Theodore Arrington, 66:10-12, January 23, 2012.

295. Hubert Vo is the candidate of choice of minority voters in HD 149. Tr. Test. of Dr. Theodore Arrington, 65:21-22, January 23, 2012.

296. HD149 was a functioning coalition district, where a coalition of minority groups came together to elect Rep. Hubert Vo. Test. of Garnet Coleman Trial Tr. 49:14-17, January 19, 2012.

297. HD 149 was destroyed in the state's enacted House plan. Tr. Test. of Dr. Theodore Arrington, 66:2-4, January 23, 2012.

298. An endogenous election is the actual election in dispute in the case, so an endogenous election in the Texas State House of Representatives would be an election for the seat in the House at issue. Tr. Test. of Dr. John Alford, 31: 18-23, January 25, 2012.

299. An endogenous election is the single most important piece of information to analyze when trying to determine whether a benchmark district is effective for electing a minority-preferred candidate. Tr. Test. of Dr. Lisa Handley, 9:4-10, January 26, 2012.

300. Endogenous elections let examiners know whether minority voters are cohesive and have the ability to elect their candidate of choice in the benchmark. Tr. Test. of Dr. John Alford, 38:6-10, January 24, 2012.

301. The state's expert agreed that studying endogenous elections might be superior in all cases. Tr. Test. of Dr. John Alford, 38:17-19, January 25, 2012.

302. In endogenous elections, a coalition of black, Latino, and Asian voters elected Rep. Hubert Vo, the minority candidate of choice, in 2004, 2006, 2008, and 2010. Ex. DX-580, Murray Expert Report 4.

303. State House Plan H283 drew incumbents from House District 137 (Hochberg) and House District 149 (Vo) together in new House District 137. Ex. Joint Maps J-29; Ex. DX-36, Red-350.\

304. Map-drawers were waned that the drawing of Representatives Hochberg and Vo into the same district would cause the destruction of an effective minority district. Ex. DX-577: Test. of Ryan Downton. Trial Tr. September 9, 2011, 1009:2-23.

305. Three alternative plans maintained 12 minority election districts out of 24 possible seats. *Id.* ¶44.

306. The conflicting testimony of the map-drawers Gerardo Interiano and Ryan Downton as to why these two majority-minority districts were combined is indirect evidence of impermissible intent to discriminate on the basis of race. Ex. DX-577, Test. of Ryan Downton. Trial Tr. September 9, 2011, 933:16-25, 934:1-7.

J. Intentional Discrimination and Retrogressive Effect in the Senate: SD 10

307. The former Senate 10 was reflective of a mix of socioeconomic and racial communities. It was majority Latino, and it was an urban district in the core of the city that also included historic Latino neighborhoods. Test. of Sen. Wendy Davis. Trial Tr. 11:22-12:2, January 19, 2012.

308. The voting age population of Anglos in benchmark Senate District 10 is 52.7% of the total VAP; blacks make up 17.9%; Hispanics make up 24.8%. Test. of Sen. Wendy Davis. Trial Tr. 49:22-51:16, January 19, 2012.

309. SD 10 is represented by Sen. Wendy Davis, who was elected in 2008. Test. of Sen. Wendy Davis. Trial Tr. 5:1-19, January 19, 2012.

310. Dr. Allan Lichtman is an expert in political history, electoral analysis and historical and quantitative methodology. Ex. DX-372, Report of Allan Lichtman, ¶3, Oct. 21, 2011.

311. Dr. Lichtman analyzed the degree of Anglo bloc voting against the candidates of choice of Latino and African American voters. *Id.* at ¶1. He also analyzed whether Sen. Wendy Davis, an Anglo, was the consensus choice of Latino and African American voters. *Id.*

312. African Americans and Latinos have voted overwhelmingly cohesively in Tarrant and Dallas Counties in recent general elections. *Id.* at ¶2; Test. of Rep. Marc Veasey. Trial Tr. 50:12-14, January 18, 2012.

313. In 2006, African American and Latino voters came together to vote for a white Anglo for District Attorney. Test. of Rep. Marc Veasey. Trial Tr. 29:18 –30:21, January 18, 2012.

314. African American and Latino leaders encouraged Sen. Wendy Davis to run in 2008. Test. of Wendy Davis, Trial Tr. 16:2-5, 17-17:3, 21:3-11, January 18, 2012. African American and Latino voters campaigned for Sen. Davis. *Id.* at 23:2-7.

315. In Senate district 10, minority voters galvanized by close result in a District Attorney contest were able to generate a heavy minority voter turnout and defeat a sitting Anglo incumbent Senator. Test. of Sen. Wendy Davis. Trial Tr. 16-18, 20-26; January 19, 2012. Test. of Rep. Marc Veasey.Trial Tr. 7, 30, 34-36, January 18, 2012. Test. of Rodney Ellis 100-102, January 20, 2012 AM.

