

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

COMMON CAUSE, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER,

Defendant.

CIVIL ACTION

FILE NO. 1:22-CV-00090-ELB-
SCJ-SDG

**DEFENDANT’S RESPONSES AND OBJECTIONS TO PLAINTIFFS’
STATEMENT OF ADDITIONAL MATERIAL FACTS**

Defendant Brad Raffensperger, in his official capacity as Secretary of State of Georgia (“Defendant”), pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1(B)(3), provides his Responses and Objections to Plaintiffs’ Statement of Additional Material Facts [Doc. 103] (“SAMF”), showing the Court the following:

1. The enacted congressional district plan, SB 2EX, was publicly introduced on 11/17/2021. See Ex. 1, posting from the Legislative and Congressional Reapportionment Office (“LCRO”), Proposed Plans, at 2. The Senate Committee on Reapportionment and Redistricting (“Senate Committee”) and House Legislative and Congressional Reapportionment Committee (“House Committee”) (collectively, “Redistricting Committees”)

held meetings on November 17, 18, and 19, 2021, to receive public feedback on these maps. See Ex. 2, Nov. 17, 2021 Meeting Notes labeled Bates Nos. LEGIS00002253-2333; Ex. 3, Nov. 18, 2021 Meeting Notes labeled Bates Nos. LEGIS00002334-2373, Ex. 4, Nov. 20, 2021 Meeting Minutes labeled Bates Nos. LEGIS00002374-2571. FOOTNOTE 2 Available at <https://www.legis.ga.gov/joint-office/reapportionment>.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

2. The Senate Committee voted in favor of SB 2EX on 11/18/2021; the Senate voted in favor of SB 2EX on 11/19/2021; the House Committee voted in favor of SB 2EX on 11/20/2021; and the House voted in favor of SB 2EX on 11/22/2021. See Ex. 5, Georgia General Assembly, SB 2EX, Status History & Votes. FOOTNOTE 3 Available at <https://www.legis.ga.gov/legislation/60895>.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

3. Both Black Senate and House Committee members as well as Black Senators and Black Representatives unanimously opposed SB 2EX. See Ex. 5, Georgia General Assembly, SB 2EX Status History & Votes;⁴ Ex. 6, Georgia General Assembly, Passage, SB 2EX;⁵ Ex. 7, Minutes of the Senate Committee on Reapportionment and Redistricting, at 15-16;⁶ Ex. 8, Bagley

Rpt., at 76-78, 81-82. FOOTNOTE 4 Available at <https://www.legis.ga.gov/legislation/60895>; FOOTNOTE 5 Available at <https://www.legis.ga.gov/legislation/60895>; FOOTNOTE 6 Available at <http://www.senate.ga.gov/committees/Documents/2021EXMinutes140.pdf>.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because there is no indication of the race of the members in the cited documents and the Black Senators and Representatives referenced are also all Democrats.

4. Town halls were held between 6/15/2021 and 8/11/2021, prior to the release of any proposed maps or census data. See Ex. 9, Press Release, Reapportionment Committees to Hold Statewide Town Hall Hearings; Ex. 10, 6/7/2021 Press Release, Reapportionment Committees to Hold Joint Virtual Town Hall Hearing labeled Bates No. LEGIS00000174; Ex. 11, Rich Dep. 175:10-18. FOOTNOTE 7 Available at <https://house-press.com/house-and-senate-reapportionment-committees-to-hold-statewide-town-hall-hearings/>.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

5. Many Georgians attended Redistricting Committee meetings and provided public comments stating that Congressional District (“CD”) 6, CD 13, and CD 14 (collectively, the “Challenged Districts”) failed to respect communities of interest. Ex. 8, Bagley Rpt. 86. See Ex. 2, 11/17/2021 Meeting Notes, Bates Nos. LEGIS00002253-2333 (comments stating that certain precincts were removed from districts while others that had nothing in common with the district were added)); Ex. 3, 11/18/2021 Meeting Notes, Bates Nos. LEGIS00002334-2373; Ex. 4, 11/20/2021 Meeting Minutes, Bates Nos. LEGIS00002374-2571.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because the report and documents do not indicate the total number of individuals to constitute “many Georgians” as the fact states.

