UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SHANNON PEREZ, *et al.*, *Plaintiffs*, v. STATE OF TEXAS, *et al.*, *Defendants*.	)	CIVIL ACTION NO. SA-11-CA-360-OLG-JES-XR [Lead case]
MEXICAN AMERICAN LEGISLATIVE CAUCUS, TEXAS HOUSE OF REPRESENTATIVES (MALC), *Plaintiffs,* v. STATE OF TEXAS, *et al.*, *Defendants.*	)	CIVIL ACTION NO. SA-11-CA-361-OLG-JES-XR [Consolidated case]
TEXAS LATINO REDISTRICTING TASK FORCE, et al., *Plaintiffs*, v. RICK PERRY , *Defendant.*	)	CIVIL ACTION NO. SA-11-CV-490-OLG-JES-XR [Consolidated case]
MARAGARITA V. QUESADA, et al., *Plaintiffs*, v. RICK PERRY, *et al.,*	)	CIVIL ACTION NO. SA-11-CA-592-OLG-JES-XR [Consolidated case]

Defendants.	)	
	)	
JOHN T. MORRIS,	)	CIVL ACTION NO.
	)	SA-11-CA-615-OLG-JES-XR
Plaintiff,	)	[Consolidated case]
	)	
v.	)	
	)	
STATE OF TEXAS, et al.,	)	
	)	
Defendants.	)	
	)	
	)	
EDDIE RODRIGUEZ, et al.	)	CIVIL ACTION NO.
	)	SA-11-CA-635-OLG-JES-XR
Plaintiffs,	)	[Consolidated case]
	)	
v.	)	
	)	
RICK PERRY, et al.,	)	
	)	
Defendants.	)	

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE NAACP AND AFRICAN AMERICAN CONGRESSPERSONS – 2011 CONGRESS AND HOUSE

The Texas State Conference of NAACP Branches, Juanita Wallace, Rev. Bill Lawson, and Howard Jefferson (hereinafter, "NAACP Plaintiffs"), and Eddie Bernice Johnson, Alexander Green, and Sheila Jackson-Lee (hereinafter, "Congresspersons") (together, "Joint Plaintiffs") respectfully request that the Court adopt the following Findings of Fact and Conclusions of Law, in addition to Findings of Fact and Conclusions of Law submitted by the Joint Plaintiffs in 2011 (hereinafter, "NAACP 2011 Proposed Findings," ECF No. 408, October 7, 2011)

FINDINGS OF FACT

Intentional Discrimination

1. Despite 90% of the state's population growth coming from minority population growth, resulting in the allocation of four new congressional districts to the state, the state created no additional minority opportunity districts, and in fact destroyed one crossover district. Tr., Aug. 14, 2014, 1384:24-1385:25 (Murray); Tr., July 17, 2014, 1364:15-1365:10 (Korbel).
2. Between 2000 and 2010 the Hispanic voting age population increased by 1.2 million persons, the African-American citizen voting age population increased by approximately 400,000 persons, and the White citizen voting age population increased by 60,000. Tr. 934:2-19, August 13, 2014 (Ansolabehere); Ex. Rodriguez Plaintiffs EX-912, p. 9.
3. Total citizen voting age population for Hispanics grew from 22 to 27%, for African-Americans grew from 12 to 13%, and for Whites decreased from 63 to 56%. Tr. 934:20-935:2, August 13, 2014 (Ansolabehere); Ex. Rodriguez Plaintiffs EX-912, p. 9.
4. The state's mapdrawers and decision-makers admitted that they refused to draw any minority opportunity districts that were not absolutely compelled by law. Tr., Aug. 14, 2014, 1300:3-1302:19 (Solomons).
5. Despite concentrated growth patterns, the state failed to draw compact, naturally-occurring house and congressional districts that would recognize that growth. Tr., July 14, 2014, 139:11-18, 147:2-10 (Arrington).
6. Despite the overwhelming and concentrated minority population growth, those mapdrawers and decision-makers admitted that they knew that districts that were not

majority black would still enable black voters to elect their candidates of choice. Tr., July 18, 2014, 1570:9-17 (Interiano).

7. The process at play in the legislative sessions that led to the enactment of H 283 and C185 were abnormal. The legislature conducted "public hearings" in 2010, before there was any census data available, and well before any redistricting maps had been developed. Tr. July 14, 2014, 9:5-17 (Veasey); Tr., July 17, 2014, 1230: 15-1231: 19 (Thompson).
8. These hearings were held during the work week, in the middle of the day, in areas where there was/is little to no public transportation. *Id*. at 9:18-11:25 (Veasey).
9. No substantive content from those hearings was collected or disseminated. Indeed, it is also clear that transcripts of at least some of these public hearings were not even available until after the special session ended. Tr., Aug. 14, 2014, 1090:21-1091:4 (Solomons).
10. The 2011 Texas Congressional redistricting process was predominantly done in private, with very minimal public input, and "plans produced ultimately at the last minute and generally passed on a straight party line vote." Tr. 1382:4-1383:20, August 14, 2014 (Murray).
11. Senate committee's outside counsel, who were relied on as experts, expressed concerns about the lack of opportunity for public scrutiny of C125 in comparison to previous redistricting. Tr. 258:18-259:25, August 11, 2014 (Seliger).
12. The Senate Redistricting Committee did not hold any hearings on congressional redistricting during the regular legislative session. Tr. 230:17-23, August 11, 2014 (Seliger).

13. The Senate Redistricting Committee held only one public hearing to take testimony on Congressional redistricting Plan C130. Tr. 231:7-25, August 11, 2014 (Seliger). No hearings on that plan were held on the House side. Tr. 233:3-6, August 11, 2014 (Seliger).
14. LULAC testified at various hearings on redistricting across the state but none of LULAC's maps or suggestions were included in C185. Tr. 1249:9-1250:4, August 14, 2014 (Korbel).
15. The public had less than forty-eight (48) hours after the plan was announced before the June 2, 2011 hearing began to provide comment and this was the only opportunity for the public to comment on the congressional plan in the House. Tr. 1345:13-1346:21, August 14, 2014 (Solomons).
16. The public had less than twenty-four (24) hours to analyze and prepare comments on the congressional plan that was discussed at the Senate Hearing on June 3, 2011. Tr. 1346:24-1348:13, August 14, 2014 (Solomons); Exhibit United States 611.
17. The sum total period for public comment on the congressional plan during the 2011 Redistricting Process was a period of forty-eight (48) hours in the House and less than twenty-four (24) hours in the Senate. Tr. 1348:14-18, August 14, 2014 (Solomons).
18. The 2010 public hearings on redistricting were just an exercise. Tr. 1411:23-1412:13, August 14, 2014 (Murray).
19. Minority members of the Texas Senate were not involved in the development of the congressional Plan C125 released on May 31, 2011. Tr. 256:9-257:13, August 11, 2014 (Seliger).

20. At the June 3rd public hearing, minority legislators complained that the process was being rushed and that neither they nor the public had been afforded adequate time to study the proposed map or meaningfully participate in the process. Tr. 257:24-258:17, August 11, 2014 (Seliger).
21. Racially polarized voting analysis was reviewed by Chairman Kel Seliger but not shared with legislators representing minority opportunity districts. Tr. 252:20-253:12, August 11, 2014 (Seliger).
22. Burt Solomons, Chairman of the House Redistricting Committee, received election analysis from the Office of the Attorney General on racially polarized voting analysis but did not share those with minority legislators on the Redistricting Committee or any minority legislators. Tr. 1265:10-1267:1, August 14, 2014 (Solomons).
23. Gerardo Interiano did not share the existence of OAG 10 analysis with the public, Mr. Garza [MALC], Ms. Perales [MALDEF], or any members of the House who represented minority opportunity districts. Tr. 379:6-25, August 11, 2014 (Interiano).
24. Chairman Solomons had access to lawyers from Baker Botts LLP during the congressional phase of the redistricting process but did not invite any minority legislators to seek counsel from Baker Botts LLP. Tr. 1267:2-1268:4, August 14, 2014 (Solomons).
25. During the 2011 Special Session, numerous amendments to the congressional map were proposed by minority legislators but none were adopted and Chairman Solomons moved to table a number of the amendments offered by minority or minority-preferred legislators. Tr. 1280:9-1284:15, August 14, 2014 (Solomons); Texas Exhibit 603.2 (June 14, 2011 House Journal at page 367).

26. No senators representing minority opportunity districts voted in favor of the plan. Tr. 260:1-19, August 11, 2014 (Seliger).
27. With respect to the congressional redistricting plan, the legislature rushed the process through a single 20-day special session, even though there was no limit on the number of special sessions that could be called and no chance that the Legislative Redistricting Board would assume control of the redistricting process. Tr., Aug. 11, 2014, 341:9-15 (Seliger).
28. Rep. Senfronia Thompson, a 42-year veteran of the state legislature, testified that the way that the redistricting process was conducted in the 2011 session was a departure from prior practices, and from best practices long established. *Id*.
29. The authority to make decisions for the state house map for Harris County was given to the all-Anglo delegation from the county, which proceeded to maintain all of the white seats and eliminate one seat held by a minority representative. Tr., July 17, 2014, 1238:14-1239:12 (Thompson).
30. Rep. Marc Veasey repeatedly asked Rep. Burt Solomons whether draft congressional maps had been submitted, particularly from the Texas congressional delegation, and asked to see those maps. Tr., Aug. 14, 2014, 1276:20-1279:13 (Solomons).
31. Rep. Solomons never revealed that the delegation had delivered a map on April 4, 2011, nor did he share those maps. *Id.*
32. Chairman Kel Seliger testified that there were districts about which voting rights concerns were raised that remained in the map that was enacted. Tr. 253:18-21, August 11, 2014 (Seliger).

