UNITED STATES DISTRICT COURT
DISTRICT OF DISTRICT OF COLUMBIA

STATE OF TEXAS,

Plaintiff,

- against -

UNITED STATES OF AMERICA and ERIC H. HOLDER, JR. in his official capacity as Attorney General of the United States,

Defendants.

CIVIL ACTION NO. 1:11-cv-01303

Three-Judge panel: RMC-TBG-BAH

Defendant-Intervenor Texas Latino Redistricting Task Force's Proposed Findings of Fact

NOW COMES Defendant-Intervenor Texas Latino Redistricting Task Force and files the following proposed findings of fact:

Ability to Elect Districts

1. Dr. John Alford, the State's expert witness, does not offer an opinion regarding the number of Latino ability to elect districts in the benchmark plan. (Alford Dep., DX758, at 93:5-8; Trial Tr. Jan. 24 PM 92:5-8.)

2. Dr. Alford offers no opinion regarding the number of Latino ability to elect districts in the enacted Plan H283. (Alford Dep., DX758, at 93:21-24; Trial Tr. Jan. 24 PM 92:23-93:3.)

3. Dr. Alford, stated that a Latino ability to elect district does not have to elect the Latino preferred candidate in every election. (DX581, at 1860:10-18.)

4. Senator Kel Seliger, Chair of the Texas Senate Select Redistricting Committee, testified that a district that elects the Latino preferred candidate two out of three times is an opportunity district. (Seliger Dep., DX776, at 20:16-23; Trial Tr. Jan. 24, 2012 am 9:2-14).

5. The Latino preferred candidate is sometimes not elected in a Latino opportunity district. (Trial Tr., Jan. 18, 2012 a.m., at 116:22-25.)

The House Plan

6. Plan H100 has 33 districts in which Latinos have the ability to elect the candidate of their choice: State House Districts 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 51, 74, 75, 76, 77, 79, 80, 90, 103, 104, 116, 117, 118, 119, 123, 124, 125, 140, 143, 145, and 148. (DX509, p. 1; *see also* DX779A, pp. 143:25-144:3.)

7. Gerardo Interiano was counsel to the Speaker of the Texas House of Representatives and was the lead staffer in charge of the House redistricting plan. (DX579, p. 1418:7-14.)

8. Gerardo Interiano, Ryan Downtown, and the House members themselves drew the State House map. (DX777, pp. 33:15-34:6.)

9. Mr. Interiano stated that during the process of drawing the maps, the state did not conduct analysis to determine which candidates were Latino candidates of choice in plan H100. (DX779A, p. 155:14-20.)

10. Mr. Interiano testified that Texas House Districts 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 74, 75, 76, 77, 79, 80, 104, 116, 117, 118, 119, 123, 124, 125, 140, 143, 145 were Latino opportunity districts in the benchmark plan. (Trial Tr. Jan. 17 PM, p. 25:17-21.)

11. Mr. Interiano agreed that he did not consider in his analysis of Latino opportunity districts that there might be House Districts below 50 percent Spanish surnamed voter registration that were opportunity districts in the benchmark plan. (Trial Tr. Jan. 17 PM, p. 25:22-26:2.)

12. Mr. Interiano agreed that he used three factors to help determine the number of Latino opportunity districts in the proposed plan: Hispanic voting age population, Hispanic citizen voting age population, and Spanish Surname voter registration. (Trial Tr. Jan. 17 PM, p. 26:3-8.)

13. Mr. Interiano testified that he looked at re-aggregated election analyses that indicated the Hispanic candidate of choice and whether that person won or not in the draft district compared to the benchmark district. (Trial Tr. Jan. 17 PM, p. 26:19-23.)

14. Mr. Interiano testified he looked at re-aggregated elections as part of his retrogression analysis, but he did not look at election performance using re-aggregated elections to decide whether the districts in the benchmark plan were Latino opportunity districts. (Trial Tr. Jan. 17 PM, p. 27:2-13.)

15. Mr. Interiano does not recall the attorney General providing him with re-aggregated elections analysis of the benchmark plan until he submitted a draft plan for analysis. (Trial Tr. Jan. 17 PM, p. 27:14-17.)

16. Mr. Interiano recalled receiving a re-aggregated election analysis on his draft House plan two weeks before the plan was passed by the Legislature. (Trial Tr. Jan. 17 PM, p. 27:18-20.)

17. Mr. Interiano testified he used the election analysis to look at the results of his proposed districts to confirm his Hispanic majority districts were, in fact, electing Hispanic candidates of choice. (Trial Tr. Jan. 17 PM, p. 28: 13—18.)

18. Representative Burt Solomons lives in Carrollton, Texas and represents House District 65, which includes Denton County, north of Dallas. (Trial Tr. Jan. 20 PM, p. 30:6-19.)

19. Representative Solomons was Chair of the House Redistricting Committee for the 82nd Texas Legislative Session. (Trial Tr. Jan. 20 PM, p. 30:20-23.)

20. It was a goal of Representative Solomons and the House Redistricting Committee to give each House member the opportunity to win re-election in his or her district. (Trial Tr. Jan. 20 PM, p. 41:3-23.)

21. Mr. Interiano's testimony that the map drawers honored the whims of all representatives who wanted, for example, country clubs or their grandchildren's schools in their districts, is inconsistent with the testimony of minority elected officials. (Trial Tr. Jan. 25 PM, 101:6-102:24.)

22. Mr. Gerardo Interiano agreed that he made an effort to get the members of the county delegations to work together and draw maps of each of their counties. (Trial Tr. Jan. 17 PM, pp. 24:19-25:25.)

23. Mr. Interiano testified that a "drop-in county" is essentially a separate map that does not exceed the confines of the county geography -- a county map of districts that can be dropped into the statewide map and will not affect the remainder of the map. (Trial Tr. Jan. 17 AM, pp. 154:20-155:5.)

24. Mr. Interiano testified that in a "drop-in county" the House members are free to draw the districts however they wish, and it's something that redistricters can literally just drop into the rest of the map. (Trial Tr. Jan. 17 AM, pp. 154:20-155:5.)

25. Mr. Interiano agreed that the process of county delegations creating their own map, given the County line rule, was that you could drop a multi-district county into the map without affecting the surrounding districts. (Trial Tr. Jan. 17 PM, p. 25:1-4.)

26. Chairman Solomons testified that he assumed that Voting Rights Act compliance was being looked at by the county delegation in the drop-in counties and did not independently verify whether the counties had enough Latino opportunity districts to comply with the Voting Rights Act. (DX580, p. 1603:9-19.)

27. Mr. Interiano testified that because House redistricting was a member-driven process, if there was an agreement among the members of a county delegation Mr. Interiano dropped a county whole into the map. (DX579, pp. 1445:9-1446:5.)

28. Mr. Interiano testified that when he received a drop-in map submitted by a county House delegation he dropped the county into the statewide map and if the county map included a Latino opportunity district, the Latino opportunity district would remain in the map, and if the county map did not include a Latino opportunity district, he made no attempt to add one. (DX779A, pp. 47:19-48:2.)

29. Mr. Interiano testified that with respect to making an assessment whether to draw an additional Latino opportunity district in a particular county, Mr. Interiano dropped the county into the map. Mr. Interiano further testified if there was a Latino opportunity district that was included in there it was left in there, and if there wasn't that was it. (DX579, pp. 1445:9-1446:5.)

30. It is possible for a county delegation to agree on a drop-in map that provides a safe district for each incumbent but that violates Section 2 of the Voting Rights Act. It is possible that the El Paso delegation designed such a map. (DX777, p. 61:16-62:9.)

31. Chairman Solomons did not personally attempt to determine which districts were Latino opportunity districts or attempt to determine whether additional districts needed to be added anywhere, despite being aware of significant Latino growth and a potential need for one or two additional Latino opportunity districts. (DX580, pp. 1584: 1-25; 1585:5-23; 1604:3-10.)

32. Chairman Solomons did not look into whether there was racially polarized voting in particular areas of the state or apply a particular number to come to his own understanding about which districts were Latino opportunity districts in the benchmark or the enacted plan. (DX580, p. 1585:1-4; DX777, p. 23:3-16.)

33. Representative Solomons relied on staff to tell him the number of ability to elect districts and standard to determine them. (Trial Tr. Jan. 20 PM, pp. 64:17-66:4; 67:17-23.)

34. Representative Solomons does not remember how many protected House districts existed based on his conversation with staff during session. (Trial Tr. Jan. 20 PM, pp. 65:3-67:2.)

35. Mr. Interiano testified that, with respect to the House map in El Paso County, he never tried to draw a fifth Latino opportunity district because this was a member-driven process and Representative Pickett submitted a map for El Paso County and that was the map Mr. Interiano dropped into the statewide House plan. TR: 1445:9-1446:5

County Line Rule

36. Chairman Solomons testified that he could not define the difference between spillover versus a cut that would violate the county line rule. (DX777, p. 35:18-20.)

37. Chairman Solomons testified that in a conflict between the county line rule and the creation of a Latino opportunity district pursuant to the Voting Rights Act, he would follow the county line rule. (DX580, p. 1594:10-16.)

38. Chairman Solomons took the position that he was not going to break the Texas county line rule unless the U.S. Supreme Court told him he must. (DX580, pp. 1592:20-1593:20; DX777, pp. 46:13-47:21.)

39. Representative Solomons testified that he would need a federal judge to tell him that the Voting Rights Act trumps the Texas county line rule. (Trial Tr. Jan. 20 PM, pp. 82:2-13; 83:8-84:9.)

40. The State enacted plan did break the county line rule to comply with the Constitutional one person, one vote requirement in Henderson and Ellis County. (Trial Tr. Jan. 20 PM, pp. 85:24-86:1.)

41. Representative Solomons cannot point to one county line cut that was made to comply with the Voting Rights Act in the State's enacted House plan. (Trial Tr. Jan. 20 PM, p. 86:2-8.)

42. Chairman Solomons issued a public statement that he rejected a plan that was offered to the committee because it broke the county line rule in order to create minority opportunity districts. (DX580, p. 1595: 20-24.)

43. On April 15, 2011, Chairman Solomons expressed his goal of placing the Texas Constitution county line rule over compliance with Section 2 of the Voting Rights Act at a hearing of the House Redistricting Committee. (DX381, pp. 32-33.)

44. Mr. Interino testified that he did not feel comfortable invoking the Voting Rights Act, or Section 2 of the Voting Rights Act as a justification for breaking the State's county line rule. (Trial Tr. Jan. 17 PM, p. 31:7-11.)

45. The County Line Rule was applied inconsistently within H283. (DX574. pp. 235:22-236:18.)

The Congressional Plan

46. The net gain of Latino opportunity districts in C185, the enacted plan, is zero. (DX575, p. 486:9-10.)

47. The benchmark plan, also known as C100, has seven Latino ability to elect districts: 15, 16, 20, 23, 27, 28, and 29. (DX726, at 3.)

48. According to Mr. Interiano, in plan C100, Congressional Districts 15, 16, 20, 23, 27, 28 and 29 are Latino opportunity districts. (DX779A, at 83:13-19.)

49. Mr. Downton admitted that CDs 15, 16, 20, 23, 27, 28, and 29 were Latino opportunity districts in the benchmark. (DX778A, pp. 69:18-70:4.)

50. Senator Kel Seliger was the Chairman of the Senate Select Committee on Redistricting. (Trial Tr. Jan. 24 AM, p. 7:24-25.)

51. Senator Kel Seliger testified that the benchmark plan districts 16, 23, 28, 20, 15, 27 in South Texas and 29 in Houston are all Latino opportunity districts. (DX776, 17:4-25, Trial Tr. Jan. 24, AM, p. 8:12-22.)

52. The State's expert witness, Dr. Alford, testified that the benchmark congressional plan contains "10 districts that are likely to elect minority candidates of choice." (DX581, p. 1834:9-18.)

53. In plan C100, each of the six Latino majority districts in South Texas is overpopulated relative to the 2010 ideal district population; Congressional District 15 is overpopulated by 88,636, Congressional District 16 by 58,939, Congressional District 20 by 13,144, Congressional District 23 by 149,163, Congressional District 27 by 43,505, and Congressional District 28 by 153,335. (DX406, p. 17.)

54. Ryan Downton, at the time General Counsel for the House Committee on Redistricting, was the primary person responsible for drawing the congressional map. (DX577, p. 903:5-7; DX778A, p. 8:25-9:8.)

55. Gerardo Interiano assisted Ryan Downton on the congressional map. (DX579, p. 1418:15-22.)

56. Doug Davis drafted congressional maps for the Senate. (DX776, pp. 20:24-21:3)

57. Dr. Alford testified that in the State's enacted Plan C185, there are not eight districts in which Latinos can elect their candidate of choice. (DX581, pp. 1908:14-1909:2.)

58. Dr. Alford testified, with respect to Plan C185's failure to create an additional Latino opportunity district, "the first time I looked at the maps, that's the question that occurred to me, is where -- where had that -- where was that growth in the map? (DX581, pp. 1919:15-1920:1.)

59. Mr. Interiano conceded that in plan C185, Congressional Districts 15, 16, 20, 28, 29, 34 and 35 are Latino opportunity districts. (DX779A, at 93:7-9.)

60. Mr. Downton opined that CDs 15, 16, 20, 23, 28, 29, 34, and 35 are Latino opportunity districts in Plan C185. (DX778A, p. 70:9-15.)

61. Representative Solomons voted against an amendment offered by Representative Alonzo that would have created seven Latino opportunity districts in South Texas, all of which would have elected the candidate of choice despite the fact that the amendment was supported by House members he trusted to take the lead on drafting maps for their respective county delegations. (Trial Tr. Jan. 20 PM, pp. 109:13-111:4.)

62. Representative Solomons never offered to try and incorporate Representative Alonzo's seven south Texas Latino districts into the State's enacted map. (Trial Tr. Jan. 20 PM, p. 112:2-5.)

Retrogression

63. Dr. Alford, the State's expert, testified that he did not know if the inquiry into whether Latinos have the ability to elect a preferred candidate in a particular district is the appropriate legal inquiry when measuring retrogression in a single member district plan. (DX758, pp. 110:14-111:21; Trial Tr. Jan. 24 PM, p. 94:2-6.)

64. Dr. Alford testified that he was not giving the court an answer to the question whether the enacted plan offers greater ability to elect when compared to the benchmark plan. (Trial Tr. Jan. 24 PM, p. 94:15-23.)