6. Members of the majority party did not request any changes to the district boundaries following the public meetings held on Nov. 17, 18, and 20, 2021. See Ex. 13, Wright Dep. 163:21-165:3.

RESPONSE: Objection. The evidence cited does not support the fact stated because Ms. Wright was testifying about the overall mapdrawing process following the public meetings, not what members of the majority party requested.

7. Prior to introducing SB 2EX, the Redistricting Committees adopted guidelines, which included “constitutional requirements of equal protection, compliance with the Voting Rights Act, including a recognition of racially polarized voting, [] the importance of jurisdictional boundaries, prioritizing communities of interest, compactness, and continuity.” See Ex. 8, Bagley Rpt. 59; Ex. 14, Georgia House District Map Information labeled Bates Nos. LEGIS00003532- LEGIS00003537 at 3532; Ex. 15, 2021-2022 Guidelines for the House Committee labeled Bates Nos. LEGIS00000071-75.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

8. These guidelines did not include the pursuit of partisan advantage. See Ex. 15, 2021-2022 Guidelines for the House Committee, Bates Nos. LEGIS00000071-75; Ex. 8, Bagley Rpt. 59.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

9. The only Republican sponsored draft congressional map that was produced in this litigation was the Kennedy-Duncan Plan. See Ex. 16, Dave Williams, Georgia Senate Releases First Proposed Congressional Redistricting Map, CAPITOL BEAT (Sept. 27, 2021); Love Decl. ¶¶ 25, 39, 43; Ex. 17, Email from P. Jaugstetter at 2. FOOTNOTE 8 Available at <https://capitol->

beat.org/2021/09/georgia-senate-releases-first-proposed-congressional-redistricting-map/.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

10. Outside of the Kennedy-Duncan Plan, no other Republican sponsored draft congressional maps were saved, recoverable, or produced in this litigation. See Ex. 17, Email from P. Jaugstetter; Love Decl. ¶ 43.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it does not cite to evidence by page or paragraph number. Further, the evidence cited does not support the fact stated because there is no reference to Republican-sponsored draft congressional maps.

11. The only other draft map produced in this litigation is a plan made public on October 21, 2021 from the Democratic Party. See Ex. 39, October 21, 2021 Democratic Caucus proposed Congressional Map; Ex. 17, Email from P. Jaugstetter; Love Decl. ¶ 43. FOOTNOTE 9 Available online at https://www.legis.ga.gov/api/document/docs/default-source/reapportionment-document-library/congress/ghdc-gsdc-cong-plan1-packet.pdf?sfvrsn=bb619b12_2

RESPONSE: Objection. The evidence cited does not support the fact stated because the only indication of a draft plan is a Democratic caucus map for congressional districts, not a map from the Democratic Party.

12. Dir. Wright intentionally refrained from writing correspondence or notes redistricting to avoid “create[ing] a record” for litigation; instead, she preferred to “have th[ose] conversation[s] in person.” See Ex. 13; Wright Dep. 19:16-20:4. In 2019, Republican State Senators were instructed to do the same and avoid “mak[ing] any public comments.” Ex. 40, LEGIS00011157-57.0003 at 57.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated (1) regarding Ms. Wright because she was testifying in that portion of her deposition about her preference for in-person communication, not about not “want[ing]” to create a record, and (2) regarding state Senators because the only reference in the email is to legal advice from 2011 with no indication that advice was repeated.