33. Fracturing of minority communities was a common to both challenged plans. In the congressional plan, map drawers extended a tentacle from Congressional District 26 in Denton County down into Tarrant County to extract the Latino population. Black voters in Tarrant County were separated from neighboring Latino communities and kept wholly within Congressional District 12. DOJ Ex. 630.
34. The State took Dallas County and cut it into five (5) congressional districts, packed minorities into District 30, cracked minorities in Districts 5 and 6, and cut off the minority community from Districts 24 and 32 and tied those into suburban Dallas, Denton, and Collin counties. Tr. 1222:20-1224:16, August 14, 2014 (Korbel).
35. C185 brought CD6 up into Dallas County taking all of the minorities previously in CD24 and adding them to CD6 on the west and CD5 was taken down in the east to join the minority population there with a number of counties to the southeast of Dallas where the largely urban minorities have very little in common with the rural Anglo population they are now joined to. Tr. 688:19-690:15, August 12, 2014 (Johnson).
36. C185 had 9 districts coming into Tarrant and Dallas Counties (increased from 6 in Plan C100) and lacked a Latino opportunity district which is indicative of racial gerrymandering that took representation away from African Americans and Latinos by splitting those communities into majority Anglo districts. Tr. 690:16-691:7, August 12, 2014 (Johnson).
37. Black and brown voters living side by side in Fort Worth were teased apart and stranded in districts in which neither would be able to elect their candidates of choice. Tr., Aug. 14, 2014, 1181:6-1182:17 (Moss).

38. Besides being fractured from each other, these communities were all placed in suburban or rural districts—districts that were not representative of the urban nature of downtown Ft. Worth. Tr., August 14, 2014, 408:22-409:1 (Arrington).
39. Pulling pockets of minority voters out of the urban DFW area and into the rural outlying areas weakens the DFW area's lobby at the state and national level when the concerns of urban voters and rural voters are not aligned and coordinated. Tr. 1183:17-1183:1184:1, August 14, 2014 (Moss).
40. A large number of precincts were split in Tarrant County, for the observed purpose of grabbing Latino voters for inclusion in suburban districts. *Id*. at 409:14-410:4.
41. African-American communities were also fractured. *Id*. at 419:12-14.
42. C185 brings 11 congressional districts into the Metroplex, 10 of which "are dominated by conservative Anglo voters with a history of polarized voting against minorities." NAACP Ex. 44, p. 34.
43. The lightning bolt in Plan C185 split the existing minority community and minority growth in Tarrant County. Tr. 1251:12- 1253:16, August 14, 2014 (Korbel).
44. The Lightning Bolt in Denton County is about 130,000 people and overwhelmingly minority. Tr. 1218:12-1219:10, August 14, 2014 (Korbel).
45. Under Plan C185, the extension of CD26 into Tarrant County juts into two areas with concentration of minority populations of approximately 134,000 people (70.4% Hispanic and 6.8% African American), and ties them into a suburban area of Tarrant and Denton counties which has 563,000 people in it and is more than two-thirds (⅔) Anglo, which Dr. Korbel testified the map drawers were unlikely to have drawn by chance. Tr. 1220:23-1222:18, August 14, 2014 (Korbel).

46. With respect to compactness under Plan C185, the top part of the Lightning Bolt District in Denton [and Tarrant] counties (the affluent Anglo community) is the most compact district in the state and the bottom part (the African American and Hispanic communities) is the least compact district in the state. Tr. 1217:14-1219:10, August 14, 2014 (Korbel).
47. Dr. Korbel testified with respect to the Dallas-Fort Worth area under C185, that each incursion into Dallas County was 50/50--meaning half in Dallas County and half in rural areas outside of Dallas County and in each case the incursion into Dallas County is into an overwhelmingly minority population while those in the rural areas are overwhelmingly Anglo and "they sliced and diced the African American and Hispanic community all over Tarrant and Dallas County." Tr. 1224:25-1225:9, August 14, 2014 (Korbel).
48. This strategic fracturing was also evidenced in Travis County. C185 fails to follow the traditional redistricting principle of attempting to keep counties whole as Travis County is the only one of the largest Texas counties that does not have a congressional district anchored in it (meaning that 50% of the population of the district is in a single county). Tr. 943:22-944:20, August 13, 2014; Ex. Rodriguez Plaintiffs EX-927.
49. Voters in Travis County have a long and demonstrated history of multi-racial coalition. C185 destroys that coalition, removing Latino voters for inclusion in a San Antonio-based district and fracturing the African American population in East Austin into several districts, none of which will elect the candidate of choice of black voters. Tr., Aug. 13, 2014, 1025:20-1026:3 (Travillion); Tr., Aug. 13, 2014, 817:14-118:22 (Rodriguez).
50. The fracturing of historic and politically active African-American communities was rampant in Harris County as well, with communities like the Third Ward/MacGregor

neighborhood being fractured amongst districts. Tr., Aug. 15, 2014, 1451:7-1452:8 (Murray).

51. Evidence of racially polarized voting "bear[s] heavily on the issue of purposeful discrimination. Voting along racial lines allows those elected to ignore black interests without fear of political consequences." *Rogers*, 458 U.S. at 623.

52. With respect to the damage done to CD 30, C185 removed many of the areas where Congressperson Johnson had done substantial work on economic development , including the downtown area (the economic core of the district) where she had worked to secure funding for a Dallas area rapid transit system. Tr., Sept. 12, 2011, 1276:10-13 (Congresswoman Johnson).

53. C185 also removed both Congressperson Johnson's home and district office from the district. While the initial removal of her home could have plausibly been accidental, the failure to put it back when notified of that error could not have been. Congressperson Johnson was told to work with Congressman Smith on her district, and she did just as instructed. *Id*. at 1277:14-16.

54. She specifically and directly communicated with the drafters of the map that her home and office were left out of the proposed district and she wanted that corrected. It was corrected in the map that the delegation submitted to legislature, but not in the final enacted plan. *Id*. at 1278:19-1279:2.

55. Congresswoman Johnson's office exchanged various e-mails with Congressman Lamar Smith and Eric Opiela exchanging maps. Tr. 700:25-701:6, August 12, 2014.

56. Chairman Seliger knew that Congresswoman Johnson believed a new district should be drawn that would benefit Latinos in that area. Tr. 273:13-16, August 11, 2014.

57. Congresswoman Eddie Bernice Johnson testified that she attended a meeting in September 2010 arranged by Gerardo Interiano that started off the process of the 2011 redistricting where Congressman Lamar Smith and a number of other members of the State Legislature were in attendance including Representative Todd Hunter, Representative Pena, Speaker Straus' Legislative Director (Ms. Coughlin) and another Straus representative, and a representative from the Attorney General's Office [in September 2010]. Tr. 682:24-683:18, August 12, 2014 (Johnson).

58. At the meeting with Congressman Lamar Smith and other members of the State Legislature, Congresswoman Johnson was asked to put together a map along with other Democrats in her area where she focused primarily on the need for a Latino district. Tr. 684:8-21, August 12, 2014 (Johnson).

59. When Plan C125 came out that did not contain an additional seat in north Texas and had significantly and unnecessarily rearranged Congresswoman Johnson's seat although it was not previously out of compliance. Congresswoman Johnson informed Congressman Lamar Smith of her concerns. Tr. 685:23-686:11, August 12, 2014(Johnson).

60. C125 did not contain Congresswoman Johnson's home or district office although Congresswoman Johnson had had more than one conversation with Eric Opiela in that regard before C125 being released (including sending e-mails to Congressman Lamar Smith and Eric Opiela indicating the location of her home and district office) and her office also made contact in that regard after C125 was released. Tr. 686:12-687:4, August 12, 2014 (Johnson).

61. Congresswoman Johnson provided Congressman Lamar Smith and Eric Opiela with information on the location of her home and office and complained to them after the map

came out and before it was finally adopted when the proposed map did not contain her home [or office]. Tr. 1488:2-6, August 15, 2014 (Murray).

62. Congresswoman Johnson met with elected officials who sat both on the House and Senate redistricting committees. Tr. 705:7-11, August 12, 2014 (Johnson).

63. CD 30 also lost the American Center (home of the Mavericks and Stars), all of the arts district, Love Field Airport which Congresswoman Johnson worked to expand, and other economic engines that help improve opportunities for CD 30 residents. Tr. 691:21-692:20, August 12, 2014 (Johnson).

64. Congresswoman Johnson had worked to acquire brownfield money for several buildings in downtown Dallas that were taken out of CD30 under Plan C185 including the old packing house which became the American Center, the old post office which became a residential building, Old Mercantile Bank and several other old buildings which she had worked hard to get environmental clean-up money for. Tr. 696:13-697:9, August 12, 2014 (Johnson).

65. There were meetings where other Texas congresspersons attended to discuss the proposed map that Congresswoman Johnson was not invited to. Tr. 727:9-728:8, Tr. 715:3-6, August 12, 2014 (Johnson).

66. No other congressional district in the DFW area had the number of economic engines taken from it than CD 30, Eddie Bernice Johnson's district. Tr. 727:3-8, Tr. 715:3-6, August 12, 2014 (Johnson).

67. Prior to C185, CD9 was a compact district that was very near the required population with a surplus of 35,508, or 5% which meant that little alteration was required. NAACP Ex. 44, p. 28.

68. C185 removes important economic engines from CD9 including a number of facilities in the Texas Medical Center which weakens the member's ability to leverage those assets for a district that is largely below the poverty line and without health insurance. NAACP Ex. 44, p. 28.

69. Under C185, Congressman Greene lost his district office, which was used continuously and was ideally located to serve the old district, without being consulted and was not informed of the loss until immediately before the plan was passed by the Legislature. Tr. 1387:18-1388:13, August 14, 2014 (Murray).