65. Dr. Alford agreed that by looking at exogenous elections reaggregated in a particular district one can determine whether a district is more likely than not to be able to elect a Latino candidate of choice by looking at how many reaggregated elections have been won or lost. (Trial Tr. Jan. 24 PM, p. 93:8-13.)

66. Dr. Alford testified that he has employed the district counting approach to measure retrogression in all of his work with jurisdictions in preclearance matters. (DX758, p. 101:6-12; Trial Tr. Jan. 24 PM, p. 97:17-22.)

67. Dr. Alford cannot name any articles in peer reviewed journals or any presentations at social science meetings that employ the summing approaching presented in his statewide functional analysis. (DX758, pp. 130:19-131:18; Trial Tr. Jan. 24 PM, p. 98:11-18.)

68. Dr. Alford cannot name any experts in other section 5 matters that have used the summing approach presented in his statewide functional analysis. (DX758, p. 131:2-13; Trial Tr. Jan. 24 PM 50:18-24.)

69. Dr. Alford testified that he does not publish on section 5 and retrogression analysis. (Trial Tr. Jan. 24 PM, pp. 95:1-96:25, 98:19-22.)

70. Dr. Alford has never testified before in a judicial preclearance lawsuit. (DX758, p. 98:1-15.)

71. Dr. Alford testified that he previously recommended to the State that it count up the districts that have a certain amount of Hispanic population or Black population and use that in the context of a district counting analysis to evaluate retrogression. (DX758, pp. 101:23-102:15; Trial Tr. Jan. 24 PM, pp. 98:23-99:10.)

72. Dr. Alford testified that when considering whether a district has a majority of Latinos, solely looking at SSVR was a "very stringent test." (Trial Tr. Jan. 24 AM, pp. 128:24-131:12.)

73. Dr. Alford testified that he would not advocate using a standard of majority Hispanic citizen voting age population for deciding which districts to look at as Latino opportunity districts. (Trial Tr. Jan. 24 AM, pp. 128:24-131:12.)

74. Dr. Alford testified that his functional analysis is intended to produce an index of aggregate electoral success statewide. (DX758, pp. 104:20-105:4; Trial Tr. Jan. 24 PM, p. 101:14-18.)

75. Dr. Alford admitted that his analysis provides information about Latinos' success in electing their preferred candidate, but not necessarily Latino ability to elect. (Trial Tr. Jan. 24 PM, pp. 102:14-103:7, 104:13-105:4.)

76. Dr. Alford testified that in his statewide functional analysis, the loss of a district like HD 33, which had a 60% win-loss record, could be compensated mathematically by increasing the win-loss of other districts from 90% to 100%, or 80% to 100%. (Trial Tr. Jan. 24 PM, pp. 107:2-108:6.)

77. Dr. Alford testified that, if he were a policy maker, and if he could compensate for the performance loss in HD 33 by either topping up five districts that were performing at 90 percent to 100 percent or creating a new district that performed at 50 percent, he would top off the five already performing districts. (Trial Tr. Jan. 24 PM, p. 109:5-12.)

78. Dr. Alford testified that his statewide functional analysis does not include an analysis of endogenous elections. (Trial Tr. Jan. 24 PM, p. 101:19-23.)

79. Dr. Alford testified that endogenous elections are the best demonstration of the possibility of electing a candidate to a particular office. (Trial Tr. Jan. 24 PM, pp. 101:24-102:4.)

80. Dr. Alford testified in *Perez v. Perry* that the Texas Latino Redistricting Task Force's expert, Dr. Richard Engstrom, "did the best job of covering geography and using the best methodology." (DX581, p. 1765:11-14.)

81. Dr. Alford testified in *Perez v. Perry* that the Texas Latino Redistricting Task Force's expert, Dr. Richard Engstrom, is prominent in his field, that his report is credible and that Dr. Engstrom chose a good methodology to use in his report. (DX581, pp. 1858:16-1859:9.)

82. Dr. Alford testified that, when looking at exogenous elections reaggregated in a particular district, it is possible to determine whether a district is more likely than not to be able to elect a Latino candidate of choice by looking at how many reaggregated elections have been won or lost. (DX758, p. 113:4-10; Trial Tr. Jan. 24 PM, p. 93:8-13.)

83. Dr. Alford based his analysis on election results from an index of 10 elections from 2002 to 2010 that was given to him by the Attorney General's office. (Trial Tr. January 24, 2012 AM at pg. 100:25- 101:4.)

84. Dr. Alford testified that he does not know how the list of ten elections considered was selected by the Attorney General's Office. (Trial Tr. Jan. 25 AM, p. 11:7-11.)

85. The State's expert witness, Dr. John Alford, testified that the OAG10 or the 10 election index created by the Attorney General's Office is not his product, that he has not spent any time analyzing it, and that "undoubtedly, it could be increased" (Trial Tr. Jan. 25 AM, p. 15:22-25.)

86. Dr. Alford agreed that the list of ten elections selected by the Attorney General's Office is missing two races; 2006 Supreme Court race with candidate Medina and 2008 Judge of the Court of Appeals Place 4 with Candidate Molina. (Trial Tr. Jan. 25 AM, p. 11:14-21).

87. Dr. Alford agreed that the list of ten elections was also missing 3 races from 2002; two races for Justice of the Supreme Court and one race for the Court of Criminal Appeals. (Trial Tr. Jan. 25 AM, pp. 11:22-12:4)

88. Dr. Alford agreed that including all three races from 2010 that were racially contested, but only including two of the three racially contested races in 2008 could skew the analysis towards 2010. (Trial Tr. Jan. 25 AM, p. 15:8-12).

89. The state's expert witness, Dr. John Alford, testified that he did not know of any social science justification for choosing the 10 elections in the OAG 10 index. (Trial Tr. Jan. 25 AM, p. 16:1-12).

90. In order to assess retrogression, Mr. Interiano used re-aggregated elections to determine if Latino preferred candidates were doing better or worse in new districts compared to the benchmark districts. (DX579, p. 1456:19-22; DX779A, pp. 88:15-19, 89:18-22, 92:2-16.)

91. Mr. Interiano did not review any re-aggregated election analysis containing primary elections. (DX579, p. 1458:3-8.)

92. Mr. Interiano did not undertake any analysis to determine how many Latino opportunity congressional districts should be drawn in Texas. (DX779A, p. 117:16-21).

93. As counsel to Speaker Straus, Mr. Interiano offered advice on compliance with the voting Rights Act. (DX579, p. 1441:18-22.)

94. Mr. Interiano did not review an analysis of election performance of benchmark districts or of new draft House districts until close to end of the redistricting process. (DX579, pp.1451:21-1452:2.)

95. Chairman Solomons did not personally attempt to determine which districts were Latino opportunity districts or attempt to determine whether additional districts needed to be added anywhere, despite being aware of significant Latino growth and a potential need for one or two additional Latino opportunity districts. (DX580, pp. 1584:1-25, 1585:5-23, 1604:3-10.)

96. Chairman Solomons did not look into whether there was racially polarized voting in particular areas of the state or apply a particular number to come to his own understanding about which districts were Latino opportunity districts in the benchmark or the enacted plan. (DX580, p. 1585:1-4; DX777, p. 23:3-16.)

97. David Hanna authored memoranda that identified HD 74 as a Latino ability district in the benchmark to be examined for retrogression. (DX0820; DX0214; DX0215.)

HD 33 in Nueces County

98. David Hanna authored memoranda that stated that in the Nueces County state house configuration, the county-line rule "would have to yield to the federal Voting Rights Act if it can be shown retrogression could be avoided by splitting the county." (DX0820; DX0214; DX0215.)

99. David Hanna said that preclearance would be an issue if only two state house districts were drawn in Nueces County. (DX0931.)

100. Abel Herrero was elected as Representative of HD 34 to the Texas House of Representatives in November 2004 and served until January 2011. (Herrero Pre-Filed Direct at 3:1-3, Dkt. No. 161-3 (filed Jan. 17, 2012).)

101. Mr. Herrero testified that the Hispanic community in Nueces County is growing faster than the Anglo or African American communities, which is evident both from the Census numbers and the growth in the particular communities. (Herrero Pre-Filed Direct at 3:20-4:1, Dkt. No. 161-3 (filed Jan. 17, 2012).)

102. Mr. Herrero testified that the effect of the State's enacted plan would be that Hispanics that were part of District 33 and are now in District 32 are "going to go from being a part of the majority to being a voting minority" and it will be "extremely hard for them to elect a candidate of choice." (Herrero Pre-Filed Direct at 15:5-13, Dkt. No. 161-3 (filed Jan. 17, 2012).)

103. In Nueces County, the Latino growth from 2000 to 2010 exceeded the total growth for the county, revealing that the county not only saw substantial growth in its Latino communities, but also saw a reduction in its non-Latino populations. (Gonzalez Baker Report, DX827, p. 5 & tbl. 4; Gonzalez Baker Deposition, DX775, at 29:19-30:17.)

104. House District 33 historically had been located in the heart of Corpus Christi, Texas, and was a majority SSVR district. (Flores Report, DX826, at p. 33.)

105. There is no comparable Latino opportunity district to District 33 in Nueces County in the enacted State House Plan. (DX574, p. 84:18-20.)

106. The House district plan for Nueces County in plan H283 was given to Mr. Interiano by Representatives Hunter, Torres and Scott. (DX579, pp. 1429:16-1430:5.)

107. In the benchmark plan, Nueces County contained all of House Districts 33 and 34; Nueces County also contained part of House District 32, which cut the county line and included counties to the north of Nueces County. (DX579, p. 461:3-11; DX406, p. 2.)

108. In the benchmark plan, Nueces County contains two Hispanic citizen voting-age majority state house districts. (DX406, p. 2.)

109. In plan H283, Nueces County contains one Hispanic citizen Voting-Age Population majority state house district. (DX406, p. 3.)

110. Mr. Interiano testified Nueces County went from three districts to only two House districts. (Trial Tr. Jan. 17 PM, p. 30: 6-9.)

111. Chairman Solomons testified he cannot remember if it would have been possible to draw two Latino opportunity districts in Nueces County if some Nueces County population had been spilled out into either San Patricio County or northern counties, but there was a general consensus among the state mappers that it would been very hard to create two Latino opportunity districts that encompassed all of Nueces County. (Trial Tr. Jan. 20 PM, pp. 77:18-78:3.)

112. Chairman Solomons agreed that Task Force proposed Plan H292 contains HD 33 and 34 wholly contained in Nueces County and excess population spilled out northwards to San Patricio and Aransas County. (Trial Tr. Jan. 20 PM, p. 78:8-14.)

113. Mr. Interiano testified he could have drawn two Latino opportunity districts in Nueces County and then spilled the rest of Nueces County's population out to the north, but this would have required breaking the county line. (Trial Tr. Jan. 17 PM, pp. 30:21-31:6.)

114. The benchmark Plan H100 contained HD 33 represented by Raul Torres in the center of Corpus Christi which was surrounded by HD 32 that is represented by Todd Hunter and HD 34 represented by Connie Scott. (Trial Tr. Jan. 20 PM, pp. 78:20-79:18; 79:23-80:13.)

115. The State's enacted plan H283 relocates House District 33 from Nueces County to Rockwall and Denton Counties. (DX575, p. 461:17-18; DX826, p. 9.)

116. Mr. Interiano agreed that under the State's adopted plan, H283, House District 33 was reassigned from Nueces County to North Texas eliminating a Latino opportunity district from Nueces County. (Trial Tr. Jan. 17 PM, pp. 28:20-29:25.)

117. Dr. Alford admits that HD 33 is not an ability to elect district in the State's enacted plan. (Trial Tr. Jan. 24 PM, p. 100:10-13.)

118. Representative Hunter testified that District 33 under the proposed plan is no longer within Nueces County, which will "take a voice away" from Corpus Christi. (Trial Tr. Jan. 17 AM, pp. 105:24-106:8.)

119. Todd Hunter is the State Representative for District 32 in Corpus Christi (located in Nueces County) and has lived in Corpus Christi since 1978. (Trial Tr. Jan. 17 AM, p. 48:3-21.)

120. Representative Hunter was a member of the redistricting committee and testified that he was involved in the process that resulted in HD 34 and HD 32 being wholly contained in Nueces County in the State's enacted plan. (Trial Tr. Jan. 17 AM, pp. 83:9-84:1.)

121. Representative Todd Hunter took the lead in the area around Nueces County on the House Redistricting map. (Trial Tr. Jan. 20 PM, p. 79:18-22 (Solomons).)

122. Representative Scott and Representative Torres were paired in HD 34 in the State's enacted map and Representative Hunter remained unpaired in HD 32. (Trial Tr. Jan. 17 AM, pp. 84:25-85:9; 109:7-25.)

123. Representative Hunter agreed that during the April 15th House Committee hearing on the House redistricting plan committee substitute, MALDEF raised the issue that eliminating HD 33 from Nueces County could cause retrogression under the Voting Rights Act. (Trial Tr. Jan. 17 AM, pp.107:24-108:16; 116:13-19.)

124. Representative Hunter agreed that MALDEF proposed a plan at the House Redistricting Committee Hearing on April 15th that would have included three districts in Nueces County. (Trial Tr. Jan. 17 AM, pp.108:22-109:1.)

125. Mr. Interiano testified that the House map was not retrogressive because it created one more Spanish surname voter registration majority district compared to the benchmark plan. (Trial Tr. Jan. 17 PM, p. 31:21-25.)

126. Mr. Interiano testified the House plan was not retrogressive because it raised the Spanish surname voter registration in House District 90 and 148 to above 50% SSVR. (Trial Tr. Jan. 17 PM, p. 32:1-6.)

127. Mr. Interiano did not examine the election performance of benchmark House District 90 or benchmark House District 148 before he started mapping. (Trial Tr. Jan. 17 PM, p. 32:15-18.)

128. Mr. Interiano confirmed that he did not run the election analysis and did not know whether the House District 90 and 148 in the benchmark were already performing Latino opportunity districts. (Trial Tr. Jan. 17 PM, p. 32:12-15.)

129. Mr. Interiano testified that he saw an April 27 letter from MALDEF to Chairman Solomons. (Trial Tr. Jan. 17 PM, p. 33:10-23; DX381, pp. 68-75.)

130. The April 27 letter to Chairman Solomons states "District 90 and District 148 in the benchmark plan are districts in which Latino voters currently possess the ability to choose their candidate of choice." (Trial Tr. Jan. 17 PM, p. 33:11-21; DX381, pp. 68-69.)

131. The April 27 letter to Chairman Solomons also stated that adding Latino voters to District 90 and District 148 does raise the SSVR, but does not create new Latino opportunity districts which offset the loss of District 33. (Trial Tr. Jan. 17 PM, p. 33:11-21; DX381, pp. 68-69.)

