

ANNE HARDING, ET AL. V. COUNTY OF DALLAS, TEXAS, ET AL.
Dr. Peter A. Morrison on 11/08/2017

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

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ANNE HARDING, RAY HUEBNER GREGORY
R. JACOBS, MORGAN MCCOMB, AND
JOHANNES PETER SCHROER
Plaintiffs, C.A. NO.
V. 3:15-CV-00131-D
COUNTY OF DALLAS, TEXAS, CLAY LEWIS
JENKINS, in his official Capacity
as County Judge of Dallas County,
et al.,
Defendants,
-----X

Deposition of DR. PETER A. MORRISON
November 8, 2017
9:30 a.m.

Jenner & Block, LLP
1099 New York Avenue, NW, Suite 900
Washington, DC 20001

Lisa R. Barbera JOB NO. 181923

**ANNE HARDING, ET AL. V. COUNTY OF DALLAS, TEXAS, ET AL.
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1	A P P E A R A N C E S	1	C O N T E N T S
2		2	WITNESS PAGE
3	On Behalf of the Plaintiffs:	3	DR. PETER A. MORRISON
4	THE EQUAL VOTING RIGHTS INSTITUTE	4	DIRECT EXAMINATION BY MR. DUNN 6
5	P.O. Box 12207	5	CROSS-EXAMINATION BY MR. MORENOFF 214
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13	Houston, Texas 77068	13	
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16	CHAD@BRAZILANDDUNN.COM	16	
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19	San Antonio, Texas 78205	19	
20	(210)222-2102	20	
21	BY: ROLANDO LEO RIOS, ESQUIRE	21	
22	RRIOS@ROLANDORIOSLAW.COM	22	
	Page 3		Page 5
1	APPEARANCES CONT.	1	E X H I B I T S
2		2	(Attached)
3	Also on Behalf of the Defendants:	3	
4	J. GERALD HEBERT, PC	4	MORRISON DEPOSITION PAGE
5	191 Somerville Street, Suite 405	5	
6	Alexandria, Virginia 22304	6	Exhibit 1 - Notice 25
7	(703)628-4673	7	Exhibit 2 - Thumb Drive Directory 27
8	BY: J. GERALD HEBERT, ESQUIRE	8	Exhibit 3 - Thumb Drive 35
9	HEBERT@VOTERLAW.COM	9	Exhibit 4 - Invoices 207
10	Also Present:	10	
11	Matthew Angle, Expert	11	
12	Dr. Peter Morrison, Expert	12	
13		13	
14		14	
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<p>1 PROCEEDINGS</p> <p>2 - - -</p> <p>3 Whereupon,</p> <p>4 DR. PETER A. MORRISON</p> <p>5 being first duly sworn or affirmed to testify to the</p> <p>6 truth, the whole truth, and nothing but the truth,</p> <p>7 was examined and testified as follows:</p> <p>8 DIRECT EXAMINATION</p> <p>9 BY MR. DUNN:</p> <p>10 Q. Please tell us your name.</p> <p>11 A. Peter A. Morrison.</p> <p>12 Q. Is it Mr. Morrison?</p> <p>13 A. Yes, that will suffice.</p> <p>14 Q. Mr. Morrison, my name is Chad. I, along</p> <p>15 with Mr. Rios and Mr. Hebert here, represent Dallas</p> <p>16 County and the members of its Commissioners Court in</p> <p>17 this lawsuit; do you understand that, sir?</p> <p>18 A. I do.</p> <p>19 Q. You and I have never met prior today; is</p> <p>20 that true?</p> <p>21 A. That's true.</p> <p>22 Q. Have you had any cases, prior, with</p>	<p>1 You have served as an expert in a number</p> <p>2 of cases; is that true?</p> <p>3 A. I have.</p> <p>4 Q. Do you know approximately the number?</p> <p>5 A. If you're talking about serving as a</p> <p>6 prospective expert but the case settling before</p> <p>7 going to trial, I would say several dozen -- three</p> <p>8 or four dozen over the course of 35 years, perhaps.</p> <p>9 Q. About how many times have you given a</p> <p>10 deposition?</p> <p>11 A. I would say three to four dozen times.</p> <p>12 Q. How about testifying at trial?</p> <p>13 A. Testifying at trial would be a far smaller</p> <p>14 number. I can't give you an exact count, but it</p> <p>15 might be 12 to 18 times.</p> <p>16 Q. So you're obviously familiar with what</p> <p>17 we're doing here today, but there are a couple</p> <p>18 things I'd like to remind you of. Obviously, we're</p> <p>19 going to have an informal and, I assume,</p> <p>20 professional conversation today.</p> <p>21 But as informal as our discussion will be,</p> <p>22 you do understand the importance of you telling the</p>
Page 7	Page 9
<p>1 Mr. Rios or Mr. Hebert that you recall?</p> <p>2 A. No.</p> <p>3 MR. MORENOFF: Only for the sake of</p> <p>4 consistency and understanding that this is a</p> <p>5 matter that is already being dealt with, I do</p> <p>6 need to say, for the record, that we object to</p> <p>7 Gerry Hebert's presence in the room, as a fact</p> <p>8 witness who is not a 30(b)(6) designee. Sorry</p> <p>9 to interrupt. Go ahead.</p> <p>10 MR. HEBERT: And just -- since we're on</p> <p>11 the record, I'm going to note that we have a</p> <p>12 motion pending on the issue before the Court</p> <p>13 and it will be resolved in due course. And we,</p> <p>14 obviously, disagree with the position of the</p> <p>15 plaintiffs and their counsel on that matter.</p> <p>16 MR. MORENOFF: I assumed that was obvious,</p> <p>17 but, yes.</p> <p>18 BY MR. DUNN:</p> <p>19 Q. All right. Mr. Morrison, that little</p> <p>20 legal discussion really has nothing to do with your</p> <p>21 testimony today. So let me get back to that, if you</p> <p>22 don't mind.</p>	<p>1 truth; is that true?</p> <p>2 A. Yes, I do.</p> <p>3 Q. And you've given an oath today just as you</p> <p>4 would at the courthouse; you understand that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. And, obviously, if there comes a point in</p> <p>7 time after today where the lawyers in this case or</p> <p>8 the judge determines that something you told us here</p> <p>9 today isn't true, you understand you can be called</p> <p>10 to task for that?</p> <p>11 A. I do.</p> <p>12 Q. You agree that the issues in this case are</p> <p>13 important, do you not?</p> <p>14 A. I assume they're important because there's</p> <p>15 a dispute about them and I -- personally, I can see</p> <p>16 the importance of the issue from an intellectual</p> <p>17 standpoint.</p> <p>18 Q. I mean, you're an expert in the case.</p> <p>19 Do you think the case is important or not?</p> <p>20 A. I do.</p> <p>21 Q. So, obviously, the judge is going to rely,</p> <p>22 we expect, on some of your testimony and some of the</p>

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<p>1 testimony of other witnesses and experts to make 2 determination of law and fact in the case, and you 3 understand that? 4 A. I do. 5 Q. Now, as you know, you're here being 6 offered as an expert. You're not under subpoena; is 7 that true? 8 A. Correct. 9 Q. And you're not obligated, of course, to be 10 trapped here by any means. So if you need to go to 11 the men's room or tend to some other business, let 12 us know that. We may ask you to finish a series of 13 questions first, but we'll be happy to accommodate 14 any break that you'd like. 15 Do you understand? 16 A. I do. 17 Q. You, obviously, are the only person that 18 knows if you understand the questions that are 19 asked. So if you answer the question, we assume you 20 understood it; is that fair enough? 21 A. Fair enough. 22 Q. I've been doing this long enough to know</p>	<p>1 A. Not to -- when you say "lacking in 2 credibility," not to my knowledge. 3 Q. Have you had a case where the Court, in 4 considering your opinions, decided to discount them? 5 A. Can you define exactly what you mean by 6 "discount"? 7 Q. Sure. The Court didn't find your opinions 8 persuasive? 9 A. There have been instances where the Court 10 has not found my opinions persuasive, but has, 11 instead, found no expert's opinion persuasive. I 12 believe that happens probably half the time in every 13 case with one expert or another. 14 Q. So can you recall for us the cases that 15 you can remember that the Court didn't find your 16 testimony persuasive? 17 A. I can't recall the specific cases, but I 18 know there have been a few where the Court has 19 favored the other expert and that expert's opinion 20 over mine, in terms of being persuasive. But I 21 don't remember any instance where the Court has 22 discounted my opinion.</p>
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<p>1 that I'm going to ask you some questions that don't 2 make any sense or that are too complicated or you 3 can't follow. If I do that, just ask me to clarify 4 and I'll be more than happy to do that. 5 Okay? 6 A. Yes. 7 Q. The reason I go through those things with 8 you is because occasionally you hear from witnesses 9 at trial that -- "Well, I didn't understand your 10 question at the deposition." So I'm advising you 11 that if you don't understand it, we need to hear 12 that today. 13 Do you understand? 14 A. I do. 15 Q. Now, as you've already mentioned, you've 16 testified as an expert and been designated as an 17 expert in a number of cases; is that right? 18 A. Correct. 19 Q. Have you, at any point in time, given 20 testimony or an expert opinion in report form or 21 otherwise in a case, and the Court found it lacking 22 in credibility?</p>	<p>1 Q. So is it the case that you can't name for 2 us today, any single case in which the Court found 3 your testimony not persuasive? 4 A. I'd have to review all of the prior cases. 5 The last time I recall this happening was quite a 6 few years ago. I don't recall what case it was. 7 Q. I appreciate your answer, but it didn't 8 quite answer my question. 9 My question is: Can you name one of them 10 today, one case, where the Court didn't find your 11 testimony persuasive? 12 A. No, I cannot. 13 Q. Is there any case where the Court has 14 ruled that your testimony has included a mistake, in 15 either methodology or data or underlying 16 information? 17 A. Not to my recollection, no. 18 Q. Has there been a case where the Court, 19 prior to considering the substance of your 20 testimony, ruled that your testimony or analysis was 21 inadmissible? 22 A. Never.</p>

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<p>1 Q. Can you recall if, at any time, your 2 opinions or testimony has been challenged as being 3 inadmissible? 4 A. Never. 5 Q. And I understand you're not a lawyer; is 6 that true? 7 A. True. 8 Q. There's a standard that is us lawyers talk 9 about called the Daubert standard. 10 Are you familiar with that? 11 A. D-A-U-B-E-R-T? 12 Q. Yes. 13 A. Yes. I know generally what it is. 14 Q. And do you know if your testimony or 15 opinions have ever been challenged under the Daubert 16 standard? 17 A. I have no recollection of that ever 18 happening. 19 Q. I assume that you have participated or 20 offered academic publications; is that true? 21 A. I have a large number of academic 22 publications and peer-reviewed journals, if that's</p>	<p>1 published that one may say, "Well, they weren't 2 really peer-reviewed. They were published in some 3 other venue." 4 But these are the approximate number of 5 articles that had been peer-reviewed by reviewers 6 for academic journals or, in many instances, have 7 undergone a rigorous peer review within the RAND 8 Corporation, that published them as a RAND report. 9 Q. So the 40 to 75 are peer-reviewed 10 articles? 11 A. Correct. 12 Q. Have you ever submitted a publication for 13 peer review and then ultimately did not publish it? 14 A. I don't recall that ever happening. Of 15 course, as many academics will tell you, the -- you 16 submit to one journal and it may not get accepted 17 there, and you submit to another journal. Every 18 time you revise it, it gets better and better, and 19 it gets published somewhere. 20 I had several instances where I submitted 21 it to a journal and that journal did not accept it, 22 but I submitted it to another academic journal, that</p>
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<p>1 what you mean by the word "offered." 2 Q. Yes, sir. What term would you use? 3 A. Published. 4 Q. So in the articles -- approximately, how 5 many academic articles have you published? 6 A. Perhaps, 40 to 75. 7 Q. And of any of those published articles of 8 yours, have any been discredited by other scientists 9 that you know of? 10 A. None. Never. 11 Q. I assume some have been criticized by 12 other publications to come later; is that true? 13 A. I don't recall seeing anyone criticizing 14 any of my publications. I know that there are 15 people who have added further knowledge to the base 16 that I built on, but I've never, myself, seen any 17 criticism of my publications. 18 Q. I assume that some portion of these 19 published 40 to 75 articles are peer-reviewed; is 20 that accurate? 21 A. I'm referring to those that are 22 peer-reviewed. There may be other papers that I've</p>	<p>1 was peer-reviewed, and it was accepted there. 2 That's pretty much the exception to the rule for me. 3 Most of times when I do submit to a 4 journal, it's accepted by that first journal I've 5 submitted to. And that's partly a matter of 6 choosing the right journal, that sees it as 7 appropriate for its audience. 8 Q. Well, thank you for your answer. I 9 assume, though, from that answer, it's the case that 10 you can't name for us today, a publication of yours 11 you submitted for peer review that wasn't ultimately 12 published? 13 A. Correct. 14 Q. Shifting gears a little bit. Just a 15 little bit about your background. Can you tell us 16 where you grew up, where you're from -- that sort of 17 thing? 18 A. I grew up in Buffalo, New York. I spent 19 several years -- well, starting -- in college, I 20 went to Dartmouth College. I then went to graduate 21 school at Brown University. Thereafter, I had a 22 brief academic stint at the University of Western</p>

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<p>1 Ontario while I was completing my dissertation. 2 I was then offered an assistant 3 professorship at the University of Pennsylvania. I 4 was there for two years, Philadelphia. And after 5 that, I went to the RAND Corporation, initially for 6 a one-year leave of absence, and I ended up staying 7 there for most of my adult professional career. 8 Q. When did you start at RAND? 9 A. 1969, as I recall. 10 Q. So you've been there from 1969 to the 11 present, uninterrupted? 12 A. No. From 1969 until I retired which was, 13 as I recall, the mid-'90s, late '90s. I stayed on 14 as a resident consultant for five or so years, and 15 have remained connected informally with RAND ever 16 since. 17 Q. Other than your informal connection to 18 RAND and what expert witness work you do, have you 19 done any other employment since leaving RAND? 20 A. Yes. Probably, unrelated to this, I 21 have -- I can't say it's employment. I've done a 22 lot of volunteer work on Nantucket where I now</p>	<p>1 A. Yes, I do. 2 Q. How many? 3 A. Two. 4 Q. And I assume they're grown? 5 A. Yes. 6 Q. Do any of them work in this field in which 7 you're an expert? 8 A. No. 9 Q. What is it that you received your PhD in? 10 A. I received my PhD in a program that was in 11 the sociology department and it was, effectively, a 12 program where the primary emphasis was on 13 demography. Demography, as being an 14 interdisciplinary field, you will sometimes see 15 demography taught in economics departments, other 16 times in sociology departments, other times in 17 public health departments. And it will be called 18 something, like, social demography, economic 19 demography, the demography of public health, 20 et cetera. 21 So that's one of the disciplines -- one of 22 the traditional disciplines where you learn to</p>
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<p>1 reside for the Town of Nantucket serving on various 2 committees and chairing certain organizations. 3 I also had a part-time job with the local 4 airline there called Cape Air. 5 Q. Anything else? 6 A. No, that's it. 7 Q. Okay. Just a little bit about you 8 personally, I'm not going to pry. 9 Are you married? 10 A. I am. 11 Q. How long have you been married? 12 A. I've been married -- these are awkward 13 questions to answer on a deposition. I would say -- 14 Q. These are supposed to be the easy 15 questions. 16 A. Between 30 and 34 years, possibly 35 to 17 39. 18 Q. We'll impound the transcript from your 19 spouse. 20 Is that your only marriage you've had? 21 A. No, it's my second marriage. 22 Q. Do you have children?</p>	<p>1 become a demographer. 2 Q. What is it that you consider yourself to 3 be an expert in today? 4 A. I consider myself to be an expert in 5 applied demography, which is focused on applying the 6 data and techniques that characterize demography to 7 practical issues and to public concerns, and also to 8 issues that are in dispute, being litigated. 9 Q. Anything else? 10 A. No. 11 Q. Have you given testimony, as an expert 12 witness, in any other subject, other than those you 13 just mentioned? 14 A. Not the way I'm defining "applied 15 demography." 16 Q. Have you ever been a party to a lawsuit? 17 A. I don't recall ever being a party to a 18 lawsuit, no. 19 Q. Now, at some point in time, you were made 20 aware of this litigation, the case we're talking 21 about today; is that true? 22 A. True.</p>

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<p>1 Q. How did that come about?</p> <p>2 A. I don't exactly recall other than to say</p> <p>3 that I -- as best as I can recollect, I was</p> <p>4 contacted by Mr. Morenoff, perhaps up to three years</p> <p>5 ago -- a long time ago. And as usually is the case,</p> <p>6 I said, "Well, let me read what this is about and</p> <p>7 I'll tell you if my expertise is suited to the</p> <p>8 issues that you'd want an expert to address."</p> <p>9 And having reviewed the materials, I</p> <p>10 communicated back to him that I felt that I could</p> <p>11 take it on, and that it was something I was</p> <p>12 knowledgeable about.</p> <p>13 Q. At the time you were contacted, was it</p> <p>14 your understanding a lawsuit was on file or not yet?</p> <p>15 A. I really don't recall what my</p> <p>16 understanding was of the situation. I can only say</p> <p>17 that -- and this is the best recollection I have.</p> <p>18 When I say to myself, did he call me and say "We're</p> <p>19 thinking of filing a lawsuit." Or did he call me</p> <p>20 and say "We have filed a lawsuit."</p> <p>21 I believe it was the latter, but I don't</p> <p>22 really recall.</p>	<p>1 name popped up to be included as an expert in this</p> <p>2 case?</p> <p>3 A. Not now. If I did at the time, I've</p> <p>4 certainly forgotten how it happened.</p> <p>5 Q. I assume that you asked to be compensated</p> <p>6 for your efforts; is that true?</p> <p>7 A. Correct.</p> <p>8 Q. Was there any negotiation over your</p> <p>9 compensation, or did you ask for compensation and it</p> <p>10 was agreed to?</p> <p>11 A. As best as I can recall, I was asked what</p> <p>12 is my rate schedule -- I guess it's called in the</p> <p>13 field -- what do I charge per hour. And I</p> <p>14 communicated that to Mr. Morenoff, and there was not</p> <p>15 any negotiation, as far as I recall.</p> <p>16 Q. And you, ultimately, prepared a report and</p> <p>17 a rebuttal report in this case; is that right?</p> <p>18 A. Correct.</p> <p>19 Q. And those are the only reports that you</p> <p>20 prepared; is that true?</p> <p>21 A. Correct.</p> <p>22 Q. You were provided a notice for your</p>
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<p>1 Q. Had you known of or spoken to Mr. Morenoff</p> <p>2 before then?</p> <p>3 A. No.</p> <p>4 Q. Do you have any knowledge of how he</p> <p>5 located you?</p> <p>6 A. No.</p> <p>7 Q. You understand that Dr. Hood, a professor</p> <p>8 at the University of Georgia, is an expert as well</p> <p>9 for the plaintiffs in this case?</p> <p>10 A. Yes, I do.</p> <p>11 Q. And you and Dr. Hood have worked together</p> <p>12 before this case; is that true?</p> <p>13 A. I can't say that we have worked together,</p> <p>14 but the two of us have been involved in at least one</p> <p>15 other case. And Professor Hood and I are coauthors</p> <p>16 of a published academic article. That's the extent</p> <p>17 of my involvement with Professor Hood.</p> <p>18 Q. Have you ever traveled with him or</p> <p>19 socialized with him?</p> <p>20 A. No.</p> <p>21 Q. So just to make sure the transcript is</p> <p>22 clear, you don't have any idea how it was that your</p>	<p>1 deposition today; are you aware of that?</p> <p>2 A. Yes.</p> <p>3 (Whereupon, the Notice was marked as</p> <p>4 Defendants' Exhibit 1 for Identification by the</p> <p>5 Attorney.)</p> <p>6 Q. I'm going to show you what I've marked as</p> <p>7 Exhibit 1.</p> <p>8 If you can identify that for us?</p> <p>9 A. This is the notice of my deposition, yes.</p> <p>10 Q. And if you can go to the final page on it,</p> <p>11 you'll see there was a request for documents and</p> <p>12 materials; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. Have you seen that before?</p> <p>15 A. Yes, I have.</p> <p>16 Q. And did you make your best effort to</p> <p>17 collect any materials you had responsive to that</p> <p>18 list?</p> <p>19 A. I did with the caveat that the -- Number</p> <p>20 4, billing records, Mr. Morenoff communicated to me</p> <p>21 that he had those records and he was -- he, himself,</p> <p>22 was going to provide them to you. That's my</p>

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<p>1 understanding.</p> <p>2 And if that hasn't happened, it's -- I've</p> <p>3 been remiss in not including those in what I have</p> <p>4 provided to Mr. Morenoff.</p> <p>5 Q. So that's accurate. Mr. Morenoff has</p> <p>6 given us your billing records and I have those here.</p> <p>7 We'll discuss that at some point this morning.</p> <p>8 Other than the billing records, is there</p> <p>9 anything else that you had responsive to the request</p> <p>10 and notice of deposition that you did not turn over?</p> <p>11 A. As of now or as of a few days ago or a</p> <p>12 week ago?</p> <p>13 Q. As of right now.</p> <p>14 A. As of right now, I've turned everything</p> <p>15 over.</p> <p>16 Q. And you've provided us today, on the</p> <p>17 table, a thumb drive -- a digital drive; is that</p> <p>18 true?</p> <p>19 A. Yes.</p> <p>20 Q. And you prepared that drive; is that</p> <p>21 right?</p> <p>22 A. I prepared that drive last night. It is a</p>	<p>1 A. Yeah, that might be easier. It may stand</p> <p>2 out a little bit more clearly.</p> <p>3 Q. If you can, scroll through that list and</p> <p>4 identify the file name of the document or material</p> <p>5 you just referenced.</p> <p>6 A. Actually, let me just see that. I think</p> <p>7 this will help. I can see now what's going on here.</p> <p>8 I just want to make some clarifications</p> <p>9 here. There is a zip file called "Dallas</p> <p>10 plaintiffs." And that zip file, when you open it,</p> <p>11 consists of a bunch of files that are compressed.</p> <p>12 So that's, like, a whole separate directory.</p> <p>13 And there's another one called "Morrison's</p> <p>14 response to defendants' data request." And I want</p> <p>15 to clarify. That will be the PDF file, that when</p> <p>16 you look at it, it will have a bunch of hot links to</p> <p>17 historical documents that you get at a Census Bureau</p> <p>18 website being this thick. "This thick," being as</p> <p>19 thick as my hand.</p> <p>20 Q. So do this for me on Exhibit 2 --</p> <p>21 A. Yeah.</p> <p>22 Q. -- on the file you just referenced, put an</p>
Page 27	Page 29
<p>1 comprehensive set of files of everything that</p> <p>2 responds to the documents that are requested in this</p> <p>3 notice, to the best of my knowledge.</p> <p>4 (Whereupon, the Thumb Drive Directory was</p> <p>5 marked as Defendants' Exhibit 2 for Identification</p> <p>6 by the Attorney.)</p> <p>7 Q. Okay. I'm going to show you what I've</p> <p>8 marked as Exhibit 2 to your deposition. And I'll</p> <p>9 just represent to you that what I've done is plugged</p> <p>10 in the drive, opened the directory, and taken a</p> <p>11 screenshot of its contents and printed that.</p> <p>12 Just take a moment and look at that, and I</p> <p>13 understand you don't have the list memorized, but</p> <p>14 confirm that this looks, more or less, accurate to</p> <p>15 you.</p> <p>16 A. I'm looking for -- to be sure that there</p> <p>17 is one -- at least one PDF file that, basically, was</p> <p>18 a memo in which I had said, "These are hot links to,</p> <p>19 maybe, a half a dozen different documents." I can't</p> <p>20 tell you for sure it's on here.</p> <p>21 Q. Let's go about it this way. Let me open</p> <p>22 the drive on this computer.</p>	<p>1 L next to it.</p> <p>2 A. Okay.</p> <p>3 Q. That's the file that contains the links</p> <p>4 that you just described; is that right?</p> <p>5 A. That's correct.</p> <p>6 Q. All right. Now, you mentioned also an</p> <p>7 answer a minute ago that contained a number of</p> <p>8 documents; is that true?</p> <p>9 A. Correct.</p> <p>10 Q. I've opened the directory for that zip</p> <p>11 folder -- and I don't have this screen printed --</p> <p>12 but it looks like there's just a handful of contents</p> <p>13 in the zip folder; is that true?</p> <p>14 A. Yes. And let me explain that that zip</p> <p>15 folder is a set of six files that correspond to what</p> <p>16 a GIS system would want. These would define a map</p> <p>17 and boundaries in a map for a GIS system.</p> <p>18 So these are not things that I understand</p> <p>19 except to say, when I said to my GIS person, "I need</p> <p>20 to turn over the map that you created," he sent me</p> <p>21 these six files. And these six files are what any</p> <p>22 other GIS person would say "That's what I need to</p>

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<p>1 put into my GIS system so I can see the map that 2 Morrison is talking about." And I can look at it as 3 a GIS map, rather than just a piece of paper that's 4 hard to read. 5 Q. Would you refer to these collection of 6 files as "shapefiles"? 7 A. I believe that's the generic term, 8 "shapefiles," S-H-A-P-E. 9 Q. Who is this GIS person you just mentioned? 10 A. His name is Thomas Bryan. 11 Q. And where does he work or what does he do? 12 A. During the week he works for some large 13 Fortune 500 company. On the weekends he does work 14 for people like me, based on his experience as a 15 former Census Bureau employee who has great 16 familiarity with census data. 17 I'd ask him to do GIS work for me, and 18 also to access large data files that the Census 19 Bureau has. 20 Q. Is it Mr. Bryan or Dr. Bryan? 21 A. Mr. 22 Q. Have you worked with Mr. Bryan before?</p>	<p>1 efficient at processing them and doing GIS work than 2 I would be. And he also, most important, has been 3 schooled in the Census Bureau's way of doing things, 4 which is you always check the quality of your work. 5 You don't just do the stuff and then say "Here it 6 is." 7 So he has standards of analysis that meet 8 my standards. 9 Q. Have you and Mr. Bryan worked before in 10 drawing redistricting plans? 11 A. Yes, we have. And we've published 12 together. The article I referred to before with 13 Professor Hood, Mr. Bryan is an author on it. 14 Q. Have you and Mr. Bryan published other 15 articles, other than the one you mentioned? 16 A. I don't think we've published articles. 17 We've certainly made a number of presentations and 18 we are now in the process of writing a book which we 19 are about to sign a contract with a publisher for. 20 Q. What is the subject of the book? 21 A. It's basically going to be dealing with 22 many of the technical issues involved with</p>
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<p>1 A. Yes, I have. 2 Q. How many occasions? 3 A. Innumerable occasions. I'd say dozens. 4 Q. What city does he live in? 5 A. He lives in a community called Midlothian, 6 and I believe it's in Maryland. 7 Q. Is that in Texas? 8 A. Maryland. 9 Q. I'm sorry, you just said that. I didn't 10 hear you. 11 Do you know anything about Mr. Bryan's 12 background? 13 A. I do. 14 Q. Can you tell us about that? 15 A. He has several advanced degrees that are 16 the kinds of degrees that data scientists get. He 17 also has a business degree. He was a fairly senior 18 data analyst at the Census Bureau before he took his 19 other job. 20 And he has -- I don't know how to describe 21 him, other than he's a person who really knows his 22 way around large census files, and is much more</p>	<p>1 redistricting that had emerged during -- since the 2 2010 census, and will, undoubtedly, recur after the 3 2020 census. It's a handbook for technical people 4 who want to know how to address various issues using 5 census data. 6 Q. When is the expected publication date? 7 A. It's probably not going to be for at least 8 a year and a half or two years. 9 Q. Do you anticipate considering the upcoming 10 election data in the book before it's released? 11 A. No. This will be considering demographic 12 data and census data and other administrative data 13 that would be used by applied demographers and it 14 would serve as, kind of, a reference work for people 15 who are dealing with difficult issues they don't 16 know how to handle the data for. 17 Q. Okay. So going back to the zip drive 18 folder that has the six files on it. 19 So that our record's clear -- because I 20 don't have a printout of it -- would you read me the 21 file names for the six files that appear in the zip 22 folder?</p>

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1 A. Sure. The names are AutoCAD -- you want
2 the name -- sorry the name.
3 The name is "Dallas" -- what do you call
4 that? Lower hyphen "Plaintiffs." Another one
5 called "Dallas Plaintiffs." And the two are
6 distinguished by -- the first one is an AutoCAD
7 shape source. The second is an AutoCAD compiled
8 shape. Those are the first two files.
9 The next is "Dallas Plaintiffs DBF." Then
10 there is "Dallas Plaintiffs PRJ." The next is
11 "Dallas Plaintiffs SBN." And the last one is
12 "Dallas Plaintiffs SBX."
13 Q. Okay. So with the six files you just
14 mentioned, along with each of the files listed on
15 Exhibit 2, those are all of the files that are
16 contained within the thumb drive that you provided
17 us today?
18 A. That's correct.
19 MR. DUNN: And I'll just reference for the
20 record that I've marked the thumb drive as
21 Exhibit 3, which we'll include with your
22 deposition.