70. Congressman Green was not included in the 2011 congressional redistricting process. NAACP Ex. 28, p. 32:6-33:8 (Green).

71. The Astrodome and the Medical Center were removed from the district. *Id.* at 1335:16-20.

72. Another important economic element removed from the district was the rail line between Houston and Missouri City. That rail line ran along U.S. 90A. Congressman Green was able to have placed in an appropriations bill a million dollars to get started with that project. *Id*. at 1335:21-1336:2.

73. Congressman Green was a net loser in terms of economic engines under Plan C185. Tr. 1389:23-1390:2, August 14, 2014.

74. The Hiram Clarke neighborhood, a politically active and predominantly African American neighborhood, was removed from the district in C185. *Id.* at 1336:3-5 (Congressman A. Green).

75. Under C185, Congressman Green's previously existing compact and slightly overpopulated district was carved up ignoring "existing communities of interest,

member-constituent relations and the population dynamics of the district Tr. 1392:10-25, August 14, 2014.

76. Congressional District 18 also had its district office removed. Prior to the 2011 congressional redistricting phase resulting in C185, the downtown business community formed the heart of the 18th congressional districting. It had little population, but served as the largest economic engine in the district. Tr., Sept. 12, 2011, 1512:1-4 (Congresswoman Lee).

77. Congresswoman Jackson Lee has represented the issues of Latinos through her work as a ranking member on the Subcommittee on Immigration and Border Security on the Committee of the Judiciary and veteran's issues, which is heavily in the Latino community. NAACP Ex. 16:6-18:10, September 2, 2011.

78. Congresswoman Jackson Lee has worked on issues that CD18 is particularly sensitive to, including housing, civil rights and economic issues particularly on jobs. Tr. 16:6-18:10, September 2, 2011.

79. Congresswoman Jackson Lee worked in the downtown community of CD18 to bring attention from the Department of Justice to the Harris County Jail regarding issues such as DNA and labs, obtaining grants for the fire department, and funding the metro. Tr. 16:6-18:10, September 2, 2011.

80. Prior to C185, CD18 was moderately overpopulated (22,503 or 3.22%) which means that only minor changes were required to meet the one person, one vote requirement. NAACP Ex. 44, p. 29.

81. Major, disruptive changes were unnecessarily made including removing the Central Business District (CBD) of Houston, which was located there since Barbara Jordan

represented Houston, although there are few people or voters in the CBD. NAACP Ex. 44, p. 30.

82. Under C185, CD 18 had important communities of interest slashed away, including the Third Ward and MacGregor areas. *Id*. at 5-7.

83. C185 took Congresswoman Jackson-Lee's district office (located in the same building as it had been since Barbara Jordan was the member) out of CD18, which is significant because the congressional MRA (Member's Representational Allowance) does not allow a member to rent any place that is not in the congressional district. Dep. Tr. Sept. 2, 2011, 41:4-43:22 (Congresswoman Jackson-Lee).

84. CD18 (Congresswoman Jackson Lee) unnecessarily lost "the most enormous asset in the county"--all of downtown Houston that includes a lot of "new construction, major job centers, and major companies like Chevron and Shell" with large facilities. Tr. 1390:8-1391:9, August 14, 2014.

85. Downtown Houston had been a part of CD18 for over 40 years since the district was first created in 1972 when Barbara Jordan was the member. Tr. 1390:8-25, August 14, 2014.

86. Congresswoman Jackson Lee invested a huge effort in Metro (headquartered in downtown Houston), particularly in Washington in securing funding for the light rails system, and much of that work would likely be devalued under Plan C185. Tr. 1390:8-1391:9, August 14, 2014.

87. CD 18 (Congresswoman Jackson Lee) unnecessarily lost a very substantial part of the Houston Medical Center although her district was adequately populated without being consulted and was not informed of the loss until immediately before the plan was passed. Tr. 1389:10-22, August 14, 2014 (Murray).

88. Congresswoman Jackson Lee testified that if she was not in her seat, it would not be a viable minority seat going forward as C185 has slashed off the communities of interest. NAACP Ex. 27, 22:25-25:8 (Jackson Lee).

89. C185 has increased the Anglo VAP in CD18, putting CD18 at risk of no longer being an effective African-American opportunity district over the course of the decade. NAACP Ex. 44, p. 30.

90. CD18 (Congresswoman Jackson Lee's district [and formerly Barbara Jordan's district]) was one of the four districts that Dr. Korbel testified were unusually and significantly less compact under Plan C185 than they were in the benchmark Plan C100, which is an indicator of gerrymandering that experts look for in redistricting. Tr. 1216:11-25, August 14, 2014 (Korbel).

91. Congresswoman Jackson Lee sent a statement on or about June 2, 2011 to Chairman Solomons expressing concerns in opposition to plan C125. Tr. 1372:6-1374:4, August 14, 2014 (Solomons).

92. Congresswoman Jackson Lee was not involved in the 2011 congressional redistricting process although she made herself available and did not know about the State's proposed congressional map until it was revealed during the Texas legislature's 2011 special session. NAACP Ex. 27, 41:4-43:22 (Jackson Lee).

93. Congresswoman Jackson Lee attempted to contact the individuals who had the power over the drawing of the maps during the 2011 congressional redistricting process. NAACP Ex. 27, 45:20-51:3 (Jackson Lee).

94. Congresswoman Jackson Lee provided a statement after the proposed congressional map was released expressing her opposition. NAACP Ex. 27, 45:20-51:3 (Jackson Lee).

95. Economic engines are particularly significant for African-American members of Congress who generally represent poorer districts with low-income and low-education that need economic advancement opportunities and access to major corporations whom the members can work with in Washington in exchange for better opportunities for their constituents. Tr. 1391:17-1392:9, August 14, 2014 (Murray).

96. Mapdrawers accommodated trivial requests made by Anglo Congresspersons, including Congressman Kenny Marchant request that his granchildren's school be included in his district, and Congressman Lamar Smith request that a San Antonio country club be included in his district. LRTF Ex. 311, Doc 117-5, filed 8/5/11, p. 31; LRTF Ex. 311, Doc 156-2, filed 8/9/2011, p. 16.

97. When Anglo members of Congress lost economic engines, those were replaced with others. Tr. 715:3-6, August 12, 2014 (Johnson).

98. The 2011 legislative session was marked by racial tensions, and this is relevant to the analysis of the intentional discrimination claims. Another Texas court recently recognized that a number of bills introduced during that session exhibited anti-minority or anti-Hispanic sentiment. *Veasey v. Perry*, 13-cv-00193 (S.D. Tex. October 9, 2014), at Doc. No. 628, p. 132.

99. The 2011 legislature that session also considered a voter ID bill (since found to be intentionally racially discriminatory), a bill that would limit voter assistance, anti-immigration laws, and the "Sanctuary Cities" bill. Each of these 2011 measures were opposed by Latino and African-American members of the legislature because of the racially discriminatory effect that these bills would have, among other reasons, and they

sparked emotional and charged debate. Tr., Sept. 8, 2011, 811:24-812:23 (Rep. Sylvester Turner).

100. Despite Gerardo Interiano's assertions that he was not using racial shading on a census block level, it is simply implausible that a map drawer with approximately 1,0000 hours of training on RedAppl, drawing protected minority districts, would not be using that basic feature of the software. Tr., July 18, 2014, 1599:22-24 (Interiano).

101. Interiano also asserted, implausibly, that he did not know at the time that election data was not reliable below the precinct level. *Id*. at 1590: 14-25.

102. Ryan Downton, the primary line-drawer for the congressional plan, implausibly claimed to have been motivated to completely cleave the Latino community from the African American community in Tarrant County because he read on a Democratic blog that the first publicly available plan, C125, split the Latino community within Tarrant County. Tr., Aug. 15, 2014, 1627:19-1628-15 (Downton).

103. His explanations for why the CD 6 lightning bolt in Tarrant County shifted so precisely to capture the Latino community also strains credibility, and are inconsistent with each other. Tr., Aug. 15, 2014, 1612:7-16; 1614:1-11 (Downton).

104. Rep. Solomons' story changed throughout the course of the litigation. For example, in 2011, Rep. Solomons testified that Congresswoman Sheila Jackson Lee did, when they met in person, tell him about the parts of her district she liked or was satisfied with. Tr., Sept. 13, 2011, 1627:17-1628:7. Yet when he testified in 2014, Solomons was adamant that Congresswoman Jackson-Lee never mentioned any parts of her district that she liked. Tr., Aug. 14, 2014, 1372:9-1374:4 (Solomons).

105. State Representative Hunter testified that the reason he focused on taking CD27 (Nueces County) north was because it had historically gone north; however, the last time CD27 went north was in 1980 (34 years ago) and it had previously gone south as a result of Court entering a plan under the Voting Rights Act. Tr. 1212:8-23, August 14, 2014 (Korbel).

106. Nueces County has high White cohesion meaning that Whites tend to vote together at a very high rate for certain candidates; Anglo support for the minority-preferred candidate is between 10-15%. Tr.942:20-943:15, August 13, 2014 (Ansolabehere).

107. Plan C235 resulted in one of the largest blocks of "stranded Hispanics," 206,293 Hispanics counted by the 2010 Census (60.6% of the total population)", in CD27 (Nueces County) which ran "to the north to include a majority Anglo CVAP that is strongly polarized against candidates preferred by the Latinos in the district." Tr. 1403:5-16, August 14, 2014 (Murray); NAACP Ex. 650.

108. C185 shifts CD27 "north into the heavily Coastal Bend Counties instead of its historic alignment south to Cameron County" which "maroons 206,293 Nueces County Hispanics in an Anglo district while removing them from an effective minority district." NAACP Ex. 44, p. 26.