132. Mr. Interiano confirmed the Chairman and those working on the plan knew on April 27th that people were opposed to raising the SSVR in District 90 and 148 because they believed it would not offset the loss of District 33 in the retrogression analysis. (Trial Tr. Jan. 17 PM, p. 34:20-35:1; DX381, pp. 68-69.)

133. Mr. Interiano testified that if District 90 and 148 were opportunity districts in the benchmark plan, the State's new plan creates one less Latino opportunity district. Mr. Interiano further testified that he made an attempt to keep District 33 in Nueces County. (Trial Tr. Jan. 17 PM, p. 35:4-10.)

134. Mr. Interiano agreed that any retrogression could have been avoided in the House plan by creating a Latino opportunity district elsewhere in the State. (Trial Tr. Jan. 17 PM, p. 35:11-15.)

135. Mr. Interiano testified that he believed there was no reason to draw any additional Latino opportunity districts in the House map. (Trial Tr. Jan. 17 PM, p. 35:22-36:4.)

HD 117

136. Gerardo Interiano identified HD 117 in the benchmark plan as a Latino opportunity district. (DX779A, pp. 143:17-144:3.)

137. In the State's enacted plan, HD 117 elects only three of seven Latino preferred candidates in racially contested exogenous elections. (DX799; DX726, pp. 8-9.)

138. On March 24, 2011, Michael Villareal sent an email directed to Gerardo Interiano that contained a chart titled "Polarized Voting in District 117, DPI% & SSVR%." (DX917.)

139. Addie Bryant forwarded the chart to Gerardo Interiano on March 25, 2011. (DX917.)

140. The chart that Michael Villareal sent for delivery to Gerardo Interiano showed that in the benchmark plan HD 117, "[o]f the 27 VTD's [sic] won by Garza, 4 had a majority of SSRV." (DX917.)

141. The chart that Michael Villareal sent for delivery to Gerardo Interiano showed that HD 117 contains 23 VTDs with a majority of Spanish surnamed registered voters. (DX917.)

142. Gerardo Interiano was aware of racially polarized voting in HD117 and that Representative Garza won only 4 of the 23 majority-SSVR precincts in his district. (DX0917.)

143. Mr. Interiano testified that, after Rep. Villareal told Rep. Garza that HD117 could not go below 50%SSVR, Rep. Garza "came to [Mr. Interiano, who said] we need to find a way to keep [HD117] above 50 percent," and instructed Rep. Garza to "have [his] staff continue working and trying to find how . . . to keep it above 50 percent and maintain [his] other goals in the district." (Trial Tr. Jan. 25 PM, 107:1-13.)

144. Mr. Interiano testified that State Rep. Garza "wanted [areas] that were more [R]epublican or more affluent for fund-raising purposes, but in [Rep. Garza's] case our goal was to keep his district above that 50 percent SSVR. And if I recall correctly, in the benchmark plan it was 50.7, and I think we got it to slightly above 50 percent." (Trial Tr. Jan 17 AM, p. 159:4-11.)

145. Mr. Interiano testified that the community of Somerset was assigned to HD117 to protect Rep. Garza's incumbency and that if Somerset were not included in HD117, Rep. Garza

"would not be afforded th[e] opportunity [to be reelected]." (Trial Tr. Jan. 17 AM, p. 160:10-25.)

146. In the 2001 round of redistricting in Texas, "the Justice Department objected to parts of the LRB House plan as causing an impermissible retrogression in Hispanic voting strength." (DX381, p. 81.)

147. "Specifically, the Justice Department objected to the loss of a Latino District in Bexar County, as well as the reduction of Latino voting strength in Districts 35, 38, and 74." (DX381, p. 85.)

148. Joe Farias is the State Representative for Texas House District 118 in Bexar County and has lived in the county for 65 years. He was elected to the Texas House of Representatives in 2006 and previously served as a school board member for Harlandale Independent School District for eight and half years. (Trial Tr. Jan. 24 PM, pp. 4:20-6:11.)

149. Representative Farias testified that in the state enacted map, Somerset and Whispering Winds were taken out of HD 118, which were primary concerns of his and were placed in HD 117, which is represented by John Garza. (Trial Tr. Jan. 24 PM, pp. 7:9-14; 8:17-9:4.)

150. Representative Farias testified that the City of Somerset is predominantly Hispanic and economically one of the poorest in Bexar County. (Trial Tr. Jan. 24 PM, p. 9:5-9.)

151. Representative Farias testified that Whispering Winds is "mainly old single two-bedroom trailer houses that have been set in place permanently, and their economic [status] is probably lower than Somerset." (Trial Tr. Jan. 24 PM, p. 9:10-13.)

152. Representative Farias testified that the Hispanic turnout in Somerset and Whispering Winds is low compared to other areas of HD 118, South San Antonio, and southern Bexar County. (Trial Tr. Jan. 24 PM, p. 13:14-17.)

153. Representative Farias testified the he did not support the Bexar County delegation map for Texas House because of the removal of Somerset and Whispering Winds from District 118. (Trial Tr. Jan. 24 PM, p. 13:18-24.)

154. Representative Farias testified that he made several attempts to restore Whispering Winds and Somerset to District 118 including sending a letter to the San Antonio delegation and approaching Representative Garza, the Speaker's Counsel, and various members of the delegation. (Trial Tr. Jan. 24 PM, p. 14:7-16.)

155. Representative Farias testified that Representative Garza wanted Somerset and Whispering Winds over South San Antonio ISD because there is greater voter turnout in South San Antonio. (Trial Tr. Jan. 24 PM, p. 17:18-23.)

156. Representative Farias testified Representative Garza said that he wanted HD 117 to remain at exactly 50.1% SSVR and not any higher. (Trial Tr. Jan. 24 PM, pp. 17:24-18:20, 26:9-18, 29:24-30:1.)

157. Representative Farias testified that Representative Garza indicated that he wanted District 117 to have 50.1% SSVR and no more than that number. (Trial Tr. Jan. 24 PM, pp. 14:17-15:17.)

158. Representative Solomons spoke against the amendment that Represented Farias offered on the House floor that would have shifted Somerset and Whispering Winds back into HD 117. (Trial Tr. Jan. 20 PM, pp. 42:21-24; 46:1.)

159. The state's expert witness, Dr. John Alford, testified that House District 117 met the Court's bright line test for an ability to elect district because it had 60% Hispanic citizen voting age population. (Trial Tr. Jan. 25 AM, p. 17:1-8.)

160. The state's expert witness, Dr. John Alford testified that he did not compare the benchmark to the adopted plan to see whether there was a reduction in the number of 60 percent HCVAP districts (Trial Tr. Jan. 25 AM, p. 18:1-5.)

161. In the state's enacted plan, H283, the gap between HD 117's HCVAP and SSVR is 13.7 percent, the largest gap of any district in the state. (DX0799.)

Racial Purpose

162. On June 9, 2011, Corbin Casteel forwarded to Mr. Interiano an analysis by Dub Maines of the congressional map passed by the Texas House Special Committee on Redistricting wherein Mr. Maines opined that the map was retrogressive because that version of the map reduced the Latino population of CD 20. (DX399, p. Congress294-295; DX400, p. Congress408.)

163. Mr. Casteel is a friend of Mr. Interiano's, as well as a political consultant in Austin. (DX779A, p. 42:16-18.)

164. Mr. Maines works for Congressman Joe Barton. (DX779A, p. 56:5-8.)

165. Mr. Maines stated "[I]s there any reason why every effort should not be made to make the map more likely to pre-clear, especially if it doesn't hurt the political aims in any way?" (DX399, p. Congress294.)

166. Regarding Mr. Maines's emails, Congressman Lamar Smith later wrote to Pete Sessions: "Need to get word to Dale not to make any calls. AG upset. And pls call barton [sic]. Dub mains [sic] sending emails criticizing cd 20. May be used against us in court. We didn't kno [sic] Dale was making calls or wld [sic] have advised him not to do so." (DX400, p. Congress410.)

167. On December 17, 2010, Eric Opiela forwarded a blog posting to Congressman Lamar Smith and Mr. Interiano. (DX394, p. Congress034.)

168. The blog post and maps that Eric Opiela forwarded on December 17, 2010 included: a statement that the Voting Rights Act does not require a state with 38 percent Hispanic population to have any Hispanic opportunity districts; noted that its purpose was to keep the Hispanic opportunity districts as close to the current configuration as possible; drew a Hispanic opportunity district in the Dallas-Ft. Worth area (noting the difficulty of drawing districts there because of where the incumbents live); and a "centerpiece" of an 8-way split of Austin." (DX394, p. Congress035-042.)

South Texas HDs

169. Mr. Interiano drew the Texas State House districts in Hidalgo County. (DX579, p. 1426:20-21; DX779A, p. 169:14-24.)

170. In plan H100, all state house districts in Hidalgo County are overpopulated relative to the 2010 ideal district population; House District 36 is overpopulated by 33,540, House District 39 by 4,651, House District 40 by 47,775, and House District 41 by 18,255. (DX406, pp. 15-16.)

171. Mr. Interino agreed that Cameron and Hidalgo County grew substantially in the past decade and that the growth is overwhelmingly Hispanic. (Trial Tr. Jan. 17 PM, pp. 37:13-23.)

172. Chairman Solomons knew that from his staff that there was additional population in Hidalgo County that was not by itself enough to comprise a whole district. (Trial Tr. Jan. 20 PM, p. 77:1-5.)

173. Chairman Solomons knew during the redistricting process that in Cameron County there was enough population to comprise two districts wholly contained plus additional population that was not, by itself, enough for an additional district. (Trial Tr. Jan. 20 PM, p. 76:21-25.)

174. Mr. Interiano conceded that a compact, Latino majority House district could have been drawn between Hidalgo and Cameron Counties. (DX779A, p. 136:15-24.)

175. Mr. Interiano was able to draw a Latino opportunity House district with the remainder populations of Hidalgo and Cameron Counties while keeping all of the districts in those counties within the correct deviation. (DX579, pp. 1448:12-1449:6.)

176. Despite knowing of the population in neighboring Cameron and Hidalgo counties, Chairman Solomons testified that he never concluded that a new House district could be

drawn between Hidalgo and Cameron County using the excess population in each county. (Trial Tr. Jan. 20 PM, p. 77: 8-15.)

177. The State's enacted plan, H283, maintains four districts in Hidalgo County and spills the excess population into a House district shared with Starr County. (DX575, p. 463:5-9; DX406, p. 21.)

178. The State's enacted plan, H283, maintains two districts in Cameron County and spills the excess population northward into a district shared with Willacy and Kennedy counties. (DX575, p. 463:10-13; DX406, p. 21.)

179. Mr. Interiano testified there was enough growth in Cameron and Hidalgo Counties to add an additional district but was unfeasible without causing a County line split. (Trial Tr. Jan. 17 PM, p. 37:12-19.)

180. Mr. Interiano testified that when he put together the overpopulation from Cameron and Hidalgo and made one new district it caused a county split further north in the map. (Trial Tr. Jan. 17 PM, p. 38:2-13.)

181. Mr. Interiano testified that the State interpreted the county line rule to allow surplus population to be spilled over into another county, but if you otherwise split a county line it violates the Texas Constitution. (Trial Tr. Jan. 17 PM, p. 41:6-23.)

182. Mr. Interiano agreed there are "spills" of population across county lines in 11 or 12 counties in the State's map. (Trial Tr. January 17 PM, p. 42:7-8.)

183. The Rio Grande Valley is on the border with Mexico and is a four-county area with approximately a million people. Half of the population is under 24 years of age and a third are poor. (Trial Tr. Jan. 18 PM, p. 146:21-25.)

184. Rio Grande Valley is made up of Willacy, Cameron, Hidalgo, and Starr counties. (Trial Tr. Jan. 18 PM, p. 147:21-23.)

185. *Colonias* are large unincorporated and unregulated settlements outside of cities. There is a lack of infrastructure like roads and sometimes the *colonias* lack electricity and running water. (Trial Tr. Jan. 18 PM, pp. 148:20-149:3.)

186. Cameron Park is the largest and oldest of the 1,400 *colonias* in the Rio Grande Valley. (Trial Tr. Jan. 18 PM, p. 150:11-17).

187. The communities in the Rio Grande Valley face similar challenges including healthcare, no public hospital, poor veteran services, high school drop out rates, and isolation. (Trial Tr. Jan. 18 PM, p. at 152:9-154:4.)

188. Michael Seifert testified that the needs of the people living in Cameron and Hidalgo counties are not paid attention to by the state government and that an additional representative from this area would help the community be heard. (Trial Tr. Jan. 18 PM, pp. 154:18-155:8.)

189. Texas Senator Jose Rodriguez has extensive knowledge of the Rio Grande Valley of Texas because he was born in Alice, Texas, attended Pharr San Juan High School and Pan American University in the Rio Grande Valley of Texas, and worked as an attorney for Texas Rural Legal Aid representing farm workers from the region. (Trial Tr. Jan. 18 PM, pp. 123:15-125:18.)

190. Senator Rodriguez testified that the Rio Grande Valley of Texas needs "strong political representation. It's a predominantly Hispanic community characterized by high poverty, high unemployment, lack of access to healthcare, and a lack of infrastructure such as roads and other facilities." It is a growing Latino community. (Trial Tr. Jan. 18 PM, p. 126:8-18.)

HD 78 in El Paso County

191. Texas Senator Jose Rodriguez is knowledgeable about El Paso because he has lived in El Paso for the past 28 years, served as county attorney for 17 years, and State Senator for the past year. (Trial Tr. Jan. 18 PM, pp. 125:19-126:7.)

192. Senator Rodriguez testified that the boundaries of HD 77 and HD 78 do not follow natural geographic features. He stated that the districts "antlers" on the east and west of HD 77 are not following a mountain range. (Trial Tr. Jan. 18 PM, pp. 133:7-134:21.)

193. Senator Rodriguez testified that there is no need to split 14 precincts in the boundary between HD 77 and HD 78. (Trial Tr. Jan. 18 PM, pp.134:23-135:14.)

194. Senator Rodriguez testified that Hispanic precincts were packed into the western side of the "antler" in HD 77 on the Northeast side and to bring Anglo precincts on the west side into HD 78. (Trial Tr. Jan. 18 PM, pp. 135:15-136:12; 137:1-12.)

195. The SSVR for HD 75 is 81.2%, HD 76 is 81.3%, HD 77 is 66.4%, HD 78 is 47.1%, and HD 79 is 69.3%. (Trial Tr. Jan. 18 PM, pp. 138:20-139:4.)