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1 (Whereupon, the Thumb Drive was marked as
2 Defendants' Exhibit 3 for Identification by the
3 Attorney.).
4 BY MR. DUNN:
5 Q. On the shapefile, is there a latest
6 revision date shown in the directory?
7 A. There's a date modified shown. And in
8 each of the six files, the date is September 1st,
9 2017.
10 Q. Is that your recollection of the last time
11 changes were made to that file?
12 A. I don't know exactly when the last changes
13 were made, but that corresponds approximately to
14 when the file would have -- I believe, would have
15 been downloaded from Mr. Bryan's hard drive and then
16 saved.
17 I know that it was -- certainly, that is
18 not the date that the map was prepared for the first
19 time. It is the version that was done long ago and
20 has remained current and as of the date he prepared
21 it, sent it to me for me to transmit on. That would
22 have been probably September 2017.

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1 Q. And your best recollection is there's been
2 no changes made to that shapefile or series of files
3 since September 1, 2017?
4 A. Correct.
5 Q. Is it your testimony that these
6 shapefiles, as provided on Exhibit 3, the thumb
7 drive, were produced to my side of the case back in
8 September?
9 A. I don't know when they were produced. I
10 know that that's the date -- that appears to be the
11 date he sent them to me. And my recollection is
12 that they -- my recollection is that there was a
13 separate request for these files, and that I
14 contacted Mr. Bryan and I said, "You need to send me
15 those shapefiles so I could just pass them on to
16 Mr. Morenoff, so he can e-mail them on to the other
17 side." And all I can say is that that happened
18 around early September.
19 Q. So it's -- just to make sure our record's
20 clear.
21 At some point, in early September, you
22 took these shapefiles and provided them to

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1 Mr. Morenoff and you assume he provided them to us,
2 but you weren't involved in that; is that right?
3 A. Correct.
4 Q. When you provided the shapefiles to
5 Mr. Morenoff, did you provide your other file
6 materials to him?
7 A. My recollection is that I had provided
8 other materials to him prior to the shapefiles
9 request. And my recollection is that was an initial
10 set of materials including the memo that had some
11 hot links, and that there had been, transpired, a
12 series of further requests. First, for the
13 shapefiles, then some additional requests.
14 And I gave some clarifications on some
15 things, and then we discussed, yesterday, all of the
16 things that had been done. And I said, "Can you
17 tell me, you know, what it is you have a record of
18 my having sent you on several repeated occasions?"
19 And I identified one file that I neglected to
20 furnish.
21 And that was a file -- it's a 30-megabyte
22 file that's not one that can readily be e-mailed.

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1 And it had to be uploaded to Dropbox. And that was
2 the file that I asked Mr. Morenoff to get to you,
3 and it was a file that I -- I believe I received,
4 which had some final numbers for me, the day before
5 my report was due. And so I was focused on
6 completing the report.
7 And that file -- it was my fault for not
8 recalling that that should have been turned over
9 after I submitted the report. So it was turned over
10 yesterday and you now have a copy of it and I'm
11 prepared to explain it to you, if you want to ask
12 about it.
13 Q. You said a lot of things there and I want
14 to make sure I understand.
15 The file, which we'll talk about today,
16 that you provided us yesterday, you said that you
17 had reviewed it the day before you produced your
18 report.
19 Which report is that, the rebuttal or --
20 A. The rebuttal report.
21 Q. And you said you received that file from
22 someone with some calculations in it.

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1 Who is the someone?
2 A. Mr. Bryan.
3 Q. Did you direct Mr. Bryan to do such an
4 analysis or obtain the data?
5 A. I did.
6 Q. And did you ask him to do that in
7 preparation of your rebuttal report?
8 A. I did.
9 Q. So when is it that you received -- it
10 sounds like from your testimony, that you received,
11 from Mr. Bryan, the data file that you provided to
12 us yesterday around the day before you finalized
13 your rebuttal report; is that true?
14 A. Correct.
15 Q. And the version of that file -- since
16 you -- you provided it in digital form; is that
17 right? Not a printout?
18 A. Correct.
19 Q. The version of that file, that you
20 provided to us yesterday, is it exactly as it
21 appeared when Mr. Bryan provided it to you in
22 advance of you finalizing your rebuttal report?

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1 A. Yes.
2 Q. Other than that file, are there any other
3 file materials of yours that you provided after your
4 rebuttal report was issued?
5 A. That I provided after the rebuttal report
6 was completed?
7 Q. Yes, sir.
8 A. Well, I did provide whatever it was that
9 was claimed to be missing after the rebuttal report
10 was filed, which Mr. Morenoff made me aware of. And
11 among those, were the ones that we just discussed,
12 the 30-megabyte file that you received yesterday.
13 In other words, my understanding of the
14 sequence of things was I prepared a set of files,
15 per the request, and I believed that that was
16 everything. Then there apparently ensued some
17 dispute about calculations that were not shown. And
18 I provided clarification -- this is after my
19 rebuttal report had been filed.
20 I said, "The calculations involve numbers
21 that are in the files that are there. I haven't
22 shown them in any place other than the rebuttal

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1 report, the final numbers, and I can clarify how the
2 calculations were made if somebody wants to know how
3 I did them."
4 Then there ensued further questions about
5 other materials where -- I tried to clarify where
6 they were. And so all of these events were
7 subsequent to the filing of my rebuttal report.
8 So the timing was, I filed the rebuttal
9 report, there ensued some backing and forthgoing
10 [sic], to which I was responsive. And the one very
11 late response was the one that I referred to
12 yesterday with a file that was not -- that I had
13 overlooked in going through all my files.
14 Q. Okay. So after the rebuttal report was
15 issued, the only file -- I understand you provided
16 some other information -- but the only file that you
17 provided to Mr. Morenoff, and that you understand
18 was provided to us, was the file that was provided
19 yesterday; is that true?
20 A. I can't tell you for sure whether there
21 were other files that were provided that were added
22 to the collection enlarging it. I don't think that

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<p>1 that statement is necessarily correct.</p> <p>2 I believe that there may have been other</p> <p>3 files that I added to the collection, that he then</p> <p>4 turned over to you, which would go back well before</p> <p>5 yesterday.</p> <p>6 Q. Okay. Well, doing this for me. Take</p> <p>7 Exhibit 2 and mark a one to each file that was</p> <p>8 provided before your rebuttal report.</p> <p>9 A. I'm not able to do that because I have no</p> <p>10 recollection of what was -- which ones were part of</p> <p>11 the initial collection, other responses I gave, I</p> <p>12 just -- I didn't keep a clear record. I could only</p> <p>13 reconstruct it by going through the e-mail</p> <p>14 correspondence we had to say "I guess I sent him</p> <p>15 this on this date, then I sent him that or I gave</p> <p>16 clarification."</p> <p>17 What I do know is that I asked him to tell</p> <p>18 me every file name that he had that I had provided.</p> <p>19 I then went through the list and checked to make</p> <p>20 sure that I had not overlooked anything else and</p> <p>21 that everything I had provided, in whatever order,</p> <p>22 at whatever date, was a part of what's on that thumb</p>	<p>1 provided after your rebuttal report?</p> <p>2 A. I couldn't do it thoroughly. I could</p> <p>3 probably identify one or two. That would be the</p> <p>4 30-megabyte file. I know that for sure. I don't</p> <p>5 recall offhand exactly what else I provided.</p> <p>6 I don't know if the -- I don't know, for</p> <p>7 sure, whether the GIS files were provided after the</p> <p>8 initial batch of materials or if that request came</p> <p>9 before. My recollection is it must have come after</p> <p>10 because I don't recall including it in the initial</p> <p>11 set of materials because no one had asked for it.</p> <p>12 Q. Do you have, at this moment, any data or</p> <p>13 materials that you've relied upon in developing your</p> <p>14 testimony and opinions in this case that's not on</p> <p>15 Exhibit 3, the thumb drive?</p> <p>16 A. That I have relied on in preparing my</p> <p>17 reports?</p> <p>18 Q. Yes.</p> <p>19 A. Everything I've relied on in preparing</p> <p>20 those reports is on that thumb drive.</p> <p>21 Q. Does Mr. Bryan have information that</p> <p>22 somehow informed the opinions you made in this case</p>
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<p>1 drive.</p> <p>2 That's what I'm telling you. That's my</p> <p>3 best understanding -- my best understanding is I</p> <p>4 have turned over everything I said I would. And</p> <p>5 that corresponds exactly and completely to the five</p> <p>6 requests about documents with the exception of</p> <p>7 billing records.</p> <p>8 Q. The comparison discussion that you just</p> <p>9 described -- where you and Mr. Morenoff compared</p> <p>10 what he had and what you had to make sure it was</p> <p>11 complete -- when did that occur?</p> <p>12 A. Yesterday -- actually it -- it did occur</p> <p>13 yesterday, and it was via phone last evening.</p> <p>14 Where, as a double-check, I said, "Tell me</p> <p>15 everything." And I went through and I put</p> <p>16 everything together on the thumb drive. I said,</p> <p>17 "Let's just have it all in one place and say 'this</p> <p>18 is it.'"</p> <p>19 Q. I understand you're not able to -- going</p> <p>20 back to Exhibit 2, you're not able to list what you</p> <p>21 provided before.</p> <p>22 Are you able to mark on there what was</p>	<p>1 that has not been turned over?</p> <p>2 A. No.</p> <p>3 Q. So are you aware of any piece of</p> <p>4 information out there that you've used or considered</p> <p>5 in preparing your expert analysis that you haven't</p> <p>6 turned over?</p> <p>7 A. I'm not aware of anything that I haven't</p> <p>8 turned over that was of that subset of all the</p> <p>9 materials that I've ever had any connection with.</p> <p>10 Q. I want to transition -- and you mentioned</p> <p>11 earlier -- that there has been some back and forth</p> <p>12 about the particular formulas or mathematics you've</p> <p>13 used to reach your conclusions.</p> <p>14 You mentioned that; correct?</p> <p>15 A. Yes.</p> <p>16 Q. Is it the case that in the files that you</p> <p>17 have provided for us, on at least some of your</p> <p>18 opinions, you didn't provide how you calculated your</p> <p>19 conclusion in the files?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. And as of this moment -- and I</p> <p>22 understand we may get into it in your testimony</p>

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<p>1 today -- but as of this moment, you haven't provided 2 those calculations; is that right?</p> <p>3 A. I wouldn't characterize them as 4 calculations. I would characterize them as elements 5 of information that informed my overall judgment and 6 led me to a conclusion.</p> <p>7 In other words, some of my opinions are 8 based on professional judgment, not a specific 9 calculation.</p> <p>10 Q. All right. There are some calculations 11 and formulas you've used to reach your opinions; is 12 that right?</p> <p>13 A. There are some, yes. There are many, yes.</p> <p>14 Q. And it's the case that some of those 15 formulas or calculations are not included in your 16 datasets that you provided; is that right?</p> <p>17 A. No. I would say wherever there was a 18 calculation and an explicit formula, such as what is 19 the percentage of Anglo -- what is the percent of 20 the citizen voting age population that is Anglo in 21 District 1, I have a record of those calculations 22 and I can document exactly how they were done.</p>	<p>1 Q. And you would agree with me, at the point 2 in time rebuttal reports were due in this case, you 3 had not yet provided all the information necessary 4 to replicate your analysis?</p> <p>5 A. Correct.</p> <p>6 Q. I want to transition and talk to you for a 7 minute about your reports.</p> <p>8 I brought you some courtesy copies in case 9 you need to reference them. Since they're 10 voluminous and everyone has them, I don't intend to 11 attach them to your deposition, unless you make some 12 marks on them.</p> <p>13 First, I would like you to identify the 14 two reports. The thicker of the reports was your 15 original expert report; is that right?</p> <p>16 A. It's entitled "Expert Report of Peter A. 17 Morrison, PhD."</p> <p>18 Q. And it's dated August 22nd; is that right?</p> <p>19 A. That's correct.</p> <p>20 Q. And then you prepared a rebuttal report 21 that was dated October 13th; is that true?</p> <p>22 A. That's correct.</p>
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<p>1 When I express an opinion about whether, 2 for example, a district that is a particular percent 3 Anglo, among citizen voting age population, will 4 likely enable Anglo voters to elect their candidates 5 of choice, that isn't a calculation. That's a 6 judgment based on my experience and my understanding 7 of literature.</p> <p>8 Q. Was it your understanding that as of this 9 moment everything that you have done in this case, 10 in terms of your opinions and the data and materials 11 you relied upon, have been provided such that all of 12 your analysis could be replicated by somebody else 13 with similar training and education and experience 14 as you?</p> <p>15 A. I believe that's a fair conclusion. And I 16 believe that that would include the professional 17 judgment that a demographer would apply to the 18 various types of information on which I have based 19 my opinions.</p> <p>20 In other words, other demographers would 21 reach the same conclusion in forming an opinion 22 about whether something was very likely true.</p>	<p>1 Q. And then if you'll reference back to 2 Exhibit 1, the deposition notice you received in 3 this case, that was dated October the 9th; is that 4 true?</p> <p>5 A. Correct.</p> <p>6 Q. All right. Other than the two reports 7 that are in front of you, you have no other 8 statements of your findings or conclusions in this 9 case; correct?</p> <p>10 A. That's correct.</p> <p>11 Q. Shifting gears a little bit. I want to go 12 back to the discussion you had with Mr. Morenoff 13 when you were first inquired to getting involved in 14 this case.</p> <p>15 Are you with me, timeline-wise?</p> <p>16 A. Very vaguely. I don't have a very clear 17 recollection. It was several years ago, I believe.</p> <p>18 Q. What was it that you understood you were 19 going to be asked to do or were asked to do in this 20 case?</p> <p>21 A. My general understanding -- I tried to 22 state it succinctly in my report that -- it would be</p>

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<p>1 best if I just --</p> <p>2 Q. You're referencing your original report?</p> <p>3 A. My original report, yes.</p> <p>4 Somewhere in here, I said what I was asked</p> <p>5 to do and I'd like to state it precisely, if you'll</p> <p>6 bear with me. Yeah. I was asked to evaluate the</p> <p>7 June 7th, 2011, enacted Dallas County Commissioner</p> <p>8 Redistricting Plan. And to focus on whether the</p> <p>9 enacted plan failed to meet established legal</p> <p>10 standards by disregarding, what I understand to be</p> <p>11 traditional redistricting criteria, and also to</p> <p>12 attempt to draw an alternative remedial plan that</p> <p>13 would meet legal standards and balance traditional</p> <p>14 redistricting criteria.</p> <p>15 And at a later stage, I was asked to</p> <p>16 assemble data that was going to be further analyzed</p> <p>17 by two other testifying experts in this case,</p> <p>18 Professor Hood and Alan Nelson.</p> <p>19 So that's what I was asked to do. That's</p> <p>20 my understanding of what my role was in this case.</p> <p>21 Q. Was there anything else you were asked to</p> <p>22 do?</p>	<p>1 ambiguous term, would be Mr. Morenoff would be</p> <p>2 asking me to look at the enacted plan and see</p> <p>3 whether, in fact, there is evidence of what was</p> <p>4 being asserted. And he would also ask me to attempt</p> <p>5 to draw an alternative remedial plan, which I could</p> <p>6 attempt to do and fail at.</p> <p>7 And in the first case, I might look at the</p> <p>8 allegations and say "I don't see the evidence</p> <p>9 supporting the lawsuit that you filed." That would</p> <p>10 be my understanding of what either of those requests</p> <p>11 would be. And those would be the terms under which</p> <p>12 I would accept any engagement.</p> <p>13 Q. I don't think I did a good job at asking</p> <p>14 you the question. Let me see if I can come at it a</p> <p>15 different way.</p> <p>16 Was it the case that you decided what area</p> <p>17 of expertise you could offer in the case, or were</p> <p>18 you asked to provide a particular area of expertise?</p> <p>19 A. I don't recall which of those two</p> <p>20 alternatives was the case. I do know it's my</p> <p>21 practice to say -- if you approach me about this</p> <p>22 case, as I understand it now, I would explain that</p>
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<p>1 A. No, not that I can recall.</p> <p>2 Q. Now, in providing your testimony about</p> <p>3 what you were asked to do, you were referencing some</p> <p>4 pages in your report.</p> <p>5 Which pages are those?</p> <p>6 A. That would be the bottom of Page 1 and the</p> <p>7 top of Page 2 in my expert report, my initial expert</p> <p>8 report.</p> <p>9 Q. So I just want to make sure we're clear,</p> <p>10 and I'll be a bit colloquial about this. But I</p> <p>11 mean, Mr. Morenoff could have called you and said,</p> <p>12 "I have this lawsuit and I understand you're an</p> <p>13 expert in this area, here's the allegation of the</p> <p>14 lawsuit. What is it you can help me with?" That's</p> <p>15 one way the call could have gone.</p> <p>16 Or it could have been, "Mr. Morrison, we</p> <p>17 have this lawsuit. This is what it's about. I need</p> <p>18 you to do the expert analysis."</p> <p>19 Which of those is it, or is it something</p> <p>20 else?</p> <p>21 A. Well, when you say "do this part of the</p> <p>22 expert analysis," my understanding of that, somewhat</p>	<p>1 there's a major part of it that's in my area of</p> <p>2 expertise. But you'd have to understand I'm a</p> <p>3 demographer, I'm not a political scientist.</p> <p>4 So I, typically, explain that there is an</p> <p>5 area of expertise that is typically needed in a case</p> <p>6 like this, that would be expertise provided by a</p> <p>7 political scientist using certain methodologies that</p> <p>8 I am not qualified or sufficiently qualified to</p> <p>9 undertake myself; although, I know how to interpret</p> <p>10 them.</p> <p>11 So I would explain, initially, that</p> <p>12 there's a part of this that I am an expert on, and</p> <p>13 there's another part that you may need the services</p> <p>14 of a political scientist.</p> <p>15 Q. So, ultimately, the three things that you</p> <p>16 testified you were asked to do, which was to analyze</p> <p>17 the enacted plan to see if it meets acceptable</p> <p>18 standards, draw an alternative remedial, and</p> <p>19 assemble some data for other experts to analyze.</p> <p>20 Were those three ideas you developed or</p> <p>21 were they tasks you were asked, specifically, to do?</p> <p>22 A. The first two were, I think, my</p>

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1 understanding, initially, from Mr. Morenoff of what
2 he wanted me to undertake. The third task was one
3 that evolved much later in the case when it turned
4 out that there was going to be analysis by a
5 political scientist and, I believe, a certified
6 public accountant or somebody and they needed data.
7 And I said, "I know how to assemble the
8 data for these people. If they would like me to
9 assemble it, I could do that for them." So that it
10 is the standards that I know I would expect they
11 would want to have. The same standards I explained
12 in terms of what Mr. Bryan does for me.
13 And I said, "If they want to assemble it
14 themselves, they can do it themselves. Just let me
15 know if you'd like me to pitch in and do that
16 additional task." And I believe the answer was "Go
17 ahead and put the data together for them."
18 Q. You mentioned in one of your earlier
19 answers that what could have happened is you could
20 have been asked to perform an analysis and then
21 ultimately concluded that your analysis didn't
22 support the plaintiff's position or something to the

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1 effect.
2 Do you recall your testimony?
3 A. I always -- yes, I do.
4 Q. Can you recall a case where that has
5 happened?
6 A. Yes. I can't recall the specific one, but
7 there have been instances where I have -- and I'll
8 characterize the type of case because it's happened
9 on more than one occasions. A defendant
10 jurisdiction, city or county or school district,
11 will come to me and say "We're being threatened by a
12 lawsuit of a plaintiff. And they're saying we
13 violated some aspect of the Voting Rights Act. And
14 we want to know what kind of case we have."
15 And I inform them at the beginning, I'll
16 be happy to perform a basic demographic analysis
17 that will reveal whether or not the plaintiff could
18 form a majority-minority district given that you're
19 currently electing candidates at-large. And if it
20 is the case that they can form such a district, you
21 will find yourself in a position of having to mount
22 a defense that may not prevail.

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1 And very often -- I wouldn't say "very
2 often," but on occasion that information informs
3 them that they don't really have a viable case, and
4 they conclude their best option is to settle the
5 case with plaintiffs and agree to form single-member
6 districts.
7 In which case I say "If you decide to go
8 that route, I can form those districts for you. If
9 you decide to fight the case, I can tell you what
10 else I know that might help you, but you should be
11 aware of the fact that this looks to me like a case
12 that if plaintiffs pursue it, they will prevail."
13 Q. Can you recall any examples of this
14 happening?
15 A. Yes. Over the years, I have found myself
16 in that situation. And I inform them at the very
17 beginning, I don't know if you have a viable case
18 but if you want me to do, sort of, a preliminary
19 analysis, that won't be very expensive, I can divide
20 it into either of two circumstances.
21 You have what looks to be like a losing
22 case, or you have a case that might be defensible,

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1 but I can't tell you what your odds are. I can just
2 say that it's worth going the further steps to see
3 what could be done.
4 Q. Can you name an example of a jurisdiction
5 that this has happened on, that you've worked on?
6 A. I can't name the jurisdiction. It hasn't
7 happened in several years, but I know -- I have a
8 recollection of having adopted that as my standard
9 operating procedure because it seems to meet the
10 needs of the people who approach me without knowing
11 what situation they're in.
12 And it's very often the case, the
13 jurisdictions find themselves getting a -- I call
14 it -- the threat letter from a plaintiff who says,
15 you know, we -- as a matter of fact, I can tell you
16 now, I am actually -- I was just retained on such a
17 case by the City of Santa Monica, California. That
18 is one that comes to mind. And I'm in the initial
19 process of informing them that a plaintiff that was
20 claiming that you should form a majority Latino
21 district in the city, would find that it's
22 mathematically impossible to do so.