316. Sen. Davis was the overwhelming consensus choice of African Americans and Latinos in the 2008 election and was elected by a unified coalition of minority voters. Ex. DX-372, Report of Lichtman ¶2.

317. Even the state's expert, Dr. Alford, acknowledged that Wendy Davis was the candidate of choice of minority voters in Senate District 10. Tr. Test. of Dr. John Alford, 38:17-19, January 23, 2012.

318. Under the benchmark, SD 10 was thus a district that provided minority voters an ability to elect the candidate of their choice. *Id.*

319. Voting in Senate District 10 was racially polarized, making it all the more difficult for minority voters to elect the candidates of their choice. *Id.* at 34:12-15.

320. Sen. Davis was an effective representative of the African-American and Latino community. Test. of Rep. Marc Veasey at 8-25.Anglo legislators in both the Senate and the House Redistricting Committees manipulated the redistricting process to the benefit of Anglos and to the detriment of minorities and Senators representing majority-minority districts. Ex. DX-372, Report of Lichtman ¶14.

321. Sen. Davis presented a letter to the Redistricting Interim Committee asking to it to protect the members of the Latino and African American communities of District 10 and to respect their rights to continue to have the opportunity to elect a candidate of their choice. Test. of Sen. Davis at 34:14-21.

322. Sen. Davis had only oe prescheduled meeting with Mr. Doug Davis and Sen. Seliger. *Id.* at 36:15 –37:15.

323. Draft plans were shown to Anglo Republican Senators in mid-April. *Id.* at 39:15-25.

324. Sen. Davis and other Democrats were denied the opportunity to see the draft plans and contribute input *Id.* at 40:1-17.

325. Sen. Davis was finally shown the plan for her district SD 10 on May 10, two days before the public hearing for the maps. *Id.* at 42:3-6.

326. Chair Seligman admitted that the Committee Chairs were aware that Sen. Davis was elected by black and Latino voters, who turned out to vote for Sen. Davis. Test. of Sen. Seligman. Trial Tr. 54:3-8. Chair Seligman also admitted that black and Latino voters turned out to support Sen. Davis because she ran an effective campaign. *Id.* at 52:19-21.

327. The state legislature dismantled SD 10 by cracking politically and geographically cohesive Latino and African American communities and placed those minority voters in districts where they have no opportunity to elect the candidate of their choice or participate effectively in the political process. Ex. DX-372, Report of Allan Lichtman ¶12.

328. In the proposed Senate plan, minority voters will no longer have the ability to elect their candidate of choice in SD 10. *Id.*

329. The loss of the ability to elect in SD 10 was not offset by the addition of another minority ability to elect district in the state. Ex. DX-640, Supplemental Report of Allan Lichtman, p. 4.

330. It was possible to draw a more Republican district while keeping the minority districts in SD 10 intact. Test. of Sen. Davis. Trial Tr. 47:2-13.

331. The dismantling of SD 10 has a discriminatory effect on minorities by depriving African Americans and Latinos of any realistic chance to elect a candidate of choice to office in SD 10 or any other Senate district in Tarrant County. Ex. DX-372, Report of Allen Lichtman ¶11.

332. The redistricting process for the Senate Plan shows clear indicia of discriminatory intent. *Id.* at ¶¶10-18.

Dated: February 3, 2012

Respectfully Submitted,

/s/ Allison J. Riggs
Allison J. Riggs
N.C. Bar No. 40028
(Admitted Pro Hac Vice)

Anita S. Earls
N.C. Bar No. 15597
Southern Coalition for Social Justice
1415 W. Highway 54, Suite 101
Durham, NC 27707
(919)-323-3380
(919)-323-3942 (fax)
allison@southerncoalition.org

/s/ Robert S. Notzon_____
Robert S. Notzon
D.C. Bar No. TX0020
Law Office of Robert S. Notzon
1507 Nueces Street
Austin, Texas 78701
(512)-474-7563
(512)-474-9489 (f)
Robert@NotzonLaw.com

Gary Bledsoe
TX Bar No. 02476500
(Admitted Pro Hac Vice)
Law Office of Gary L. Bledsoe and Associates
316 West 12th Street, Suite 307
Austin, Texas 78701
(512)-322-9992
(512)-322-0840
garybledsoe@sbcglobal.net

Victor Goode
Assistant General Counsel
NAACP
4805 Mt. Hope Drive
Baltimore, MD 21215-3297
Telephone: 410-580-5120
Fax: 410-358-9359
vgoode@naacpnet.org

Attorneys for NAACP Defendant-Intervenors

/s/ John K. Tanner_____
John K. Tanner

DC Bar #318873
3743 Military Road, NW
Washington, DC 20015
202-503-7696
john.k.tanner@gmail.com

Attorney for the TLBC
Defendant-Intervenor

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2012, I electronically filed the foregoing Texas State Conference of Branches of the NAACP, et al., and Texas Legislative Black Caucus Joint Proposed Findings of Fact with the Clerk of the United States District Court for the District of Columbia by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

/s/ Allison J. Riggs_____