196. Senator Rodriguez testified that it is an "anomaly to have District 78 with less than 50 percent Hispanic registered voters" compared to the other districts and is an indicator of an attempt to draw a district that would include less Latino voters than is warranted. (Trial Tr. Jan. 18 PM, p.139:5-17.)

197. Senator Rodriguez testified that he was not involved in the drawing of the House map, did not vote for it in the Senate, and did not support it because it did not fully take into account the growth of the Latino population in HD 78 and it because he was aware that

there was disagreement within the El Paso delegation. (Trial Tr. Jan. 18 PM, pp. 139:19-140:18; 143:17-144:1.)

198. Senator Rodriguez testified that Representative Dee Margo was thought of as Anglo until his last campaign when he claimed that he had some Mexican descent in his family. (Trial Tr. Jan. 18 PM, pp.142:23-143:4.)

199. The State House enacted plan does not reflect the Latino population in El Paso County. El Paso County has over 80 percent Latino population and the adopted plan maintains District 78 below 50 percent Spanish surname registration. (DX574, pp. 84:21-85:13.)

200. The plan enacted by the Texas Legislature in the 82nd Legislative Session, HB 150 (Plan H283) fails to reflect the Latino growth in El Paso County. (DX432, pp. 77 ¶ 9, 94 ¶ 14.)

201. In plan H283, the border between HD78 and HD77 does not follow precinct boundaries and cuts 14 precincts. (DX406, p. 5.)

202. House District 78 in plan H283 does not follow the contours of the Franklin Mountains in El Paso. (DX406, p. 1.)

203. In the enacted HD 78, the district boundary cuts across neighborhoods. (DX432, p. 95 ¶ 19; DX406, p. 1.)

204. In plan H283, House District 78 avoids inclusion of Hispanic Citizen Voting-Age Population majority block groups. (DX406, p. 6.)

205. Sergio Coronado, a resident of Canutillo, Texas and voter in HD 78, testified that in the benchmark plan, Latinos in HD 78 were on the verge of consistently electing their candidate of choice. (DX432, p. 77 ¶ 10.)

206. HDs 77 and 78 in H283 split a historic community in northeast El Paso. This community has its own identity, its own high school, Irving, and is divided by the configuration of districts in H283. The high performing Latino population is packed into HD 77. (DX575, p. 377:2-25.)

207. Eliminating the “arms” from HD 77 and allowing the populations to be in districts more consistent with the geography would have increased Latino population in HD 78. (DX575, p. 378:19-24.)

208. Carmen Rodriguez testified that HD78 specifically carves out Latino communities. For example, there is a clear swap where Latino neighborhoods to the east of Doniphan Road are excluded and affluent Anglo neighborhoods to the west of Doniphan Road are included. Plan H283 cuts the St. Judas Church out of the district. This is a church with a highly Latino parish, and its removal is a clear example of carving out Latinos. The church's address is 4006 Hidden Way, El Paso, Texas. (DX432, pp. 94-95 ¶ 16.)

209. Carmen Rodriguez testified that HD78 combines communities of interest that are not similar. House District 78 combines the traditional Northeast neighborhoods of El Paso with parts of the Westside neighborhoods of El Paso. It is very uncommon for residents of the Westside to visit, shop, or have any family connections with residents of the Northeast and vice-versa. The two sides of town are connected by only one road along the Franklin Mountain Range called Trans- Mountain Road. The Northeast is identified by its active and retired military veterans due to its proximity to Fort Bliss and a large increase in housing development. The Westside is identified by affluent neighborhoods, the University of Texas at El Paso, Sunland Park Mall, older and established housing, and an emerging Latino population reflecting growth from Mexican Nationals investing in El Paso while fleeing the violence in neighboring Juarez. (DX432, p. 95 ¶ 17.)

210. The House district plan for El Paso County in plan H283 was given to Mr. Interiano by Representative Pickett. (DX575, p. 1432:2-5;DX779A, p. 163:6-11.)

211. Mr. Interino testified he did not draw an additional Latino opportunity district in El Paso County because Representative Pickett was working on the drop-in plan for El Paso County. (Trial Tr. Jan. 17 PM, p. 37:2-12.)

212. Mr. Interiano testified that he did not consider District 78 in El Paso to be a Latino opportunity district in the State's plan. (DX575, p. 1444:13-16; Trial Tr. Jan. 17 PM, p. 36: 5-11.)

213. Mr. Interiano testified that the State under the direction of Representative Pickett drew District 78 in El Paso as the only district in the area with less than 50 percent Spanish surname voter registration. (Trial Tr. Jan. 17 PM, p. 36:12-21.)

214. El Paso County is 82.2 percent Latino, yet HD 78 is only 66 percent Latino and has less than 50% Latino voter registration. The remaining four State House districts in El Paso are well over 80% Latino. (DX432, p.94 ¶ 15.)

215. Chairman Solomons did not make a decision regarding El Paso county needing to have an additional Latino opportunity district and does not recall getting any red flags at any point during the process that HD78 ought to be a Hispanic voter registration majority district. (Trial Tr. Jan. 20 PM, 87:3-14.)

216. Chairman Solomons acknowledged that it is possible that the member from El Paso that is elected from non-Latino opportunity district might have wanted his boundary lines to remain the same despite it being a violation of the Voting Rights Act. (Ex. J-60, at61:16-62:7)

Dallas Ft. Worth

217. Dr. Alford testified, with respect to the possibility of drawing an additional Latino opportunity district in the Dallas-Ft. Worth area, "I do think they could have drawn it. I am not sure it would have been a bad idea to draw a minority district in that area." (DX581, pp. 1923:4-1924:2.)

218. Congressional District 6 in plan C185 divides largely Spanish speaking communities of Dallas County and joins them with non-Spanish speaking populations in Ellis and Navarro Counties. (DX415, p. 1.)

219. Congressional District 6 in plan C185 joins communities in Dallas County that have low levels of educational attainment with Ellis and Navarro counties to the south that have higher levels of educational attainment. (DX416, p. 1.)

220. Congressional District 6 in plan C185 combines low income communities in Dallas County with more affluent areas in southern Tarrant County and in Ellis and Navarro Counties. (DX418, p. 1.)

221. In the State enacted Congressional plan CD 26 is based in Denton County but extends down into Tarrant County. (Trial Tr. Jan. 20 PM, p. 94:17-24.)

222. Chairman Solomons does not know why the CD 26 extension into Tarrant County follows the boundaries of the Hispanic population but does not take in much of the African American population, and he can provide no partisan rationale for the extension. (Trial Tr. Jan. 20 PM, pp. 95:13-96:22.)

223. Chairman Solomons testified, in response to a question from the Court regarding who directed the drawing of the maps: "for me, these guys were the guys who knew what they were doing in drawing maps and understanding the numbers, what needed to be done, that sort of thing. The input was coming from all various sources, other proposals, from Congressional members, from Congressional staffers, from issues that were arising as different things were being developed, and for me, I didn't have -- you have to understand, I don't have -- I didn't have a big interest in the exact -- whether this precinct or this precinct went into the map. As long as we thought they were legal -- and the way the districts were being drawn, they might look a little funny here and there, but as long as the staff and the experts thought it was okay, then that's what we were -- that was my direction to them. I didn't tell them, Judge, to draw it this particular way." (Trial Tr. Jan. 20 PM, pp. 97:1-98:21.)

224. Chairman Solomons testified that he does not know the predominantly African American area of Lake Como in the Fort Worth area is outside CD 26 in the state enacted plan. (Trial Tr. Jan. 20 PM, p. 102:1-24.)

225. Chairman Solomons testified that he does not know why a predominantly African American neighborhood called Forest Hill in Fort Worth would be outside CD 26. (Trial Tr. Jan. 20 PM, p. 103:5-11.)

226. On May 28, 2011, Ryan Downton wrote an email to Gerardo Interiano and Doug Davis regarding his progress on congressional redistricting. Mr. Downton reported "Changes made to keep the Black population together in District 12." (DX903.)

227. There are 550,000 people from Denton County in Congressional 26 and 147,000 people from Tarrant County in the extension of CD 26 into Tarrant County in the state enacted plan. (Trial Tr. Jan. 20 PM, p. 103:12-104:7; DX0819.)

228. In the portion of CD 26 that runs into Tarrant County, the Spanish Surname Voter Registration is about 40.3% and is matched up with the Denton County population that is 7.2% Spanish Surname Voter Registration, which results in a district with Spanish surname registration of 12%. (Trial Tr. Jan. 20 PM, p. 104:3-22; DX0819.)

229. CD26 does not take in all of Denton County but does reach into Tarrant County in the State's enacted plan. (Trial Tr. Jan. 20 PM, p. 105:9-11;DX0713.)

230. CD24, based in Dallas and Tarrant Counties, goes up into part of Denton County to take in about 112,000 people in the State's enacted plan. (Trial Tr. Jan. 20 PM, p. 105:12-16; DX0819.)

231. For the purposes of complying with one person, one vote, the State's Congressional plan for CD26 could have taken in all of Denton County, and it would have needed only 30,000 people to reach the ideal district population. (Trial Tr. Jan. 20 PM, p. 106:8-12.)

232. In the State's enacted plan, CD26 has 38 precinct splits in the portion that goes into Tarrant County, and Chairman Solomons has no explanation for it. (Trial Tr. Jan. 20 PM, pp. 106:13-107:18.)

233. Doug Davis testified that a traditional redistricting principle, at least with respect to larger districts, is to avoid splitting precincts. (Trial Tr. Jan. 18 AM, 42:11-16.)

234. Chairman Solomons agrees that there are far more precinct cuts in Tarrant County in CD26 than there are in the Denton and Dallas County portions of the district in the State's enacted plan. (Trial Tr. Jan. 20 PM, pp. 107:19-108:2.)

235. Tarrant County Constable Sergio DeLeon testified that the State's congressional boundaries in North Texas are intentionally configured to reduce the voting strength of Hispanics and African Americans in the Dallas/Fort Worth area. (DeLeon Pre-Filed Direct at 1-2, Dkt. No. 157-1 (filed Jan. 17, 2012).)

236. Alex Jimenez was born just outside of Marshall, Texas and has lived in Tarrant County, Texas for 29 years. (Trial Tr. Jan. 18 PM. at 90:1-3; 90:22.)

237. Alex Jimenez has been involved civically and politically as well as has been involved in about 50 political campaigns for democrats, republicans, and independents. (Trial Tr. Jan. 18 PM, at 95:1-11.)

238. Mr. Jimenez helped the Republican Mayor of Fort Worth get elected. He also helped Mary Louise Garcia, a Republican, run for County Clerk, and she was elected. (DX575, p. 571:14-19; Trial Tr. Jan. 18 PM, p. 95:12-25.)

239. In chairing the Fort Worth and Dallas Hispanic Chambers of Commerce, Mr. Jimenez sought to influence legislation to help Hispanic businesses, and small businesses in particular. (DX575, p. 570:4-17; Trial Tr. Jan. 18 PM, p. 96:23-18.)

240. Alex Jimenez testified that he thought they could never get someone in the "lightning bolt" elected, because Denton County voters in CD26 would overwhelm Tarrant County voters. (Trial Tr. Jan. 18 PM, pp. 105:17-106:5.)

241. Alex Jimenez testified based on his campaign work that he thinks that if the minority populations that are found in Tarrant County part of CD26 were combined with nearby communities, a Republican candidate could win in the district. (Trial Tr. Jan. 18 PM, pp. 106:6-22).

242. Alex Jimenez identified and inside CD26 Tarrant County "lightening bolt" area as being majority Hispanic and including a predominantly Hispanic area know as the North Fort Worth neighborhood. (Trial Tr. Jan. 18 PM, p.100:1-21.)

243. State Representative Marc Veasey testified that Denton County has a heavily white demographic. (Trial Tr. Jan. 18 PM, p.18:21-23.)

244. State Representative Marc Veasey testified that in the state enacted Congressional plan CD 26 is drawn so that the Hispanic voters in Tarrant County would have no ability to elect the candidate of choice in this district. (Trial Tr. Jan. 18 PM, pp.19:19-20:2.)

245. State Representative Marc Veasey testified that in the state enacted plan Denton County controls CD 26. (Trial Tr. Jan. 18 PM, p. 24:11-17.)

246. State Representative Marc Veasey testified that in the state enacted Congressional plan CD 12 was drawn so that the Anglo and affluent parts of Tarrant County would out vote the African American community. (Trial Tr. Jan. 18 PM, p. 20:21-25.)

247. State Representative Marc Veasey testified that in the state enacted Congressional plan CD 6 is compromised of Navarro, Ellis, Dallas, and Tarrant County. Ellis and Navarro

Counties have a heavily white population, while the CD 6 population in Dallas and Tarrant Counties are heavily minority. (Trial Tr. Jan. 18 PM, p. 21:1-12.)

248. State Representative Marc Veasey testified that in the state enacted plan CD 6 splits the minority communities that comprise HD 101 in the State House plan, which was prioritized in the House plan. (Trial Tr. Jan. 18 PM, pp. 21:14-23:2.)

249. State Representative Marc Veasey testified that in the state enacted plan CD 33 splits the minority communities that comprise HD 95 in the State House plan, which was prioritized in the House plan. These minority communities that are comprised of fast growth African American and Hispanic areas are split into CD 33 and CD 12 in the state enacted plan. (Trial Tr. Jan. 18 PM, p. 23:10-21.)

250. Representative Veasey offered an amendment to the state Congressional plan called "The Fair Texas Plan" that would have included one majority Hispanic district and one African majority district that would have given every incumbent a chance to get re-elected, but the amendment did not gain passage. (Trial Tr. Jan. 18 PM, pp. 25:19-26:21.)

251. Congresswomen Eddie Bernice Johnson testified that she proposed a map to Congressman Lamar Smith that would include population growth in Tarrant and Dallas that created a Latino opportunity district in the Dallas area. (Trial Tr. Jan. 18 PM, pp. 73:15-76:8.)

252. The Latino community in the DFW Metroplex is estimated to be l.8 million, and the Dallas, Fl. Worth, Grand Prairie, Irving, and Farmers Branch schools systems are predominantly Latino. (DX432, p. 83 ¶ 25.)

253. Congressman Lamar Smith was the spokesperson for the Texas Republican Congressional delegation in redistricting and submitted a plan to the House redistricting committee. (DX575, p. 444:1-8; DX580, pp. 1580:17-23, 1610:6-15.)