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<p>1 MR. DUNN: I'm going to object to the 2 non-responsive portion of your answer. And 3 that's something I do for the judge later. 4 BY MR. DUNN: 5 Q. To transition to a slightly different 6 subject. You mentioned methods that you used as an 7 expert. 8 What are the methods or methodology you 9 consider yourself to be an expert in? 10 A. I don't know that there's a single 11 methodology. I would refer to it as applied 12 demographic methods that allow one to draw clear, 13 unambiguous conclusions from hard demographic data 14 published by the Census Bureau. 15 Q. We've been going about an hour. I'm going 16 to transition to a new subject now, so would you 17 like to take a quick break? 18 A. I'm fine. 19 Q. I'm going to transition now to the 20 demonstration plan that you drew. 21 A. Okay. 22 Q. And I want to talk about how that process</p>	<p>1 scratch. We started with -- the starting point 2 would be a census block-level file from the Census 3 Bureau for Dallas County, and then it would be 4 associated with other files from the American 5 Community Survey. 6 Q. So you had a census block file for Dallas 7 County, which is what you started with; is that 8 right? 9 A. Correct. 10 Q. And I understand it was connected to some 11 other ACS data that you could observe as you were 12 drawing; is that true? 13 A. That Mr. Bryan could incorporate as he was 14 assembling the database that we were using. 15 Q. Did you, at any point in time, put into 16 this file either the boundaries that were in effect 17 in Dallas County in the previous decade or the 18 boundaries as enacted in 2011? 19 A. My recollection is that I requested 20 Mr. Bryan to reconstruct the enacted plan, based on 21 the maps of it, so we would have our own shapefiles 22 that reconstructed the plan. And then I said, "We</p>
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<p>1 started. So let's start first with the shapefile 2 that you described earlier that you provided on 3 Exhibit 3. 4 I assume that shapefile is the product of 5 your efforts to draw a demonstration plan; is that 6 right? 7 A. I believe that's what it is, yes. 8 Q. Did you start with a shapefile from Dallas 9 County that you worked from? 10 A. No. I believe our starting point, long 11 ago, was an effort to create a plan that satisfied 12 certain general conditions that I had conveyed to 13 Mr. Bryan. 14 Q. Before you get into that -- which, 15 obviously, we're going to want to know about that. 16 But I'm just trying to determine, technically, where 17 did you start. 18 Was there a blank shapefile and you all 19 reconstructed Dallas County, or did you take one 20 from the county or from some other source? 21 A. No, we did not take any shapefile from any 22 source, as far as I recall. We started from</p>	<p>1 want to call that the enacted plan and then I want 2 you to create a separate plan that meets certain 3 criteria." 4 And then we went through a number of 5 different revisions and versions and attempts and 6 refinements, which ended up with my remedial plan. 7 Q. Is that the order it went in? First, you 8 reconstructed the enacted plan and then you worked 9 on your remedial plan? 10 A. I believe it's best to say those tasks 11 were probably interleaved at the beginning. I don't 12 know which went first, but I know those were the two 13 tasks, and I said, "I want you to do both." 14 Clearly, reconstructing the enacted plan 15 is a one-time effort. You say "That's the plan, and 16 we're not going to be refining their plan, but we're 17 going to create a new plan, having reconstructed 18 their plan, and our new plan is going to be one 19 we're going to refine repeatedly. And it's also the 20 one we're going to be working with for the next" -- 21 as it turned out -- "two years." 22 Q. In the shapefiles -- and I'm just going to</p>

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<p>1 refer to them as that. The shapefiles you produced 2 on Exhibit 3, is someone able to access those files 3 and see the various revisions that you made to the 4 remedial map that you've offered over time? 5 A. I don't think so. I'm quite sure the 6 answer to that is, no. I don't think there's any 7 history built in. 8 My understanding is that you would have to 9 say, "Well, the shapefile you used to have -- the 10 plan you used to have is this shapefile, and then 11 the next one you have is the shapefile, revision 12 one, two, three." That's my understanding of how it 13 works, but I'm not a GIS person myself. I just 14 understand, essentially, how it works. 15 Q. Well, I understand from your earlier 16 testimony, Mr. Bryan's down in Maryland, and from 17 what you told us, you're in Massachusetts; is that 18 right? 19 A. Correct. 20 Q. And were you and he working on this 21 remotely or would you meet in one spot to do this 22 work?</p>	<p>1 spreadsheet tells me the metrics of the plan. 2 I can take those raw data and I can create 3 any summary of metrics I want. I can create the 4 table I want to put in my report from those metrics. 5 And I have a PDF I can drop into my memo or report 6 and say "This is what the plan looks like." 7 And with some cosmetic refinements, it 8 would be a better combination of color schemes, 9 boundaries would be made clear. It wouldn't look 10 like a crude version of a map; it would look like a 11 finished, publishable version. 12 So we went through a number of successive 13 revisions where I would say "I want you to make this 14 change or that change." And he would just do that, 15 send me the same format -- the same -- the data and 16 the map in the same format, I would look at the same 17 spreadsheet layout and say "Ah, now I see that these 18 metrics have changed this way, that's what I 19 wanted." 20 And in each of these versions is a 21 complete record of how he got from the -- I'm going 22 from your perspective -- how he got from what were</p>
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<p>1 A. Remotely. 2 Q. And would you have some ability to access 3 his screen to see what was happening in real time? 4 A. No. 5 Q. How is it you would review the product of 6 his effort in any given meeting? So let's say you 7 and he discussed a map, you said, "Make this 8 change," and then he said, "Okay, done," how would 9 you look at what the final result was? 10 A. He would send me a file that had a 11 standard format in which he would summarize the 12 attributes of the plan he had created. And those 13 attributes were in the form of a spreadsheet that 14 said District 1, these are the numbers; District 2, 15 these are the numbers, et cetera. 16 And he would include a separate PDF file 17 that would show the map so I could actually see it 18 in a crude form. You know, you can see the 19 boundaries, but it's not a well-designed map. It 20 shows what the boundaries of this version of the 21 plan are. And I can look at it and say, "Well, I 22 see the metrics" -- let's call those -- so the</p>	<p>1 the original census data, to the calculations 2 documenting what he did, showing how it's assembled, 3 and then he had, what are called "pivot tables." 4 Which apparently take the stuff from one part of 5 this file and turn it into the data I want in the 6 other part. 7 How that all works is a somewhat more 8 advanced use of Excel spreadsheets than I usually 9 get involved in, but I know exactly what he's doing. 10 And if I have a question about "How did you get this 11 number?" He says, "Well, you have to go back to 12 this sheet and you'll see I summed up those numbers, 13 and that's the summation over here." 14 So I understand exactly how these parts 15 fit together and I have a record in each iteration 16 of how a given change came about. 17 Q. Okay. So you said a number of things 18 there, so let me back up to the beginning. 19 Each time you make a revision, you would 20 receive an Excel file from Mr. Bryan; is that right? 21 A. Correct. 22 Q. And in the Excel file, it would have a</p>

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<p>1 table of the data describing from a data standpoint 2 what each district would look like; is that true? 3 A. Correct. I'll call that the metrics. 4 Q. And there was also a rough graphical 5 representation of what the districts looked like; is 6 that right? 7 A. That's a good description. A rough 8 graphical representation. 9 Q. In other words, it's not like what we call 10 a zoomable PDF or GIS file where you have the fine, 11 granular detail? 12 A. Correct. 13 Q. And that's all that would be in this file; 14 is that right? 15 A. Correct. 16 Q. And you would look at it and you may 17 suggest other changes or you may be happy with it. 18 But whatever the result of that discussion, then you 19 would get a more detailed map from him that, as you 20 said, you could include in your reports; is that 21 right? 22 A. When I got to the finished version that I</p>	<p>1 So my revision would be simply to say 2 "Take the spreadsheet we're working with, redo the 3 analysis, putting in the latest version of American 4 Community Survey data, give me the new metrics" -- 5 which are typically just about the same, but they're 6 current -- and I believe that -- my recollection is 7 that we had to do that twice to keep up with 8 history. And we're going to have to do that again 9 starting in December because there will be yet 10 another revision. 11 Q. All right. So -- 12 A. That's the first part. 13 Q. Well, let me stop you there so that our 14 record is clear. 15 So approximately two times so far there 16 have been revisions of the map, that you've worked 17 on with Mr. Bryan, to incorporate new ACS data; is 18 that right? 19 A. Correct. Two, possibly three. 20 Q. But you've also testified today that there 21 were revisions you made while you were making 22 decisions -- you, Mr. Morrison -- were making</p>
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<p>1 wanted, I say "Now I want a map that I can put in a 2 report." 3 Q. But along the way, as you were working 4 through revisions, all you got was this Excel file 5 with the metrics and the rough graphical 6 representation? 7 A. Correct. 8 Q. Approximately how many of those revision 9 files did you go through? 10 A. I'll divide it into two categories. 11 Several revisions were to incorporate the latest 12 version of American Community Survey data. We had 13 done the initial map or maps based on the five-year 14 American Community Survey filed, that by today's 15 standard, would be regarded as possibly two, and 16 possibly three years, out of date. 17 So as new versions came out and the clock 18 was ticking, there came a point in time during this 19 entire -- I think it's a three-year process -- where 20 Mr. Morenoff said, "I'd like you to be working with 21 the current version of the American Community Survey 22 data."</p>	<p>1 decisions to make changes to boundaries; is that 2 right? 3 A. Correct. And let's call those 4 "refinements." 5 Q. How many of those are there? 6 A. I would say, perhaps, as many as a dozen. 7 Q. And would those have occurred earlier this 8 year or you believe those have occurred over this 9 two-year, three-year cycle that you described? 10 A. Those occurred over the entire three-year 11 cycle, but, for the most part, they were 12 concentrated at the initial stage when I was trying 13 to form a remedial plan that accomplished the 14 purposes I sought to accomplish. 15 Having accomplished those purposes, I 16 recollect one revision where Mr. Morenoff said, "We 17 may want to renumber the districts so that what was 18 District 1 is now called District 2, what was 19 District 2 is called District 3." There were those 20 kinds of -- let's call them -- labeling 21 distinctions. 22 And that had something to do with -- it</p>

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<p>1 had something to do with the incumbency and who 2 would be up to bat next in terms to being elected. 3 So that was a numbering situation. Nothing about 4 the boundaries changed, just the label. 5 There were also one or two refinements 6 made to respect the incumbency of one of the 7 candidates, who was a black elected official, so 8 that he would be within a district that he would 9 want to be in. He -- at one point, I had a map 10 where he was very, very close to being in that 11 district, I think just a few blocks away. 12 And so I said, "Well, incumbency is a 13 legitimate redistricting criterion. If you tell me 14 you would like that elected official to be part of 15 that other district, I'm sure we can extend an 16 obvious thumb of territory out to encompass him. 17 And I can do so because I know incumbency is a 18 legitimate redistricting consideration." 19 There was at least one change like that 20 and I think there may have been a second one. I'm 21 not sure. These are all things I would call 22 "refinements" over the course of this three-year</p>	<p>1 is accomplishing the purposes that you have in mind 2 because I believe it is. But keep in mind, 3 Mr. Morenoff, that there are some very minor 4 fine-tuning requirements, some of them in the broad 5 category that I'll call 'quality control.'" 6 That is to say "I'm not sure that the 7 numbers are all correct, we need to do that, and 8 that takes a lot of time. And I'm also not sure 9 that -- I may not have possibly drawn a boundary 10 where I'm splitting community of interests, so I may 11 want to look at that. But, basically, this is very 12 close to what the final product is going to look 13 like. And I don't believe that the parameters of 14 the plan will change materially, so you can think of 15 this as the draft plan that I'm going to go with and 16 recommend." 17 Having gotten his concurrence -- "Yeah, 18 that looks good. I'd like you to finalize that." 19 We then go through a fairly time-consuming process 20 that we try to avoid -- so we do not go down a 21 rabbit hole we don't want to follow -- and I then 22 instruct Mr. Bryan, "Go back and make sure</p>
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<p>1 period. 2 Q. So I assume initially as you were working 3 on the map with Mr. Bryan, you would develop a first 4 draft, Mr. Bryan would provide it to you. You would 5 decide, I want to change this and that, and maybe 6 you went through that on a few occasions before you 7 finally produced a product you wanted to share with 8 Mr. Morenoff; is that correct? 9 A. Correct. 10 Q. About how many revisions did just you and 11 Mr. Bryan go through before you shared a draft with 12 Mr. Morenoff? 13 A. I would say, perhaps four. And it might 14 be that at that fourth revision I showed 15 Mr. Morenoff what the product was and what the 16 demographic summary measures were, and explained to 17 him how I believe those measures demonstrated that 18 the plan accomplished certain things. 19 And I -- I believe what I may have done is 20 shared an initial -- "Here's the first cut of what I 21 think will be the plan we want to go with, and I 22 want you to look at and tell me if you see that it</p>	<p>1 everything is correct on this. And if there's any 2 problem with the boundaries, tell me about them and 3 we'll clean them up." 4 Q. Other than the revision of the district 5 numbers and the placing of the African-American 6 incumbent in the district, can you recall any other 7 changes that Mr. Morenoff directed? 8 A. I think there may, at some point, have 9 been an issue where a Hispanic incumbent was 10 located. I don't recall exactly. I know there was 11 an issue of explicitly respecting incumbency, and 12 there may have been more than one single incumbent 13 involved -- I just don't recall the details. 14 But I -- when he raised the issue, I said, 15 "I'll take a look and see if we can solve that 16 problem." 17 Q. Are there any other issues that 18 Mr. Morenoff directed changes to? 19 A. None that I can recall, no. 20 Q. Now, going back to the revisions that you 21 and Mr. Bryan made before you produced your first 22 rough draft to Mr. Morenoff.</p>

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<p>1 I assume that each time you received one 2 of these Excel sheets that you described earlier, 3 you would analyze it and then you would recommend 4 voting precincts to move in or out, and you would 5 communicate that to Mr. Bryan so he could make the 6 next draft; is that right?</p> <p>7 A. That's not quite how it worked. The way 8 it worked, typically, was Mr. Bryan said, "Here's a 9 first cut I made along the lines you requested. The 10 parameters come out this way. It looks like they 11 have values that are in the range of what you want." 12 13 And, typically, that would be a rough 14 first approximation. That is to say "I figured out 15 a way to create a district that is 55 percent Anglo 16 or somewhere around 55 percent Anglo, but I haven't 17 got it exactly put together, but I know I can get to 18 around 55, does that satisfy some criterion?" And 19 I'd say, "Yes." And he'd say, "Okay, let me now go 20 back and spend more time on this and get it exactly 21 right so I can tell you it's 55.3, rather than in 22 the range, somewhere around 55, give or take a percentage point."</p>	<p>1 some other number?" And he would say "This is how 2 high I can get this number without digging into some 3 other number and making it go down." So he's -- 4 we're talking about trade-offs, not pieces of 5 territories.</p> <p>6 MR. MORENOFF: I don't mean to interrupt, 7 but when you are ready, if we could take a 8 pause.</p> <p>9 MR. DUNN: Sure. Let me just, kind of, 10 finish up this area and then we'll do that.</p> <p>11 BY MR. DUNN:</p> <p>12 Q. So when you communicate to Mr. Bryan 13 changes that you want made to his drafts, do you do 14 that over the telephone or do you send him an e-mail 15 or fax, or how is that done?</p> <p>16 A. E-mail or telephone; typically, both.</p> <p>17 Q. And it sounds like from your testimony -- 18 and don't let me misstate it -- the granular 19 decisions of which voting precincts go in which 20 district, those decisions were made by Mr. Bryan, 21 and you were giving him the general parameters to 22 use to make those decisions and watching the metrics</p>
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<p>1 So it was always a rough first 2 approximation. "I know I can do it to about this 3 level without too much effort, now I have to spend 4 some number of hours getting it exactly right so 5 that it is properly bounded, checked the numbers, 6 and, actually, I know exactly what the number is." 7 And that was how we proceeded.</p> <p>8 It wasn't that I would look at it and say, 9 "Well, I want you to change this or that." I would 10 simply say "I don't want you to make a 55 percent 11 district if it's going to cause some other number to 12 go down." It's very much a matter of balancing.</p> <p>13 In what I do, it's always a matter of 14 saying "I don't need to know what piece of geography 15 you're working with. I need to know whether what 16 you're doing is following my objective, which is to 17 balance competing redistricting criteria." And it's 18 always a matter of a trade off of one versus 19 another.</p> <p>20 So I would look at the trade-off and say 21 "Can you improve the trade-off in such a way?" Or 22 "Can you do what you're doing without compromising</p>	<p>1 along the way to make sure you were working towards 2 the goals you would set.</p> <p>3 Is that about accurate?</p> <p>4 A. That's all correct with the caveat that 5 the units of geography we're working with are not 6 voting precincts, but census blocks or census block 7 groups.</p> <p>8 Q. So Mr. Bryan was making the direction of 9 what census blocks or census block groups would go 10 in each individual district, taking your direction 11 on the general goals and parameters, and any notes 12 you would give him, as you observed the metrics 13 along the way; is that right?</p> <p>14 A. Again, with the caveat that I would be -- 15 I wouldn't say I just turned it over to him and 16 said, "I have no idea where this stuff is; go ahead 17 and create the plan." We would both start out by 18 looking at the distribution of different groups and 19 say "Anglo voters are concentrated over here. Black 20 voters are concentrated over here. Latino voters 21 are concentrated in several places." 22 23 So, clearly, we would want to think about</p>

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<p>1 beginning to form one or two districts that 2 encompassed Anglo majorities, if that's possible, by 3 taking in -- let's say -- the northern part of the 4 county. I would talk about broad parts of the 5 county and say "Why don't you try that and let's see 6 what you could do." 7 8 Sometimes there were several quite 9 different configurations depending on whether he was 10 giving more emphasis to one or another -- let's 11 say -- two Latino enclaves. That is to say, 12 building off the Latinos in one part of the county, 13 or building off of the Latinos concentrated in 14 another part -- or with the -- with the black 15 voters. 16 17 So we did discuss the broad areas of the 18 county that we might try encompassing to see if they 19 work. So I was involved -- I really was involved in 20 the process in the sense of the broad geography of 21 it, but not the microgeography of it. 22 23 Q. That's fair enough. In terms of the 24 process in which this map was being developed, you 25 mentioned that one of the things you'd identify is</p>	<p>1 majority, but not severely packed, and also 2 experimenting with the possibility of creating a 3 second district in which Anglo voters could be 4 influential or possibly also a majority in that 5 second district. 6 7 Q. Were you giving any concern to proaction 8 of African-American or Latino voters? 9 10 A. Yes. 11 12 Q. What concern were you focused on? 13 14 A. I was certainly focused on avoiding 15 retrogression. That is to say, I did not want to 16 create a plan in which I could say, "Well, Anglos 17 are better distributed in this plan, but, 18 unfortunately, it had to be at the expense of 19 reducing the concentration of other groups." That 20 would be an untenable position. 21 22 Q. And then last question before our break. 23 24 Going back to the Exhibit 2 there which 25 was -- 26 27 A. The rebuttal report. 28 29 Q. No. Exhibit 2 which is the list of files 30 contained in the thumb drive; Exhibit 3, you</p>
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<p>1 where there were pockets of citizens of a particular 2 race; is that right? 3 4 A. Correct. 5 6 Q. And you would consider that, in which 7 district that pocket of particular citizens of a 8 particular race would go into; is that true? 9 10 A. Well, that would be a decision Mr. Bryan 11 would make at the microlevel. He would be cobbling 12 together those small pockets, and I would be -- we 13 would both be discussing the large enclaves, as I 14 refer to them, if you're thinking of broad regions 15 of a county where one or another could prevail. 16 17 Q. Were you -- and I promise I'm almost to a 18 break. 19 20 Were you focused on any particular pockets 21 of, you know, races? In other words, were you 22 focused more on white non-Hispanic voters or 23 African-American voters or Latino voters? 24 25 A. Well, given the purposes that I started 26 out with, which is to moderate the extreme degree of 27 packing of Anglo voters, I was looking to create an 28 Anglo district in which Anglos were a clear</p>	<p>1 provided us today. 2 3 Is there anywhere in there, provided these 4 revision files, that you've described and/or the 5 communications that you've had with Mr. Bryan by 6 e-mail? 7 8 A. No. Because I have not relied on earlier 9 revisions in writing my report. I've only relied on 10 the latest, final version that I prepared. 11 12 Q. Do you still have those materials? 13 14 A. Yes. 15 16 MR. DUNN: All right. I think now is an 17 appropriate time to take a break. 18 19 (Off the record at 10:57 a.m.) 20 21 (Back on the record at 11:10 a.m.) 22 23 BY MR. DUNN: 24 25 Q. All right. Thank you for our break. I'm 26 just following up on a few things we were 27 discussing. 28 29 I asked you about the revision documents 30 and materials and the communications you've had with 31 Mr. Bryan, and I want to ask you to retain those 32 until we can work with Mr. Morenoff for their</p>

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<p>1 production.</p> <p>2 A. All right.</p> <p>3 Q. And, indeed, anything you have in your</p> <p>4 file you haven't provided to us, we'd like you to</p> <p>5 retain until we can work on production.</p> <p>6 A. I will retain it, yes.</p> <p>7 Q. Going back to the shapefile and your</p> <p>8 efforts of working with Mr. Bryan.</p> <p>9 Can you tell us what software he used?</p> <p>10 A. It's some standard redistricting package.</p> <p>11 I know he told me once what it was, but it's a name</p> <p>12 I recognized and you would probably recognize as</p> <p>13 well.</p> <p>14 Q. And you testified earlier that you used --</p> <p>15 you started from census blocks and census block</p> <p>16 groups; is that right?</p> <p>17 A. Correct.</p> <p>18 Q. Is there a reason you chose to go about it</p> <p>19 that way rather than start with the VTIDs or the</p> <p>20 voting precincts in the county?</p> <p>21 A. Yes.</p> <p>22 Q. Why is that?</p>	<p>1 Q. Was it your expectation that if the Court,</p> <p>2 after it makes its decision in this case, were to</p> <p>3 decide to implement -- order your plan's</p> <p>4 implementation, it was your expectation that the</p> <p>5 county would have to redraw its voting precincts to</p> <p>6 comply?</p> <p>7 A. I didn't have any expectation at all. I</p> <p>8 viewed my plan as demonstrating the feasibility of</p> <p>9 doing something. And it -- I can certainly envision</p> <p>10 the possibility that if my remedial plan were taken</p> <p>11 seriously and put into practice, that there could be</p> <p>12 a very close approximation to that remedial plan</p> <p>13 using whole VTIDs that might largely eliminate the</p> <p>14 need to redraw voting districts. And say, well,</p> <p>15 basically with very little -- there would be very</p> <p>16 little loss of value that the remedial plan offers</p> <p>17 if we just stayed with the existing political</p> <p>18 geography.</p> <p>19 I don't know if that's the case. That</p> <p>20 would be something where my expectation would be --</p> <p>21 and I'm speculating here -- that it would be the</p> <p>22 case that one could avoid wholesale redrawing of all</p>
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<p>1 A. The reason is because I want to be able to</p> <p>2 measure, as precisely as possible, the demographic</p> <p>3 composition of each unit of geography down to the</p> <p>4 smallest piece of geography that the Census Bureau</p> <p>5 publishes in its report. And that would be both</p> <p>6 census blocks and block groups, not VTIDs.</p> <p>7 Q. Did you have any concern that in your</p> <p>8 remedial plan by using census blocks and block</p> <p>9 groups, and not VTIDs, would be difficult to</p> <p>10 implement utilizing the existing voting boundaries?</p> <p>11 A. I'm sure that any kind of a major</p> <p>12 alteration or reconfiguration of districts would</p> <p>13 require, basically, redefining what voting -- where</p> <p>14 voting districts would be based on where population</p> <p>15 is.</p> <p>16 I didn't give any thought to that and I</p> <p>17 wasn't asked to. And I don't believe it would be</p> <p>18 appropriate for me to do so if I was trying to</p> <p>19 establish an alternative remedial plan and say "This</p> <p>20 is the best way to remedy things that I can come up</p> <p>21 with," without regard to existing voting districts</p> <p>22 which, themselves, can be modified.</p>	<p>1 voting districts by accepting many of them that were</p> <p>2 already in existence and just dealing with some</p> <p>3 around the boundaries that had to be adjusted.</p> <p>4 And even then, one might use whole</p> <p>5 existing voting districts and still come up with a</p> <p>6 plan that's essentially the same. If it's not</p> <p>7 55 percent one group, it might be 54.5 percent. And</p> <p>8 that could be a decision that was made on a</p> <p>9 pragmatic ground. Instead of spending a million</p> <p>10 dollars on redrawing boundaries, we'll go with 54.5</p> <p>11 percent instead of 55.</p> <p>12 That's not my decision to make. Mine is</p> <p>13 to show that the concept works.</p> <p>14 Q. I think this is clear from your answer,</p> <p>15 but just for a finer point on it.</p> <p>16 You did not take your remedial plan and</p> <p>17 try to draw it using the current voting precincts?</p> <p>18 A. That's correct.</p> <p>19 Q. Now, the plan that you've offered, we've</p> <p>20 been -- I use your terminology, I try to anyway,</p> <p>21 because I don't want to get into a debate with you</p> <p>22 about what terms mean. Okay?</p>