13. The Kennedy-Duncan Plan was the “initial Congressional District map draft.” See Ex. 13, Wright Dep. 19:12-19.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

14. Dir. Wright held meetings with members of the majority party to discuss changes to the Kennedy-Duncan Plan, which were input into the LCRO's redistricting software. At these meetings, racial data was projected onto the computer screens. See Ex. 13, Wright Dep. 16:7-18:23, 20:5-23:15, 25:15-28:4, 28:19-30:23, 55:1-56:13, 115:25-116:19.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because Ms. Wright testified that political and other data was also projected onto the screens, not just racial data and that the racial and political data was not visible at all times, nor was Ms. Wright able to be sure about whether legislators could see the racial data. Deposition of Gina Wright [Doc. 86] ("Wright Dep.") 116:6-19.

15. As an organization, one of Common Cause's purposes is to protect and safeguard voting. See Ex. 18, Common Cause Georgia, Voting & Elections;¹⁰ Ex. 19, Dennis Dep. 83:9-16. FOOTNOTE 10 Available at <https://www.commoncause.org/georgia/our-work/voting-elections/>.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

16. As an organization, one of the League's purposes is to protect and safeguard voting. See Ex. 21, The League of Women Voters of Georgia, Our

Principles; Ex. 22, Bolen Dep. 47:1-4; Ex. 23, Bolen Decl. at ¶27. FOOTNOTE
11 Available at
https://lwvga.clubexpress.com/content.aspx?page_id=22&club_id=996555&module_id=506655#principles.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

17. Common Cause has approximately 26,000 members in Georgia, more than 767 members in CD 6, more than 143 members in CD 13, and more than 848 members in CD 14. See Ex. 19, Dennis Dep. 93:15-16; Ex. 20, Dennis Decl. at ¶¶ 2- 5.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, to the extent that Common Cause is now averring that it identified members in the three challenged districts according to the Dennis Declaration cited in support of this fact, Ms. Dennis' declaration is inadmissible in light of her refusal as Common Cause's 30(b)(6) witness to testify about engaging in a process to search for members. [Doc. 90] ("Common Cause Dep.") 79:1-11. See *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) ("When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an

issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”)

18. Common Cause’s members provide their addresses when they join the organization. See Ex. 19, Dennis Dep. 101:22-102:11; Ex. 20, Dennis Decl. ¶¶ 6-7.

RESPONSE: Defendant admits that the Court may consider this cite evidence for purposes of the summary judgment motion to the extent that Plaintiffs are relying on the deposition of Ms. Dennis and not her declaration.

19. Common Cause used the member provided zip codes to determine if Common Cause has members in each of the Challenged Districts. In doing so, Common Cause counted only the members who reside in zip codes that lie wholly within the Challenged District. Common Cause has additional members in zip codes that split the Challenged Districts, but those members were not counted. See Ex. 19, Dennis Dep. 102:5-7; Ex. 20, Dennis Decl. ¶ 8.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, to the extent that Common Cause is now averring that it identified members in the three challenged districts according to the Dennis Declaration cited in support of this fact, Ms. Dennis’ declaration is inadmissible in light of her refusal as Common Cause’s 30(b)(6) witness to testify about engaging in a process to search for members.

Common Cause Dep. 79:1-11. *See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”)

20. Common Cause historically keeps its membership list and member information confidential because the specific identification of members would place their safety and privacy in jeopardy, which results in a chilling effect on the members’ desire and capacity to publicly affiliate themselves with Common Cause. This type of intimidation is happening across communities. For instance, local poll workers during the 2020 election experienced intimidation, which dissuaded some of them from continuing as poll workers. See Ex. 20, Dennis Decl. ¶¶ 9-15.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this case.

21. Common Cause has identified a member that currently resides in the Congressional District 6, who is of voting age. Common Cause provided that member’s name and address. See Ex. 20, Dennis Decl. ¶¶ 15-17.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, to the extent that Common Cause is now averring that it identified members in the three challenged districts according to the Dennis Declaration cited in support of this fact, Ms. Dennis' declaration is inadmissible in light of her refusal as Common Cause's 30(b)(6) witness to testify about engaging in a process to search for members. Common Cause Dep. 79:1-11. See *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) ("When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.").