254. Congressman Lamar Smith submitted a Congressional plan on behalf of the Republican delegation that included a new Hispanic opportunity district in the Dallas- Fort Worth area that was not adopted by the State. (DX575, p. 446:11-14; DX819; DX777, pp. at 110:8-112:2; DX394, p. Congress022-23.)

255. The redistricters in Texas generally give a great deal of deference to the head of the congressional delegation of the same party when drawing new congressional districts. (DX575, pp. 444:21-445:3; DX579, p. 1320:12-15.) More often than not, his wishes are included in the redistricting plan. (DX575, p. 445:1-3.)

256. The district that Rep. Smith proposed, CD 33, had a 61% HVAP. (DX575, p. 445:16-18; DX394, p. Congress021.)

257. Congressman Henry Cuellar testified that the Texas Legislature ignored the request of the Texas Republican congressional delegation to create a Latino opportunity district in Dallas-Ft. Worth and this was a surprise to Rep. Cuellar because the Legislature historically worked with the input of the delegation and because the delegation had presented a bipartisan deal. (DX579, pp. 1322:1-1323:5.)

CD 23

258. In 2006, following the Supreme Court's ruling in *LULAC v. Perry*, the district court on remand had to redraw Congressional District 23 to remedy the State's violation of Section 2 of the Voting Rights Act and provide Latinos the opportunity to elect candidates of their choice. (DX826, pp. 5-6; DX575, pp. 469:22-470:6.)

259. The State's expert witness, Dr. Alford, testified that since CD 23 was created in 2006, it elected the Latino-preferred candidate in 2006 and 2008. (DX964, p. 121:6-9.)

260. Senator Kel Seliger, Chair of the Texas Senate Select Redistricting Committee, testified that in the benchmark plan, Congressional District 23 is a Latino opportunity district and was drawn to be a Latino opportunity district by the court. (DX776, p. 13:7-18.)

261. Expert witness Richard Engstrom, testified that, from 2006 to 2010, the candidate of choice of Latinos won two of three endogenous elections in CD 23 in the benchmark. (DX575, pp. 513:24-514:6.)

262. In plan C100, the incumbent of Congressional District 23 is Francisco Canseco. (DX406, p. 7.)

263. Senator Kel Seliger testified that he believed it was legally required to build a district to elect the Latino candidate of choice in CD 23. (DX776, p. 31:6-16; Trial Tr. Jan. 24 AM, p. 14:16-22.)

264. Chairman Seliger testified that although he believed Mr. Canseco was the preferred candidate of Latinos and CD 23 was a Latino majority district, he still wanted to change the district to make it safer for Mr. Canseco. (DX776, p. 14:11-18; DX776, pp. 13:12-14:3; Trial Tr. Jan. 24 AM, p. 11:9-14.)

265. Senator Kel Seliger testified that no analysis was done to determine if Congressman Canseco was the Latino candidate of choice. (DX776, p. 31:3-16.)

266. The Senate Special Redistricting Committee attempted to draw a safe district for Rep. Canseco but could not keep it safe for Canseco and maintain the district as a Latino opportunity district. As Chairman Seliger put it: "We just -- in order to keep it as an opportunity district we just couldn't piece it together where -- where it served Congressman Canseco; and we wanted to if we could. And then they [the House] came up with their design and we thought it was good." (DX776, p. 14:6-10.)

267. Mr. Interiano never conducted analysis to determine if Representative Canseco was the Latino preferred candidate in CD23. (DX579, p. 1456:11-18; DX779A, pp. 86:24-87:9; Trial Tr. Jan. 17 PM, p. 49:8-11.)

268. Dr. Alford conceded that he did not analyze the degree to which Latinos were electing their preferred candidate to congress in CD23. (DX581, p. 1864:8-25.)

269. Senator Kel Seliger testified that Congressional District 23 was reconfigured in Plan C185 with the goal of protecting the incumbent in the general election as much as possible. Senator Seliger further testified that CD23 needed to remain a Latino opportunity district. (DX776, pp. 13:19-15:11; 30:6-15; 37:21-24.)

270. Chairman Seliger further testified that no one had told him that CD23 in the State's adopted plan was predicted to elect the Latino preferred candidate in only one out ten elections. (DX776, 24:4-12; Trial Tr. Jan. 24 AM, pp. 13:23-14:9.)

271. Mr. Downton testified that CD23 in C185 is a Latino ability district according to the Voting Rights Act although he knows that the Latino candidate of choice won only 1 out of 10 reaggregated elections. (Trial Tr., Jan. 18, 2012 AM, p. 102:20-23; DX577, p. 950:14-17; DX778A, p. 93:5-23.)

272. During the legislative process, Mr. Downton examined proposed plans that created seven Latino majority districts in South and West Texas and that elected Latino preferred candidates in more than half of the reaggregated exogenous elections. (Trial Tr., Jan. 18 AM, pp. 102:24-103:3.)

273. Mr. Downton used HCVAP as the only measure to evaluate the legality of C185 with respect to the Voting Rights Act. (Trial Tr., Jan. 18 AM, p. 102:13-19.)

274. The State's expert witness, Dr. Alford, testified that CD23 in Plan C185 is slightly increased in Spanish surname voter registration, but it is decreased in its election performance. (DX581, p. 1877:18-22.)

275. Voting in the General Election in 2010 for Congress in CD 23 was racially polarized. In CD 23 the incumbent Ciro D. Rodriguez received an estimated 84.7 percent of the votes cast by Latinos, and just 18.1 percent of those cast by non-Latinos. (DX728, p. 25; DX725, pp. 10-12.)

276. In the 2010 Republican Primary Election for CD 23, Rep. Canseco received only 32.15% of the vote. In that same election, the Anglo vote was split among four candidates. (DX575, p. 455:9-14; DX393, p. 11.)

277. In the 2010 Republican Primary Runoff Election for CD 23, Rep. Canseco defeated his opponent by less than 800 votes. (DX575, pp. 455:25-456:2; DX393, p. 58.)

278. In the 2010 Republican Primary Runoff Election for CD 23, Rep. Canseco's votes came mostly from Bexar County and part of Zavala County. (DX575, p. 456:3-7; DX411, p. 2.)

279. In the 2010 Republican primary runoff for Congressional District 23, the highest concentration of votes cast for Francisco Canseco was in Bexar County. (DX411, p. 2; DX385, pp. 79-83.)

280. In the 2010 Republican primary for Railroad Commissioner, Victor Carrillo received high percentages of the votes cast in precincts in the south side of San Antonio and in Maverick County. (DX429, p. 1.)

281. In the 2010 Republican primary for Railroad Commissioner, the most number of votes cast for Victor Carrillo was in Bexar County. (DX429, p. 2.)

282. In the 2010 Republican Primary Election for Railroad Commissioner, reaggregated in benchmark CD23, most of the votes cast for incumbent Railroad Commissioner Victor G. Carrillo came from Bexar and Medina counties. (DX575, p. 456:20-24; dx429, p. 2.)

283. In the 2010 general election for CD23, Francisco Canseco received a high concentration of votes from far west and northwest Bexar County. (DX411, p. 3; DX385, pp. 79-83.)

284. Senator Kel Seliger testified that "the 2010 election was a bit of an aberration because of things like the Tea Party influence and I didn't know if it was reliable." (DX776, 15:1-7; Trial Tr. Jan. 24 AM, 11:15-21).

285. Senator Kel Seliger testified that it was possible Mr. Canseco would lose in CD23 in 2010 if the district was not reconfigured in some way. (DX776, 15:8-11; Trial Tr. Jan. 24 AM, 11-22-12:1.)

286. According to Mr. Downton, his goals with respect to drawing CD 23 were to improve Rep. Canseco's chances for reelection and to maintain or increase all of the Hispanic population percentages, such as HCVAP and SSVR. (DX778A, pp. 73:18-74:2, 96:11-15.)

287. Mr. Downton stated that when he was drawing CD 23, he was aware that Rep. Canseco was not the Latino candidate of choice. (DX577, p. 966:3-5; DX778A, p. 90:9-11.)

288. Mr. Interiano agreed he understood Hispanic citizens voting age population to mean "those people who are old enough and who are citizens so that they can be able to register to vote." (Trial Tr. Jan. 17 PM, p. 44:2-4.)

289. Mr. Interiano agreed that Spanish voter registration tells us how many Spanish surname people are actually register to vote in a district. (Trial Tr. Jan. 17 PM, p. 44:6-8.)

290. According to Mr. Interiano, there were two concurrent goals with respect to the redistricting of Congressional District 23—maintain or increase Hispanic demographic percentages and provide an opportunity for Representative Canseco to be reelected. (DX579, pp. 1454:23-1455:3; DX779A, p. 102:5-11; Trial Tr. Jan. 17 PM, p. 47:9-16.)

291. On May 28, 2011, Ryan Downton emailed Doug Davis and Gerardo Interiano, and stated, "Got the election analysis back from the AG's office -10 out of 10 on the slot district for electing Hispanic candidates of choice." Mr. Interiano replied to all, "Any guidance on your 23. Have you been able to make any of the changes that we all discussed?" Mr. Downton then responded, "Have it over 59% HCVAP, but still at 1/10. There has to be some level of HCVAP where it doesn't make a difference what the election results are. It is more Hispanic than the other two San Antonio based districts. Changes made to keep the Black population together in District 12. Anything from the AG on the other issue we discussed with them?" (DX903.)

292. The redistricters worked closely with Mr. Opiela during the redistricting process. Together, they focused on turnout data to evaluate draft districts. For example, on June 15, 2011, Eric Opiela wrote an email that was subsequently forwarded to Rep. Solomons. Mr. Opiela's email stated:

> I ran the numbers based on the actual election returns, comparing the Pena amendment configuration, vs. the C182 Engrossed configuration, and found the following:
>
> The Pena change resulted in 186 less Republican votes for McCain (08) in CD 23.
>
> The Pena change resulted in 105 more Republican votes for Wainwright (08) in CD 23.
>
> The Pena change resulted in 58 less Republican votes for Perry (10) in CD 23.
>
> The Pena change resulted in 40 less Republican votes for Staples (10) in CD 23.
>
> The Pena change resulted in 130 less generic Republican congressional votes in the 10 (a not-as reliable amalgamation of Republica congressional returns across 11, 16, 21, 23, and 28) in CD 23.
>
> You would have to achieve around a 20% increase in turnout above the baseline turnout in order to overcome the decrease in performance, and that's to break even. Lamar is hesitant to make the change if it could

> actually result in either no improvement or a decline in performance for Quico.
>
> Rep. Solomons responded, stating: "It needs to be withdrawn. Not going to accept the Pena amendment[.] Burt." (DX927.)

293. Mr. Interiano received an email in November of 2010 sent to him by Eric Opiela that stated "certain data would be useful in identifying a nudge factor by which one can analysis which census blocks, when added to a particular district, especially 50 plus 1 majority -minority districts, help pull the districts total Hispanic pop[ulation] and the Hispanic CVAP up to majority status, but leave the Spanish surnamed registered voters and turnout the lowest. This is especially valuable in shoring up Canseco and Farenthold." (Trial Tr. Jan. 17 PM, p. 52:22-53:15.)

294. Mr. Interiano testified that his current understanding of the email from Eric Opiela in November 2010, was that Mr. Opiela was trying to figure out if he could use the data he was requesting to draw a district that featured lower turnout of Spanish surname voters, while leaving the Hispanic citizen voting age population higher. (Trial Tr. Jan. 17 PM, p. 53:16-22.)

295. Mr. Interiano agreed that he had seen the reports for CD23 as configured in the State's enacted plan and that these reports show lower Hispanic turnout numbers with the same or slightly higher Spanish surname voter registration numbers, which match the goals laid by Mr. Opiela in his email in November 2010. (Trial Tr. Jan. 17 PM, pp. 53:23-54:5.)

296. Mr. Interiano testified Mr. Opiela was his colleague doing political work for Speaker Straus at the time of the email in November, 2010. (Trial Tr. Jan. 17 PM, p. 54:12-20.)

297. On June 13, 2011, Mr. Opiela wrote to Jennifer Brown and U.S. Rep. Lamar Smith, stating:

> Not that we don't have enough to worry about, as I was making my way through all the reports for each district I finally got to the Solomons amendment. Makes me want to shoot through the roof. I didn't go through all of this for nothing today. I got the stats in CD 20 to benchmark, 58.1 SSVRJ etc. just to have them drop it back down to 55.6. I had a voice wondering in the back of my head how they were able to find enough Hispanics to jack Quico up from 52.8 to 54.1. I knew they couldn't do it alone with just 19k more in Maverick. They stole them from CD 20. This was the whole point behind this exercise. I gave them the tools to fix this, and it was used for this. I'm tempted to try to get someone to offer what I gave them as an amendment to Solomons amendment, but know that will blow things up.
>
> Urrrgh!
> (DX400, p. Congress418.)

298. Mr. Interiano testified that in DX400, Mr. Opiela was complaining because of a possible retrogression issues with CD20, which was wholly contained in Bexar County in the benchmark and which Mr. Opiela wanted to stretch to maintain benchmark SSVR levels. However, Mr. Interiano testified that the Speaker, also from Bexar County, preferred to maintain CD20 as a district wholly contained in Bexar County. (Trial Tr. Jan. 25 PM, p. 97:5-24.)

299. Gerardo Interiano and Eric Opiela requested Spanish Surname Voter Registration data at the block level from the Texas Legislative Council. (DV0980.)

300. Eric Opiela informed Gerardo Interiano that data available at the block level could be used for lowering a district's Spanish Surname Turnout while raising its total Hispanic population (DX0820.)

301. Mr. Interiano communicated with Mr. Opiela as much as possible to get the views of the Congressional delegation. (Trial Tr. Jan. 17 PM, p. 56:20-24.)

302. When Mr. Downton was drawing the congressional map, he was communicating with Mr. Eric Opiela. (Trial Tr., Jan. 18 AM, p. 104:16-18.)

303. During the mapping, Mr. Downton understood that Mr. Opiela was speaking on behalf of the Republican congressional delegation, except for Rep. Barton. (Trial Tr. Jan. 18 AM, 104:19-22.)

304. Mr. Downton incorporated some of Mr. Opiela's ideas in the drafting the congressional plan. (Trial Tr., Jan. 18 AM, p. 104:23-25.)

305. On behalf of the Texas Republican delegation from the U.S. House of Representatives, Mr. Opiela urged Mr. Downton to draw CD23 to protect Rep. Canseco. (Trial Tr. Jan. 18 AM, p. 105:1-4.)