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<p>1 A. All right.</p> <p>2 Q. But what I hear you calling the plan that</p> <p>3 you've drawn is a remedial plan. Is that not the</p> <p>4 term you have been using?</p> <p>5 A. That's the term that I believe I've been</p> <p>6 using and I believe it's a term that was attached to</p> <p>7 the plan I was creating that Mr. Morenoff preferred</p> <p>8 to call it. It could be called the "alternative</p> <p>9 plan."</p> <p>10 I believe the term "remedial" captures the</p> <p>11 idea that Mr. Morenoff is saying that, for him, it</p> <p>12 would be a plan to remediate the legal issues in the</p> <p>13 enacted plan.</p> <p>14 Q. Okay. And I guess what I'm getting at is</p> <p>15 that your understanding of this plan that you've</p> <p>16 drawn is that the plaintiffs in this case would like</p> <p>17 it implemented, whether by court order or because</p> <p>18 the Commissioners Court agreed to it; is that right?</p> <p>19 A. I don't know if that's true or not. I</p> <p>20 just know that they wanted to be able to demonstrate</p> <p>21 the feasibility of something. What their final</p> <p>22 intention is, I'm not sure of.</p>	<p>1 practical criteria that come to mind -- apart from</p> <p>2 the ones that are specified by the Voting Rights</p> <p>3 Act -- are practical considerations like just how</p> <p>4 much disruption and public dollars expended are</p> <p>5 going to have to go into creating exactly the plan</p> <p>6 you created, as opposed to one that would accomplish</p> <p>7 the same purpose and come into about the same</p> <p>8 parameters without being drawn exactly how you would</p> <p>9 draw it.</p> <p>10 I would always want the people making the</p> <p>11 decisions on this to understand this is not such a</p> <p>12 rigid plan that you can't change anything.</p> <p>13 Q. Other than the voting precinct issues, are</p> <p>14 there any other revisions you might suggest to the</p> <p>15 Court?</p> <p>16 A. None that I would suggest. I would not</p> <p>17 suggest revisions. I would inform the Court of</p> <p>18 options.</p> <p>19 Q. What other options besides voting</p> <p>20 precincts?</p> <p>21 A. The other options might be depending on</p> <p>22 the timing of implementation. There may be the need</p>
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<p>1 Q. Well, if the Court were to come along and</p> <p>2 say, "Well, I accept the plaintiffs' position. The</p> <p>3 remedial plan seems reasonable to me," is there any</p> <p>4 changes or recommendations that you would make</p> <p>5 before it was attached to a federal court order,</p> <p>6 ordering Dallas County to implement it?</p> <p>7 A. I wouldn't make any recommendations other</p> <p>8 than pragmatic ones, which would be to point out</p> <p>9 that the Court has options to say if there is a way</p> <p>10 to accomplish the purposes that can be accomplished</p> <p>11 by my remedial plan while minimizing expenditure of</p> <p>12 public dollars on redrawing voting districts. I'd</p> <p>13 like you to be aware of the fact that that may be a</p> <p>14 possibility and might be something to be looked</p> <p>15 into. I wouldn't make a recommendation.</p> <p>16 I would say "This is not a plan that I</p> <p>17 regard as so rigidly drawn that if you moved -- if</p> <p>18 you changed any element of it, it would destroy its</p> <p>19 integrity." I believe that there's flexibility and</p> <p>20 there's judgment here about balancing redistricting</p> <p>21 criteria.</p> <p>22 And I've always felt that one of the</p>	<p>1 or the desire to renumber the districts. That's</p> <p>2 purely a cosmetic issue from my standpoint.</p> <p>3 There might an issue of incumbency that</p> <p>4 I'm not aware of. If there is such an issue, it</p> <p>5 might be worth looking at whether that issue can be</p> <p>6 resolved -- not by a wholesale redrawing of the</p> <p>7 plan, but possibly by keeping two incumbents</p> <p>8 separated in different districts, if they're near</p> <p>9 the border.</p> <p>10 I would simply point out -- in fact, I</p> <p>11 would be responsive to concerns that might be</p> <p>12 voiced, and if I were asked "Is there any</p> <p>13 possibility that this concern could be addressed</p> <p>14 without destroying the integrity of your plan," I</p> <p>15 would be happy to look at it and say "Yes, I think</p> <p>16 it can be," or, "No, I don't think it can be."</p> <p>17 Q. Is it your opinion that the plan you've</p> <p>18 drawn complies with traditional redistricting</p> <p>19 principles?</p> <p>20 A. Yes.</p> <p>21 Q. And what are the traditional redistricting</p> <p>22 principles that you follow?</p>

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<p>1 A. Well, the -- I don't know if this was 2 called a traditional redistricting principle, but I 3 certainly would say my starting point was to avoid 4 the severe packing and overconcentration of one 5 group, or the scattering of one group -- which is 6 known as "cracking." 7 And I would also focus on respecting 8 existing communities of interest. Which, for me, 9 the starting point would be established communities 10 of interest that are defined by the Census Bureau in 11 its concept of a census place, whether incorporated 12 or unincorporated. 13 Incumbency would be a factor to take 14 account of. The delineation of boundaries that are, 15 quote, clean, insofar as possible. Trying to avoid 16 an unnecessarily extreme imbalance between the 17 distribution of the -- the equal distribution of 18 total population, as opposed to the unequal 19 distribution of ineligible voters. That's the 20 one-person, one-vote constitutional principle that 21 sometimes becomes a concern. 22 And there's one other I'm just -- I'm</p>	<p>1 Q. What do you base that understanding on? 2 A. I think it's true. I don't know that it's 3 true; I'm not a lawyer. 4 Q. I didn't know if Mr. Morenoff told you or 5 you read a law review or read a Supreme Court 6 opinion. 7 A. I think I heard it voiced among the 8 protected groups, Anglos -- non-Hispanic whites are 9 not such a group. 10 Q. You mentioned in some of the criteria that 11 you want clean boundaries. 12 What does that mean? 13 A. Regular rather than irregular. Boundaries 14 that don't veer off in one or another direction and 15 then return as though they could have been straight, 16 but for some unknown reason were extremely 17 unstraight. 18 The kind of boundary that you'd see if you 19 were trying to respect an incumbent, who was right 20 at a boundary, and you'd say this -- this irregular 21 boundary makes no sense, when you look at the fact 22 that it could have been a straight boundary, until</p>
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<p>1 trying to think of which is, kind of, a standard -- 2 well, obviously the -- one of the key metrics, which 3 is the degree of population balance defined by the 4 total deviation from ideal, which is -- becomes 5 problematic if it exceeds 10 percent, but is always 6 a metric that preferably should be lower than 7 higher. 8 Q. Are there any others? 9 A. I'm sure there are, but those are the 10 major ones that I focused on. 11 Q. And you believe that your plan that you've 12 offered or included in your report meets those 13 criteria? 14 A. I would say it balances those criteria, 15 and it avoids creating what appear to me to be -- to 16 have been a violation of the Voting Rights Act, if 17 the group in question here would have been a 18 protected group rather than the group I'm working 19 with here, which is Anglo-eligible voters. 20 Q. Do you understand Anglo-eligible voters 21 not to be a protected group? 22 A. That's my understanding.</p>	<p>1 you recognize it's because it is designed to 2 accomplish a particular purpose. 3 Q. As you went through various revisions, you 4 would look at the boundaries to make sure if they 5 appeared to be irregular, there was some reasonable 6 explanation? 7 A. I can't say I did an exhaustive job of 8 that. I was more interested in -- given the fact 9 that Dallas County, by virtue of its demographic 10 layout, is not a county in which it's possible to 11 create districts that have tidy, neat boundaries in 12 general. 13 There is something called the "eyeball 14 test" that is referred to colloquially that when you 15 look at it, you can tell if it's been gerrymandered. 16 And I would say in the case of Dallas County, it 17 would be hard to tell whether the underlying purpose 18 is gerrymandering or whether the underlying purpose 19 of irregular boundaries is to avoid various and 20 established communities of interest, and also to, 21 perhaps, encompass concentrations of one or another 22 group. It's not a county that has clean -- north,</p>

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<p>1 south, east, west -- roads.</p> <p>2 Q. And so -- well, let me ask you this.</p> <p>3 In the map that you've drawn, is it your</p> <p>4 opinion that the black and Hispanic populations are</p> <p>5 not packed in districts?</p> <p>6 A. You mean under the enacted plan?</p> <p>7 Q. No, sir, under the plan you drew.</p> <p>8 A. I would say that's a fair statement. I</p> <p>9 don't believe they're packed.</p> <p>10 Q. What benchmark do you use to determine</p> <p>11 whether a particular population is packed?</p> <p>12 A. It would depend on the group. In the case</p> <p>13 of Latinos and possibly blacks, I wouldn't</p> <p>14 necessarily regard a 60 percent -- just for a round</p> <p>15 number -- concentration of eligible voters or</p> <p>16 possibly, in some cases, voting age population -- if</p> <p>17 that's the only metric one has -- I wouldn't regard</p> <p>18 that as packed in the sense that I know from the</p> <p>19 literature that -- especially, in the case of</p> <p>20 Latinos -- there may be a significant presence of</p> <p>21 noncitizens.</p> <p>22 So a 60 percent Latino voting age</p>	<p>1 citizen voting age population district. Because</p> <p>2 there's 10 percent of those voters who are Anglo,</p> <p>3 could have been put in another district where their</p> <p>4 votes have more influence; rather than being</p> <p>5 completely wasted.</p> <p>6 But those -- I want to state for the</p> <p>7 record, those are not bright lines, in the legal</p> <p>8 terminology. Those are judgment calls. And they</p> <p>9 are, to some extent, a function of what is</p> <p>10 demographically feasible in the entire demographic</p> <p>11 context. When I look at the enacted plan, there's</p> <p>12 no question in my mind that Anglos were packed in</p> <p>13 one district.</p> <p>14 Q. You've mentioned packing for Anglos.</p> <p>15 You've mentioned a description of Latino turnout and</p> <p>16 how that adjusted your view on their packing.</p> <p>17 What are your views as to when a black</p> <p>18 population has been packed?</p> <p>19 A. That is partly contingent upon the</p> <p>20 context.</p> <p>21 Q. Well, let's talk about Dallas County as</p> <p>22 the context.</p>
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<p>1 population district might actually be a 52 percent</p> <p>2 Latino citizen voting age population. And, also,</p> <p>3 it's typically the case of my experience that</p> <p>4 Latinos do not turn out at the same rate as</p> <p>5 non-Hispanic whites do for a variety of reasons,</p> <p>6 including age structure.</p> <p>7 So there isn't a single criterion. But I</p> <p>8 can say that in the case of Anglo voters, it is</p> <p>9 typically the case that when you have a district</p> <p>10 that is 55 percent Anglo citizen voting age</p> <p>11 population, that's a district where Anglos are</p> <p>12 barring some extreme quirk. It can't be anticipated</p> <p>13 to determine the outcome of an election.</p> <p>14 Q. 55 percent using what population?</p> <p>15 A. Citizen age voting population. I would</p> <p>16 say that's more than enough. When you get up to 60,</p> <p>17 60 percent Anglo, it's looking like it's -- there's</p> <p>18 more Anglos than you need, and that's where you get</p> <p>19 into a zone -- it's a -- I can't define exactly</p> <p>20 where it would occur, but you get into a zone when</p> <p>21 you say there's a lot of Anglo votes that are going</p> <p>22 to be wasted in a 65 percent, or something, Anglo</p>	<p>1 A. I don't really know enough about, from the</p> <p>2 political science standpoint, about the voting</p> <p>3 behavior of blacks in Dallas County.</p> <p>4 Q. But you feel qualified about the white</p> <p>5 behavior in Dallas County?</p> <p>6 A. No. I'm saying that it is invariably the</p> <p>7 case, wherever you go, that non-Hispanic white</p> <p>8 voters, for several demographic reasons, tend to</p> <p>9 turn out at a higher rate than minority voters,</p> <p>10 generally.</p> <p>11 In the case of Latinos, it is almost</p> <p>12 invariably the case in my experience --</p> <p>13 Q. Do you know whether blacks outperform</p> <p>14 whites in Dallas County?</p> <p>15 A. I don't know firsthand, but I do know that</p> <p>16 my age standardization analysis showed something</p> <p>17 about black participation being equal to that of</p> <p>18 non-Hispanic white participation, or at least the</p> <p>19 analysis that I did suggested that they might not be</p> <p>20 different.</p> <p>21 Q. Does that mean the, sort of, benchmarks</p> <p>22 that you discussed in terms of how you know an Anglo</p>

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<p>1 district is packed, would be the same for blacks in 2 Dallas since they have similar participation? 3 A. No, it doesn't. I don't know enough about 4 how blacks actually vote to answer that question. 5 What I do know is I have a high degree of 6 confidence that in the enacted plan, Anglos were 7 overconcentrated. 8 Q. So, you know, you may have been told this 9 or you know this, but this is my only chance to talk 10 to this under oath in this case. Obviously, there's 11 going to be a trial, more than likely, at some 12 point. And I'm trying to figure out what it is that 13 you're going to testify to at the trial. 14 Okay? 15 A. Sure. 16 Q. I'm not trying to play any games with you. 17 I just want to know what your testimony is going to 18 be. 19 A. All right. 20 Q. So I want to know, are you going to have 21 an opinion at trial in this case as to whether or 22 not a particular configuration of districts,</p>	<p>1 A. About blacks? 2 Q. Yes, sir. 3 A. That's correct. I would say that with the 4 caveat that I was not asked to form an opinion as to 5 whether blacks are packed. I was asked to form an 6 opinion about whether Anglo-eligible voters were 7 packed. And I proceeded from that to come up with a 8 plan in which my criteria for black-eligible voters 9 and Latino-eligible voters was, they appeared to be 10 concentrated at an acceptable level judging from the 11 standards that I'm able to bring to bear on this. 12 I see no problem with the way they are. 13 And I haven't seen any material difference between 14 how blacks and Latinos are concentrated in my 15 remedial plan and the way they're concentrated in 16 the enacted plan. I don't see the two plans being 17 all that different in that respect. 18 Q. I assume your testimony is also the case 19 that you're not able to give us some objective 20 benchmarks by how you determine whether Latinos have 21 been packed in a district in Dallas County? 22 A. I was not asked to form an opinion on</p>
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<p>1 including blacks, has been packed or not? 2 A. I can tell you that I do not believe that 3 blacks are packed in any district in my remedial 4 plan. 5 Q. Do you have any opinion about the black 6 district in the enacted plan in terms of whether or 7 not it's packed? 8 A. No, I do not. 9 Q. Are you able to tell us why it is your 10 opinion that in the plan you've drawn blacks are not 11 packed? 12 A. Because they are concentrated at a level 13 where, based on my experience -- which is not 14 anchored to the Dallas County context, but it based 15 on numerous context where I have encountered black 16 turnout -- it's my judgment that blacks look to be 17 concentrated at a level that I would regard as 18 acceptable, but not excessive. 19 Q. If I understand your testimony then, on 20 this point today, you're not able to provide us any 21 objective benchmarks that you use in reaching that 22 opinion?</p>	<p>1 that. Were I asked to, I could formulate 2 benchmarks, but I don't have any formulated. 3 Q. You haven't done that at this point and 4 it's not in either of your reports; correct? 5 A. Correct. 6 Q. Now, obviously, as you've mentioned 7 several times, your focus in drawing this remedial 8 plan was to preserve a white district and to see if 9 a second one could be created; is that right? 10 A. It wasn't to preserve a white district. I 11 said it would be to avoid the extreme packing of 12 whites in a single district and come up with a plan 13 that would not manifest both packing and cracking, 14 which I understand to be unlawful under the Voting 15 Rights Act when done to protected minorities. 16 Q. So is it your testimony that it wasn't 17 your goal to draw two districts that had greater 18 than 50 percent white citizen voting age population? 19 A. That was certainly the second objective 20 that I had. Which is to say, if I avoid the severe 21 packing of whites and there are cracking among the 22 other districts, the next question would be "Well,</p>

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<p>1 would it be possible to create two majority Anglo 2 voting districts which would have the effect of 3 roughly equaling Anglo's proportion in the eligible 4 voter population." 5 That is to say closer to half, rather than 6 closer to one-quarter of eligible voters. And two 7 districts, rather than one district. So there's 8 rough -- I wouldn't say "equality," but there's a -- 9 there isn't a lack of correspondence between one 10 group's presence in the electorate and its 11 representation in terms of the numbers of districts 12 there are. 13 Q. At some point in your analysis, your 14 reports, your preparation thereof, did you give any 15 consideration to how Anglo citizens in Dallas County 16 vote? 17 A. No. 18 Q. You're aware that in constructing 19 redistricting plans you can reconstitute elections 20 and see how your new plan would have performed in a 21 particular election or elections. You're aware of 22 that?</p>	<p>1 same way if they knew they had been voting by 2 district, in this district rather than in that 3 district. 4 So it assumes that voters were robots, 5 where they do not respond what the political 6 realities were in one set of districts as opposed to 7 another set. 8 So one could do the simulation analysis, 9 but it's hard to defend conclusions that one might 10 draw on it, simply because it makes a profound 11 assumption, which is nobody's behavior would have 12 changed. And I understand, from the political 13 science literature, that that's an assumption that 14 any political scientist would call into question. 15 Q. So is it the case, and in your prior work, 16 you haven't used simulated elections in a way that 17 you thought was reliable? 18 A. I have used it in the past just to -- in a 19 sense, take the temperature of the plan. To see, 20 you know, what would have changed. How different 21 would it have been, had behavior not changed. And 22 that could be, possibly, a guide to what might</p>
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<p>1 A. Yes. And just so we're clear on that, 2 that's where you go back precinct by precinct and 3 say "If this election had been held under the 4 remedial plan that Morrison has created, where 5 precincts are in different districts" -- and you 6 just add the numbers up and do the arithmetic, it's 7 kind of a demographic counting of votes that were 8 actually cast but are now being tabulated into 9 different subsets. I'm aware of that and I have not 10 done that. 11 Q. What do you call that? 12 A. I would call it simulating the election 13 using the actual voting behavior that occurred in 14 the election. 15 Q. Have you done this before? 16 A. I've done it before. 17 Q. On how many occasions? 18 A. Not in a long time because it has a basic 19 drawback, which is that it rests on an assumption 20 that, I understand, if not untenable, at least 21 certainly subject to question. Which is that -- the 22 assumption being that voters would have behaved the</p>	<p>1 happen. 2 But it's not one that -- I would say 3 it's -- it's indicative, but it's not a firm basis 4 for drawing a conclusion that I would testify in 5 court saying "This proves that this plan would have 6 performed this way." It doesn't prove anything. 7 It's an indicative analysis. 8 Q. So you've never relied before on a 9 simulated election in the opinions that you offered 10 a Court? 11 A. I can't say that I've never mentioned it. 12 I would say that I haven't relied heavily on it. 13 Certainly, it's not a fundamental basis 14 for which I would form an opinion. I would use it 15 as an indicator of what might happen or what might 16 have happened. I could possibly say -- there is an 17 asymmetric aspect to it, which is it might be that 18 you could stimulate the election and say, "Well, it 19 doesn't look like Group X would have come anywhere 20 near winning under this plan, unless there was a 21 major change in behavior." 22 In which case I would say "The only thing</p>

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<p>1 this shows is that there would not have been a 2 victory, let's say, on the part of Latinos, unless 3 the Latino community had mobilized itself in a 4 response to the recognition that it now had 5 districts that could perform, if people changed 6 their behavior." 7 That would be informative to the future 8 outlook by saying "Had this plan been in place, and 9 had the protected group recognized what its 10 potentialities were, they might have mobilized and 11 it might have changed the outcome." But I can't 12 make any prediction. I can't draw any conclusion 13 about whether that would have happened. I can only 14 recognize it as a set of possibilities going 15 forward. 16 Q. All right. But it's true from your 17 testimony today that you don't have opinions in this 18 case as to what you believe would be the election 19 outcomes, if your plan was put into place? 20 A. That is correct. 21 Q. And do you know whether any other expert 22 for the plaintiff -- or have you seen any other</p>	<p>1 Anglos in the district that -- the district in my 2 plan has a lesser concentration of Anglos, one 3 that's around 55 percent, I believe -- I think it 4 establishes as a going-in premise that it -- it's 5 apparent that Anglos are cohesive enough that they 6 would be able to elect their candidates of choice 7 based on what we know from Professor Hood's analysis 8 about how Anglos in Dallas County have voted under 9 the enacted plan. 10 Q. And that opinion you just provided relies 11 on Dr. Hood's analysis? 12 A. Yes. That's my interpretation of what I 13 could -- the opinion that I would be inclined to 14 form -- if I were asked to form an opinion -- about 15 whether the district that I formed, that is 16 55 percent Anglo, would, in fact, deliver an 17 Anglo-favored candidate of choice. 18 I think the answer is: Barring some 19 bizarre circumstance, I think the evidence is -- 20 weighs -- the evidence about how Anglo voters in 21 Dallas County vote, weighs heavily from Professor 22 Hood's analysis in favor of saying "The district</p>
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<p>1 analysis by someone affiliated with the plaintiffs 2 of what the electability outcome would be under your 3 plan? 4 A. I know Professor Hood has done focused 5 analysis. And I know he's drawn some fairly robust 6 conclusions based on his analysis. 7 Q. Do you know whether Dr. Hood has an 8 opinion as to whether or not your plan would result 9 in the election of white candidates of choice in two 10 of the precinct districts? 11 A. I don't think he has any opinion about my 12 plan. I believe he has expressed -- he hasn't 13 expressed any opinion about how my plan would 14 perform, I don't believe. 15 Q. Have you seen any other credentialed 16 expert opinion about how your plan would perform in 17 elections? 18 A. I can't say that I've seen any other 19 expert. But I would make the point that based on my 20 review of what Professor Hood has documented about 21 the cohesiveness of Anglo voters, I believe his 22 results make the point that, by all indications,</p>	<p>1 that Morrison created, with the 55 percent Anglo 2 majority, certainly looks like it's bound to elect 3 the Anglo candidate of choice." 4 Now, that's not to say it would happen in 5 every election because every election depends often 6 on the candidates involved. 7 So you can take, for example -- if you 8 looked at -- just to give an example. Let's say you 9 look at the presidential election of -- involving 10 Obama, and you said, "Well, we want to use that as 11 an example of how blacks vote in Dallas County." 12 I'd say, "Well, you have to keep in mind that that's 13 a special election. That's not necessarily typical 14 of the kinds of elections we're talking about here." 15 If you took a -- as another example -- 16 presidential election that involved the 17 Clinton/Trump election and said, "Well, the way it 18 worked was something happened here." I'd say, 19 "Well, that's not an election from which you can 20 generalize to the endogenous elections we're talking 21 about here, which are the commissioner elections. 22 That's an issue for a political scientist to talk</p>

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<p>1 about.</p> <p>2 But from my own standpoint, based on my</p> <p>3 experience looking at election outcomes and doing</p> <p>4 redistricting, I would say Professor Hood's analysis</p> <p>5 weighs quite heavily in my opinion as to how my</p> <p>6 55 percent Anglo district would perform. I wouldn't</p> <p>7 judge its performance based on some particular</p> <p>8 outlier election that might not be typical of the</p> <p>9 elections that these voters would be casting ballots</p> <p>10 in.</p> <p>11 Q. Are you able to provide for us a rough</p> <p>12 percentage of the white vote in Dallas County that</p> <p>13 goes to Democratic candidates?</p> <p>14 A. No, I'm not.</p> <p>15 Q. Did you give some consideration about</p> <p>16 whether or not there were pockets of white voters</p> <p>17 who preferred Democratic nominees in Dallas County?</p> <p>18 A. No, I did not.</p> <p>19 Q. So in terms of constructing the two white</p> <p>20 districts that you constructed, you looked merely at</p> <p>21 the race of the individual?</p> <p>22 A. The race and ethnicity; that's correct.</p>	<p>1 Q. Now, you mentioned earlier some revisions</p> <p>2 that you undertook at Mr. Morenoff's requests; do</p> <p>3 you recall that, sir?</p> <p>4 A. Yes.</p> <p>5 Q. At any point in time, did Mr. Morenoff</p> <p>6 direct changes to your map because of expected</p> <p>7 election outcomes?</p> <p>8 A. I hear what you're saying, I'm just trying</p> <p>9 to think. I just want to be sure I'm correct in</p> <p>10 saying that I have no recollection of that ever</p> <p>11 coming up as an issue.</p> <p>12 Q. Now, you mentioned that one of the</p> <p>13 revisions you made at Mr. Morenoff's request was to</p> <p>14 renumber the districts; did I get that correct?</p> <p>15 A. Correct.</p> <p>16 Q. What was the motivation to do that?</p> <p>17 A. My understanding was he wanted to have --</p> <p>18 since we were doing the revision that takes some</p> <p>19 time changing numbers on districts -- and it's not</p> <p>20 paste a label here and here. You have to -- the GIS</p> <p>21 system works and that takes some time.</p> <p>22 I said, "You're asking me to renumber the</p>
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<p>1 I didn't need to look at the political</p> <p>2 data because that's not part of what I was asked to</p> <p>3 do. That's what political scientists do. I was</p> <p>4 simply asked to create the plan that I created based</p> <p>5 on what I know demographically, and that's what I</p> <p>6 did. I didn't need to do any of that other stuff.</p> <p>7 Q. Are you aware that as part of Dr. Hood's</p> <p>8 findings that he did conclude that Anglos were less</p> <p>9 cohesive than Hispanics or blacks?</p> <p>10 A. I recollect reading that, yes.</p> <p>11 Q. And have you read Dr. Barreto's report?</p> <p>12 A. It's not fresh in my mind, but I did read</p> <p>13 it at one point, yeah.</p> <p>14 Q. Do you recall that Dr. Barreto also found</p> <p>15 that whites were less cohesive than blacks and</p> <p>16 Latinos in Dallas County?</p> <p>17 A. I'll take your word for it. I --</p> <p>18 Q. Assuming that's the case in Dallas, it</p> <p>19 sounds to me like you didn't factor that into your</p> <p>20 process in drawing the districts?</p> <p>21 A. No, I did not. It wasn't necessary to do</p> <p>22 that.</p>	<p>1 districts so that they would be" -- as I recall, the</p> <p>2 request was so that they would be suited to the</p> <p>3 political circumstances that would be encountered in</p> <p>4 a 2018 election.</p> <p>5 And I said, "Do you have any other</p> <p>6 renumbering that you want done? Because if you want</p> <p>7 me to do it, let me get it all done at once so we</p> <p>8 don't have to run the bill up." And he said, "Well,</p> <p>9 let's do another one." And he gave me another set</p> <p>10 of numbers.</p> <p>11 And my recollection was, it was simply</p> <p>12 change District 1 to 2, 2 to 3, 3 to 4, something</p> <p>13 like that. and then I said, "What about the other</p> <p>14 one?" He said, "Well, in that case, change 1 to 3,</p> <p>15 2 to 4" -- that type of thing. I said, "Well, let's</p> <p>16 just get it all done so whichever one you use, we'll</p> <p>17 have it on the shelf." And then I don't have to get</p> <p>18 Tom Bryan involved to go back to this a year later</p> <p>19 to say, "Well, where were we the last time I looked</p> <p>20 at this."</p> <p>21 And I've got that on the shelf</p> <p>22 somewhere -- or at least Tom has it on the shelf.</p>