109. C185, when compared to C100, resulted in a drop in performance for the preferred candidate of the Hispanic community in CD23. Tr. 1494:22-1495:1, August 15, 2014 (Murray).

110. Chairman Kel Seliger admitted to looking at ethnicity in working on CD23 and going into various counties to see what he could do to change the district to make it a safer seat for Congressman Canseco. Tr. 224:24-225:7, August 11, 2014 (Seliger).

111. The Nudge Factor E-mail shows that the intent of the congressional map drawers was to increase the Hispanic voting age population but decrease Spanish surname voter and turnout in "Canseco's district" that would lead to poorer performance of the Hispanic-preferred candidate, which would lead to Hispanic voters being unable to elect their candidate of choice. Tr. 234:10-235:19, August 11, 2014 (Seliger).

112. Eric Opiela's Nudge Factor E-mail to Congressman Lamar Smith, Denise Davis, and Gerardo Interiano, advocated creating districts that achieve certain demographic thresholds but still elect the Republican candidate in CD23. Tr.308:7-24, August 11, 2014 (Interiano).

113. E-mails were exchanged between Doug Davis (Senate), Lee Padilla (National Republican Congressional Committee), and Gerardo Interiano stating concerns over the Voting Rights Act with concerns to CD23 and Latinos not being able to elect a candidate of choice. Tr. 325:12-25, August 11, 2014 (Interiano).

114. Gerardo Interiano testified that there was no doubt in his mind that Eric Opiela was trying to draw districts that would appear to be Latino opportunity districts because their demographic benchmarks were above a certain level but would elect a candidate who was not the Hispanic candidate of choice (the *Nudge Factor E-mail*). Tr. 375:19-25, August 11, 2014 (Interiano).

115. There was sufficient Hispanic citizen voting age population growth to create another majority HCVAP district in South and Southwest Texas. Tr. 938:12-21, August 13, 2014 (Ansolabehere); Ex. Rodriguez Plaintiffs EX-913 p. 8.

116. Demonstration Map C220 shows that an additional district (numbered "35") could have been placed "south of San Antonio, stretching around the southern part of San Antonio and heading up to the Hayes County and Travis County line,...maintaining the other districts in that area as majority Hispanic districts." Tr. 940:15-941:3 (Ansolabehere).

117. Demonstration Map C220 shows that an additional Hispanic majority district could have been created in south Texas without disrupting the crossover district in CD25 Tr. 961:3-962:3, August 13, 2014

Vote Dilution

118. The methodology that Mr. Fairfax employed in making his population projections is clear, cogent and convincing, and has a high degree of accuracy. It thus satisfies the legal requirements necessary for its use to establish the first prong of *Gingles*.

119. Unlike in other cases where population projections were found to be too unreliable to supplant decennial census data, *Perez v. Pasadena I.S.D.*, 958 F. Supp. 1196, 1211 (S.D. Tex. 1997) and *McNeil v. Springfield Park District*, 851 F.2d 937, 946 (7th Cir. 1988), Mr. Fairfax analyses employed several distinguishing (and validating) elements.

a. First, Mr. Fairfax relied on very recent county-level growth trends, specific to the district in question, for his projections, unlike the statewide decades-old growth trends used in *Perez*. More specifically, in *Perez*, plaintiffs' expert applied simple

and fixed annualized growth rates for Latinos, African-Americans and Anglos. *Perez*, 958 F. Supp. at 1206. As Mr. Fairfax testified, the county-level growth rates he calculated and then applied were much narrower temporally and geographically. He also conducted both linear and geometric extrapolations, both of which confirmed his conclusions and produced substantially similar results. Tr., July 16, 2014, 913: 5-8 (Fairfax).

b. Second, Mr. Fairfax was able to test the accuracy of his projections, which is something that experts in *Perez* and *McNeill* were not able to do. *Id*. at 898:14-25; *see also*, *McNeill*, 851 F.2d at 946; *Perez*, 958 F. Supp. at 1211.

120. The causes for the increased polarization include the Republican Party's (1) "Southern Strategy," (2) hard line position on issues of concern to African-American voters, and (3) reversing President Bush and other Republican's outreach efforts to Hispanics. Tr. 1399:7-1400:7, August 14, 2014 (Murray).

House District 54 in H202

121. Plan 202 introduced by the Texas Legislative Black Caucus during the legislative process created a new minority opportunity district in Bell County. While this district was a majority minority district in 2011 (28.7% BCVAP, 17.7% HCVAP, 3.2% Asian CVAP, 0.8% Indian American and 46.4% Anglo—Ex. 2011 Joint Maps J-25, Red-100, Red-106), according to Mr. Fairfax's testimony, House District 54 in H202 would, as of 2014, be 30.9% BCVAP and 22.3% HCVAP, for a combined black and Latino CVAP of 53.29%. Tr. July 16, 2014, 912:6-15 (Fairfax).

122. The city of Killeen is an exceptionally diverse city, unlike any other in the state of Texas, in part because of its unique relationship with Ft. Hood. Tr., July 18, 2014, 1706:6-12, 1707:4-9 (Jones).

123. These are regions of the county that, because of their unique interests, benefit greatly from being kept whole and together. Tr., July 18, 2014, 1706:6-12 (Jones).

124. The city of Killeen experienced tremendous population growth over the last decade. Tr., July 18, 2014, 1706:19-25 (Jones).

125. District 54 in the benchmark plan was overpopulated largely because of the population growth in Killeen. Tr., July 17, 2014, 1401: 25-1402:4.

126. Once Burnet County was removed from HD 54, the district was short 13,000 voters. Instead of adding those voters to the existing core of HD 54 in Bell County, which already contained virtually the entire city of Killeen, the enacted plan took out 32,000 voters from Killeen, almost two thirds of whom were minority voters. Anglo voters were then added in to make up for the removal of minority voters. Tr., July 17, 2014, 1402:5-1405:7 (Korbel).

127. Minority voters in Killeen face persistent disparate treatment on election day. From lack of translators for Latino voters, to more rigorous questioning about identification documents, voters of color have a different experience when trying to participate in the political process than do Anglo voters. Tr., July 18, 2014, 1699:9-1703:6 (Jones).

128. Minority voters in Killeen have a demonstrated ability to work in coalition to elect their candidates of choice. Over the years, minority voters in the majority-minority city of Killeen have had substantial success in electing their candidates of choice to city

offices. Latino and black voters supported a black candidate who successfully ran for mayor of Killeen—Timothy Hancock. Tr., July 18, 2014, 1695:8-23 (Jones). Both groups also supported Juan Rivera, a Latino candidate elected to Killeen City Council. The multi-racial coalition also supported African American candidates Steve Harris and Dr. Claudia Brown in city council races. Tr., July 18, 2014, 1705:3-22 (Jones).

129. Bell County, which is majority white, currently has no members of color on the county commission or serving as a judge. Tr., July 18, 2014, 1708:20-25 (Jones).

130. Voters of color united behind City Councilwoman Dr. Claudia Brown in a challenge to the current representative from HD 54, Rep. Jimmie Don Aycock, but those efforts were defeated by the Anglo majority. Tr., July 18, 2014, 1705:3-1706:1 (Jones).

131. Rep. Aycock is not the candidate of choice of voters of color because he has not been responsive to their interests. Tr., July 18, 2014, 1703:12-1704:12 (Jones). He acknowledged voting for many issues opposed by the NAACP and by voters of color in his district. Tr., July 18, 2014, 1751:1-1752: 12 (Aycock).

132. MALC expert Dr. Robert Brischetto performed a racially polarized voting analysis of 2012 State House election in Bell County that confirmed the lay witness testimony offered by the NAACP. He noted that "[f]or State Representative District 54, where there was a contest between Aycock, the Republican, and Brown, the Democrat, we found almost nine out of ten of the Anglo voters -- that's the first column of numbers – supported Aycock, whereas eight out of ten of the Latino voters supported Brown. Nine out of ten of the black voters supported Brown,and seven out of ten of the Asian -- mostly they are Asian voters -- supported Brown." Tr., July 16, 2014, 955:10-19 (Brischetto).

133. Dr. Brischetto concluded that voting was highly polarized between minority and non-minority voters, and that non-minority voters were highly cohesive. *Id*. at 955:20-25.

134. Testimony offered in 2014 from the state's witnesses revealed suspicious inconsistencies with regard to the process for drawing the enacted HD 54. Rep. Jimmie Don Aycock testified that he met with Ryan Downton with regards to the construction of HD 54, but that he, Rep. Aycock, did not himself move around the lines of the district. Tr., July 18, 2014, 1755: 1-9 (Aycock). Indeed, he averred that he was not good with RedAppl. *Id*. at 1730:5-6. Yet Ryan Downton testified that he did not draw the district, but instead was given a district version by Rep. Aycock. Tr., July 19, 2014, 2132:25-2133:6 (Downton).

McLennan County

135. McLennan County was the subject of redistricting litigation back in the early 1970's. Tr., July 17, 2014, 1441:15-1442:22 (Korbel).

136. As a result of that litigation the State was ordered to create a district that would fairly reflect the voting strength of the minority communities of McLennan County and surrounding areas. *Id*.; *see also*, *Graves v. Barnes*, 378 F. Supp. 640 (W.D. Tex. 1974).

137. That district was formerly numbered HD57 and included McLennan, Falls, Robertson and Brazos counties. Perez Plaintiffs' Exhibit 172, Tab 6 (Korbel).

138. The resulting district elected Lane Denton, his wife Betty Denton and later Jim Dunnam. Tr., July 18, 2014, 1828:5-1829:14 (Gibson).