306. Mr. Downton accommodated Mr. Opiela's request and made protecting Rep. Canseco's incumbency a goal. (Trial Tr., Jan. 18 AM, p. 105:5-9; DX778A, pp. 29:6-30:1, 37:10-13.)

307. Mr. Interiano confirmed that he obtained some of the information from the Texas Legislative Council that Mr. Opiela requested and forwarded what he obtained to Mr. Opiela. (Trial Tr. Jan. 17 PM, pp. 54:21-55:18.)

308. Mr. Opiela provided congressional redistricting proposals for Congressional District 23 on behalf of the Texas Congressional delegation. (Trial Tr. Jan. 17 PM, p. 56:14-19.)

309. According to Mr. Downton, he drew CD23 to "giv[e] Mr. C[a]nseco his best chance to be re-elected while maintaining and increasing the Hispanic percentages total population

Hispanic voting age, Hispanic citizen voting age, and Spanish surname voter registration." (Trial Tr. Jan. 18 AM, pp. 105:10-15, 106:23-107:3; DX778A, pp. 73:18-74:2, 96:11-15.)

310. Mr. Downton stated that while making the changes to CD23 to protect Mr. Canseco, he moved precincts in and out of the district. (DX778A, pp. 75:22-76:4, 79:13-16; Trial Tr., Jan. 18 AM, 107:24-108:3; DX778A, pp. 75:22-76:4, 79:13-16.)

311. Mr. Downton conceded that it is impossible to identify Spanish-surnamed registered voters by party. Mr. Downton could not identify Latino Republicans while drawing CD 23. (DX577, p. 955:12-24; DX778B, p. 11:1-17.)

312. The smallest level of geography at which election data is available in redistricting technology is called a voter tabulation district, or VTD, and VTDs typically conform to current election precincts. (DX575, p. 317:10-12.)

313. With the existing redistricting software, map drawers can add a precinct, a census block, or a group of census blocks to a district. As soon as the map drawer moves a piece of geography into or out of a district, she has immediate access to election returns, as well as the ethnic makeup of the district. (DX575, pp. 316:18-317:5.)

314. Redistricting software immediately can indicate the effect of moving a precinct into or out of a district on election returns or racial composition. (DX575, pp. 317:24-318:20.)

315. Color shading by race or election returns for a particular election is available on the redistricting software. This allows people who do not know certain areas to accomplish racial and/or political redistricting goals with respect to those areas. (DX575, p. 319:1-10.)

316. Every single time someone alters a map on REDAPPL, the software can show the effect on the racial and ethnic composition of the district. (DX576, pp. 661:23-662:3.)

317. When drawing the maps, Mr. Downton would look at the population of the district, the SSVR, the HVAP, the African American population, and the BVAP, among other data. (DX778A, pp. 40:22-41:3.)

318. Mr. Downton testified that Chairman Solomons sat with Mr. Downton in front of mapping software to work on the State House map. (DX778A, pp. 51:22-52:6.)

319. Mr. Downton testified that Chairman Solomons sat with Mr. Downton in front of mapping software to work on the congressional map. (DX778A, pp. 53:24-54:7.)

320. Based on a racially polarized voting analysis, Mr. Interiano advised Chairman Solomons to take particular care with respect to the Latino percentages in Congressional Districts 20 and 23. (DX579, p. 1456:4-10.)

321. Mr. Downton turned on the shading for election results and SSVR when drawing CD23 in REDAPPL. (DX778A, p. 41:15-17.)

322. As Mr. Downton was drawing CD23, through the final version, he examined political performance of CD23 with respect to specific races and also a weighted average of races. (Trial Tr. Jan. 18 AM, p. 105:16-20.)

323. In drawing CD23, Mr. Downton used a running table of statistics in REDAPPL to track the effect of changes he made to the district as he made those changes. (Trial Tr. Jan. 18 AM, 105:21-106:2.)

324. Mr. Downton used the REDAPPL software to keep running tallies of the changes he made to CD23 with respect to Hispanic total population, Spanish surname voter registration and the population deviation from the ideal. (Trial Tr. Jan. 18 AM, pp. 105:21-106:2.)

325. Mr. Downton used the REDAPPL software to shade precincts by election results while he was drawing CD23. (Trial Tr. Jan. 18 AM, p. 107:4-6.)

326. Mr. Downton also kept a running table of political contests while he was drawing CD23 so that he could watch in real time the changes in the votes garnered by a particular candidate while he was moving precincts in and out of the district. (Trial Tr. Jan. 18 AM, p. 106:18-23.)

327. Mr. Downton did not remember ever using running data to analyze any Anglo-Hispanic racially contested elections while drawing CD23, which would have allowed him to see if the Latino preferred candidate had the ability to be elected. (Trial Tr. Jan. 18 AM, p. 107:7-23.)

328. Mr. Downton did not have any data showing which voters in a precinct were both Hispanic and Republican. (Trial Tr. Jan. 18 AM, p. 108:4-13.)

329. There is no way to identify Spanish surnamed registered voters who are Republicans. (Trial Tr. Jan. 18 AM, 108:10-13.)

330. Mr. Downton drew CD23 without any information showing whether the majority of Hispanics in each precinct that he was selecting for inclusion in CD23 preferred Republican candidates. (Trial Tr. Jan. 18 AM, p. 108:14-19.)

331. Mr. Downton testified that while drawing CD 23, and deciding between, for example, two precincts that are 60 percent Spanish surname voter registration, in terms of which precinct to include in CD 23, he would select the precinct with the greater percentage of Republican votes. (Trial Tr. Jan. 18 AM, p. 109:7-16.)

332. Mr. Downton sought to protect Rep. Canseco's incumbency by including in CD 23 precincts that went for McCain in the 2008 Presidential election, even though he knew it was possible that these precincts went for McCain because Anglo voters preferred McCain and turned out at higher rates than Latino voters. (Trial Tr., Jan. 18 AM, pp. 109:18-110:11; DX577, p. 956:4-19; DX778A, pp. 76:24-77:20.)

333. Mr. Downton stated that Latino majority precincts that went for McCain in 2008 could have voted that way because of an increase in racially polarized voting. (Trial Tr., Jan. 18 AM, p. 110:12-19; DX577, p. 957:8-15; DX778A, p. 78:2-22.)

334. On May 28, 2011, Mr. Interiano wrote an email to Mr. Downton as follows: "Any guidance on your 23. Have you been able to make any of the changes that we all discussed?" (DX903.)

335. On May 28, 2011, Ryan Downton wrote an email to Gerardo Interiano and Doug Davis regarding his progress on congressional redistricting. Mr. Downton reported, in response to an inquiry from Mr. Interiano regarding CD 23: "Have it over 59% HCVAP but still at 1/10." (DX903.)

336. Mr. Downton stated that he chose not to include in CD 23 areas that were majority Hispanic and that tended to be less likely to prefer Rep. Canseco. (DX778A, pp. 92:25-93:3.)

337. The City of Eagle Pass and Maverick County are divided between Congressional District 23 and Congressional District 28 in C185. (DX428, p. 4; DX778B, pp. 29-35.)

338. In the benchmark congressional plan, the City of Eagle Pass and Maverick County are contained whole in CD 23. (DX428, p. 4.)

339. The enacted plan, C185, eliminates half of Maverick County from CD 23. (DX575, p. 447:14-20; DX428, p. 4; DX430, p. 1.)

340. Mr. Downton agreed that the split in Maverick County in the congressional map does not follow just one road. (Trial Tr., Jan. 18 AM, p. 114:5-20.)

341. The City of Eagle Pass is 95.5% Hispanic. (DX0391.)

342. The political part of Mr. Downton's goal in drawing CD23 was to make a stronger district for Congressman Canseco, and if Maverick County was going to make CD23 less Republican, then Mr. Downton was less likely to choose to include Maverick County when drawing CD23. (Trial Tr. Jan. 18 AM, p. 115:18-23; DX577, p. 964:13-19.)

343. Senator Seliger testified that he did not know why Maverick County is cut in the State's adopted plan when it was wholly contained in the Congressional District 23 in the benchmark plan. (DX776, 31:24-32:2; Trial Tr. Jan. 24 AM, p. 15:12-14.)

344. Senator Seliger testified that he looked at splitting Webb County to reach his goal for 23, but that he did not do it in the end because the Supreme Court had criticized the Webb County split in *LULAC v. Perry*. (Trial Tr. Jan. 24 AM, p. 12:19-23.)

345. Senator Seliger testifies that he did end up in the final plan splitting neighboring Maverick County. (Trial Tr. Jan. 24 AM p. 13:10-12.)

346. The enacted plan, C185, made at least three precinct cuts in splitting Maverick County. (DX575, p. 449:6-10; DX428, p. 4.)

347. In the 2010 general election, Ciro Rodriguez, the candidate of choice of Latinos, won 80.29% of the vote in Maverick County and Francisco "Quico" Canseco won 15.64% of the vote. (DX393, p. 3.)

348. CD 23 in the benchmark included all of Maverick County, and Mr. Downton testified that he removed portions of Maverick County from CD 23 because Maverick County does not have a good record of voting Republican. (DX577, p. 963:8-14; DX778A, pp. 87:3-23, 88:6-13, 90:1-8.)

349. Mr. Downton testified that he was aware that Maverick County is strongly Latino. (DX577, pp. 965:24-966:2.)

350. When looking at election performance by looking at statewide reaggregated elections, Mr. Downton examined the 10 Anglo-Hispanic racially contested elections selected by the OAG. (Trial Tr., Jan. 18 AM, pp. 110:25-111:11, 112:20-113:7; DX390.)

351. Mr. Downton stated that he did not have any evidence regarding the degree to which voters in the Republican primary supported Latino candidates in the areas that are included in CD 23 in C185 but not in the benchmark. (DX577, p. 967:13-17; DX778B, p. 35:1-6.)

352. Mr. Downton stated that he did not look at primary data, and did not take steps other than discussing the district with Rep. Canseco's office, to ensure that CD 23 in C185 would offer Latinos the opportunity to nominate their candidate of choice in the Republican primary. (DX577, p. 967:10-12; DX778B, p. 47:1-19; Trial Tr. Jan. 18 AM, p. 117:17-24.)

353. Mr. Downton stated that he did not have any evidence regarding the degree to which voters in the Republican primary supported Latino candidates in the areas that were in CD 23 in the benchmark but not in C185. (DX577, pp. 967:24-968:4; DX778B, p. 35:7-11; Trial Tr. Jan. 18 AM, pp. 117:25-118:8.)

354. Mr. Downton testified that he did not know whether Latino voters in the areas that are not in CD 23 in C185 but were in the benchmark may have given more votes to Latino

Republicans in the primary when compared to the voters in the areas that were drawn into CD 23. (DX577, p. 967:18-23; DX778B, pp. 12-17.)

355. Mr. Downton stated that he did not have evidence to show that the West Texas counties that were included in CD 23 in C185 but not in the benchmark would support a Latino in the Republican primary. (DX778B, p. 35:18-22.)

356. Mr. Downton testified that he viewed the requirements of the Voting Rights Act as equal with getting enough votes to get the map passed. (DX778A, pp, 20:24-21:4, 62:17-20.)

357. Mr. Downton relied solely on SSVR and HCVAP in determining whether a district was a Latino majority district, which he equated with Latino opportunity district. (DX577, p. 966:6-12; DX778A, p. 22:6-11.)

358. Mr. Downton took the position that C185 is legally complaint with the Voting Rights Act because seven districts in South and Central Texas have over 50% HCVAP. (DX577, p. 950:6-13.)

359. Mr. Downton did not factor the State's regression analysis into his determination whether a district was a Latino majority district. (DX778A, pp. 22:16-23:4.)

360. When measuring VRA compliance, Mr. Downton stated that he didn't consider political performance as particularly relevant. He further testified that he would classify a district as a majority minority district if it elected the minority candidate of choice 3 out of 10 times or 1 out of 10 times. (DX778A, pp. 24:21-25:2; DX577, p. 966:20-25.)

361. The Office of the Attorney General (OAG) 10 elections showed that in benchmark CD 23, Latinos had the ability to elect their candidate of choice in 3 out of 10 elections. (DX390.)

362. An examination of 14 racially contested statewide elections from 2002 to 2010 shows that in benchmark CD 23, Latinos had the ability to elect the candidate of their choice in 7 of the 14 elections in CD23. (Trial Tr. Jan. 18 AM, pp. 111:14-113:4; DX647.)

363. Chairman Seliger testified that if he had understood that Mr. Canseco was not the Latino preferred candidate, and he was taking steps to make CD 23 district safer for Mr. Canseco, that would have created a concern in his mind regarding compliance with the Voting Rights Act. (Trial Tr. Jan. 24 AM, p. 14:10-22.)

364. Chairman Seliger further testified that it was his understanding from counsel that he was required to build districts that can elect the candidate of choice, and if somebody had told him clearly that Canseco was not the candidate of choice to him this would have been a violation of the Voting Rights Act. (Trial Tr. Jan. 24 AM, p. 14:10-22.)

365. The State's expert, Dr. Alford, testified, with respect to the changes in CD23 in Plan C185, and the *LULAC v. Perry* litigation, that "[t]here are some obvious parallels between what happened previously and what happened this time." (DX581, p. 1875:2-9.) Dr. Alford also stated, when discussing the changes to CD23 "we feel like we are all having déjà vu[.]" (DX581, p. 1929:13-21.)

366. The State's expert witness, Dr. Alford, testified that "If I was advising the legislature on drawing the 23rd, I would not have done what was done to the 23rd." (DX581, p. 1838:11-15.)

367. Dr. Alford further testified:
[M]y first advice to the legislature would be just -- you know, in simple -- with a slight memory of history, do as little as possible to the 23rd as you can. It really has been a difficult -- it was a difficult district for the Court to draw. It was a difficult district for the legislature to draw. But, basically, enough is enough, right? Don't make this hard on yourself. . . Don't mess with the 23rd. That would be my first rule for drawing the districts.
(DX581, p. 1840:12-22.)

368. The State's expert witness, Dr. Alford, testified that he had observed as an expert witness in 2003 that changes were made to CD23 to shore up the reelection prospects of Representative Bonilla and in Plan C185 the changes were made to shore up the reelection chances of Representative Canseco. (DX581, pp. 1880:22-1881:7.)

369. The State's expert witness, Dr. Alford, testified that he had observed as an expert witness in 2003 that changes were made to CD23 to add overwhelmingly Anglo Hill Country counties, while splitting the city of Laredo and Webb County. Dr. Alford further testified that he did know that some people were upset that CD23 in Plan C185 splits the city of Eagle Pass and Maverick County. (DX581, pp. 1881:8-1882:2.)