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<p>1 So whichever numbering variant Mr. Morenoff 2 eventually asks me for, I have a consistent map and 3 a consistent set of tables with the proper district 4 numbering. But the demographic parameters are all 5 the same, it's just a matter of which row is where. 6 Q. All right. This communication that you 7 had with Mr. Morenoff, was this in person? 8 Telephone? E-mail? 9 A. I think it was both, as I recall. I think 10 there was a telephone call to clarify why he wanted 11 this. Once I understood, I said, "Let's get it all 12 done." And there may have been an e-mail following 13 up saying "Here's what I want you to do just so 14 there's no mistake." 15 Q. An e-mail from Mr. Morenoff to you? 16 A. To me. 17 Q. Anything in response from you? 18 A. There may be an e-mail back saying "Yeah, 19 this is the way I understand you want it. This is 20 what I'm doing. Have I got that right, before we 21 dive into doing it." 22 Q. So you also mentioned that you had this on</p>	<p>1 2 instead of the number 1 as its district name." 2 So it's the same data, just reshuffled in 3 terms of which row is where and how it's numbered. 4 Q. And have you provided me that file? 5 A. I have not because I have not yet relied 6 on it. 7 Q. Now, have you -- it sounds to me from your 8 testimony that what numbers you placed on which 9 districts in your plan, you didn't have an opinion 10 on it, you took what Mr. Morenoff directed; is that 11 right? 12 A. Correct. 13 Q. And you understand that the purpose of 14 that direction was what? 15 A. My understanding is that what the 16 numbering system does is it determines which 17 incumbent has to run for office before which other 18 incumbent. That's my understanding. It's tied into 19 how the election cycle works, which I have nothing 20 to do with and I have no interest in. 21 Q. So I assume this is true, but just to make 22 sure we're clear.</p>
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<p>1 the shelf and I didn't quite follow. 2 What does that mean? 3 A. What I have is a file that is available 4 with another numbering system other than the one 5 that you have now, which I believe is the one that 6 is corresponding to the version that would be 7 implemented in 2018. When I say "I have another one 8 on the shelf," what I mean is I have another -- I 9 have a renumbered version as a separate file that I 10 can access, if needed, and it's not one I'm relying 11 on now because I'm relying on these reports in the 12 2018 version. But I could rely on it if I needed 13 to. 14 Q. Is that a shapefile? 15 A. No. It's exactly the kind of file that I 16 described that Mr. Bryan provides me. It's the, you 17 know, "Here's the picture of the map, the crude 18 rendition. Here's where we started. Here's where 19 we went from stage A, B, to C. Here's the final 20 parameters. And, as you can see, the row of data 21 that you saw that was the top row in the earlier 22 plan, now it's the second row and it has the number</p>	<p>1 You don't know what the effect was of 2 renumbering the districts? 3 A. Correct. 4 Q. Now, we've reached lunchtime, I guess, so 5 do we want to take a lunch and come back? I think 6 we should take a lunch and come back. 7 A. I personally would prefer, maybe, taking a 8 brief break and going on. If I can get out of here 9 at some reasonable hour, I might be able to get home 10 today. If you tell me how much more time you think 11 you'll need, that may not be viable either way. 12 Just let me know. 13 Q. Well, I think it's still going to be a 14 couple of hours. 15 A. All right. In that case, let's take a 16 lunch break. 17 (Off the record at 11:55 a.m.) 18 (Back on the record at 12:54 p.m.) 19 BY MR. DUNN: 20 Q. All right. I want to go back and fill in 21 the blanks for some earlier testimony you gave. 22 You recall I talked to you about some of</p>

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<p>1 the cases you've testified in, publications, and 2 things of that nature generally? 3 A. (No verbal answer.) 4 Q. Okay. Can you name for us a case or cases 5 you recall the Court credited and relied upon your 6 testimony? 7 A. I could go through the record and my CV -- 8 actually, I don't even know if it's in my CV here. 9 Where the Court relied on my testimony? I'd have to 10 go back through the record. 11 Q. That's fair enough. You can't think of 12 any at this moment? 13 A. No. 14 Q. Back to the mapping situation we were 15 talking about before we went to lunch and the 16 process you and Mr. Bryan went through to develop 17 your map. 18 In the file that Mr. Bryan was ultimately 19 working from, that you had constructed from census 20 blocks or census block groups, what other 21 information was loaded in there, other than the 22 population information?</p>	<p>1 A. GIS would allow you to do that, but that's 2 not something that was highlighted on these crude 3 graphic representations. 4 In other words, I noticed -- at a later 5 stage -- that there was an area that was part of a 6 district and then I realized that that's a big lake. 7 There wasn't any distinction of those kinds of 8 things. 9 Q. How would you realize later there was a 10 lake there? 11 A. It came to my attention on some other map. 12 I said, "I wonder who lives there." Then I looked 13 at a map and, "Oh, that's a body of water." 14 Q. Would it be fair to say that you would 15 discover that there were geographic features, sort 16 of, by accident? 17 A. I would stumble into them, but they didn't 18 have any real relevance unless I was assuming people 19 lived there and I was treating a lake as though it 20 was a community of interest -- if you see what I 21 mean. It's, like, it's okay to split a lake if you 22 want. If you want to draw a line through it, it's</p>
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<p>1 A. Nothing other than population information. 2 That is to say, the counts of the total population, 3 the voting age population, the citizen voting age 4 population distinguished by race and ethnicity. So 5 those are all what I would call population data. 6 Q. What about things like political 7 boundaries; is that in the system? 8 A. I don't recall political boundaries ever 9 being incorporated -- I'm sorry, political 10 boundaries in the sense of incorporated communities. 11 You know geographic boundaries of places, as the 12 census defines them, incorporated and unincorporated 13 places. But not -- when I say -- no political 14 boundaries such as voting districts or congressional 15 districts, if that's what you mean. 16 Q. So you couldn't see other districts, but 17 you could see where the city boundaries were? 18 A. Correct. 19 Q. Did you have an ability to see where any 20 natural geography is? So like a lake or mountain 21 range -- which there aren't, obviously, in Dallas -- 22 but things of that nature?</p>	<p>1 not going to do any harm. 2 I would say I stumbled upon it as another 3 aspect of a map that didn't concern me. 4 Q. Would you have in the system the 5 boundaries of the Commissioners Court districts, 6 either from the prior decade or the enacted map? 7 A. Not in the ones I was working with, no. 8 Q. So is it fair to say that when you went 9 about constructing your plan, you weren't guided in 10 any way by where the lines had been for 11 Commissioners Court in the past? 12 A. Correct. In other words, I was not trying 13 to adapt the enacted plan in some way that would 14 work as a remedial plan. I started from scratch. 15 Q. Did you ever, at any point, go back, after 16 you finished your work product, and make revisions 17 to it based upon what the boundaries had been in the 18 past? 19 A. No. 20 Q. So I think this is clear, but let's make 21 sure it's clear. 22 Your map doesn't reflect, in any way,</p>

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<p>1 where the boundaries have been for Commissioners 2 Court ever in history? 3 A. Correct. 4 Q. Now, you, I assume, have read the expert 5 reports that have been presented by my side of the 6 case? 7 A. Yes. It's not fresh in my mind; I looked 8 at them some time ago. 9 Q. And I assume you've paid special attention 10 to Mr. Angle's report since they dealt with some of 11 the issues you dealt with directly; is that fair to 12 say? 13 A. Where it dealt with my report, I paid 14 attention to it, yes. 15 Q. And I'm not going to try to quiz you on 16 what's in his report. But I just want to make sure 17 you've had a chance to look at it. 18 A. I have. 19 Q. And I assume one of the takeaways that you 20 got from reading his report is the opinion that you 21 had used the wrong map for Dallas County 22 commissioners' enacted 2011 map, than was the actual</p>	<p>1 close approximations to the true ones, if I don't 2 have them exactly. 3 Q. You said a number of things there that I'd 4 like to drill into further. Before I do that, have 5 you, since you got Mr. Angle's rebuttal report, 6 looked at what Mr. Angle contends is the 2011 7 enacted plan, and compared it to what you have as 8 the 2011 enacted plan? 9 A. I have not done so, no. 10 Q. Now, when you answered a moment ago, you 11 said that the data is not significantly different -- 12 or something to that effect -- from whatever plan 13 you used to what is the actual enacted plan; is that 14 right? 15 A. Yes. I said, effectively, I have -- 16 Mr. Bryan has carefully reconstructed an official 17 image that we had of the enacted plan. 18 Now, I can appreciate that there may be an 19 occasional slice of territory that he may not have 20 included or may have excluded in one or another 21 place, but it would have to be something that is 22 not -- that was so small, that it was not visible on</p>
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<p>1 map. 2 Did you see something to that effect? 3 A. I recollect seeing that statement and it 4 sounds like there may have been some discrepancy. I 5 assume it's a minor discrepancy. 6 Q. Well, do you assume or do you know? 7 A. I don't know. I mean, whatever the 8 enacted plan is, it is. And I'm concerned with the 9 remedial plan. And I -- my understanding is that 10 the -- that my reconstruction of the enacted plan, 11 if it is not an exact, perfect reconstruction of it, 12 is so close that the demographic parameters 13 themselves are virtually identical to what the true 14 ones are. 15 And, as a matter of fact, I think I may 16 have checked them independently against what the 17 official statistics were for the enacted plan. It 18 goes back about two years, I don't remember exactly 19 how I did that. 20 But unless someone is saying that I 21 totally have misrepresented what the enacted plan is 22 demographically, I stand by the numbers as very</p>	<p>1 the map that he used. 2 So that's my basis for deducing that 3 whatever he reconstructed has to be a very close 4 approximation to the actual plan. 5 Q. Do you know why it is that Mr. Bryan 6 didn't use the shapefile or a block equivalency file 7 from the county to start with the enacted plan? 8 A. I don't know that we had that at the time. 9 Q. Do you know if the way he constructed the 10 enacted plan, that Mr. Bryan worked from, that he 11 went down and looked at the list of voting precincts 12 by number in each of the commissioner's precincts? 13 A. I am quite sure that Mr. Bryan did not 14 look at the voting precincts. 15 Q. And that's because you were working from 16 census blocks and block groups? 17 A. Correct. 18 Q. And you're aware though census blocks, 19 whole census blocks, in some combination make up a 20 voting precinct? 21 A. I'm not -- I'll take your word for it, but 22 that's not invariably the case in my experience.</p>

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1 Q. You don't know whether that's true, then,
 2 in Dallas County?

3 A. Generally speaking, it is true, but there
 4 are exceptions to that. I've seen instances where
 5 an individual census block will be split. Sometimes
 6 the census block, itself, doesn't correspond to what
 7 we think of as a city block.

8 It sometimes is a large stretch of
 9 territory that may have been arbitrarily split if
 10 it's along a railroad right-of-way or something.
 11 Census blocks don't correspond, always, to city
 12 blocks in our mind.

13 Q. Okay. What is your understanding of the
 14 situation in Dallas County, if you know?

15 A. My understanding is that I'm just working
 16 with the census geography. And I'm saying, using
 17 standard census geography -- which is what we would
 18 use in any redistricting -- however perfect or
 19 imperfect it is in terms of the voting districts,
 20 and however perfect or imperfect it is in terms of
 21 cemeteries, where there are a lot of people, but
 22 none of them are alive -- or lakes, or natural

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1 barriers -- those census blocks are the elements
 2 that you put together into a district for purposes
 3 of calculating the population balance. And that's
 4 what I used. That's the standard practice.

5 Q. And I understand that's what you used. My
 6 question is different.

7 Do you have an opinion, or do you know one
 8 way or another, whether or not the voting precincts
 9 in Dallas County are made up of whole census blocks
 10 or whole census block groups?

11 A. I do not know and I don't need to know.

12 Q. Now, going back to the issue of the
 13 enacted plan that you relied upon and that Mr. Bryan
 14 created.

15 You testified here today that one of the
 16 things that you did with that was to make sure that
 17 the data was not insignificantly different than the
 18 actual enacted plan; is that right?

19 A. Say that again.

20 Q. And you've said this, I'm just trying to
 21 get your mind to where I'm at.

22 The enacted plan version that Mr. Bryan

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1 created, that you and he worked from, you said the
 2 data tables are more or less the same as --

3 A. They should be the same. They should be
 4 identical, or if not identical, any differences
 5 should be trivial differences.

6 Q. That's different, though, than saying
 7 where the actual lines are for each district; is
 8 that right?

9 In theory, you should be able to draw
 10 lines in a different configuration and get the data
 11 table pretty close to the same.

12 A. I'm not following. I said that he looked
 13 at the physical representation of the map, not a GIS
 14 file. He approximated it as closely as he could,
 15 looking at that imagery. And he tabulated the block
 16 level and block group level data so that he would
 17 approximate that image.

18 Now, if the image, itself, was not a
 19 perfect reflection, or if the disparities between
 20 the image and GIS file were not apparent, there's
 21 room for very, very slight discrepancies. Where you
 22 might find the total population doesn't add up to

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1 the exact number of individuals. It's off by five
 2 or ten people. That's possible.

3 And I don't have any way, at this point,
 4 of saying whether that is the case, and, if so, if
 5 it is the case, of accounting for it. But what I do
 6 know is, that any close approximation to that
 7 imagery, will be a very close approximation to the
 8 demographic parameters as reconstructed.

9 Q. It's possible I could find a qualified
 10 professional, who's not involved in this case, and
 11 give him or her the data tables from your version of
 12 the enacted plan, and say "Recreate this," and get
 13 the same data tables or very close to it.

14 A. No, they would get the same data tables --

15 Q. Hold on, let me finish my question.

16 So we give them the data table, we ask
 17 them to draw a plan that matches this data table.
 18 It's possible they're going to come up with
 19 different boundaries than you have.

20 A. It's possible that there will be very
 21 slight discrepancies in the boundaries that would be
 22 invisible on the image that we worked from.

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<p>1 Q. So it wasn't the case that you or 2 Mr. Bryan took the enacted boundaries that he had 3 and overlaid them with the boundaries that were 4 claimed by Mr. Angle or the county, or on the 5 county's website, to see whether they were the same? 6 A. The image that I had, I believe, was from 7 the county website. That's what I'm saying. I 8 worked from that image. There was a detailed map 9 and I said, "This is the map we want to 10 reconstruct." 11 Q. Now, you've said in several of your 12 answers that the data that you got was what you 13 relied upon as far as the enacted plan; is that 14 right? 15 A. Correct. 16 Q. But it's -- you also, as part of your 17 analysis, critique the enacted plan and some of its 18 features; isn't that true? 19 A. Correct. 20 Q. One of the things, for example, that you 21 complain about in your report is that there are too 22 many cities split; is that right?</p>	<p>1 appear to be. And I'm not entirely sure I've 2 perfectly approximated them. 3 Q. Isn't that though -- that analysis and 4 process -- isn't that, sort of, the keystone to your 5 conclusion that the enacted map split too many 6 precincts or cities? 7 A. It's not a keystone conclusion; it's a 8 peripheral issue. I'm saying that -- well, let me 9 put it this way. I haven't yet completed that 10 analysis, so I'm going to say that analysis is still 11 in the works. My opinion would not change if that 12 analysis proved to be completely flawed and 13 misunderstood on my part in terms of the boundaries 14 that I see. 15 I do see evidence of splits that don't 16 make sense to me. They -- the way I've approached 17 this is I -- and we put, sort of, an arbitrary name 18 on it when I talked to Mr. Bryan about it. I said, 19 "Where there's smoke, there's fire." I said, "I'm 20 not sure there's even smoke, but there are burning 21 embers here and I don't know what the explanation 22 is." I said, "I see these irregularities in</p>
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<p>1 A. Correct. 2 Q. So if you have, in the version of the 3 enacted plan that you're using, incorrect 4 boundaries, then it's difficult for you to assess, 5 wouldn't you agree, what cities were split? 6 A. I found it difficult to assess -- to 7 verify in exact detail the various splits that I've 8 seen. And I'm not talking about was a city split or 9 not, but to see the exact way in which a split 10 occurred, or the exact place in which the boundary 11 was split. I'm talking about tiny splits, and I'm 12 especially concerned with ones that have offsetting 13 effects. 14 Where a community of interest was -- or an 15 incorporated place was split along its boundary in 16 such a way that it was giving up population at one 17 point, but adding population at another for a net 18 effect that was offsetting. 19 And I am still at a stage of needing to 20 verify where those splits are. I've not completed 21 that analysis. And I'm not entirely sure that all 22 of the splits that I've identified are where they</p>	<p>1 boundaries that don't make any sense. No one would 2 do them unless there was some underlying purpose." 3 So I personally said, "Let's just call 4 these 'embers,' for a convenient name that would 5 correspond to the little slices of territory, or 6 places where something -- where a piece of a 7 community was amputated that would have belonged -- 8 the entire community would have belonged in a 9 district, but a piece of it was amputated and put in 10 another district." 11 And I said, "I don't know why they did 12 that. I don't know what the purpose was behind 13 that, so we're going to call that Ember A and then, 14 another one, Ember B." 15 And when I looked at the whole thing, it's 16 hard to make sense out of the logic of splitting as 17 many communities, in as many different places, as 18 was done when the same population balance could have 19 been achieved with fewer splits. 20 As I say, I'm not finished with the 21 analysis and I am not yet relying on it. And 22 however that analysis comes about, its only purpose</p>

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<p>1 is to buttress my conclusion that there is evidence 2 of packing and cracking, and even without any 3 boundary analysis of the type I've been discussing 4 just now -- the ember's analysis -- even without any 5 of that fanning out, I would still stand by my 6 opinion that there's definitely evidence of cracking 7 and packing.</p> <p>8 I just don't know how it was done in this 9 analysis. I'm trying to figure out if there was an 10 underlying pattern that would say, the way it was 11 done was taking some people out here and putting 12 others back in such a way that you increased 13 concentration of Anglos in a particular district. 14 That's -- the only purpose is to add another layer 15 of potential explanation.</p> <p>16 Q. I appreciate your opinions on cracking and 17 packing. I'm focused on a different issue at the 18 moment. Which is that you state in your report that 19 the map of the county adopted, split too many 20 cities.</p> <p>21 Is that not a fair characterization of one 22 of your opinions?</p>	<p>1 A. I can't do that for you today, but that's 2 something I want to do before trial.</p> <p>3 Q. Is there any reason you haven't gotten it 4 done before today?</p> <p>5 A. It's very time-consuming and I don't have 6 access to the -- to Mr. Bryan on an hour-by-hour 7 basis any day of the week. He frees up time on some 8 weekends. And so this is an analysis that will have 9 to be put off and I cannot address those concerns 10 here today.</p> <p>11 Q. Are there any other issues in this case 12 that you're not done performing your analysis on?</p> <p>13 A. I think that's really the only -- the only 14 major area that I have yet to complete and resolve. 15 Well, there's the issue with Mr. Angle's pointing to 16 the specific -- as I say -- ember areas.</p> <p>17 There's also the question that has been 18 posed about whether the reconstruction of the 19 enacted plan, as my analysis has reconstructed it, 20 is in some way not virtually identical to the actual 21 plan itself -- that's another thing that's on my 22 to-do list before trial.</p>
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<p>1 A. It's split more than was necessary, yes.</p> <p>2 Q. What I'm hearing from your testimony 3 today, though, is you're not finished with that 4 analysis?</p> <p>5 A. I'm not finished with it, no.</p> <p>6 Q. You realized it in Mr. Angle's -- and I 7 have a copy of it, it begins on Page 3, and you can 8 scroll down with an arrow. But Mr. Angle goes 9 through each of the city splits that you identified.</p> <p>10 So, first, is that true? Is that what you 11 see there in the report?</p> <p>12 A. Truthfully, I have not delved in any great 13 detail into these responses. Because at this point, 14 I would have to look at each one of these in detail 15 and I would have to do a fairly detailed study of 16 each one. I haven't yet done that.</p> <p>17 So I would say my opinion about these 18 assertions is I haven't had a chance to examine each 19 one in enough detail that I can say he's correct or 20 he's incorrect.</p> <p>21 Q. And you're not able to do that for me 22 today?</p>	<p>1 Q. So you're not able to tell us what your 2 opinions are as to the differences between your 3 version of the enacted plan and Mr. Angle's version 4 of the enacted plan today?</p> <p>5 A. Correct.</p> <p>6 Q. And so then I would assume it's the case, 7 you're not able to identify for us today which 8 cities are split in your version of the enacted 9 plan, and which cities are split in the county's 10 version of the enacted plan?</p> <p>11 A. I pretty much identified which cities are 12 and are not split. It's just, I don't know exactly 13 where the splits are.</p> <p>14 Q. Okay. So in your plan, that you put 15 forward, the remedial plan, what are the split 16 cities?</p> <p>17 A. Well, they're in my report as I last 18 documented them.</p> <p>19 Q. What does that mean? Do you think they've 20 changed since you last documented them?</p> <p>21 A. No. I would say that was the preliminary 22 tabulation that I have of where there were splits.</p>

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<p>1 And if you go to my original report on Page 15 --</p> <p>2 Q. Table 4?</p> <p>3 A. Table 4. That was the last time I was</p> <p>4 able to look at the map and simply eyeballing it,</p> <p>5 identify where there were splits.</p> <p>6 Q. And from what you know right now today, on</p> <p>7 November the 8th, you recognize that some of the</p> <p>8 information -- at least in Table 4 -- is wrong?</p> <p>9 A. I wouldn't say it's wrong, it has to be</p> <p>10 revised and updated.</p> <p>11 Q. Because there are splits indicated where</p> <p>12 there are none?</p> <p>13 A. I don't know that that's the case. I know</p> <p>14 this table needs to be updated based on a closer,</p> <p>15 more fine-grained perspective on where the splits</p> <p>16 are. Because this was based on simply eyeballing</p> <p>17 the overall map, which didn't show enough detail for</p> <p>18 me to be entirely sure of where there are splits.</p> <p>19 There are some places where there is what</p> <p>20 appears to be a piece of territory that has been</p> <p>21 excluded from an incorporated city. I don't know</p> <p>22 whether that territory is totally empty of</p>	<p>1 the enacted plan and the remedial plan have slightly</p> <p>2 different numbers of splits. We don't know whether</p> <p>3 it's slightly different numbers of splits or</p> <p>4 slightly different numbers of communities that have</p> <p>5 any split, whether it's from 1 to 10.</p> <p>6 But my point is that what the enacted plan</p> <p>7 did is it split a lot of communities and it created</p> <p>8 a situation that would violate the law if Anglos</p> <p>9 happened to be a protected group. What I did, in my</p> <p>10 remedial plan, is I managed to balance a number of</p> <p>11 different competing redistricting criteria. And I</p> <p>12 did it in a way that accomplished a number of</p> <p>13 important purposes. And I ended up with some number</p> <p>14 of communities split and some number of splits that</p> <p>15 doesn't look like it's way more than the enacted</p> <p>16 plan.</p> <p>17 In other words, I was able to do a lot of</p> <p>18 things to rectify violations of the law without</p> <p>19 splitting more communities. So I'm not trying to</p> <p>20 show that my plan necessarily is better because of</p> <p>21 what is in the final version of Table 4. I'm simply</p> <p>22 saying I accomplished a number of purposes balancing</p>
Page 139	Page 141
<p>1 population. I also don't know whether the</p> <p>2 boundaries that I'm working with reflect or don't</p> <p>3 reflect current annexations that may have occurred</p> <p>4 in the county.</p> <p>5 These boundaries sometimes are changed by</p> <p>6 annexation, so it becomes a bit of a research</p> <p>7 project to understand, are you talking about the</p> <p>8 city as it is today? Or are you talking about it at</p> <p>9 the time the map was drawn in, say, 2011?</p> <p>10 Annexations occur all the time, so I haven't done</p> <p>11 any analysis of that.</p> <p>12 It becomes a fairly expensive -- getting</p> <p>13 the last 5 percent of it right becomes a very</p> <p>14 expensive enterprise. And I'm not sure the payoff</p> <p>15 is there really, from my standpoint, to say "I can</p> <p>16 justify spending another 5- or 6- or \$7,000 trying</p> <p>17 to be exactly sure of every single split."</p> <p>18 Table 4, basically, has only one important</p> <p>19 bearing on my analysis, which I will tell you if you</p> <p>20 would like to hear what it is.</p> <p>21 Q. What is the important bearing?</p> <p>22 A. The one important bearing is it looks like</p>	<p>1 a number of different things and I didn't have to</p> <p>2 split a lot of communities, a lot more than what was</p> <p>3 split in the other plan.</p> <p>4 Q. Well, it sounds to me like what you're</p> <p>5 saying, Mr. Morrison, is that these differences</p> <p>6 matter, but I can't tell you what the differences</p> <p>7 are?</p> <p>8 A. No. I'm saying that the fact that they're</p> <p>9 not altogether different, even when they're</p> <p>10 corrected, establishes my point. Which is I didn't</p> <p>11 have to split -- I didn't have to violate the</p> <p>12 boundaries of existing communities of interest in</p> <p>13 order to accomplish the purposes that I was aiming</p> <p>14 to accomplish to any greater degree than what was</p> <p>15 done in the enacted plan, which was simply creating</p> <p>16 a violation of the law.</p> <p>17 Q. Did you, at any point, provide us in your</p> <p>18 various reports an analysis of which of these splits</p> <p>19 affected the Anglo precinct?</p> <p>20 A. That is what I have been trying to figure</p> <p>21 out and that remains unresolved. Because while I</p> <p>22 have the census data for certain of these fragments,</p>