139. The Dentons and Dunnam were the candidates of choice of the African-American and Latino communities and were generally responsive to their concerns. *Id*.

140. There has generally been a coalition between African-American and Latino voters in McLennan County. *Id*. at 1830:1-10.

141. Although Dunnam was the choice of the minority community, he lost the election in 2010. *Id*. at 1843: 12-18.

142. In the enacted plan, the Legislature changed the number of the district from HD57 to HD12. Tr., July 17, 2014, 1444:1-5 (Korbel).

143. It also changed the district to take out minority precincts in McLennan and Brazos counties and it added Limestone County to the district. *Id*. at 1443:16-23.

144. Major voting boxes such as 12 and 14 were taken out of the district. Tr., July 18, 2014, 1841: 12-20 (Gibson).

145. The enacted plan removed more than 23,000 persons from the district who were over 70 percent minority and replaced them with approximately 20,000 persons who were more than 80% Anglo or white. Perez Plaintiffs' Ex. 172, Tab 6 (Korbel).

House District 107 in H202

146. The Legislative Black Caucus' H202 also created an additional black opportunity district in Dallas County.

147. Even though HD 107 in H202 was majority minority in 2011 (26.5% BCVAP and 23.9% HCVAP, 2011 Ex. Joint Maps J-25, Red-100, Red-106), Mr. Fairfax's unrebutted testimony demonstrates as of 2014, House District 107 is now 27.18% BCVAP, 31.57% HCVAP, and a combined black and Latino CVAP of 58.76%. Tr., July 16, 2014, 913: 1-4 (Fairfax).

148. From 2000 to 2010, the minority population of Dallas grew by 350,000, and the Anglo population decreased by almost 200,000. Tr., July 17, 2014, 1423:2-9 (Korbel).

149. Despite this fact, no new additional minority seats were drawn in Dallas County. *Id*. at 1423:12-19.

150. Areas in the county where the greatest minority population growth occurred were divided amongst several districts, with heavy minority populations being carved out and added to already existing minority districts. *Id*. at 1424: 9-23.

151. Dr. Juanita Wallace and Raul Magdaleno both testified to the incredible record of political cohesion between black and Latino voters in Dallas County. African American and Latino voters worked together to elect Elba Garcia to the Dallas County Commission. Tr., July 15, 2014, 568:1-569:10 (Wallace).

152. Dr. Wallace, an African-American, and Bea Martinez, a Latina, coordinated their campaigns for Dallas school board so that they could maximize support for both candidates from the African American and Latino community, and they held many joint events together. *Id*. at 566:1-567:14.

153. African-American and Latino voters in Dallas County face many of the same hurdles in day to day life. These communities suffer from lack of access to health care, lack of fair educational opportunities and persistent economic disparities. Tr., July 17, 2014, 1134:1-1135:5 (Magdaleno).

154. Schools in Dallas County are still highly segregated, with black and Latinos being concentrated in some schools, and Anglos in others. Tr., July 15, 2014, 572:2-9 (Wallace).

House District 149 in H202

155. Defendants admit to dissolving House District 149 in Harris County, despite knowing that it was a district in which a diverse group of minority voters elected the

candidate of their choice, Hubert Vo, because they did not think the Voting Rights Act compelled them to maintain it. Tr., September 12, 2011, 1482: 13-22 (Interiano).

156. Prior to the enactment of H283, HD 149 was a compact, naturally-occurring multi-ethnic coalition district whose voters had a proven track record of being politically cohesive and electing their candidate of choice, Rep. Vo. Tr., Sept. 7, 2011, 420:10-17 (Calvert).

157. In 2011, Rogene Calvert supplied this Court with specific evidence of how this multi-ethnic coalition in this region of Harris County faces many of the same issues, is a community of interest, and worked together to ensure the election of Representative Vo. Tr., Sept. 7, 2011, 421:7-10 (Calvert).

158. In 2014, the testimony of Hubert Vo, Scott Hochberg and Senfronia Thompson corroborated that prior testimony, and further fleshed out the deep coalition between these minority groups that has proven its effectiveness over the years. Tr., July 17, 2014, 1246:4-22 (Thompson); *id*. at 1346:10-21 (Vo); July 18, 2014, 1648:1-17 (Hochberg).

159. H202, like many other demonstrative plans offered in this litigation, restores HD 149, drawing it as a district that was, as of 2011, 34.7% BCVAP, 22.3% HCVP and 18.5% Asian CVAP. Ex. 2011 Joint Maps J-25, Red-100, Red-106.

160. It does so without diminishing the adjacent H137, which is a majority Hispanic district. *Id.*

161. It also does so deferring to the state's policy decision to reduce the size of the Harris County delegation from 25 to 24. Tr., Sept. 7, 2011, 1419:22-1420:9.

House District 26 in H202

162. In H202, an additional minority coalition district was created in House District 26 in Fort Bend County.

163. Fort Bend County is adjacent to Harris County, and HD 26 in both the enacted and H202 plans is adjacent to HD 149 in the enacted plan. This is an area in the region that is experiencing substantial population growth amongst a diverse group of voters, mostly minority. Tr., July 17, 2014, 1411: 12-21 (Korbel).

164. The evidence in the 2011 trial indicated that H202 had 23.8% Asian CVAP, 14.5% BCVAP, and 12.9% HCVAP, for a combined CVAP of 51.2%. Ex. 2011 Joint Maps J-25, Red-100, Red-106. Mr. Fairfax's analysis demonstrated that in 2014, the proposed HD 26 was 15.77% HCVAP, 14.10 BCVAP, and 27.18 Asian CVAP, for a combined 57.05% of black, Latino and Asian citizen voting age population. Tr. July 16, 2014, 902: 14-18 (Fairfax).

165. The enacted plan drew HD 26 as an incredibly non-compact district, intended to be one that could be maintained as an Anglo district over the decade. Tr., July 17, 2014, 1412:3-1414:3 (Korbel); *see also* Tr., July 18, 2014, 1607: 8-11 (Interiano).

166. The voters in this region are very similar to the voters who act in tri-ethnic coalition to elect Hubert Vo in HD 149, just across the county line in Harris County. Tr., July 17, 2014, 1422:1-6 (Korbel).

167. The Asian American population in Sugarland, First Colony and West Bend is growing and is politically active. Asian American voters have supported African American candidates such as Ron Mills. HD 26 drawn as a tri-ethnic coalition district would elect an Asian American and the candidate of choice of minority voters. Tr., July 17, 2014, 1245:9-1246:22.

DFW Region

168. The Hispanic and African American growth in Dallas and Tarrant Counties combined became about a third of the Dallas/Forth Worth area. Tr. 687:7-18, August 12, 2014 (Johnson).

169. The following growth patterns have occurred in Tarrant and Dallas Counties: (1) great population growth, (2) declining non-Hispanic white population, (3) huge surge in Hispanic population, (4) robust African-American growth, (5) sharp increase in Asian population. Tr. 1393:15-1394:18, August 14, 2014 (Murray); NAACP Ex. 44, p. 32.

170. The Anglo population in Dallas County fell from 983,693 to 784,693 over the 10 year period. NAACP Ex. 44, p. 30.

171. The African-American population in Dallas County rose from 20.5% to 22.5% and the Hispanic population grew by 243,211 people. NAACP Ex. 44, p. 30.

172. Tarrant County's non-Hispanic white population share dropped ten points between 2000 and 2010 and the county will be majority-minority county by 2010. NAACP Ex. 44, p. 31.

173. There is a need for additional minority representation in DFW as there is a heavy concentration of African-Americans and Hispanics and in the past, Congresswoman Johnson (who does not represent Tarrant County or Fort Worth) has had minority delegations from those area referred to her because the minority delegations could not get commitments of support on various issues from their congressperson(s). Tr. 1184:24-1186:23, August 14, 2014 (Moss).

174. Under C185, Dallas and Tarrant Counties have African Americans and Latinos who comprise more of the population than Anglos but only 1 of the 9 seats is an

opportunity seat for minorities which results in a lot of additional work for the Congressperson from that area and an underrepresentation of their views. Tr. 703:3-12, August 12, 2014 (Johnson).

175. Due to the growing African-American and Hispanic populations in the DFW area, voters want both a Hispanic and an additional African-American seat to represent those parts of the DFW area as reflected in the NAACP plan C193. Tr. 1187:1-17, August 14, 2014 (Moss).

176. Chairman Solomons testified that he understood that an additional majority-minority district in north Texas would be permissible even if it was not required but that he and Chairman Seliger did not consider it from Congressman Lamar Smith's proposal because he was not legally required to. Tr. 1300:3-1302:19, August 14, 2014 (Solomons).

177. Dr. Arrington testified that there were ways of encompassing the Latino population within a congressional district in the Dallas-Fort Worth area that would lend itself to a Latino representative of choice being elected. Tr. 474:9-17, August 12, 2014 (Arrington).

178. Fort Worth is 85-90% African-American and the balance Hispanic and is very politically active. Tr. 1171:2-12, August 14, 2014 (Moss).

179. Fort Worth is a majority-minority city. Tr. 1173:21-22, August 14, 2014 (Moss).

180. There have been instances of voter intimidation in the DFW region over the course of various elections in which minority candidates have been running where White poll watchers are sent to predominantly Black and some Hispanic precincts to intimidate

and to tell the precinct chairs that they are doing things illegally although they are doing them correctly. Tr. 1176:21-1178:12, August 14, 2014 (Moss).

181. Increased polarization has led to an increased cohesion in the coalition between African-Americans and Latinos which has resulted in much higher success in general elections since 2006 in Dallas County. Tr. 1400:13-1401:4, August 14, 2014 (Murray).