370. The State's expert witness, Dr. Alford, testified "I would have advised either making -- either -- rather than creating a replacement district for the 23rd, I would have advised making the 23rd itself a better performing district in terms of election numbers, or -- basically that, or leaving the 23rd alone." (DX581, p. 1841:1-5.)

371. The State's expert witness, Dr. Alford, testified that he did not count CD23 in the State's enacted Plan C185 as a performing district for Latinos, explaining that CD23 "is probably less likely to perform than it was and so I certainly wouldn't count and don't – in all of this discussion, I haven't counted the 23rd as an effective minority district in the newly adopted plan, but it does remain a majority district." (DX581, pp. 1839:1-13, 1877:23-1878:6.)

372. The State's expert witness, Dr. Alford, testified that the new CD35 is a "swap" for CD23, explaining, "in the sense that there is some -- that there is something in the plan

that I think might address the weakness of 23, I think would be the creation of [35]." (DX581, p. 1875:10-23.)

373. The decennial census showed that CD 23 in the benchmark was overpopulated by about 149,000 people. (DX575, p. 450:4-11; DX436.)

374. To make CD 23 conform to equal population requirements, the redistricters needed only to remove 149,000 individuals. (DX575, p. 450:9-11; DX436.)

375. Nevertheless, in changing CD 23, the redistricters moved over 600,000 individuals in and out of the district. (DX575, p. 450:12-15; DX436.)

376. In Bexar County, the State's enacted plan, C185, moved over 300,000 individuals out of CD 23 and about 60,000 individuals into CD 23. (DX575, p. 485:4-16; DX436.)

377. Along the northern border of CD 23, the enacted plan drew in counties from north of the Pecos River. These counties are predominantly Anglo, and they traditionally have been in CD 11. (DX575, p. 448:8-13; DX430, p. 1.)

378. Chairman Seliger testified that he did not know why some of the West Texas counties north of the Pecos River were added to Congressional district 23 in PLANC185 -- Loving, Ward, Winkler, Crane, Upton, and Reagan because it was done by his House counterparts. (DX776, p. 31:17-23; Trial Tr. Jan. 24 AM, p. 15:7-11.)

379. CD 23 in Plan C185 picks up about 33,000 people from CD 11 in the benchmark. (DX778B, p. 83:19-23.)

380. Senator Kel Seliger testified that no study was done in the counties of Loving, Ward, Winkler, or Crane to determine if the Republican primary voters would support an Hispanic candidate (DX776, p. 36:9-19.)

381. It is possible to bring CD23 into population equality by simply pulling it towards the U.S. Mexico border out of San Antonio, West Texas, or South Texas. (DX577, p. 961:23-962:17; DX778A, p. 85:7-18.)

382. Mr. Downton testified that because CD 23 lies against the border with Mexico and New Mexico, it is mathematically possible to achieve the ideal population in CD 23 by pulling it out of San Antonio, West Texas or South Texas towards the border. (DX778A, p. 85:7-18.)

383. Senator Kel Seliger testified that because CD23 was overpopulated, it was certainly possible to have simply pulled CD23 closer down towards the border and not have extended the district northward to take in counties north of the Pecos River. (DX776, p. 38:5-19, Trial Tr. Jan. 24 AM, pp. 20:9-21:7.)

384. Chairman Seliger further testified that if CD23 was pulled down closer to the border, Latino voters in that situation would have determined the outcome of the election in CD23. (DX776, p. 38:5-19; Trial Tr. Jan. 24 AM, pp. 20:9-21:7.)

385. The HCVAP and SSVR increased by 0.1% and 2.2%, respectively, in CD 23 in the enacted plan, C185, as compared to the benchmark, C100. (DX575, pp. 453:24:454-3; DX434, p. 4-5.)

386. In southern Bexar County, in the precincts that the enacted plan, C185, moved *into* CD 23, the turnout of Spanish surnamed registered voters averaged between 25 and 30 percent. (DX575, p. 452:22-25; DX431, p. 73.)

387. In northern Bexar County, in the precincts that the enacted plan, C185, moved *out of* CD 23, the turnout of Spanish surnamed registered voters was consistently 30% or over. (DX575, p. 453:3-6; DX431, p. 74.)

388. Chairman Seliger testified that he never looked at whether it was possible to draw the South Texas configuration of Latino districts from the Gulf Coast all the way over to El Paso, to include the new Latino District 35 and still significantly increase the Spanish surname voter registration in District 23 over benchmark levels. (DX776, p. 39:8-12; Trial Tr. Jan. 24 AM, pp. 21:13-23:1.)

389. The ability of Latino voters to elect their candidate of choice in CD 23 decreased from the benchmark, C100, to the enacted plan, C185. (DX575, p. 454:8-11; DX434, pp. 4-5.)

390. A regression analysis conducted by the Texas Attorney General during the redistricting process showed that the boundaries of the State's proposed CD 23 contained fewer Latinos turning out to vote when compared to the benchmark CD 23. The Attorney General's estimates show Hispanics constituting an average of about 39.0% of the total votes cast in the benchmark CD 23 (across elections held from 2002 to 2010). By contrast, the Attorney General's estimates show Latinos constituting an average of about 36.5% of the total votes cast in the new CD 23 in the same period (DX0331 p.5-8 – C185 CD23 T4; DX0331 p. 9-12 – C185 CD23 T5; DX0365 p. p.5-8 – C100 CD23 T4; DX0365 p. 9-12- C100 CD23 T5)

391. A regression analysis conducted by the Texas Attorney General during the redistricting process compared the top of the ballot racially contested elections for each year from 2002 through 2010. The Attorney General's estimates show that the State's new CD 23 disproportionately reduced the average number of Latino voters by 3,151. The Attorney General's estimates show that in the 2002 election for Governor, the State's new CD 23 reduced the number of Latino voters by 10,269 and increased the number of Anglo voters by 1,059 when compared to the benchmark. (DX0331 p.5-8 – C185 CD23 T4; DX0331 p. 9-12 – C185 CD23 T5; DX0365 p. p.5-8 – C100 CD23 T4; DX0365 p. 9-12- C100 CD23 T5).

392. Chairman Solomons believes that if a new congressional plan were to reduce the number of wins by the minority candidate of choice by three or more it would create a problem. It would also be a problem if the number of wins went from 3 in the base plan down to one and would necessitate a change to the plan. (DX580, pp.1605:11-1607:2.)

393. Mr. Downton looked at maps during the redistricting process that created 7 Latino majority districts that would elect a Latino preferred candidate more than half the time. (DX577, p. 948:12-16.)

394. According to Ryan Downton, the State's congressional mapper, including Nueces County in the South Texas configuration was considered by the redistricters, and it would have provided sufficient population to create seven opportunity districts in South Texas. (DX577, pp. 949:22-950:3.)

395. When mapping, Mr. Downton did not keep political races as running data to measure whether districts could elect a Latino preferred candidate. (DX577, pp. 954:24-955:2; DX778A, pp. 57:25-58:4.)

396. Mr. Downton was told who was the Latino preferred candidate in the races he analyzed. (DX778A, pp. 60:4-7.)

397. Mr. Interiano conceded that a district with a majority Spanish surname voter registration and Hispanic citizen voting-age population is not in every circumstance a Latino opportunity district. (DX579, p. 1458:9-16.)

398. Mr. Interiano testified that Hispanic voting-age population, Hispanic citizen voting-age population, Spanish surname voter registration, and election performance must all be considered to determine if a district is a Latino opportunity district. (DX579, p. 1451:14-20).

399. Chairman Solomons believes that if a new congressional plan were to reduce the number of wins by the minority candidate of choice by three or more it would create a problem. It would also be a problem if the number of wins went from 3 in the base plan down to one and would necessitate a change to the plan. (Tr.1605:11-1607:2).

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403. Mr. Downton was told who was the Latino preferred candidate in the races he analyzed. (Ex. J-62-I, at 60:4-7.)

404. Mr. Interiano conceded that a district with a majority Spanish surname voter registration and Hispanic citizen voting-age population is not in every circumstance a Latino opportunity district. (Tr. 1458:9-16).

405. Mr. Interiano testified that Hispanic voting-age population, Hispanic citizen voting-age population, Spanish surname voter registration, and election performance must all be considered to determine if a district is a Latino opportunity district. (Tr. 1451:14-20).

406. Chairman Solomons testified that if a regression analysis reduces the number of wins for minority preferred candidates by one out of ten, it would get his attention and that it was his understanding that legislative council was using that as a basis of their regression analysis. Trial Tr. Jan. 20 PM 89:18-24

407. It was Chairman Solomons understanding that if the draft plan reduced the number of wins by three or four out of ten that would be a bigger problem and if a district had six wins out of ten reduced to one win that would create a problem. Trial Tr. Jan. 20 PM 89:25-90:8

408. David Hanna informed Gerardo Interiano that eliminating districts that inconsistently elect the Latino candidate of choice may still violate the Voting Rights Act. (DX0306.)

409. David Hanna and Jeffrey Archer expressed concern that Congressional District 23 was not really "effective in the proposed map." (DX0288.)

410. Doug Davis wrote in an April 13, 2011 email, in response to the request by a staffer at the National Republican Congressional Committee that Mr. Davis "check on the latest Canseco version," that he had modeled the plan in his computer and that "It looks nice politically. We're still concerned about the Voting Rights Act." Mr. Davis continued that "We're going to have to put our best legal minds on the 23rd." (DX0978.)

411. Dr. Alford, the State's expert witness, characterized the redrawing of CD23 in Plan C185 as "unfortunate[]." (DX581, p. 1820:14-16.)

412. Dr. Alford agreed that with respect to the CD23 special election runoff in 2006, which was held on an irregular election date in December, the drop in turnout for special elections "is typically larger for minority voters." (DX581, p. 1883:5-10.)

413. Dr. Alford examined the same data analyzed by Dr. Engstrom regarding voter turnout in the 2010 election and Dr. Alford came up with the same results. (DX581, p. 1865:19-25.)

414. Mr. Interiano conceded that Congressional District 23 in C185 does not perform as well as Congressional District 23 in C100. (DX779A, pp. 96:23-97:2.)

415. Congressional District 23 was altered from plan C100 to plan C185 to include Representative Canseco's house. (DX779A, p. 110:3-9)

416. Mr. Downton did not have any data other than Rep. Canseco's satisfaction with the district as drawn to show that Rep. Canseco would likely be nominated in a racially contested primary election in CD 23 in Plan C185. (DX778B, p. 36:4-9.)

417. Mr. Downton could have requested and received reports from the TLC showing

418. Rep. Canseco's Republican primary runoff performance in the areas drawn out of CD 23 in C185. (DX778B, p. 43:13-22.)

419. In the 2010 Republican Primary Election, Rep. Canseco received only 23.07% of the vote in Maverick County. (DX393, p. 4.)

420. In the 2010 Republican Primary Election, incumbent Railroad Commissioner Victor G. Carrillo (a Republican) won Maverick County with 56.6% of the vote. (DX393, p. 5.)

421. In the 2010 Republican Primary Election for Railroad Commissioner, the incumbent Victor G. Carrillo outspent David Porter by a margin of 20-to-1 statewide but lost the race. (DX431, p. 5.)

422. Victor G. Carrillo sent a letter to his supporters following his defeat which included the following statements:

> I was handily defeated in spite of spending over $600,000 [.] Given the choice between "Porter" and "Carrillo"-- unfortunately, the Hispanic-surname was a serious setback from which I could never recover although I did all in my power to overcome this built-in bias. I saw it last time but was able to win because the "non-Carrillo" vote was spread among three Anglo GOP primary opponents instead of just one. Also, the political dynamics have changed turf some since 2004. . . I also urge party leaders to not alienate the Hispanic/Latina voter in Texas, as we now comprise about 39% of the population and we remain the fastest-growing minority group in the nation.
> (DX431, pp. 5-6.)

423. The County Judge of Maverick County, David Saucedo, testified that for the past ten years, Maverick County has turned out about 12,000 to 14,000 voters for presidential elections, and 8,000 to 9,000 voters in any other election, and they vote heavily for the Latino-preferrred candidate. Splitting Maverick County could make the difference in an election. (DX576, pp. 681:13-18, 771:9-18.)

424. In 2003, Dr. Alford testified that the designers of Plan 1374C tried to show the same number of Hispanic opportunity districts as previously existed in Texas, while not utilizing all or part of 9 of the 13 counties that border Mexico, along with over 370,000 Hispanics, from the Border region that is key to all but one of the majority Hispanic districts in Texas. Their decision to do so in order to protect Congressman Bonilla was what led directly to the very apparent racial gerrymandering in the new 15th, 25th, and 28th Districts, in which every remaining available Hispanic had to be captured. (DX405, pp. 61-62.)

CD 27

425. Dr. Alford agreed that CD27 had "performed" from the time of its creation for close to 30 years until the 2010 election. (DX581, pp. 1870:16-1871:4.)

426. In the benchmark, C100, CD 27 was anchored at the top by Nueces County and ran down the coast to the tip of Texas in Cameron County. (DX575, p. 458:8-10; DX818.)

427. In 2010, the Spanish surnamed voter registration of Nueces County was 48.6%. (DX0391.)

428. Mr. Downton testified that, in the benchmark, Nueces County is combined with counties to the south. (DX778B, p. 50:7-9.)

429. Chairman Seliger testified that Congressional District 27 in the benchmark plan is "clearly an opportunity district." (DX776, p. 25:22-26:13, Trial Tr. Jan. 24 AM, pp. 17:19-18:1.)

430. Chairman Seliger agreed that in the 2010 election in CD 27, Mr. Farenthold defeated a 27 year incumbent Mr. Solomon Ortiz. (Trial Tr. Jan. 24 AM p. 16:12-18.)

431. Mr. Downton was aware that the incumbent in CD 27, Mr. Farenthold, won in a very close race in 2010. (DX577, p. 973:14-16.)

432. Chairman Seliger testified that Congressman Farenthold was not the Latino candidate of choice. (DX776, p. 20:9-15; Trial Tr. Jan. 24 AM, pp. 16:24-17:1.)

433. Mr. Interiano never conducted analysis to determine if Congressman Blake Farenthold, incumbent in CD 27, was the Latino preferred candidate. (Trial Tr. Jan. 17 PM, p. 49:13-19.)

434. The State's expert witness, Dr. Alford, conceded that he did not conduct any analysis of voter turnout over time and he did not compare the percent of Latinos who turned out to vote in 2010 to prior years, in CD27. (DX581, p. 1856:18-22.)