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<p>1 and I saw some evidence that suggested -- it was 2 suggested evidence that there were -- there was at 3 least one instance where I saw a pattern of removing 4 a piece of territory at one point from the Anglo 5 district in the enacted plan and then substituting 6 it with another piece of territory added, that had a 7 higher concentration of Anglos, thereby having a net 8 effect of increasing the packing, rather than being 9 packing-neutral as it were.</p> <p>10 So that's the telltale statistical 11 footprint I'm looking for, and I have yet to 12 complete that analysis.</p> <p>13 Q. Because you haven't had enough time in 14 three years?</p> <p>15 A. No. I only started quite recently after 16 my rebuttal. In preparing my rebuttal report, when 17 I went over this table, to say, I need to find out 18 what's going on with Table 4.</p> <p>19 Q. Are you able to tell us which of the 20 splits harmed the Anglo community?</p> <p>21 A. Not at this point.</p> <p>22 Q. Well, then how can you conclude they're</p>	<p>1 A. Yes.</p> <p>2 Q. Is it split in either your plan or the 3 enacted plan?</p> <p>4 A. I think that this may be a correction I 5 have to make from the original Table 4. That 6 Cockrell Hill -- I'm not sure why I have it in there 7 if there was no evidence of a split. I'm not sure 8 if that was an incomplete cell that I didn't fill.</p> <p>9 That's why I say, I'm not prepared to rely 10 on these data or draw any conclusions from them yet 11 because I have to quality control them.</p> <p>12 Q. And that was going to be my next question. 13 So you don't know why Cockrell Hill is on 14 this?</p> <p>15 A. I don't. I don't.</p> <p>16 Q. Other than your critique about the enacted 17 plan splitting too many cities, what other features 18 of it are there that lead you to believe there were 19 backing and cracking of the Anglo community?</p> <p>20 A. Well, if you look at Page 2 of my original 21 report, looking at the bottom panel that says "share 22 of total CVAP," in District 2 we have 69.8 percent</p>
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<p>1 inexcusable?</p> <p>2 A. I may reach the conclusion that none of 3 them passed the test of being inexcusable.</p> <p>4 I don't rule out the possibility that my 5 entire analysis in Table 4, when it's finally 6 completed and I get all the numbers right, may end 7 up showing there is no real obvious, apparent 8 statistical footprint of intent to pack Anglos. In 9 which case, my conclusion is I guess it wasn't done 10 here, but the demographic data showed it was 11 accomplished.</p> <p>12 How it was accomplished becomes, to me, a 13 peripheral question that I would pursue depending on 14 my own decision as to how I want to spend my time 15 and how much resources of the client I want to 16 devote to an exercise that may add nothing to the 17 substance of the opinion I formed.</p> <p>18 Q. In other words, I can identify the dead 19 body, but I can't tell you how it got here?</p> <p>20 A. Those are your words, not mine.</p> <p>21 Q. When you look at Table 4, do you show 22 Cockrell Hill on here?</p>	<p>1 of the citizen voting age population based on the 2 ACS 2010 to 2014 file -- let's call it 70 percent. 3 That's packing by anyone's standard.</p> <p>4 Q. And so you're saying that whenever you see 5 a population of 69.8 percent in one district, you 6 know just off of that percentage that that 7 district's been packed? There's no additional 8 information you need to know.</p> <p>9 A. No, there is additional information. I 10 need to know whether we're talking about Anglos or 11 we're talking about any group. I wouldn't make that 12 generalization to any group.</p> <p>13 But I would say that if it's 69.8 percent 14 in that district, and all the other districts are in 15 the range of 30 to 43 percent, it's a 35 -- roughly 16 speaking, 35 percentage point difference. How did 17 that happen?</p> <p>18 Q. Other than the percentage and the fact 19 that we're talking about Anglos, there's nothing 20 else you need to know to reach your opinion that 21 that district is packed?</p> <p>22 A. There is something I need to know. I</p>

<p style="text-align: right;">Page 146</p> <p>1 couldn't make that statement blindly, just from the 2 table, if I didn't have access to the map. 3 In other words, if it turned out that the 4 69.8 percent Anglo district happened to be, let's 5 say the island of Manhattan, and somebody said, 6 "Well, you've got all the Anglos packed into 7 Manhattan." I'd say, "Well, it's because it's a 8 separate borough. It's separated by water from 9 other boroughs. You don't have other people 10 somewhere else." 11 There may be natural barriers that would 12 prevent this from happening, but Dallas County 13 doesn't have natural barriers that would preclude 14 some of these Anglos packed into District 2 -- the 15 enacted plan's District 2 -- from being included in 16 an adjoining district. And then, having created a 17 remedial plan, I can show that I do know that it 18 could be different. 19 Q. Did you give any consideration to the 20 extent to which Anglos in Dallas County are 21 concentrated or dispersed throughout the geography 22 of the county?</p>	<p style="text-align: right;">Page 148</p> <p>1 when I created the remedial plan, I was able to 2 unpack Anglos, balance a number of traditional 3 redistricting criteria, and end up with a remedial 4 plan that I would have expected would have a 5 deviation in excess of 7.61, but I actually ended up 6 with one that had less than 7.61. 7 Telling me that one doesn't even need to 8 have a total deviation for ideal as high as 7.61, 9 even if unpacking wasn't your objective. 10 In other words, one could say there's 11 another way to divide up this population that 12 accomplishes all the traditional redistricting 13 criteria I was seeking to accomplish, including 14 having a more equipopulous plan. 15 Q. Were there any other factors that went 16 into your opinion that there was packing and 17 cracking of the Anglo vote? 18 A. Not that I recall offhand. 19 Q. Now, I assume at no point in time did you 20 consider what the motivation was of officials in the 21 county with constructing the plan? 22 A. I know there were allegations made, but I</p>
<p style="text-align: right;">Page 147</p> <p>1 A. Yes, I did. I looked at the overrule lay 2 of the land, and it's clear that Anglos are most 3 heavily concentrated in the north side, not evenly 4 but that's where they're concentrated. There are 5 some Anglos elsewhere. 6 And, to me, the definitive proof that 7 there is packing is to show that one can create an 8 alternative plan that balances all the other 9 traditional redistricting criteria that can, 10 essentially, unpack Anglos to the point where they 11 constitute a reasonable proportion of eligible 12 voters in the most heavily concentrated district, 13 and also a majority of eligible voters in a second 14 one. That's the ultimate acid test. 15 Q. Other than the city splits and the 16 69.8 percentage shown in Table 2, what other 17 information do you rely upon in your conclusion that 18 there was packing and cracking of Anglo voters? 19 A. One of the considerations I took into 20 account was the fact that the total deviation from 21 ideal, shown in Table 2 on Page 6 of my initial 22 report, was 7.61. And to my surprise, I discovered</p>	<p style="text-align: right;">Page 149</p> <p>1 did not consider what the underlying motives were. 2 That's not my specialty. 3 I just know there was speculation there 4 were motives and I was asked to find out whether the 5 demographic data were consistent with those motives 6 having been implemented. 7 Q. So, I mean, nowhere in either of your 8 reports do you consider what the intent behind the 9 plan was; isn't that true? 10 A. I think that's correct, yes. 11 Q. And you haven't done that analysis? 12 A. I haven't done it and I do not need to. 13 Q. All right. I'm going to shift gears with 14 you now and talk about the data you provided to 15 Dr. Hood. 16 A. All right. 17 Q. Did you at some point -- before I get to 18 that, did you provide some data to Mr. Nelson as 19 well? 20 A. Yes. 21 Q. And what was the nature of the data you 22 provided to Mr. Nelson?</p>

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<p>1 A. I provided him with the Census Bureau's 2 tabulation of population -- by what are known as ZIP 3 Code tabulation areas -- at two points in time, when 4 the Census Bureau does that at each of the decennial 5 censuses.</p> <p>6 I provided him with the Census Bureau's 7 tabulation of data, I recall, by race and ethnicity 8 for the ZIP Code tabulation areas that were 9 recognized at the time the census of 2000 was taken.</p> <p>10 And I provided him with another set for the ZIP Code 11 tabulation areas that were recognized at the time of 12 the 2010 census, based on 2010 data.</p> <p>13 I provided those counts to him as raw data 14 for him to analyze. I provided him with a 15 spreadsheet that showed which tabulation areas -- 16 for which tabulation areas there was the same ZIP 17 Code number in 2000 as 2010, so he would be able to 18 see where there was a ZIP Code in -- at one time, it 19 didn't exist at the other time.</p> <p>20 And I believe I provided him with the 21 Census Bureau's maps showing -- delineating the ZIP 22 Code tabulation areas at the two points in time so</p>	<p>1 saying -- it was an e-mail, I suspect, to 2 Mr. Morenoff saying "I can do this for him, if you 3 want me to." And somebody said "yes" to it.</p> <p>4 I did it, sent it to Alan. I said, 5 "Here's what I have. If you have any questions, let 6 me know." I never heard back.</p> <p>7 (Off the record at 1:36 p.m.) 8 (Back on the record at 1:43 p.m.)</p> <p>9 BY MR. DUNN:</p> <p>10 Q. Mr. Morrison, we were talking about the 11 data that you provided to Mr. Nelson. And I 12 understand you provided him some table that allowed 13 him to see which ZIP Codes had been eliminated 14 and/or created; is that right?</p> <p>15 A. That was one thing it allowed him to do. 16 It also gave him demographics of each ZIP Code at 17 that point in time so he could use his own judgment 18 to determine what the composition might have been in 19 any intervening year.</p> <p>20 Q. Have you produced to us, in Exhibit 3, the 21 data that you provided to Mr. Nelson?</p> <p>22 A. I believe I have. Should be something</p>
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<p>1 he would have all the reference material he needed 2 to do his own analysis.</p> <p>3 Q. Why did you collect those materials for 4 him?</p> <p>5 A. My feeling was, I was probably better 6 equipped to work with the Census Bureau's website 7 than he might be as a first-time user.</p> <p>8 I said, "I can put this together for you 9 pretty quickly. I can get it right the first time. 10 You would have to undergo the learning curve." I 11 said, "What you really want to know is: What do we 12 know? What do we know, we don't know? And is there 13 anything here that we don't know, we don't know? 14 And I'll tell you what it might be."</p> <p>15 Q. Have you dealt with Mr. Nelson before?</p> <p>16 A. Never have, no.</p> <p>17 Q. I assume you and he had telephone 18 conversations about what data he might need for his 19 data analysis?</p> <p>20 A. I don't recall having any telephone 21 conversation. I think it was strictly by e-mail and 22 it was probably, simply one round-trip of e-mails</p>	<p>1 with the name "ZIP Code" on it.</p> <p>2 Q. I think we may have found it. It's in the 3 right-hand column, fourth from the bottom, is that 4 it?</p> <p>5 A. That's it.</p> <p>6 Q. Do you know if Mr. Nelson did anything to 7 your data or just used it as it was?</p> <p>8 You know, sometimes you "clean data"; are 9 you familiar with that term?</p> <p>10 A. Sure.</p> <p>11 Q. Do you know if he did any of that?</p> <p>12 A. I assume he used them for his purposes. I 13 didn't really carefully look at how he used them. I 14 just said, "This is what we know from demographic 15 data, do with it what you will. This is your 16 report, not mine."</p> <p>17 Q. He never gave to you the data table after 18 he did to it whatever he did with it?</p> <p>19 A. No. He had no interchange with me. All I 20 know is the next thing I saw is his report.</p> <p>21 Q. Okay. Because I'm not sure that's 22 something we have, so that's why I'm trying to find</p>

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1 out.
2 If he made any changes to your data table,
3 you don't have them?
4 A. No, I'm not aware of it.
5 Q. We talked about everything you did for
6 Mr. Nelson?
7 A. Yes.
8 Q. I'd like to turn to what you did for
9 Dr. Hood. And we took Dr. Hood's deposition on
10 Friday; are you aware of that?
11 A. I am now.
12 Q. So I assume you haven't heard a report
13 about that or read the deposition?
14 A. No.
15 Q. So Dr. Hood informed us he received some
16 data from you, and it sounds like you agree with
17 that testimony?
18 A. Yes.
19 Q. How did the process come about where you
20 would obtain the data and give it to Dr. Hood,
21 instead of Dr. Hood getting it himself?
22 A. I would say -- if I can speak modestly --

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1 I think I have greater expertise in dealing with
2 integrating separate data files that are sometimes
3 inconsistent, than he might have. Although, he's
4 probably almost as good at it as I am, but I know
5 it's very time-consuming and I know he's got a lot
6 on his plate.
7 So I offered again. I said, "If you'd
8 like, I can assemble the data. I can be the Thomas
9 Bryan for you that Thomas Bryan is for me because I
10 know this data inside and out."
11 I've put them together for innumerable
12 applications where you take political data from the
13 website of an election -- a website for a state
14 where different practices -- practices differ by
15 state. And then you have to integrate it with
16 census data. And you have to line up the data by
17 precinct, and you have to make due with what you
18 have.
19 And I said, "It's tricky. There's a lot
20 of ways you can make a mistake. I've done it
21 before, I know how to do it. And what I do is I put
22 it together, and it's pretty tedious work. And if

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1 you'd like me to do it for you, I'll do it."
2 Q. You had that conversation with Dr. Hood?
3 A. I think I had it with Mr. Morenoff and I
4 said you can offer my services for Professor Hood if
5 he would like me to do it. If not, he may want to
6 do it himself because he doesn't completely trust my
7 standards, but he apparently does trust them. And
8 he -- it was communicated to me that I should do
9 that.
10 Q. So did you -- is this the first time
11 you've ever collected data for Dr. Hood in a
12 project?
13 A. I don't think so, no. I think I've done
14 it once or twice before. I've certainly done it for
15 Dr. Hood and other political scientists whom he
16 knows and who would vouch for the care that I go to
17 in putting it together.
18 And having worked with him as a co-author
19 for a year and a half, I think he gained some
20 confidence in my standards and understood what my
21 comparative strengths were.
22 Q. Did you take the data that you collected

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1 for Dr. Hood and load it into your mapping system
2 that Mr. Bryan was operating?
3 A. Never.
4 Q. Why not?
5 A. This was not a mapping project. I was
6 putting together, basically, an Excel spreadsheet he
7 could use for a statistical analysis. He didn't
8 need a map, he needed a valid data set.
9 Q. Now, you've testified earlier today that
10 past election data is not reliable for assessing new
11 districts because the orientation of the new
12 districts may change voter behavior; did I hear that
13 right?
14 A. If it's a different type of system or a
15 different district delineation, one has to make the
16 assumption that voters behavior did not change.
17 Q. What do you mean by "delineation," new
18 lines?
19 A. New lines. Yeah, whether the boundaries
20 change. And all I can say is that requires one to
21 assume that voters would behave exactly how they did
22 during the election, irrespective of their

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<p>1 understanding -- correctly or incorrectly -- what 2 kind of district they're in, or what kind of 3 influence their vote might have in that new 4 district. 5 That's an assumption that poses concerns 6 to people who do what I call a simulation analysis 7 and say, "Well, we can use this as a confident basis 8 for saying what would or would not have happened 9 under the hypothetical circumstance that they run 10 the election in different districts, the same people 11 that voted." That's why I stay away, for that 12 reason. 13 Q. When you collected the data and gave it to 14 Dr. Hood, was it a fluid process? He looked at it, 15 gave you notes, you worked on it some more? Or did 16 you create the data, give it to Dr. Hood, and you 17 were done with it? 18 A. The latter. 19 Q. So there's some issues that we want to 20 better understand about the data set that Dr. Hood 21 used. 22 A. All right.</p>	<p>1 then in the data of which of those you combined? 2 A. Yes. 3 Q. And that was information that was 4 available to Dr. Hood? 5 A. I don't know I gave him all the quality 6 control data. In other words, I don't know that I 7 inundated him with every step I did. I said, "I 8 want you to understand that the precincts, as 9 presented on the website, are pieces of precincts. 10 Where a split precinct has two halves, and the 11 halves add up to the whole precinct. So what I've 12 done is I've aggregated splits into the whole 13 precincts so that we're only talking about the 14 entire by its" -- I think it's like a four-digit 15 number instead of an eight- or nine-digit number. 16 I said, "The reason I did that is because 17 you have to do it in order to merge whole precincts 18 with census data that are shown by whole precincts. 19 The census data are not shown by split precincts. 20 They're only shown by whole precincts." So -- what 21 it amounts to is I'm saying "For your analysis, the 22 geographic units that you are confined to are whole</p>
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<p>1 Q. And I'll just tell you, we asked him about 2 it on Friday and he said you're the one that put the 3 data together. 4 A. Sure. 5 Q. So you're the person we can, hopefully, 6 find out some details from. 7 You're aware of what are called "split 8 precincts"? 9 A. Yes. 10 Q. And you're aware that Dr. Hood ultimately 11 did an ecological inference analysis using the 12 voting precincts in Dallas County? 13 A. That's my understanding. 14 Q. And I assume that's not an area of your 15 expertise? 16 A. Well, I understand how it works, but it's 17 not something I, myself, would be feel qualified to 18 undertake on my own and interpret. 19 Q. How is it you treated split precincts in 20 the data you provided Dr. Hood? 21 A. I combined the slits into whole precincts. 22 Q. And did you provide some sort of table</p>	<p>1 precincts, not split precincts." 2 That's the data set that any analyst would 3 have to use, there's no way to get around that. So 4 you do your analysis with the data that are 5 available. I said, "I'm going to prepare those 6 data." I combined the split precincts. That's the 7 answer to that question. 8 Q. Are we able to look at your data set and 9 determine which split precincts you combined to make 10 whole precincts? 11 A. I believe it's -- in one of the sheets of 12 the data will show the original split precincts, 13 and, if not, they are publicly available. 14 In other words, one could simply go to the 15 Dallas County elections website and say, "Well, this 16 sheet number 1 is what he did, to what he got off 17 the Dallas County website -- the publicly available 18 data." I don't recall if I have saved the original 19 thing I started with. 20 Q. If you could, could you identify the file 21 that has the Hood data? And we are looking at 22 Exhibit 3, the thumb drive you provided us.</p>

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<p>1 A. Let me see if I can find it here.</p> <p>2 Let me take a look at this. I'm trying to</p> <p>3 remember what the name was on these. If you have</p> <p>4 any clue -- here we go, "2012, all four elections,"</p> <p>5 let's try that. I am an Apple/Mac person so if</p> <p>6 smoke starts to curl out of the screen, you'll know</p> <p>7 it was not my fault.</p> <p>8 Q. I'm going to come around you so I can</p> <p>9 watch.</p> <p>10 A. I'm going to pull up the sheet I have got</p> <p>11 highlighted here.</p> <p>12 Q. Would you name that?</p> <p>13 A. "2012, all four elections 06-18-2017."</p> <p>14 Q. And the last revision date is July 8,</p> <p>15 2017; is that right?</p> <p>16 A. I didn't see it, but I'll take your word</p> <p>17 for it. Here's an example of what I'm talking</p> <p>18 about.</p> <p>19 Q. So you've opened that spreadsheet. Tell</p> <p>20 us what tab you're in.</p> <p>21 A. Let's start with the tab on the left,</p> <p>22 registered voters.</p>	<p>1 extreme left." I would combine these two and say</p> <p>2 "For precinct 4066, reconstituted, there are 1,044</p> <p>3 registrants and there were 446 ballots cast."</p> <p>4 Now, in this case, the portion with people</p> <p>5 in it, is the same as the entire reconstituted</p> <p>6 precinct. There are other instances where each row</p> <p>7 that I've highlighted would have some positive</p> <p>8 number in it. And so I would, again, combine them,</p> <p>9 and I would end up with a -- see if I can give you</p> <p>10 an example of how I end up here.</p> <p>11 If you go to the sheet to the right,</p> <p>12 labeled -- it's number 58 "County Commissioner</p> <p>13 Number 3." You'd see that I have taken the</p> <p>14 precincts in column A, which are now combined -- and</p> <p>15 in some cases I will have the precinct and the</p> <p>16 subprecinct -- the eight-digit precinct hyphen</p> <p>17 subprecinct code intact. And in other instances as</p> <p>18 in row 186, I'll simply have the single</p> <p>19 reconstituted precinct number, 3920, for example.</p> <p>20 And I will have highlighted instances that I needed</p> <p>21 to double-check at this stage.</p> <p>22 Q. So everywhere you have a yellow highlight,</p>
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<p>1 Q. And I'm trying to save you time and me. I</p> <p>2 don't need you to walk through and explain all of</p> <p>3 this. But what I would like you to do is take us to</p> <p>4 the part of the spreadsheet we can use to figure out</p> <p>5 which split precincts you combined.</p> <p>6 A. It would be under the column labeled</p> <p>7 "precinct." And I'm just trying to show you one</p> <p>8 example, so you'll see because -- I have to find one</p> <p>9 that is split.</p> <p>10 Q. So you're under the tab called "registered</p> <p>11 voters." You're looking at Column A?</p> <p>12 A. And I'm looking at row 830 and 831. And</p> <p>13 at row 830 it says "precinct 4066-6810." And then</p> <p>14 it says -- the next row below -- the precinct is</p> <p>15 4066-6812.</p> <p>16 You'll notice that the one that's hyphen</p> <p>17 6810, has 1,044 registered voters, 446 ballots cast.</p> <p>18 The one directly below, 6812, has zero registered</p> <p>19 voters and zero ballots cast in this particular</p> <p>20 election.</p> <p>21 So what I would do is I would say "This is</p> <p>22 a split precinct, the Excel row 830 and 831 on the</p>	<p>1 that was something you double-checked?</p> <p>2 A. Not necessarily consistently, but there</p> <p>3 was something that I wanted to be sure to resolve.</p> <p>4 So I said, "Be sure to check every single detail of</p> <p>5 this row."</p> <p>6 And then to the right you'll see a blue</p> <p>7 and white bannered portion, which is the 2010 voting</p> <p>8 age population, which is also presented on the</p> <p>9 Dallas County elections website. Which I have</p> <p>10 overlaid and aligned so that the 2012 precinct,</p> <p>11 which is for the latest -- the precinct for which</p> <p>12 the 2010 voting age population are shown, lines up</p> <p>13 with the 2012 precinct where the voters are shown.</p> <p>14 So as you read across, you have the --</p> <p>15 here's the whole precinct -- and I'm just going to</p> <p>16 call it hereafter 3803 at line 179. And say that's</p> <p>17 the entire 3803, there's nothing else to it. It has</p> <p>18 3,146 registered voters. It had a total of 2,048</p> <p>19 votes cast.</p> <p>20 And in that precinct, I can tell Professor</p> <p>21 Hood that there were 4,175 voting-age persons, 362</p> <p>22 of whom were white, 3,259 were black, and so on.</p>

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1 Q. Well, I appreciate that --

2 A. You get the picture. That's the procedure

3 I followed and I don't know that I documented it as

4 fully in each case, but that is the procedure I

5 followed in each case.

6 Q. And if I understand in your testimony, the

7 way we would have to go about determining which

8 precincts you combined, would be by going through

9 column A in the registered voter tab and looking for

10 the precincts that were summed together?

11 A. Correct. And I think the indicator you

12 would see consistently would be that wherever I

13 combined two parts of a precinct, I changed its

14 label so it only had a four-digit code. So I could

15 say this is the whole precinct, not just a piece of

16 a precinct.

17 Q. So isn't it true, though, you could look

18 at a particular racial population, like blacks,

19 within split precincts and still make some

20 conclusions about voting behavior in the county?

21 A. Not unless you wanted to go out and try to

22 approximate each subprecinct yourself with census

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1 data. I was making use of the data that was

2 provided on the website. Which, to me, was the

3 safest way of using the data because they had been

4 aligned with 2012 precincts, and any alternative

5 would have been maybe a 5- or \$10,000 effort at

6 trying to line up census data.

7 Q. At any point, did Dr. Hood inquire of you

8 what you had done with split precincts?

9 A. He didn't have to inquire because I

10 documented it completely for him in a memo.

11 Q. You wrote a memo how you combined the

12 precincts?

13 A. Yeah. And I believe --

14 Q. What is that file name on Exhibit 2?

15 A. I think that I have included that as an

16 appendix to -- yeah, if you look at appendix B to

17 Page 34 of my initial expert report, it provides the

18 technical details of data assembly for Professor

19 Hood and Alan Nelson, and I gave all the details of

20 how I did this.

21 Q. On appendix B of your report, Page 34, it

22 doesn't list which precincts you combined?

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1 A. No. You have to look at each spreadsheet,

2 itself, and you have to trace the steps I took.

3 And, typically, that will be going from sheets on

4 the left to sheets on the right, as I progressed.

5 Q. Was it the case of the data that you gave

6 to Dr. Hood, did all of it come from Dallas County's

7 website or from some other source?

8 A. All from the Dallas County website.

9 Q. Did you ever approach a situation to where

10 the data that you had for a given precinct or

11 portion of precinct did not match up for a different

12 data set for the same precinct?

13 A. Yes, I did.

14 Q. How did you deal with that?

15 A. There were several instances -- these are

16 what I call "quality control checks." If I have a

17 precinct that in 2012, using 2010 census data --

18 let's just say a 2012 precinct where when I look at

19 what the 2010 census two years ago told us about the

20 precinct, and I found that there were more voters

21 casting ballots in that precinct than there were

22 registered voters recorded in the census, I'd say

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1 "I've got more voters than people who can vote."

2 That could be explained in one of several

3 ways. One possibility is that in the preceding two

4 years, more people had moved into the district.

5 Another possibility is that there has been a surge

6 in registration, so there is some point at which you

7 say, "Well, if there's two or three times as many

8 voters casting ballots as there are registered

9 voters" -- you want to put a big question mark

10 around that precinct and say "This is a precinct we

11 should delete because the data sets are totally

12 inconsistent." The 2010 census no longer tells us

13 anything credible about this precinct.