Congressional District 34 in C193

182. Plan C193 is the demonstrative plan developed by the NAACP in 2011 and proffered throughout this litigation. It is not a full plan, but contains new minority opportunity districts which establish that the NAACP can satisfy the first prong of *Gingles*. In the Dallas-Fort Worth region, Plan C193 draws two new minority opportunity districts: CD 34 and CD 35. Additional minority representation in the DFW Metroplex is desperately needed because minority voters in Anglo districts are referred to Congresswoman Eddie Bernice Johnson for attention to their concerns. Tr., Aug. 14, 2014, 1185:24-1186:23 (Moss).

183. Congressional district 34 in C193 is naturally-occurring minority opportunity district that captures high growth communities of interest in the DFW region. It is a coalition district and would enable minority voters to elect their candidate of choice in the southern parts of Dallas and Tarrant County. Tr., Aug. 14, 2014, 1185:20-23 (Moss).

184. While this district was a majority minority district in 2011 (32.4% BCVAP, 15.8% HCVAP, 4.2% Asian CVAP, and 46.0% Anglo—Ex. 2011 Joint Maps J-25, Red-100, Red-106), Mr. Fairfax's analysis, presented in the 2014 trial, indicates that Congressional District 34 in C193 would, as of 2014, be 37.07% BCVAP and 19.49%

HCVAP, for a combined black and Latino CVAP of 56.56%. Tr., August 13, 2014, 804:25-805:8 (Fairfax).

185. Tarrant County experienced explosive population growth over the last decade, the overwhelming majority of which was minority population growth. Fort Worth was the fastest growing city in the entire country, and grew by approximately 250,000 people over the last decade. Tr., Aug. 14, 2014, 1173:23-1174:2 (Moss).

186. Dallas County also saw significant minority population growth. From 2000 to 2010, the minority population of Dallas grew by 350,000, and the Anglo population decreased by almost 200,000. Tr., July 17, 2014, 1423:2-9 (Korbel). Areas in these counties where the greatest minority population growth occurred were divided amongst several districts, with heavy minority populations being carved out and added to already existing minority districts or stranded in rural-dominated districts. Tr., Aug. 14, 2014, 1181:1-1184:8 (Moss).

187. Testimony indicated that for black and brown voters to achieve any success in Tarrant County, it was absolutely necessary that they work together cohesively. Tr., Aug. 14, 2014, 1175:12-1176:20 (Moss).

188. Mr. Moss testified that is would be incredibly difficult for a black or Latino candidate to win elected office in Tarrant County without the coalition support of both groups, and that coalition has enabled the election of minority members of the school board, city council and state Senate from Tarrant County. Tr., Aug. 14, 2014, 1175:12-1176:8 (Moss).

189. Finally, CD 34 is a compact district, well within the norms of the compactness of the enacted districts. Tr., Sept. 8, 2011, 839:18-840:3(Fairfax).

190. CD 34 encompasses a community of interest—the growing African American population along the I-20 corridor. Tr., Aug. 14, 2014, 1185:5-23 (Moss).

Congressional District 35 in C193

191. The NAACP's plan C193 also created an additional Latino opportunity district in Dallas and Tarrant Counties—CD 35. Even though this district was majority minority and near majority Latino citizen voting age population in 2011 (15.0% BCVAP and 44.6% HCVAP, 2011 Ex. Joint Maps J-25, Red-100, Red-106), Mr. Fairfax's unrebutted testimony demonstrated that Congressional District 35 is now 51.92% HCVAP. Tr., Aug. 13, 2014, 805:17-25 (Fairfax).

192. CD 35 is a reasonably compact district that encompasses a compact minority population. It is only in two counties, and all within one urban region. For all the reasons described above and in previous briefing, Section 2 of the Voting Rights Act mandates a remedy district for Latino voters in this region of the state. Tr., Sept. 8, 2011, 839: 6-17 (Fairfax).

Congressional District 25

193. Defendants admit to destroying Congressional District 25 in Travis County, despite knowing that it was a district in which a diverse group of minority voters elected the candidate of their choice, Lloyd Doggett. Tr., Aug. 15, 2014, 1705:23-25; 1785:4-11 (Downton).

194. Prior to the enactment of C185, CD 25 was a compact, naturally-occurring and tri-ethnic crossover district whose voters had a proven track record of being politically cohesive and electing their candidate of choice. Tr., Aug. 13, 2014, 827:21-828:5 (Rodriguez).

195. CD25 under Plan C100 was a district in which African-Americans and Hispanics had the ability to elect their candidate of choice. Tr. 990:4-992:4, August 13, 2014 (Ansolabehere); Ex. Rodriguez Plaintiffs EX-913, p. 4-5.

196. Under C185, Travis County's minority population has been split from two (2) districts into five (5) districts diminishing the influence of minority communities and splitting away significant institutions such as historically black high schools that are meaningful to the community being split from their attendance zones. Tr. 1027:16-1030:25, August 13, 2014 (Travillion).

197. The five ways Travis County is cut in C185: (1) District 10 goes from Lake Austin, through the minority community, and then over to the suburbs of Houston; (2) District 25 goes from the edge of Fort Worth and picks up a portion of the minority community; (3) District 21 goes from the north side of San Antonio, the Hill Country, and picks up a portion of the minority community; (4) District 17 comes in from several Central Texas counties and picks up a minority growth area in Travis County; and (5) the balance of Travis County goes to San Antonio into District 35. Tr. 1227:20-1228:25, August 14, 2014 (Korbel).

198. Travis County has had the lowest level of Anglo cohesion in the state with 40-45% of White voters voting for the minority-preferred candidate. Tr.942:20-943:21, August 13, 2014 (Ansolabehere).

199. The African-American, Hispanic, Asian, and parts of the progressive Anglo communities work together in Travis County. Tr. 1020:19-1022:4, 1022:5-1026:3, August 13, 2014 (Travillion).

200. Under C185, poor African American enclaves east of IH-35 have been split from each other and their traditional district and put into districts with West Austin or West Travis County, which is predominantly Anglo and affluent, resulting in little interaction and coordination between the communities and their being unable to solve problems together. Tr. 1031:1-1032:12, August 13, 2014 (Travillion).

201. In C185, the African-American voting community in CD25 trails into the Fort Worth area "no longer in association with a community of interest in Austin." Tr. 884:22-885:23, August 13, 2014 (Dukes).

202. In determining which factors more likely predict which VTDs end up in which districts in the Travis County area, race is a stronger predictor than party in CD-21, 25, and 35. Tr. 1014:4-22, August 13, 2014 (Ansolabehere).

203. With respect to continuing racially disparate conditions, Austin is still a very segregated city. Tr. 1019:4-16, August 13, 2014 (Travillion).

204. Racial segregation exists in Travis County where the vast majority of African Americans and Hispanics live in East, Southeast, and Northeast Travis County compared to Anglos. Tr. 1020:1-7, August 13, 2014 (Travillion).

205. Austin's overall unemployment numbers are under five (5) percent but for minority communities exceeds twenty (20) percent. Access to affordable housing in Austin is limited for minority communities and holding on to property across generations is difficult too in terms of affordability for minority communities. Tr. 1019:17-25, Tr. 715:3-6, August 13, 2014 (Travillion).

206. Disparities in access to public institutions still exist in the City of Austin. Tr. 1019:17-25, Tr. 715:3-6, August 13, 2014. (Travillion).

207. There is a racial disparity in the experience of police violence in Austin and Travis County where the last ten or more people who were killed in police custody (roughly 80-90%) were either African-American or Latino although that percentage of the population is significantly lower with Travis County being majority Anglo. Tr. 1020:8-18, August 13, 2014 (Travillion).

208. The NAACP Civil Rights Federal Legislative Report Card shows that the Republican congresspersons who now represent the various split minority communities have received grades of "F" for 2009, 2010, 2011. Tr.1035:11-1036:22, August 13, 2014 (Travillion).

209. Plan C193, like many other demonstrative plans offered in this litigation, restores CD 25, drawing it as a district that was, as of 2011, 14.6% BCVAP, 29.1% HCVAP and 51.6% Anglo CVAP. Ex. 2011 Joint Maps J-25, Red-100, Red-106.

Additional Senate Factor Evidence

210. Black voters in Texas have suffered repeated incidents of voter intimidation in the last decade. Tr., Sept. 12, 2011, 1384:3-1385:24 (Jefferson) (detailing NAACP hearings on voter intimidation).

211. Black voters are consistently face a lack of responsiveness from elected officials who are not elected from minority opportunity districts. After every congressional session, the NAACP publishes a report card detailing how congressional representatives vote on issues that are important to the NAACP. Based on all of those votes, congresspersons are given a grade. With the one exception of Congressional District 25 in C100, districts that are majority Anglo elect representatives that score very poorly on this measure of responsiveness. Tr., Sept. 12, 2011, 1386:13-1390:5 (Jefferson)

212. Statewide, voters of color find their children being suffering the lasting negative effects of unfair school policies. Children of color are subject to inappropriate and excessive school discipline, as compared to white students. Children of color are more likely to end up in special needs classes, even where such action is not necessary. The end result is that these children become adults who face additional challenges in political participation. Tr., Sept. 12, 2011, 1393:10-1394:14 (Jefferson)

CONCLUSIONS OF LAW

Intentional Discrimination – Fourteenth Amendment and VRA Claims

213. Claims of intentional discrimination in violation of the Fourteenth Amendment are adjudicated under the standard announced in *Arlington Heights v. Metropolitan Housing Dev. Corp.*, 429 U.S. 252, 165-66 (1977).

214. Plaintiffs are not required to produce a "smoking gun" or to prove that racial considerations predominated over all other considerations. *Id*.