435. The State's expert witness, Dr. Alford, conceded that he performed no independent analysis to identify the Latino preferred candidate in CD27. (DX581, pp. 1856:23-1857:16.)

436. Chairman Solomons understood that Congressional District 27 was protected under the Voting Rights Act. (DX777, p. 153:1-16).

437. In the benchmark, Nueces County voters constitute over 50% of the total registered voters of CD27. (Trial Tr. Jan. 18 AM, p. 119:19-24.)

438. In the State's enacted plan, Nueces County voters constitute less than half of the registered voters in CD27. (DX577, p. 973:3-7; DX778B, pp. 54:20-55:11; Trial Tr. Jan. 18 AM, pp. 119:25-120:5.)

439. The Senate Special Redistricting Committee attempted to draw a safe district for Rep. Canseco but could not keep it safe for Canseco and as a Latino opportunity district. As Chairman Seliger put it: "A. We just -- in order to keep it as an opportunity district we just couldn't piece it together where -- where it served Congressman Canseco; and we wanted to if we could. And then they came up with their design and we thought it was good." (DX0776 at 14:6-10.)

440. Chairman Seliger testified that the State's enacted Congressional District 27 cuts off at Nueces County in an effort to ensure Congressman Farenthold would have a good chance to hold CD 27. (DX776, pp. 25:22-26:15, Trial Tr. Jan. 24 AM, p. 18:2-6; Seliger Pre-Filed Direct at 1, 8, Dkt. No. 137-5 (D.D.C., filed Jan. 10, 2012).)

441. In CD 27 in the enacted plan, C185, Latinos comprise a minority of the district. Nueces County, once a Latino majority county anchoring a Latino ability district, is now in a district where Latinos are the minority. (DX575 459:1-7; DX430, p. 2.)

442. According to Mr. Downton, CD27 in the benchmark and CD 27 in C185 are totally different districts. (DX577, p. 971:5-8; DX778B, p. 48:19-21.)

443. Mr. Downton testified that in the State's enacted plan, Nueces County effectively is in a different district than in the benchmark. (DX778B, p. 49:1-10.)

444. Chairman Seliger testified that it is conceptually possible to take Congressman Farenthold's neighborhood along Gulf Shore Drive in Corpus Christi and pair it with counties to the north and make him a safer district and leave the remainder of Nueces County in the district that runs down to Cameron County. (DX776, pp. 27:16-28:7; Trial Tr. Jan. 24 AM, p. 19:9-21.)

445. Mr. Downton testified that CD 27 was redrawn to give the Anglo incumbent a better chance for reelection and that the redistricters could have accomplished this goal by placing a small portion of Nueces County with the incumbent's home in a district that went to the north and left the bulk of Nueces County in a South Texas district. (Tr. 971:10-13; DX778B, at 53:4-54:5.)

446. The State's expert witness, Dr. Alford, testified that CD27 in Plan C185 "has flipped, in almost exactly the same way 23 was flipped previously, so it is CD-27 this time that is flipped into being a majority . . . Anglo district." (DX581, pp. 1829:11-1830:4.)

447. Ryan Downton admitted that CD 27 was a district protected by the VRA in the benchmark but was no longer a majority Latino district in C185. (DX778A, at 32:18-33:2; DX778B, at 54:6-9.)

448. Mr. Downton conceded that because CD27 in the benchmark was overpopulated by only about 43,000 individuals, if it had simply been the State's goal to maintain CD27, he would have had to remove only a few precincts and otherwise leave CD27 the way it was drawn in the benchmark. (Trial Tr. Jan. 18 AM, p. 119:10-16.)

Redistricters Refused to Create a 7th Latino Opportunity District in South Texas

449. In the benchmark plan, there are six Latino opportunity districts in South Texas. (DX778A at 69:24-71:10.)

450. The six Latino opportunity districts in South Texas are also ability to elect districts. (DX726, p. 2 [ECF p. 3].)

451. According to the 2010 Census data, CD 28 in the benchmark plan was overpopulated by about 153,000 individuals. (Trial Tr. Jan. 18 AM, p. 99:5-7; DX431.)

452. According to the 2010 Census data, CD 20 in the benchmark plan was overpopulated by about 13,000 individuals. (Trial Tr. Jan. 18 AM, p. 99:8-11; DX431.)

453. According to the 2010 Census data, CD 15 in the benchmark plan was overpopulated by about 88,000 persons. (Trial Tr. Jan. 18 AM, p. 99:12-14; DX431.)

454. According to the 2010 Census data, CD 27 in the benchmark plan was overpopulated by about 43,000 people. (Trial Tr. Jan. 18 AM, p. 99:15-18; DX431.)

455. According to the 2010 Census data, CD 23 in the benchmark plan was overpopulated by about 149,000 people. (Trial Tr. Jan. 18 AM, p. 99:2-4; DX431.)

456. According to the 2010 Census data, CD 16 in the benchmark plan was overpopulated by about 59,000 people. (Trial Tr. Jan. 18 AM, p. 98:23-99:1; DX431.)

457. The overpopulation from the six Latino districts in South Texas is equivalent to about three quarters of the ideal population of a congressional district based on the 2010 Census data. (Trial Tr. Jan. 18 AM, p. 99:19-22; DX431.)

458. A proposal to add an additional Latino opportunity district in South and West Texas by running a district from San Antonio up the I-35 corridor to Travis County would have created seven Latino opportunity districts in the region. (Trial Tr. Jan. 18 AM, pp. 99:23-100:5.)

459. CD35 in C185 (and C190) was created from the northern overpopulation of Bexar County and the Latino population in Travis County. (Trial Tr. Jan. 18 AM, p. 102:5-11.)

460. In the State's enacted plan, the South and West Texas configuration of Latino opportunity districts no longer includes Nueces County. (Trial Tr. Jan. 18 AM, p. 103:10-16.)

461. The population of Nueces County is 340,223. (DX391.)

462. Latinos constitute 60.6 % of the total population of Nueces County and 54.6% of the citizen voting age population. (DX883; DX746B.)

463. In C185, Nueces County has been joined with northern counties in a district that does not have a Latino majority or afford Latinos the opportunity to elect the candidate of their choice. (Trial Tr. Jan. 18 AM, p. 103:17-20.)

464. Mr. Downton testified that redistricters considered and rejected including Nueces County's Latino population in the South Texas configuration of congressional districts. (Trial Tr. Jan. 18 AM, pp. 103:21-104:2.)

465. Mr. Downton testified that adopting the South and West Texas configuration of C185 as opposed to a configuration such as that in C190 (which includes Nueces County in the South Texas configuration) was a political choice. (Trial Tr. Jan. 18 AM, p. 104:3-9.)

466. Mr. Downton believed while he was mapping the congressional plan that if he did not create an additional section 2 district in south and central Texas a court could have a problem with that and there were some legal risks under section 2 if there was not an increase in Latino opportunity districts. (Trial Tr. Jan. 18 AM, p. 104:10-15.)

CD 34

467. The enacted plan, C185 adds CD 34 and CD 35 as Latino opportunity districts but takes away Latino opportunity districts 23 and 27. (DX575, pp. 485:20-486:8.)

468. The State's expert witness, Dr. Alford, testified that CD34 in Plan C185 is "the replacement district" for CD27 which "has been flipped into a majority Anglo district," concluding that "although that [CD34] is a new district, in the sense of its number, it is one of the ones above 32, it is simply a reconfigured District 27." (DX581, pp. 1831:18 1832:12.)

469. Dr Alford further testified that he would not count CD 34 as an additional Latino ability district. (DX581, p. 1832:13-19.)

470. Chairman Seliger, Chair of the Texas Senate Select Redistricting Committee, testified that CD 34 is essentially a swap for 27 in terms of Latino opportunity (DX776, p. 26:18-23.)

471. Mr. Downton admitted that CD 34, a Latino majority district in Plan C185, is a swap for CD 27, which was a Latino majority district in the benchmark for purposes of Section 5 of the Voting Rights Act. (DX577, p. 971:14-19; DX778A, p. 31:24-32:3, 66:13-15; Trial Tr. Jan. 18 AM 118:14-17.)

472. Chairman Seliger testified that he made a Congressional district 34 in his plan because he felt he was clearly required to create an opportunity district coming out of the Valley. (DX776, pp. 25:22-26:13; Trial Tr. Jan. 24 AM, p. 18:7-11.)

473. Mr. Interiano testified that a goal of Plan C185 was to allow Nueces County to anchor a congressional district. (DX579, pp. 1461:21-1462:5; DX779A, p. 112:1-10.) Mr. Interiano further testified that he did not know what portion of Congressional District 27 voters were in Nueces County in plan C100. (DX579, p. 1462:10-14.)

474. Mr. Interiano did not know what portion of Congressional District 34 voters are in Nueces County in plan C185. (DX579, p. 1462:10-14.)

475. Mr. Interiano conducted no election analysis to determine if Nueces County could control the election in either Congressional District 27 in plan C100 or Congressional District 34 in plan C185. (DX579, p. 1462:15-18; DX779A, p. 114:7-10.)

476. Mr. Interiano did not examine whether there were any Latino communities of interest in the state that needed to be kept whole inside of a congressional district. (DX779A, p. 81:22-82:4.)

Partisanship

477. Chairman Seliger admitted that Latino voters can vote Republican; further stating that it is his opinion that Latinos don't vote Republican because Republicans haven't done a very good job of reaching out to Latino voters because they "keep coming up with proposals to declare English the official language of Texas to no go end and things like that." (DX776, pp. 34:20-23, 35:1-11; Trial Tr. Jan. 24 AM, pp. 31:23-32:15.)

478. Chairman Seliger also testified that Republicans have not done a good job reaching out in part because of some of the positions related to immigration. (DX776, 34:20-23, 35:1-11; Trial Tr. Jan. 24 AM, pp. 31:23-32:15.)

479. Chariman Seliger testified that he thinks it is possible to have a Latino majority district that did prefer a Republican candidate in the general election. (DX776, p. 35:12-14; Trial Tr. Jan. 24 AM, pp. 31:23-32:1.)

480. Chairman Seliger testified that in his mind if the State created a Latino oppportunity district that was not required by the Voting Rights Act, that meant creating "a Democratic district." (DX776, pp. 11:22-12:15; Trial Tr. Jan. 24 AM, pp. 32:16-33:3.)

481. Jose Aliseda is the first term state Representative for District 35 in south Texas, south of San Antonio, east of Laredo, west of Corpus Christi, and north of the Rio Grande Valley. (Trial Tr. Jan. 17 PM, p. 107:3-23.)

482. Representative Aliseda agreed that SSVR in HD 35 decreases in plan H283. (Trial Tr. Jan. 17 PM, pp. 122:22-123:10.)

483. Representative Aliseda agreed that Jim Wells County, the county with the highest Hispanic population in HD 35, is eliminated from HD 35 in the state enacted plan. (Trial Tr. Jan. 17 PM, p. 123:11-23.)

484. Representative Aliseda agreed that the majority of Hispanic voters in Jim Wells County did not support his candidacy for state representative and that he only received 36 % of the vote in Jim Wells County. (Trial Tr. Jan. 17 PM, pp. 123:24-124:5.)

485. Representative Aliseda testified that "if you re going to have Hispanics elect the candidate of their choice, you're going to have to have more Hispanics than any other." (Trial Tr. Jan. 17 PM, p. 129:1-23.)

486. In communicating his desires to the mappers, Congressman Lamar Smith consistently used the terms “Republican district” and “Voting Rights district” as opposites. He did not use the term “Democratic district.” (DX576, p. 654:8-15; DX394, pp. Congress022-27.)

487. Representative Lamar Smith emailed certain people responsible for congressional redistricting and identified potential districts as either "Republican district[s]" or "Voting Rights Act district[s]." (DX575, p. 443:5-19; DX394, pp. Congress022-27.)

488. Rep. Smith's email drew a distinction between Republicans and Latinos, rather than Republicans and Democrats. (DX575, p. 443:15-25.) Rep. Smith was speaking on behalf of the Texas Republican Delegation for the United States House of Representatives. (DX575, p. 444:1-8.)

489. Representative Aliseda testified that Hispanic Republicans supported his candidacy for the Texas House. (Trial Tr. Jan. 17 PM, pp. 109:19-110:3.)

490. Representative Aliseda agreed that it is unwise to assume that a Latino is always a Democrat and that Latinos can vote for a Republican or Democrat. (Trial Tr. Jan. 17 PM, pp. 131:11-14; 134:1-3.)

491. Representative Aliseda testified that there are certain issues that the Republican Party can appeal to Latinos such as pro-life issues and fiscal responsibility. (Trial Tr. Jan. 17 PM, p. 134:4-11.)

492. Representative Aliseda agreed that Latino are increasingly open to voting Republican. (Trial Tr. Jan. 17 PM, p. 135:18-21.)

493. Representative Aliseda testified that "Latinos are a diverse group" and depending on country of origin or generation gaps may be more willing to vote for Republicans. (Trial Tr. Jan. 17 PM, pp. 135:18-136:16.)

494. Representative Aliseda testified that Latinos will vote for the candidates that appeal to them on the issues. (Trial Tr. Jan. 17 PM, p. 135:15-17.)

495. Senator Rodriguez testified that there is an active segment of Latino Republicans in El Paso, and it is not accurate to say that all Latinos in El Paso County are Democrats. (Trial Tr. Jan. 18 PM, pp.137:14-138:1.)

496. According to State Representative Larry Gonzales, a Latino Republican Latinos in Texas are willing to vote for both Democratic and Republican candidates. (DX580, p. 1656:79.)

497. Dr. Alford, reviewing EI analysis and exit poll estimates of Hispanic support for Republican candidates in the 2008 and 2010 election, opined: "I don't think it tells us that either one of those is necessarily the right answer, but . . maybe for Hispanic voters the notion of a right answer or sort of a one size fits all is maybe not as appropriate." (DX581, pp. 1780:11-1781:12.)

498. Dr. Alford agreed that a Latino voter can vote for a Republican in one election and Democrat in the next election and further stated "I think that is something we -- we can

clearly infer about Latino voting behavior from all of this analysis. There is much more movement across party lines, in terms of how Latinos are distributed[.]" (DX581, p. 1873:12-19.)

499. Dr. Alford agreed that a Latino voter who is socially and fiscally conservative could feel that the Republican Party had walked away from him for the past few years, because of certain policy positions, and he might even find himself voting Democratic. (DX581, p. 1874:6-13.)

Dated: February 3, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that she filed the foregoing document and all attachments using the Court's electronic case filing system on February 3, 2012.

/s/ Nina Perales
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