14 The other possibility is that there's some

15 other anomaly, that I'm not aware of. I encountered

16 instances where there might be zero -- the census

17 data, as shown on the website, recorded zero voting

18 age persons, and yet there were people who voted in

19 that precinct.

20 I would say, "Well, this is a precinct

21 where there were voters and the census of 2010 tells

22 us -- furnishes zero information about those voters

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<p>1 because we have no data." So that would be an 2 automatic candidate for deletion. We know there 3 were voters, but we don't know who they may have 4 been, in terms of their race or ethnicity. So you'd 5 say, "Well, that's another deletion." 6 So I performed several quality control 7 checks like this. I established bounds based on my 8 own judgment. And I said in a precinct where, as an 9 illustration, there might be a thousand voting age 10 persons, 80 percent of whom are Hispanic or 11 80 percent of whom are black, and you're telling me 12 there are now a thousand and 50 people casting 13 ballots, 50 more than there are actually conceivably 14 voters. But we know 80 percent are black or 15 80 percent are Hispanic. 16 Are you willing to live with the 2010 17 characterization of this as a precinct who is 18 predominantly black, or could it possibly be the 19 case that there's been tremendous turnover, and what 20 looked like a black precinct, based on the 2010 21 census, has suddenly become totally changed and it's 22 now 30 percent black, 30 percent Hispanic, and</p>	<p>1 removed and which you allowed? 2 A. Yes. 3 Q. Is it that Excel spreadsheet that you 4 provided to Dr. Hood or did you provide some CSV 5 file, or a data file, or some other type of file? 6 A. What I did was -- my recollection is, I 7 provided him, simply, with the files that he was 8 going to use to analyze his data, so as not to 9 complicate his life. And I said -- I don't know 10 that I included it in his version, I may have. But 11 my position was, I have a complete record of how I 12 started, how I progressed, how I reached the 13 conclusion that I needed to delete certain 14 precincts. I've showed the precincts that I've 15 deleted, if you want to know which ones they are. 16 And I then did a summary analysis and I 17 said, "There are precincts I believe I need to 18 delete from your data set; although, I know you'd 19 like to have a data set that include all precincts, 20 but some don't match." So I had flagged the ones 21 that I had deleted. 22 And I did a before and after comparison so</p>
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<p>1 40 percent Anglo -- quite unlikely, if there's a 2 disparity of the magnitude I've talked about. 3 So I could say "I can live with more 4 voters than more people casting ballots here than 5 there are eligible voters, as long as it's not 6 above -- I think my outer limit threshold was about 7 20 percent too high -- if it's heavily one group." 8 So I would not automatically delete that 9 place, but I would flag it as -- give some second 10 thought to this one, take a close look and decide if 11 you think it should be deleted. 12 Q. How would you flag it? 13 A. I would flag it on -- there's a sheet that 14 I have that has on the right side somewhere, 15 highlighted typically in yellow, called "QC checks." 16 And I have got some QC checks where what I do is I 17 insert a code that says "You better look at this a 18 second time and see whether this is a problem." 19 What I'm trying to avoid is deleting half 20 the precincts or two-thirds of the precincts. 21 Q. Is it your belief, then, from looking at 22 that data set, we can determine which precincts you</p>	<p>1 I could provide him with the single statistic he 2 needed to know which is: After all was said and 3 done, and after all the quality control checks you 4 did, and after all the necessary deletions you made 5 to have a data set that had the integrity that I 6 know he wanted to have, what proportion of the 7 voters in that election were you forced to exclude 8 because you could not reconcile the various issues 9 you encountered? 10 And I don't recall that I ever encountered 11 a situation where I had to delete more than 12 3 percent of all the votes. And in the vast 13 majority of the cases, the percentage of the voters 14 that I had to delete was in the range of 1 percent 15 or less. 16 So what I was able to tell Professor Hood 17 was "Every single data matrix I gave you for your 18 analysis, I can assure you that it is at least 19 97 percent complete, and in the vast majority of 20 cases 99 percent complete in terms of all voters who 21 participated in that election." 22 So the worst conceivable selection bias</p>

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1 that could occur would be that if you took out
2 3 percent of the voters, if you assume they were all
3 Hispanic, or all black, or all Hispanic-Republicans
4 or black-Republicans or Anglo-Democrats -- whatever
5 assumption you make about extreme selection bias --
6 none of that would change your results, materially.
7 That was the position I was hoping I could position
8 him to be in and I believe that's what I gave him.
9 Q. What was the format of the file you gave
10 to Dr. Hood?
11 A. I think that will be -- let me take a look
12 at that again. I think what that's going to be is
13 the -- just the last two sheets from one of these.
14 Q. Sir, are you going back into the same
15 spreadsheet we talked about a moment ago?
16 A. I believe so. 2012, all four elections,
17 06/18/2017. Let me see. No, this is not the sheet
18 I furnished him.
19 What I would have furnished him is -- let
20 me see if I can find it. I'm hoping it's here. I'm
21 not -- I know that I included these because this is
22 a complete record of how I prepared the spreadsheet

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1 for him and I would say that my practice -- I don't
2 know that I have -- I don't know that it's on the
3 list here, but my practice -- if you just take a
4 look at that -- would be to say "Professor Hood,
5 your spreadsheet is my assertion that at the bottom
6 of the spreadsheet the quality control checks that I
7 performed were 97 to 100 percent complete. I
8 deleted this quality control check portion."
9 I said, "Here is your demographic data.
10 Here on the left are the" -- it's easier to use
11 this, I think -- I guess not. "Over here are the
12 precincts." So it would be a subset of these
13 columns. And I -- I don't know if I -- I know my
14 intent was to show you everything that went into
15 Trey's spreadsheet I sent him, it was a subset of
16 this.
17 And I'm going to see if I can identify --
18 I'm quite sure I included them in here somewhere.
19 But I know I used a labeling system that would allow
20 me to differentiate them. Here they are. Let's
21 take -- I'll give you an example of -- typically, I
22 use the term "final matrices."

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1 So if you want to find for me using your
2 prowess with Windows -- find me this one here that's
3 called -- it's in the middle of the second column
4 called "2016 Commission 1 and 3 final matrices."
5 Q. It's the very next one?
6 A. Yeah. Click that. So --
7 Q. You know, you don't want to be here any
8 longer than we want to be here --
9 A. Right.
10 Q. -- so let me just cut to the chase here.
11 All I'm trying to do is find out the file name for
12 the exact file data set that you gave to Dr. Hood.
13 And it may be that it's not on that drive.
14 A. No. This is the one that I gave him for
15 the 2016 county commissioner. And I'm just saying
16 that in this particular file, which we'll get the
17 name in just a minute, there's a spreadsheet on the
18 right that says "commissioner number 3 final." 2016
19 number 1 final, 2016 number 3, which is not final.
20 What I did was any sheet that I labeled
21 "final," was the one I gave to him so he would
22 simply have the data he needed. So anything that is

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1 labeled "final" is the version that I gave him and
2 you can then say -- I can tell you that that's the
3 one that I gave to him to use.
4 Q. Well, the spreadsheet we just opened was
5 called "2016 Commissioner Number 1 & Number 3-Final
6 Matrices"; is that true?
7 A. Yes.
8 Q. And it's an Excel spreadsheet file?
9 A. Correct.
10 Q. And you gave that file, exactly as it
11 appears here on Exhibit 3, to Dr. Hood?
12 A. That's my recollection.
13 Q. Okay. Are there any other files in
14 Exhibit 3 that you gave to Dr. Hood?
15 A. Yes. There's another one called "2006
16 County Judge Matrices-Final Matrices."
17 Q. Any others?
18 A. That's the suffix -- we have 2006, 2016,
19 there should be a 2010 somewhere here. I don't see
20 the 2010 one here. What I would suggest -- I'm just
21 trying to think. I can't recall exactly which
22 elections he analyzed. I know he did 2006 and 2016,

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1 and I recall there was some other -- was there a
 2 2010 election that he did?
 3 I think the easiest thing might be for me
 4 to actually fire up my laptop before I leave today
 5 and say "Let me just see, you know, whether
 6 there's" -- because I have these separately, the
 7 things that I sent to Trey Hood and I may have
 8 inadvertently included the version I sent to him.
 9 What I gave you is the version I used to build the
 10 version I sent to him.
 11 Q. Let's do this to save you and us time.
 12 You're going to get your deposition after today and
 13 be given a chance to review it, to make sure the
 14 court reporter took down what we said accurately.
 15 And at the end of it, it will have an errata sheet
 16 where you can make changes.
 17 A. Right.
 18 Q. If you'll just write in there, at the
 19 point in this question -- our court reporter will
 20 leave us a blank -- any other file names that you
 21 provided.
 22 A. Okay.

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1 Q. If it's the case that the file names that
 2 you provide are not contained here on Exhibit 3,
 3 indicate that on your errata sheet and provide them
 4 to Mr. Morenoff so he can give them to me.
 5 A. I will do that. That is agreed.
 6 MR. DUNN: Is that acceptable to you,
 7 Mr. Morenoff?
 8 MR. MORENOFF: Yes.
 9 BY MR. DUNN:
 10 Q. All right. I think that gets us past that
 11 issue.
 12 Do you know if Dr. Hood made any
 13 additional changes to the data you provided to him?
 14 A. I don't know anything further beyond I
 15 gave it to him.
 16 Q. It wasn't the case that the data was
 17 provided to Dr. Hood, he did some work on it, gave
 18 it back to you --
 19 A. No.
 20 Q. It wasn't collaborative in that sense.
 21 You made it, provided it to him, and you
 22 were done with it?

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1 A. Correct.
 2 Q. All right. So I want to turn to some
 3 different opinions now. And in particular, I'm
 4 asking you about Page 9 of your report.
 5 A. The initial report?
 6 Q. Yes, sir. In this part of your analysis
 7 you're accounting for differences in turnout between
 8 Anglos and minorities by using a standard
 9 demographic technique. You call it an age
 10 standardization.
 11 MR. MORENOFF: Are you in the rebuttal,
 12 perhaps?
 13 BY MR. DUNN:
 14 Q. Sorry, yes.
 15 A. Page 9 it was?
 16 Q. Yes. Age standardization.
 17 And then you have in your appendix, the
 18 data that goes with that analysis; is that right?
 19 A. Yes.
 20 Q. And you send an e-mail to Mr. Morenoff
 21 requesting the data and the calculations that you
 22 used for that part of your analysis; is that right?

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1 A. Yes. And I believe -- did I not include
 2 the electronic version of this spreadsheet? It's
 3 pretty obvious what it is and how it works.
 4 Q. It's my recollection that you did not.
 5 Now, it may be on Exhibit 3, do you want to take a
 6 look?
 7 A. Yeah, let me take a look quickly.
 8 I think the item -- there's an item in the
 9 second column here called "final age standardization
 10 rates 10/10/2017." If you bring that up, I think
 11 that's -- I believe that's what it is, unless I'm
 12 mistaken. That's what I would have called it. It's
 13 the third from the bottom in the --
 14 Q. Let me open this.
 15 A. Open that up and I can tell you if that's
 16 what it is.
 17 Q. So this is an unrecognized file type, is
 18 what it says. Do you know -- and it may be that
 19 this is a lawyer's computer and not a demographer's,
 20 so maybe I don't have the software needed to open
 21 it.
 22 *****

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1 A. No, it's nothing special. It should just
 2 be an Excel file. Well, I can't say when it was
 3 sent out of my door or went into your door -- it's
 4 not a file I recognize. But there is a file with
 5 that name and, again, I will -- if it's okay with
 6 you, I can provide it to you today. It will take me
 7 five minutes. Or I can just make a note in the
 8 deposition that the file we're referring to here is
 9 unreadable on your computer.

10 Q. I'm going to try to rename it as an Excel
 11 file -- which is --

12 A. Dot X-L-S-X.

13 MR. MORENOFF: I will go ahead and
 14 represent to you that I am looking at the
 15 Dropbox and it is there as an Excel
 16 spreadsheet.

17 BY MR. DUNN:

18 Q. Here we go. I just renamed it as an Excel
 19 file.

20 So this is the age standardization
 21 calculations that you performed?

22 A. Right. And that is the electronic version

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1 of this. And any analyst can look at the cells and
 2 see how the calculations were set up.

3 Q. Now, you mentioned earlier today -- and it
 4 came up in an e-mail exchange between Mr. Morenoff
 5 and our side when we were trying to obtain some of
 6 your data -- that there were some conclusions that
 7 you reached in your professional judgment as a
 8 demographer, that we could ask you about today.

9 A. Yes.

10 Q. Was that your response to request for data
 11 and information?

12 A. It was in response to your request for
 13 calculations that I had done. Where I had not done
 14 calculations, but I had exercised my professional
 15 judgment based on the data I saw.

16 Q. And what are those things that we can't
 17 find calculations for, but you exercised your
 18 professional judgment?

19 A. Those center on the historical data
 20 sources that I have relied on that are included
 21 among the documents I relied on. There's the 1960
 22 census, the 1970 census -- both of which provided

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1 gross migration flows. That is to say, the counts
 2 of people moving into and the counts of people
 3 moving out of a place during the preceding five
 4 years.

5 That is to say in 1960, how many people in
 6 1960 in Dallas County reported that they had lived
 7 somewhere else in 1955. And, conversely, how many
 8 people everywhere else said that where they -- that
 9 they now live in Dallas County, but they used to
 10 live somewhere else. Those data which are tabulated
 11 at a level of geography known as state economic
 12 areas, back in 1960 and in 1970 furnish a particular
 13 state economic area that is composed of Dallas
 14 County, plus one other small peripheral county. So
 15 it's a very close approximation to Dallas County as
 16 one knew it in 1960 and 1970.

17 Using those data, I was able to document
 18 the pace of population turnover in what, at that
 19 point in history was -- and has remained ever since,
 20 a growing metropolitan area over the decade. I was
 21 able to establish that there was a significant
 22 population influx over that five-year period, '55 to

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1 '60, '65 to '70, people moving in and people moving
 2 out. Faces present in that place changing over
 3 time, as a result of comings and goings.

4 Q. So back on Page 9 of your rebuttal.

5 A. Yep.

6 Q. The very last sentence you talk about a
 7 36-point gap.

8 Do you see that, sir?

9 A. Yes, I do.

10 Q. So did you give us the data that you used
 11 to calculate that 36-point gap?

12 A. No. That's kind of a judgment I made
 13 based on --

14 Q. Is that sort of looking at a jar full of
 15 jelly beans?

16 A. Yeah. And seeing that mostly what you see
 17 is red and saying, "Well, it looks to me like about
 18 two-thirds, three quarters of those beans are red,
 19 so that means all the other colors must be one-third
 20 or one quarter," roughly speaking.

21 One could then go through a calculation.
 22 But that's a judgment call, where it's pretty

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<p>1 apparent if you have in five-year period a measure 2 of population turnover -- where we know that the 3 five-year measure severely understates the actual 4 turnover, because there could be several moves 5 occurring during that five-year period -- and you 6 say, "Well, this was underway in 1955 to '60, and 7 then '65 to '70, and then '75 to '80, and '85 to 8 '90, on up to the present day, there is a lot of 9 faces that have changed." 10 Also, I haven't included here the fact 11 that many of the people who resided in Dallas 12 County, at those earlier historic times, are now 13 deceased. And others, who were not there, were 14 subsequently born there. 15 Q. I understand your opinions and I'm trying 16 to figure out what's behind them. 17 A. Sure. 18 Q. And I'm really not -- I'm going to be 19 up-front with you. We're going to be here longer, 20 the longer your answers are. I'm not trying to keep 21 you from saying something you want to say, I'm just 22 trying to get to the things we need to understand</p>	<p>1 than half. 2 And, to me, knowing that the number of 3 faces in today's world that remain from those 4 earlier eras is only a minority of the original 5 faces. Possibly a much smaller minority than I've 6 already calculated. 7 Q. Let me come at it this way. I understand 8 we're not married to the 36. 9 A. Right. 10 Q. But what socioeconomic benchmark are you 11 referencing? The gap that you talked about, what 12 gap? 13 A. Okay. What I'm saying is that the faces 14 that you see in Dallas County today, or in the last 15 few years -- whatever, who are socioeconomically 16 disadvantaged -- let's just say for the sake of 17 argument, have less than a high school education and 18 are among Hispanics or among anybody -- 19 Q. What I'm trying to do is avoid using an 20 example. I want to know which one you used, and 21 maybe the answer is you didn't. I don't know. 22 But I don't want to use an example; I want</p>
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<p>1 and you'll have plenty of time at trial to say what 2 you're going to say. 3 A. All right. 4 Q. So going back to the jelly bean example. 5 I mean, we can look at the jar and we can make 6 impressions by looking at it, and they may or may 7 not be accurate, depending on how good we are. Or 8 we could just pour the beans out and count them 9 exactly; right? And then we'd know how many are red 10 or yellow or orange. 11 A. The problem is you can't pour them out of 12 a jar for the state economic area. All you can do 13 is you just have a single number. 14 Q. Why is that? 15 A. Because that's the way they're published. 16 I don't have the microdata for the individuals that 17 are tabulated in that historic data. 18 What I'm saying -- let me see if I can get 19 to the point here. My point is not that I know that 20 that number is 36 percent. I'm saying it looks like 21 it's, certainly, in the neighborhood of maybe a 22 third, a quarter, maybe two-fifths -- but it's less</p>	<p>1 to know what is the 36? And, again, I understand 2 the 36 is not precise, but what does it refer to? 3 A. The 36 refers to -- what I'm saying is 4 that the converse of 36 -- the majority of people in 5 Dallas County cannot possibly have any chronological 6 connection with the lingering effects of 7 discrimination. 8 Q. I get the punch line; I'm still trying to 9 figure out the setup for the joke. Maybe -- 10 MR. MORENOFF: Can we pause one second? 11 MR. DUNN: Sure. 12 (Off the record at 2:32 p.m.) 13 (Back on the record at 2:33 p.m.) 14 BY MR. DUNN: 15 Q. So we had a bit of decision here off the 16 record. 17 What is it that the 36-point gap refers 18 to? 19 A. I believe I'm referring here -- and I have 20 not made it clear, a connection with that gap -- to 21 the gap between Hispanic and Anglo voters. 22 Q. How so?</p>

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<p>1 A. Done in my age standardization analysis.</p> <p>2 Q. And which data set did you use to come up</p> <p>3 with that?</p> <p>4 A. The 36-point gap is my judgment call based</p> <p>5 on the historical data. And it refers to the</p> <p>6 present-day gap that would be observed after my age</p> <p>7 standardization analysis. That's what, I think, I</p> <p>8 was trying to say here, I am not certain.</p> <p>9 Q. What is the data you're observing from?</p> <p>10 A. The data I'm observing from is the age</p> <p>11 composition of Latino and Anglo voters in Dallas</p> <p>12 County, the age composition.</p> <p>13 Q. Where are you getting those figures?</p> <p>14 A. That would be from the current Census</p> <p>15 Bureau.</p> <p>16 Q. The ACS or the regular census?</p> <p>17 A. That would be from -- well, I tried it two</p> <p>18 ways. One would be voting age population from</p> <p>19 the -- I believe it was the 2010 decennial or the</p> <p>20 latest ACS, just adding up all voting age persons.</p> <p>21 And the citizen voting age population</p> <p>22 would have been from the ACS itself.</p>	<p>1 MR. MORENOFF: No.</p> <p>2 BY MR. DUNN:</p> <p>3 Q. All right. There on Page 11, you say in</p> <p>4 the middle of the last full paragraph, right after</p> <p>5 footnote 8. It says "Judging from the most current</p> <p>6 2011, 2015 ACS PUMS data, it is apparent that Dallas</p> <p>7 County attracts a substantial influx of adults from</p> <p>8 both ethnic communities who are less educated, but</p> <p>9 whose socioeconomic attributes cannot be linked</p> <p>10 causally to Texas, let alone Dallas County."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. And prior to the Number 8 footnote, you</p> <p>14 say "The majority of these comparatively</p> <p>15 undereducated newcomers originate from abroad,</p> <p>16 especially Mexico, as well as California and 25</p> <p>17 other states."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. What data did you pull that from?</p> <p>21 A. Okay. That's going to be the 30-megabyte</p> <p>22 spreadsheet that you got yesterday. And -- let's</p>
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<p>1 Q. Are those figures on Exhibit 3, that data?</p> <p>2 A. Yeah. Those would be in that spreadsheet</p> <p>3 that you converted to Excel. Those would be in the</p> <p>4 spreadsheet that is shown -- just the tabular</p> <p>5 version of it in the appendix, Page 14, and the</p> <p>6 electronic version that you have.</p> <p>7 Those are data that -- yeah, in the</p> <p>8 footnote to the appendix, this is what it says "2016</p> <p>9 American Community Survey one year estimates," with</p> <p>10 the tables. And -- yeah, these -- actually, I can</p> <p>11 tell you without any ambiguity now.</p> <p>12 The data in that spreadsheet that you</p> <p>13 converted and the one which is the version of the</p> <p>14 appendix in my report, those data all come from the</p> <p>15 2016 American Community Survey, none of them from</p> <p>16 the 2010 decennial.</p> <p>17 Q. And you've been referring to Page 14 of</p> <p>18 your rebuttal; is that right?</p> <p>19 A. That's correct.</p> <p>20 Q. If you go with me to Page 11 --</p> <p>21 MR. DUNN: And did you want to take a</p> <p>22 break?</p>	<p>1 get the name of that one. You're going to want to</p> <p>2 pull it up on your computer because I'm going to</p> <p>3 have to walk you through it because it's got several</p> <p>4 sheets.</p> <p>5 Q. I just needed to know the file.</p> <p>6 A. Okay.</p> <p>7 Q. That's the file that came yesterday?</p> <p>8 A. That's the file that came yesterday and it</p> <p>9 should say PUMS, P-U-M-S.</p> <p>10 Q. And it's "Final Oct. 7 Dallas County PUMS</p> <p>11 ACS"?</p> <p>12 A. Yes, that's the one there. And I can</p> <p>13 explain conceptually what I did, or I can show you</p> <p>14 the data that I worked with.</p> <p>15 Q. Let's leave that issue for now. I want to</p> <p>16 go back to appendix 14 for a second.</p> <p>17 A. All right.</p> <p>18 Q. Can you show me where on appendix 14, if</p> <p>19 it exists at all, where you get the 36-point gap</p> <p>20 that we were talking about?</p> <p>21 A. No, that's simply the judgment call I</p> <p>22 made.</p>

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<p>1 Q. There's no way to look and do calculations 2 on these figures and come up with this 36? 3 A. No. It's a matter of envisioning cohort 4 replacement over time and then validating it with 5 these most recent ACS PUMS data and saying "Yes, we 6 now have another data source," the ACS PUMS data we 7 just mentioned for 2011 to 2015. And that is a file 8 that documents annual rather than quinquennial 9 migration flows as five-year flows. 10 So what I can say is in today's world 11 there are -- there's a population turnover of about 12 this magnitude. And in the PUMS analysis, in 13 today's world what I have been able to do is focus 14 in, specifically, on one of the groups that 15 Professor Lichtman was referencing. And show that 16 for -- if you identify on the ACS PUMS data, just 17 those individuals who have moved into Dallas County 18 within a one-year period. 19 And you then refine your focus to just 20 those individuals who were minority, and you focus 21 just on those who had less than a high school 22 education, and you say "Where were these people</p>	<p>1 A. I'm going to have to explain it to you 2 because it's quite simple when you understand -- 3 now, I'm trying to find -- here we go. 4 I'm now looking at the sheet entitled 5 "Analysis," which is the second sheet from the 6 right -- from the extreme right. And what I am 7 going to refer to -- 8 Q. Is this the sheet that's got the numbers 9 1, 2, 3, red-type conclusions in the far right-hand 10 column? 11 A. Yeah. Your mouse doesn't work the way my 12 mouse works. Here we go. Let me see if I can 13 recover that part of it. Well, actually those are 14 not -- the 1, 2, 3 conclusions are not the 15 conclusions, they're simply noteworthy points that I 16 highlighted. 17 What I had done with this sheet is, if you 18 look at the -- and in this -- let me just say in the 19 first place, I'm going to be focusing on just row 30 20 which is the summations. 21 Q. Okay. 22 A. And you'll notice that there's a grand</p>
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<p>1 living last year?" I can add up all the different 2 places they said they lived, then exclude the State 3 of Texas. 4 And say that "Of all the people who are in 5 Dallas County this year, last year X percentage of 6 them lived in these places, many of them in other 7 states and many of them in other countries." 8 Q. All right. I've got there in front of you 9 the 30-megabyte PUMS file that was provided to us 10 yesterday. 11 This should be a simple yes or no; is that 12 the file? 13 A. That's the file, yes. 14 Q. Can you take us there in the file where it 15 shows your calculations? 16 A. I can show you the cells that I used. 17 Q. Just read those off for us. And when you 18 say cells that you used, that's data; right? It's 19 not the actual math that you did or the formula? 20 A. That's correct. It's just the raw counts 21 of people. 22 Q. So where do I get the formula or the math?</p>	<p>1 total in column -- in column BK, grand total, which 2 reads 288,648. And that 288,648 is composed of some 3 number that is next to it to the left called 4 "blank." Which means, I believe, there was no 5 origin specified by the person saying "I live in 6 Dallas County now, but I didn't live here before." 7 And then as I move progressively to the 8 left going, going from column BJ to BI. I see there 9 were 137 Vietnamese, 14 Spain, 225 South Central 10 Asians, 124 Puerto Ricans, center 2 Pakistanis and 11 so forth. Big numbers, in Mexico 2,203. 12 Q. Hold on a second -- 13 A. These are all numbers of people who say 14 "This is where I lived last year." 15 Q. And you sum that together and you get 16 288,648? 17 A. No. That's the grand total of all. What 18 I'm saying is that's how many people said "I live 19 here in Dallas County. I have less than a high 20 school education." And I think in this case, it's 21 also Latinos and blacks or both. 22 And I'm saying of that 288,648, what I did</p>