215. In *Arlington Heights*, the Supreme Court identified the kinds of indirect evidence that establish a prima facie case of intentional discrimination, including evidence of discriminatory effect, the history and events surrounding the government's actions, any departure from usual procedures, and discriminatory statements in the legislative history. *Id.* at 266-68.

216. To find discriminatory intent, "'direct or indirect circumstantial evidence, including the normal inferences to be drawn from the foreseeability of defendant's actions'" may be considered. *United States v. Brown*, 5th Cir. 2009; *McMillan v. Escambia County*, 748 F.2d 1037, 1047 (5th Cir. 1984) (quoting S. Rep. No. 97-417, at 27 n.108).

217. While evidence of discriminatory effect is usually not sufficient to succeed on a Fourteenth Amendment intentional discrimination claim, the Court has acknowledged that sometimes the impact of a challenged law may be so clearly discriminatory as to allow no other explanation than it was adopted for a discriminatory purpose. *Arlington Heights*, 429 U.S. at 266.

218. Redistricting schemes do not need to be at-large schemes in order to intentionally dilute minority voting strength. *Garza v. County of Los Angeles*, 918 F.2d 763, 769 (9th Cir. 1990), *cert. denied*, 111 S. Ct. 681 (1991).

219. When decisionmakers are threatened by minority population growth and act to minimize the political influence of that minority population, such evidence is highly relevant in analyzing claims of intentional discrimination. *Garza*, 918 F.2d at 768.

220. Decisionmakers acting to protect incumbents does not absolve them of any concurrent intent to minimize the political influence of minority voters. *Id.*

221. Bizarrely-shaped districts that remove or add citizens solely on the basis of skin color and to limit their ability to participate in certain electoral races runs afoul of the Fourteenth Amendment. *Gomillion v. Lightfoot*, 364 U.S. 339, 341 (1960).

222. Evidence of historical discrimination and racially polarized voting was relevant to drawing an inference of purposeful discrimination, in part because "[v]oting along racial lines allows those elected to ignore black interests without fear of political consequences." *Rogers v. Lodge*, 458 U.S. 613, 623 (1982).

223. Correlation between party and race, such as that discussed in *Cromartie v. Easley*, 532 U.S. 234 (2001) and *Bush v. Vera*, 517 U.S. 952 (1996) is irrelevant in cases where intentional vote dilution is alleged. "If the district lines merely correlate with race

because they are drawn on the basis of political affiliation, which correlates with race, there is no racial classification to justify." *Vera*, 517 U.S. at 968. Thus, the correlation between race and politics is only a potential defense to whether strict scrutiny applies to a redistricting scheme.

224. Mapdrawers Gerardo Interiano and Ryan Downton, and House Redistricting Chair Burt Solomons were not credible witnesses, and their testimony only buttresses Plaintiffs' claims of impermissible racial discrimination.

225. A constitutionally acceptable map in Texas in terms of minority opportunity districts should include, at the very least, 14-16 of the 36 congressional seats being minority opportunity districts. Tr. 1413:24-1414:13, August 14, 2014

226. The intentional destruction of a crossover district violates the Fourteenth Amendment. *Bartlett v. Strickland*, 556 U.S. 1, 24 (2009).

227. The destruction of Congressional District 25 violates the Equal Protection Clause of the Fourteenth Amendment and the Voting Rights Act.

228. Districts represented by African American congresspersons were consistently treated worse than those represented by Anglos, particularly with regard to removal of economic engines and district offices. The districts represented by the African-American congresspersons needed very little change with respect to population. And none of the districts were geographically shifted in any significant way. Instead, precise surgery was performed on the edges of the districts, needlessly removing areas of economic growth—areas with little population—for no explicable reason.

229. The ability to elect a candidate of choice is significant for more than just the mere election of that candidate—it is about the tangible benefits that flow from that ability. A

candidate responsive to the community's needs will bring economic generators that will benefit that community. The removal of economic generators from minority districts that did not need modification for population or geographic reasons constitutes an invidious taking to the detriment of the voters in those districts.

230. The intentional and destructive removal of important elements of Congressional District 9 violates the Equal Protection Clause of the Fourteenth Amendment and the Voting Rights Act.

231. The intentional and destructive removal of important elements of Congressional District 18 violates the Equal Protection Clause of the Fourteenth Amendment and the Voting Rights The intentional and destructive removal of important elements of Congressional District 9 violates the Equal Protection Clause of the Fourteenth Amendment and the Voting Rights Act.

232. The intentional and destructive removal of important elements of Congressional District 30 violates the Equal Protection Clause of the Fourteenth Amendment and the Voting Rights Act.

233. The intentional refusal to create any new minority Congressional opportunity districts given the state's minority population growth violates the Equal Protection Clause of the Fourteenth Amendment and the Voting Rights Act.

234. The intentional refusal to create any new minority House opportunity districts given the state's minority population growth violates the Equal Protection Clause of the Fourteenth Amendment and the Voting Rights Act.

235. The intentional refusal to draw naturally-occurring minority coalition districts in the State House and Congressional redistricting plans, given the state's minority

population growth, violates the Equal Protection Clause of the Fourteenth Amendment and the Voting Rights Act.

236. The Fourteenth Amendment allows the Legislature to draw naturally occurring districts resulting from population growth that may tend to elect a minority candidate of choice. *Perez v. Perry*, 132 S.Ct. 934 (January 20, 2012).

237. The Fourteenth Amendment allows the Legislature to draw naturally occurring districts resulting from population growth that may tend to elect Anglo candidates of choice. *Perez v. Perry*, 132 S.Ct. 934 (January 20, 2012).

238. The Fourteenth Amendment prohibits the Legislature from refusing to draw naturally occurring districts because they may tend to elect a minority candidate of choice.

239. The Fourteenth Amendment prohibits the Legislature from fracturing naturally occurring majority populations in order to deny minority voters the opportunity to elect minority candidates of choice.

240. A map cannot be drawn that intentionally diminishes the influence of racial and ethnic minority voters. *Gomillion v. Lightfoot*, 364 U.S. 339 (1960).

241. The requests made to African-American Congresspersons Eddie Bernice Johnson and Alexander Green to work through Congressman Lamar Smith and Eric Opiela to have input into the 2011 Congressional Redistricting map was an official request from State Legislative and Executive authorities.

242. The receipt and handling of information from Congresspersons Johnson or Green pursuant to this arrangement by Lamar Smith and/or Eric Opiela was in behalf of the State of Texas Legislative and Executive Authorities.

Section 2 Discriminatory Effects Claims

243. Section 2 of the Voting Rights Act of 1965 prohibits what is known as "vote dilution" in redistricting plans. A plaintiff may prove a Section 2 claim by first establishing the three *Gingles* preconditions: (1) that the minority group in question is "sufficiently large and geographically compact to constitute a majority in a single-member district; (2) that the minority group is "politically cohesive"; and (3) that the "majority votes sufficiently as a bloc to enable it…usually to defeat the minority's preferred candidate." *Thornburg v. Gingles*, 427 U.S. 30, 50-51 (1986).

244. If the three *Gingles* preconditions are proven, a reviewing court must then determine whether the "totality of circumstances" indicates that minority voters have been denied equal opportunity to participate in the political process. *Johnson v. DeGrandy*, 512 U.S. 997, 1009-12 (1994).

245. To satisfy the first *Gingles* precondition, plaintiffs must show "the possibility of creating more than the existing number of reasonably compact districts with a sufficiently large minority population to elect candidates of its choice. *Johnson v. DeGrandy*, 512 U.S. 997, 1008 (1994).

246. The Fifth Circuit's interpretation of the first prong of *Gingles* requires that plaintiffs show that minority voters in a proposed district will comprise a majority of the citizen voting age population in the district. *See Perez v. Pasadena I.S.D.*, 165 F.3d 368 (5th Cir. 1999), *cert. denied*, 528 U.S. 1114 (2000).

247. The 50%+1 requirement under the 1st prong of *Gingles* does not apply in a case where intentional discrimination was at play. In *Bartlett v. Strickland*, the court noted: "[n]or does this case involve allegations of intentional and wrongful conduct. We

therefore need not consider whether intentional discrimination affects the *Gingles* analysis. Our holding does not apply to cases in which there is intentional discrimination against a racial minority." 556 U.S. at 20 (internal citations and quotations omitted).

248. Several Supreme Court-approved methods exist for determining whether racially polarized voting occurs in a given area. In *Gingles*, the Supreme Court explicitly endorsed use of homogenous precinct analysis and ecological regression analysis to determine the extent to which voting in an election is racially polarized. *Id*. at 52-53.

249. Courts may consider anecdotal evidence in their examination of racially polarized voting. *Overton v. City of Austin*, 871 F.2d 529, 536-537 (5th Cir. 1989); *Brewer v. Ham*, 876 F.2d 448, 453 (5th Cir. 1989).

250. The second and third *Gingles* preconditions do not require perfectly absolute polarization—that is, minority voters need not be perfectly cohesive, and neither do Anglo voters. Instead, all that is required is a showing that a showing that "a significant number of the minority group members **usually** vote for the same candidates." *Gingles*, 478 U.S. at 56 (emphasis added).

251. In Section 2 effects cases, a reviewing court must also consider the "totality of circumstances"—that is, examine the challenged practice in its current and historical context. When determining whether vote dilution has occurred under the totality of circumstances, courts generally are guided by the so-called "Senate Factors" or Zimmer factors identified in a United States Senate report accompanying the reauthorization of the Voting Rights Act in 1982. A Court must make a searching examination of the past and present political realities, even though it will be the rare case in which plaintiffs have

established the *Gingles* preconditions that they cannot also show that, in the totality of circumstances, minority voters have less opportunity than Anglo voters to participate in the electoral process and to elect candidates of their choice. *See, Shirt v. Hazeltine*, 461 F.3d 1011, 1021 (8th Cir. 2006); *Vecinos De Barrio Uno v. City of Holyoke*, 72 F.3d 973, 983-984 (1st Cir. 1995); *Jenkins v. Reed Clay Consol. Sch. Distr. Bd. of Educ.*, 4 F.3d 1103, 1116 n. 666, 1135-36 (3rd Cir. 1993).