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<p>1 was I then summed everything here to the left, 2 picking up all the foreign-born people. 3 Q. On row 30? 4 A. Yeah. And then as I went progressively 5 further I said, "Well, there are people from lots of 6 other states." And we keep going -- each one of 7 those subtotals gets added up. So I'm summing 8 everything I've covered so far and I exclude the 9 people who say "I'm living in Dallas County but I 10 moved here from somewhere else in Texas." 11 So I'm saying, "If you're in Texas, I'm 12 going to make the most conservative assumption that 13 if you are in Texas, you might have been infected by 14 the lingering effects of discrimination. Even 15 though you're 18 years of age and older" -- by the 16 way, I forgot to say these are people 18 and over 17 whose -- presumed -- high school education is 18 pretty much done. 19 So I exclude Texans. And then I add them 20 all up and I say, "Well, what is the percentage of 21 all these people, of the grand total?" And I get a 22 percentage, which, as I recall, was something in the</p>	<p>1 discrimination that they encountered at some earlier 2 point in time. 3 He's totally ignored that factor. And my 4 only claim -- based on all this analysis -- is that 5 Professor Lichtman has totally overlooked a major 6 factor that should have been taken into account, and 7 I would think, as a historian, he would recognize 8 it. 9 And so I discredit his statements about 10 the lingering effects of discrimination. I don't 11 think he knows what possible effects could be 12 lingering among what possible percentage of today's 13 population. 14 And apart from that, I would say the whole 15 question has nothing to do with the issue in this 16 case. This case is about Anglos and not about the 17 lingering effects of discrimination on any protected 18 group. That's the end of my conclusion. 19 Q. Are you aware of derivative effects from 20 discrimination? 21 A. You'd have to define what you mean by 22 "derivative affect."</p>
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<p>1 order of around 2, 2.5 percent. And I'm saying, 2 "Well, that's the percentage of folks who are -- who 3 look to Professor Lichtman like they are reflecting 4 the lingering effects of discrimination, who brought 5 their lack of education here just in the last year." 6 Now, if I take 2.3, and imagine 7 multiplying that by 20, 30, 40 years, you see, I end 8 up with a rather large number of people who have 9 come here -- assuming that this is representative of 10 the rate of immigrants that are moving to Dallas -- 11 and I understand the flow of immigrants is now lower 12 than it was in the past. 13 And I'm now going to tell you the key 14 conclusion that comes out of this. The key 15 conclusion is simply this: Professor Lichtman has 16 made no allowance for the disconnect between the 17 demographic analysis, that shows that cohort 18 replacement has, essentially, replaced so many 19 people, and his assertion that these people who we 20 see today, who are minorities without any education 21 or with less than a high school education, are the 22 direct reflection of the lingering effects of</p>	<p>1 Q. Is that not a term you've ever used 2 before? 3 A. I think I have a sense of several things 4 it might mean. You tell me what you think it means 5 and then I'll be able to respond. 6 Q. Let me come at it this way. In your 7 percentage calculation you just walked us through, 8 in the PUMS database, that you accounted all -- for 9 what some people call "derivative effects of 10 discrimination. Some people call it the "lingering 11 effects of discrimination." 12 A. I'm trying to envision how a lingering or 13 derivative effect can account for the absence of 14 educational attainment on the part of a foreign-born 15 person who moved to Dallas, Texas as an adult last 16 year, or the year before, or the year before. I 17 don't see how there could be a causal connection. 18 It seems to me that the educational 19 attainment or lack of educational attainment would 20 be a product of, for example, having grown up in 21 Mexico or having grown up in some other state, 22 possibly Mississippi.</p>

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<p>1 MR. DUNN: All right. It's almost 2 3 o'clock. I think this is a good spot to take 3 a break. 4 (Off the record at 2:50 p.m.) 5 (Back on the record at 3:01 p.m.) 6 BY MR. DUNN: 7 Q. Talking about the age standardization that 8 you did and the turnout statistics that you used; 9 are you with me? 10 A. Yeah. 11 Q. The turnout statistics are from what 12 geography? 13 A. If you're referring to the turnout 14 statistics in the appendix, the spreadsheet we've 15 been talking about -- is that the one you're talking 16 about? 17 Q. Yes. 18 A. This is for -- these are national data 19 that show turnout nationally for each of the three 20 groups, non-Hispanic whites, blacks, and Hispanics. 21 And I've used those as a relative standard to judge 22 what would happen if you had one group voting at the</p>	<p>1 population that is more or less like what it is in a 2 given state or a given place. And say the 3 distinction I'm getting at is not whether the Dallas 4 County counterpart is like the nation's population. 5 What I'm getting at is, what's the difference 6 between the Hispanic and the non-Hispanic white 7 population? 8 And I'm saying if you took the national 9 rates and said, "Those are the rates at which people 10 vote in Dallas," as a hypothetical. And then say, 11 "Well, what would happen if the people in Dallas" -- 12 this is where you get down to the piece of geography 13 and where it matters -- "What would happen if the 14 people in Dallas, who are non-Hispanic, and more 15 heavily concentrated in the older ages where people 16 typically turn out, what would happen if you took 17 that population and you had them vote at the 18 age-specific rates that Hispanics do?" 19 You'd say, "Well, it's like having a 20 Hispanic population, like we have in Dallas, except 21 it would have the maturity -- age structure-wise -- 22 of the non-Hispanic population. So would that say,</p>
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<p>1 other group's national rate, to separate out the 2 effects of citizenship and the effects of age 3 structure. So, to put it simply, what would happen 4 if you had a -- 5 Q. Well, the question was: Was it national 6 data? 7 A. Yes, it was national data. 8 Q. And so do you know what percentage Dallas 9 makes up of the national data? 10 A. Not a very large percent. 11 Q. You could have obtained turnout data for 12 Dallas; true? 13 A. I don't know that I could have gotten it 14 by the detail I have here, non-Hispanic -- 15 Q. I mean, is it accepted in your field of 16 expertise to use national data to reach conclusions 17 about a particular locale? 18 A. In this particular analysis, it really 19 doesn't matter what level of data you use for the 20 standardization. It's a question of, if you take a 21 population that is more or less similar to what 22 you're talking about -- in other words, a national</p>	<p>1 for example -- because so many Hispanics are in 2 their 60s, 50s, when they turn out to vote -- and 3 there aren't that many in their teens or 20s, when 4 they don't turn out to vote -- would that make it 5 look like Hispanics really would be turning out at a 6 higher rate if they were just more mature. 7 And that's the issue I'm trying to get at. 8 Not whether it's national versus local. It's 9 whether the age structure, itself, can be isolated. 10 And that's the purpose of the age standardization. 11 And you can pretty much use any plausible 12 age distribution that looks like the population in 13 question. 14 Q. But that age structure that you're using 15 is a national one? 16 A. Yes. 17 Q. Did you do any -- 18 A. No, no. I'm sorry. The age structure is 19 the local one. The turnout rates are the national 20 ones. 21 Q. I see. Okay. And did you do anything to, 22 sort of, check whether the national turnout rates</p>

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<p>1 match the Dallas turnout rates?</p> <p>2 A. I did not.</p> <p>3 Q. All right. Now, you're a</p> <p>4 sociologist-demographer; if I recall correctly?</p> <p>5 A. Correct.</p> <p>6 Q. You're not a political historian; is that</p> <p>7 true?</p> <p>8 A. Correct.</p> <p>9 Q. You're not a political scientist?</p> <p>10 A. Correct.</p> <p>11 Q. So I assume you don't have any opinions</p> <p>12 about the history of discrimination against Anglos</p> <p>13 in Dallas County?</p> <p>14 A. Against Anglos?</p> <p>15 Q. Yes, sir.</p> <p>16 A. I don't know.</p> <p>17 Q. And, again, this is my one chance to talk</p> <p>18 to you, so I'm trying to find out what we need to be</p> <p>19 ready for at trial.</p> <p>20 And, you know, I assume, then, given that</p> <p>21 you're not familiar with that history, you're not</p> <p>22 going to be offering testimony to the fact that</p>	<p>1 Number 6 -- I'm assuming there was an invoice Number</p> <p>2 6.</p> <p>3 Q. Okay. Well, do you know what month and</p> <p>4 year that would have been?</p> <p>5 A. It would have been -- I can answer that</p> <p>6 exactly. Let me just double-check if I've got it</p> <p>7 here. Wait a minute, there isn't -- I got it. Hang</p> <p>8 on -- no, everything is here. Six, seven, eight --</p> <p>9 I've invoices Number 1 through 11, which takes us</p> <p>10 through September 19th. And I don't, honestly,</p> <p>11 remember if there is an invoice Number 12 that I've</p> <p>12 submitted.</p> <p>13 Q. Okay.</p> <p>14 A. I think I may have, but I'm not sure, the</p> <p>15 most recent one.</p> <p>16 Q. Have you been paid for these invoices?</p> <p>17 A. I have a vague recollection that there is</p> <p>18 one that goes back a long way that wasn't paid. And</p> <p>19 I'm not really -- it was a small one, and I think</p> <p>20 what may have happened was I submitted it and I was</p> <p>21 not paid for a long time. Then I submitted the next</p> <p>22 invoice, meaning to say "Here's a new invoice you</p>
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<p>1 Anglos have been historically discriminated against</p> <p>2 in Dallas?</p> <p>3 A. Correct.</p> <p>4 Q. Based on what you do know, do you have an</p> <p>5 opinion as to which groups, if any, have been</p> <p>6 discriminated against in Dallas?</p> <p>7 A. I have nothing more than an intelligent</p> <p>8 lay person's understanding of it, and that, in my</p> <p>9 mind, I don't know very much about that.</p> <p>10 Q. Now, we received, a few days ago from</p> <p>11 Mr. Morenoff, your invoices. And I just wanted to</p> <p>12 ask you a little bit about those, so I'll mark those</p> <p>13 as Exhibit 4. And I'll hand you this. Let me just</p> <p>14 move this so we don't get confused.</p> <p>15 (Whereupon, the Invoices were marked as</p> <p>16 Defendants' Exhibit 4 for Identification by the</p> <p>17 Attorney.)</p> <p>18 After you thumb through those, can you</p> <p>19 confirm for me what I've handed you as Exhibit 3 are</p> <p>20 all of the invoices you have produced in this case?</p> <p>21 A. I'm going to put them in numerical order.</p> <p>22 There seems to be one missing which is invoice</p>	<p>1 need to pay me for."</p> <p>2 And I think Mr. Morenoff possibly said,</p> <p>3 "Well, this must be what I owe you as of cumulative,</p> <p>4 to date, due with this invoice and what was due</p> <p>5 before." I'm not sure -- I haven't really had a</p> <p>6 chance to look yet. It was a fairly small amount.</p> <p>7 Q. Okay. But other than maybe that one</p> <p>8 invoice, you've been otherwise paid?</p> <p>9 A. Thus far -- I think there's one</p> <p>10 outstanding invoice -- there's one outstanding</p> <p>11 invoice. Yeah, it was a fairly large -- no, there</p> <p>12 is one. I believe there's one outstanding -- no,</p> <p>13 there isn't. I believe this last invoice, Number</p> <p>14 11 -- may I ask Mr. Morenoff a question?</p> <p>15 Q. It really isn't all that -- I appreciate</p> <p>16 you trying to clear all this stuff up. I just want</p> <p>17 to know, in general you've been paid, except --</p> <p>18 A. Yeah. In general I've been paid.</p> <p>19 Q. And when you receive payment, you receive</p> <p>20 a check and is it from Mr. Morenoff's law firm?</p> <p>21 A. It's from his EBRI.</p> <p>22 Q. I see. Okay. Now, if you go with me to</p>

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<p>1 invoice Number 1, Page 2 of Exhibit 4. 2 You mention in here that -- like, for 3 example, the first entry on May 28, 2014, "telecom 4 with Professor Brunell"; do you see that? 5 A. Yes. 6 Q. Who is Professor Brunell? 7 A. He is a political scientist who was 8 initially involved in this case and is no longer 9 involved. I believe he -- he was involved for quite 10 a long period of time -- in fact, I prepared some 11 data for him. And I think there came a point where 12 he no longer could stay on board because he was 13 going to take some prominent position in Washington 14 and said, "I can't be involved in this anymore." 15 Q. And there's been a motion filed to the 16 Court to substitute. 17 Was it Dr. Hood that ultimately took over 18 Dr. Brunell's role? 19 A. I believe. 20 Q. Is there any part of your analysis, or any 21 of the other Plaintiffs' experts, to your knowledge, 22 analysis, that came or derives at all from work</p>	<p>1 parameters, and I've done some and I think I 2 prepared a preliminary outline of what I thought a 3 report could look like. 4 And I realized it was going to be 5 necessary to get a significant amount of American 6 Community Survey data. And, at that point, I 7 decided I would rely on him rather than extract the 8 data myself because he's more proficient at it. 9 Q. Do you think that Mr. Bryan's 10 participation in this case began around February of 11 2015? That's the time period covered in part by 12 invoice Number 5. 13 A. I think there was a little bit of 14 involvement before that, I would say. I don't think 15 he would have done any major data extracts for me, 16 but I may have called upon him and said, "Look, I'm 17 going to need to get some ACS data. Can you take a 18 look and see what's out there, and can I measure 19 XYZ?" 20 And he would have gotten back to me and 21 said, "I spent an hour here and an hour there. If 22 you want to use this stuff, I'm going to have to</p>
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<p>1 Professor Brunell did? 2 A. Not to my knowledge, no. 3 Q. Now, it may be in here, we don't need to 4 go through in detail and find it, but I don't see 5 any reference to Bryan in here, the gentleman that 6 helped you with the map drawing. 7 A. Actually, if you look at invoice Number 5, 8 Page 2, you'll see some billing for "work performed 9 by statistician GIS associate Thomas Bryan." 10 Q. Oh, I see. Okay. You separately 11 delineated -- 12 A. Yeah. I started delineating it when it 13 became more than just a few hours that I folded into 14 my earlier invoices. If he said, "I got this data 15 for you, it took an hour or two," I folded it into 16 mine. But when he started to do a significant 17 amount of work, I began differentiating it and 18 distinguishing it. 19 Q. So did you work with Mr. Bryan from day 20 one in this case? 21 A. Not from day one, but there came a point 22 when I had put together the basic demographic</p>	<p>1 spend a serious amount of time doing a data extract, 2 but, yes, you'll be able to measure those things, 3 the data does exist." 4 So I said, "Okay. Hold on. I'll let you 5 know when I want to do it." And when he started to 6 actually do the data extract and assembly, and 7 especially the GIS work, I began billing his time 8 separately. 9 Q. Okay. And so there's a rate shown here 10 for Mr. Bryan and the number of hours that he's 11 worked. And so when you would get paid, you would 12 just provide Mr. Bryan his portion of it? 13 A. Correct. 14 MR. DUNN: Let me just visit here with my 15 co-counsel and I think we can wrap up. 16 (Off the record at 3:17 p.m.) 17 (Back on the record at 3:17 p.m.) 18 BY MR. DUNN: 19 Q. All right. Mr. Morrison, I think I've 20 finished. 21 Have I been courteous with you today? 22 A. You've been extraordinarily courteous.</p>

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<p>1 MR. DUNN: Okay. I just have a couple 2 things for the record. We're going to reserve 3 the right to reconvene this deposition after 4 we've obtained some additional information that 5 you've identified today. And, also, we think 6 we're entitled to Bryan's deposition, which 7 we're going to seek, and if we -- we may 8 discover some information there that will 9 necessitate reconvening this deposition, but 10 for today that's all my questions.</p>	<p>1 process in the way that I understand it should be 2 done, which is to involve the citizenry in a number 3 of hearings where citizens are informed about what 4 is at issue, about how the jurisdiction is seeking 5 to avoid a lawsuit by changing to single-member 6 districts in order to cure any alleged violation of 7 the Voting Rights Act.</p>
<p>11 CROSS-EXAMINATION</p>	<p>8 And I will simply serve as the impartial</p>
<p>12 BY MR. MORENOFF:</p>	<p>9 analyst of the census data to show them how they</p>
<p>13 Q. There were a few things that I think may 14 have been unclear or misstated, and I just want to 15 make sure we've covered them.</p>	<p>10 might form those districts in order to assure that 11 the voting rights of all groups in the community -- 12 all protected groups -- are preserved, and how 13 districts might be established so as to maintain 14 complete compliance with all requirements of the 15 Voting Rights Act.</p>
<p>16 Very early on this morning you discussed 17 your employment history with Mr. Dunn. And in doing 18 so, I know you discussed your time through the RAND 19 Institute, and after the RAND Institute, stuff 20 you've done in Nantucket as well as expert work.</p>	<p>16 I would say that those engagements are 17 probably more frequent than the engagements that I 18 have had to serve as a testifying expert.</p>
<p>21 Just because I think that something may 22 have been missed, do I have it right that you have,</p>	<p>19 Q. Okay. When you have drawn maps for 20 jurisdictions, have those jurisdictions -- to your 21 knowledge -- ever subsequently been sued? 22 A. I am not aware of any plan that I have</p>
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<p>1 in addition to your work as a testifying expert, 2 that you have also performed consulting work for 3 governments at various times?</p>	<p>1 crafted that a jurisdiction has accepted that has 2 been challenged in court.</p>
<p>4 A. I have performed -- well, I've been an 5 adviser to a number of government scientific 6 committees. I've also been retained by some 7 agencies of the federal government.</p>	<p>3 Q. When Mr. Dunn was asking you for the 4 parameters of what you've been asked to do, I know 5 you identified evaluating the enacted plan, 6 attempting to draw an affirmative plan, and 7 assembling data for the other experts.</p>
<p>8 Q. Let me be more specific. 9 Are there townships, towns, cities -- 10 whatever they may be called where they are 11 located -- that employed you on getting a demand 12 letter from a perspective plaintiff?</p>	<p>8 Just to be perfectly clear that this was a 9 thing, were you also asked to prepare reports? 10 A. Yes. I was to prepare an initial report 11 and a rebuttal report.</p>
<p>13 A. Oh, yes. Yes. On numerous occasions, I 14 am approached by a local jurisdiction that is 15 being -- that has received a letter threatening 16 litigation over a currently existing at-large 17 election system for a city or county or a school 18 district. And they have retained me to help them 19 resolve the complaint by changing from an at-large 20 system to a district -- single-member district 21 system of election.</p>	<p>12 Q. Still this morning, you testified at one 13 point that one of the things that you tried to do in 14 crafting a remedial plan or the alternative plan was 15 to assure it had clean boundaries that had 16 regularity. I think you even said that you used a 17 bit of an eyeball test. 18 Would it be fair to characterize all of 19 those statements as being somehow related to the 20 concept of compactness? 21 A. Yes. The generic term that's used in the 22 field as "compactness." That is to say it is</p>

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1 characterized by boundaries that are not highly
 2 irregular or obviously gerrymandered.
 3 "Compactness" simply means what the --
 4 what you think it means. It means that it's more or
 5 less even.
 6 Q. I know you're not a lawyer. I believe
 7 Mr. Dunn, at one point, asked you if Anglos were a
 8 protected class.
 9 Am I safe in saying that whatever you said
 10 in answer to that was just your understanding of the
 11 law and not more than that?
 12 A. It's my understanding of the law and I'm
 13 not sure that my understanding is necessarily
 14 correct.
 15 Q. Okay. So are you aware that the -- part
 16 of the point of this case is to, in fact, determine
 17 whether Anglos are a protected class?
 18 A. I am fully aware of that.
 19 Q. But, of course, if this is a first of its
 20 kind case, you might summarize other cases by saying
 21 that that hasn't happened yet?
 22 A. I don't know of any case where it has, no.

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1 Q. When you were discussing with Mr. Dunn a
 2 pair of maps that were produced towards -- well,
 3 closer to the present, that had different district
 4 labels on them.
 5 Do I understand that one of those is the
 6 map that was identified in your report as the map
 7 for -- I can use the actual term. I notice that
 8 this chart identifies for your remedial plan, that
 9 it is describing it with a heading.
 10 What does the heading say?
 11 A. The heading says in parenthesis "For
 12 implementation in a 2018 election."
 13 Q. Okay. Why would it matter when the map
 14 was implemented?
 15 A. Because I believe the timing of the
 16 implementation would determine which district, by
 17 number, is up for election. And by numbering the
 18 districts one way or another, one can, basically,
 19 for a particular time, 2018 or 2020, which it is,
 20 assure that the district or districts that are up
 21 for election first, would be the districts that one
 22 wanted up for election.

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1 Q. Is it safe to say that to some extent the
 2 point of this litigation is to try to cure potential
 3 denial of the opportunity for a particular community
 4 to elect its preferred candidate to the
 5 Commissioners Court?
 6 MR. DUNN: Objection. Leading.
 7 THE WITNESS: Yes, that's my
 8 understanding.
 9 BY MR. MORENOFF:
 10 Q. So might it make sense to label the
 11 districts such that the remedial district or map,
 12 allowed that community to elect its preferred
 13 candidates in the next election?
 14 MR. DUNN: Objection. Leading.
 15 THE WITNESS: That is one reason to do it,
 16 to assure that the remedy is put to the front
 17 of the line.
 18 BY MR. MORENOFF:
 19 Q. So when there was a second map on the
 20 shelf, is that a second map on the shelf for
 21 potential 20 -- I'm blanking on the year --
 22 implementation?

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1 A. That's my understanding, yes.
 2 MR. MORENOFF: I don't have any further
 3 questions for you now. We can hold that off
 4 until this continues or goes to trial.
 5 MR. DUNN: Nothing further from me today.
 6 (Thereupon; the deposition was concluded
 7 at 3:28 p.m.)
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<p>1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC</p> <p>2 I, Lisa Barbera, Shorthand Reporter and</p> <p>3 Notary Public, the officer before whom the</p> <p>4 foregoing deposition was taken, do hereby</p> <p>5 certify that the foregoing transcript is a true</p> <p>6 and correct record of the testimony given; that</p> <p>7 said testimony was taken by me stenographically</p> <p>8 and thereafter reduced to typewriting under my</p> <p>9 supervision; and that I am neither counsel for</p> <p>10 or related to, nor employed by any of the</p> <p>11 parties to this case and have no interest,</p> <p>12 financial or otherwise, in its outcome.</p> <p>13 IN WITNESS WHEREOF, I have hereunto set my</p> <p>14 hand and affixed my notarial seal this 20th day</p> <p>15 of November, 2017.</p> <p>16 My commission expires:</p> <p>17 April 30, 2022</p> <p>18</p> <p>19 </p> <p>20 _____</p> <p>21 NOTARY PUBLIC IN AND FOR THE</p> <p>22 STATE OF DISTRICT OF COLUMBIA</p>	<p>1 DEPOSITION ERRATA SHEET</p> <p>2 Page No. _____ Line No. _____ Change to: _____</p> <p>3 _____</p> <p>4 Reason for change: _____</p> <p>5 Page No. _____ Line No. _____ Change to: _____</p> <p>6 _____</p> <p>7 Reason for change: _____</p> <p>8 Page No. _____ Line No. _____ Change to: _____</p> <p>9 _____</p> <p>10 Reason for change: _____</p> <p>11 Page No. _____ Line No. _____ Change to: _____</p> <p>12 _____</p> <p>13 Reason for change: _____</p> <p>14 Page No. _____ Line No. _____ Change to: _____</p> <p>15 _____</p> <p>16 Reason for change: _____</p> <p>17 Page No. _____ Line No. _____ Change to: _____</p> <p>18 _____</p> <p>19 Reason for change: _____</p> <p>20 _____</p> <p>21 SIGNATURE: _____ DATE: _____</p> <p>22 DR. PETER A. MORRISON</p>
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<p>1 DEPOSITION ERRATA SHEET</p> <p>2</p> <p>3</p> <p>4 Our Assignment No. 181923</p> <p>5 Case Caption: Harding v. Dallas County</p> <p>6 DECLARATION UNDER PENALTY OF PERJURY</p> <p>7 I declare under penalty of perjury</p> <p>8 That I have read the entire transcript of</p> <p>9 My deposition taken in the captioned matter or the</p> <p>10 same has been read to me, and</p> <p>11 The same is true and accurate, save and</p> <p>12 Except for changes and/or corrections, if</p> <p>13 Any, as indicated by me on the DEPOSITION ERRATA</p> <p>14 SHEET hereof, with the understanding</p> <p>15 That I offer these changes as if still under</p> <p>16 Oath.</p> <p>17</p> <p>18 Signed on the ____ day of</p> <p>19 _____, 20____.</p> <p>20</p> <p>21 _____</p> <p>22 DR. PETER A. MORRISON</p>	<p>1 DEPOSITION ERRATA SHEET</p> <p>2 Page No. _____ Line No. _____ Change to: _____</p> <p>3 _____</p> <p>4 Reason for change: _____</p> <p>5 Page No. _____ Line No. _____ Change to: _____</p> <p>6 _____</p> <p>7 Reason for change: _____</p> <p>8 Page No. _____ Line No. _____ Change to: _____</p> <p>9 _____</p> <p>10 Reason for change: _____</p> <p>11 Page No. _____ Line No. _____ Change to: _____</p> <p>12 _____</p> <p>13 Reason for change: _____</p> <p>14 Page No. _____ Line No. _____ Change to: _____</p> <p>15 _____</p> <p>16 Reason for change: _____</p> <p>17 Page No. _____ Line No. _____ Change to: _____</p> <p>18 _____</p> <p>19 Reason for change: _____</p> <p>20 _____</p> <p>21 SIGNATURE: _____ DATE: _____</p> <p>22 DR. PETER A. MORRISON</p>

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