252. The factors elucidated by Congress that are relevant to Section 2 liability are: the extent of any history of official discrimination that touched the minority group members' rights to register, to vote, or otherwise to participate in the democratic process; the extent to which voting is racially polarized; the extent to which potentially discriminatory practices or procedures, such as unusually large election districts, majority vote requirements, or anti-single-shot provisions, have been used; if there is a candidate slating process, whether minority candidates have been denied access to it; the extent of any discrimination against minorities in education, employment and health, which might hinder their ability to participate effectively in the political process; whether political campaigns have been characterized by overt or subtle racial appeals; the extent to which minority group members have been elected to public office; whether there is a lack of responsiveness on the part of elected officials to the minority group's particularized needs; and whether the policy supporting the use of the voting policy or practice is tenuous. *Gingles*, 482 U.S. at 36-37 (citing S. Rep. No. 97-17, at 28-29, 1982 U.S. Code Cong. & Admin. News 177).

253. There is no requirement that any particular number of factors be shown, or that a majority of them point one way or the other. *Brooks v. Miller*, 158 F.3d 1230, 1238 n. 3 (11th Cir. 1988) (citing *Gingles v. Thornburg*. 478 U.S. at 45 (1986)).

254. Texas has a history of suppressing the black and Hispanic vote through the white primary and the poll tax. NAACP Ex. 650, p. 2.

255. "Every county in Texas with a white non-Hispanic majority voted against [Barack] Obama and down-ballot democrats, and *by a wider margin in 2012 than 2008*." NAACP Ex. 650, p. 4.

256. African-Americans and Hispanics in Texas have the following in common:

a. Historic discrimination that deprived both populations of their political rights through devices like the poll tax and at-large elections.

b. Similar economic interests in the areas of education, healthcare, and criminal justice.

c. African-American and Hispanic Texans have far lower median family income than Anglos, much less formal education, higher current dropout rates, and much higher levels of incarceration than Anglo Texas.

d. The Texas Republican Party has made no effort to garner African-American support since the 1960s and has pulled back from Hispanic outreach in the 21st century.

e. Tea party rhetoric and hostility to spending on safety net programs that are enormously important to African-American and Hispanic Texans.

f. The strengthening of African-American and Hispanic bonds is particularly evident in major metropolitan areas where most of the state's population growth

has been occurring and where almost of that new growth is accounted for by African-Americans and Hispanics.

g. The majority of Texas's Anglos in urban centers are polarized in support of candidates not favored by African-Americans and Hispanics. NAACP Ex. 44, p. 22.

h. African-Americans and Latinos in the Harris County area are very politically cohesive but tension will likely arise [under C185] if they are placed in similar numbers in the same district. Tr. 1493:13-1494:5, August 15, 2014.

257. Post-enactment evidence is relevant to the Section 2 inquiry because "given the long term nature and extreme costs necessarily associated with voting rights cases, it is appropriate to take into account elections occurring subsequent to trial." *Westwego Citizens for Better Gov't*, 906 F.2d 1042, 1045 (5th Cir. 1990) (per curiam); *see also Collins v. City of Norfolk*, 883 F.2d 1232, 1243 (4th Cir. 1989) (elections subsequent to 1984 trial considered by trial and appellate court).

258. The Supreme Court and a broad array of lower courts have recognized that an "effects" analysis under Section 2 requires a "searching practical evaluation of the past *and present* reality" of the challenged electoral system in operation. *Gingles*, 478 U.S. at 45 (emphasis added); *see, e.g., Brown v. Detzner*, 895 F. Sup. 2d 1236 (M.D. Fla. 2012); *Texas v. Holder*, No. 12-218, slip op. at 10 (D.D.C. June 5, 2013) (order granting motion to compel production of post-enactment documents and communication); *Favors v. Cuomo*, 11-CV-5632 (DLI)(RR)(GEL), slip op. at 9-15 (E.D.N.Y. Aug. 27, 2013) (memorandum and order granting motion to compel production of responsive post-enactment documents); *Baldus v. Members of Wis. Gov't Accountability Bd.*, 2013 WL

690496, No. 11-CV0562, at *2 (E.D. Wis. Feb. 25, 2013) (ordering that the scope of discovery include post-enactment evidence).

259. The Fifth Circuit and other circuits have explicitly recognized that in regards to a Section 2 claim, updated population data (that is, something other than decennial census data), can be considered as part of the first *Gingles* precondition analysis if that non-decennial census data is convincing and reliable. *Valdespino v. Alamo Heights Indep. Sch. Dist*, 168 F.3d 848, 853 (5th Cir. 1999) (affirming district court's reliance on post-decennial census changes in housing stock in analysis of first prong of *Gingles*); *Johnson v. DeSoto Co. Bd. of Commissioners*, 204 F.3d 1335, 1341-42 (11th Cir. 2000) (affirming district court's reliance on post-decennial census voter registration data in analysis of first *Gingles* prong).

260. At least five cases from the Fifth Circuit have found that minority groups can be aggregated for the purpose of asserting a Section 2 claim. *See League of United Latin Am. Citizens Council No. 4434 v. Clements*, 999 F.2d 831, 864 (5th Cir. 1993) (*rehearing en banc*), *cert. denied* 114 S. Ct. 878 (1994) ("[i]f blacks and Hispanics vote cohesively, they are legally a single minority group); *Overton v. City of Austin*, 871 F.2d 529, 538 (5th Cir. 1989) (concluding that Section 2 permitted the court to order as remedy a district in which Mexican-Americans, although not a majority, could be aggregated with blacks to achieve such a result, if the two groups could be shown to be politically cohesive and that Anglos voted in bloc); *Brewer v. Ham*, 876 F.2d 448, 453 (5th Cir. 1989) ("minority groups may be aggregated for purposes of claiming a Section 2 violation"); *Campos v. City of Baytown*, 840 F.2d 1240, 1244-45 (5th Cir. 1988) ("a (coalition) minority group is politically cohesive if it votes together") *reh'g denied*, 849

F.2d 943, *cert denied*, 492 U.S. 905 (1989); *League of United Latin Am. Citizens Council No. 4386 v. Midland ISD*, 812 F.2d 1494, 1501-02 (5th Cir. 1987), *vacated on other grounds*, 829 F.2d 546 (5th Cir. 1987) (en banc).

House Districts

261. House District 54 in H202 is a reasonably compact majority-minority district. It satisfies the first prong of *Gingles*.

262. Minority voters are cohesive in HD 54 in H202, and voting is racially polarized, thus satisfying the second and third prong of *Gingles*.

263. The totality of the circumstances warrants a VRA remedy in Bell County.

264. House District 54 in H202 is compelled by Section 2 of the Voting Rights Act.

265. House District 26 in H202 is a reasonably compact majority-minority district. It satisfies the first prong of *Gingles*.

266. Minority voters are cohesive in HD 26 in H202, and voting is racially polarized, thus satisfying the second and third prong of *Gingles*.

267. The totality of the circumstances warrants a VRA remedy in Ft. Bend County.

268. House District 26 in H202 is compelled by Section 2 of the Voting Rights Act.

269. House District 107 in H202 is a reasonably compact majority-minority district. It satisfies the first prong of *Gingles*.

270. Minority voters are cohesive in HD 107 in H202, and voting is racially polarized, thus satisfying the second and third prong of *Gingles*.

271. The totality of the circumstances warrants a VRA remedy in Dallas County.

272. House District 107 in H202 is compelled by Section 2 of the Voting Rights Act.

273. House District 149 in H202 is a reasonably compact majority-minority district. It satisfies the first prong of *Gingles*.

274. Minority voters are cohesive in HD 149 in H202, and voting is racially polarized, thus satisfying the second and third prong of *Gingles*.

275. The totality of the circumstances warrants a VRA remedy in Harris County.

276. House District 149 in H202 is compelled by Section 2 of the Voting Rights Act.

CD 34 and 35 in DFW

277. Congressional Districts 34 and 35 contained in C193 are reasonably compact and do not raise *Shaw* concerns. Tr. 795:1-7, August 13, 2014 (Fairfax).

278. The Demonstrative NAACP Plan (C193) shows that African-American and Latino growth in the Dallas and Tarrant County area can be placed together--as a result of their common desires, common economics, and having the same issues being important to them-- where they can elect a candidate of their choice. Tr. 691:12-20, August 12, 2014 (Johnson).

279. Congressional District 34 in C193 is a reasonably compact majority-minority district. It satisfies the first prong of *Gingles*.

280. Minority voters are cohesive in CD 34 in C193, and voting is racially polarized, thus satisfying the second and third prong of *Gingles*.

281. The totality of the circumstances warrants a VRA remedy in Dallas and Tarrant Counties that would create a new opportunity for African Americans to elect the candidate of their choice.

282. Congressional District 34 in C193 is compelled by Section 2 of the Voting Rights Act.

283. Congressional District 35 in C193 is a reasonably compact majority-minority district. It satisfies the first prong of *Gingles*.

284. Minority voters are cohesive in CD 35 in C193, and voting is racially polarized, thus satisfying the second and third prong of *Gingles*.

285. The totality of the circumstances warrants a VRA remedy in Dallas and Tarrant Counties that would create a new opportunity for Latino voters to elect a candidate of their choice.

286. Congressional District 35 in C193 is compelled by Section 2 of the Voting Rights Act.

Dated this, the 30th of October, 2014.

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