22. Common Cause has identified a member that currently resides in the Congressional District 14, who is of voting age. Common Cause provided that member's name and address. See Ex. 20, Dennis Decl. ¶ 15, 19.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, to the extent that Common Cause is now averring that it identified members in the three challenged districts according to the Dennis Declaration cited in support of this fact, Ms. Dennis' declaration is inadmissible in light of her refusal as Common Cause's

30(b)(6) witness to testify about engaging in a process to search for members. Common Cause Dep. 79:1-11. *See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

23. The League’s membership chair keeps a roster of members’ addresses. The League used its membership roster to look at ZIP codes that were part of the three disputed districts. The League’s member address information was subject to geocoding to determine how many members are within each congressional district. See Ex. 22, Bolen Dep. 39:3-6, 59:2-6; Ex. 23, Bolen Decl. ¶¶ 8-11.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, to the extent that the League is now averring that it identified members in the three challenged districts by geocoding according to the Bolen Declaration cited in support of this fact, Ms. Bolen’s declaration is inadmissible in light of her failure as the League’s 30(b)(6) witness to identify this specific methodology during discovery. Deposition of the League of Women Voters [Doc. 91] (“League Dep.”) 59:2-

60:20. *See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”)

24. The League has members in every Challenged District. The League has 23 members in CD 6; 22 members in CD 13, and 56 members in CD 14. See Ex. 22, Bolen Dep. 59:9-12; Ex. 23, Bolen Decl. ¶¶ 4-7.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, to the extent that League is now averring that it identified members in the three challenged districts according to the Bolen Declaration cited in support of this fact, Ms. Bolen’s declaration is inadmissible in light of her refusal as the League’s 30(b)(6) witness to identify any members affected by redistricting. League Dep. 59:13-60:20. *See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

25. The League historically keeps its membership list and member information confidential and represents to its members that it will protect their personal privacy. Harassment of private individuals for their affiliations with politics-related organizations and/or activities has become prominent in the community. As a result, the specific identification of members would place their safety and privacy in jeopardy, which produces a chilling effect on the members' desire and capacity to publicly affiliate themselves with the League. See Ex. 23, Bolen Decl. ¶¶ 12-18.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this case.

26. The League has identified a member that currently resides in the Congressional District 6, who is of voting age. The League provided that member's name and address. See Ex. 23, Bolen Decl. ¶¶ 3, 18-20, 23.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, to the extent that the League is now averring that it identified members in the three challenged districts according to the Bolen Declaration cited in support of this fact, Ms. Bolen's declaration is inadmissible in light of her refusal as the League's 30(b)(6) witness to identify members affected by redistricting. League Dep. 59:13-60:20.

See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc., 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

27. The League has identified a member that currently resides in the Congressional District 13, who is of voting age. The League provided that member’s name and address. See Ex. 23, Bolen Decl. ¶¶ 18-19, 21.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, to the extent that the League is now averring that it identified members in the three challenged districts according to the Bolen Declaration cited in support of this fact, Ms. Bolen’s declaration is inadmissible in light of her refusal as the League’s 30(b)(6) witness to identify members affected by redistricting. League Dep. 59:13-60:20. *See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

28. The League has identified a member that currently resides in the Congressional District 14, who is of voting age. The League provided that member's name and address. See Ex. 23, Bolen Decl. ¶¶ 18-19, 22.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, to the extent that League is now averring that it identified members in the three challenged districts according to the Bolen Declaration cited in support of this fact, Ms. Bolen's declaration is inadmissible in light of her refusal as the League's 30(b)(6) witness to identify members affected by redistricting. League Dep. 59:13-60:20. See *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) ("When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.").

29. Common Cause diverted personnel, time, and resources to educate its membership and community about the maps. See Ex. 19, Dennis Dep. 47:22-48:2; 49:1-51:10; 52:6-19; Ex. 20, Dennis Decl. ¶¶ 20-26.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as a legal conclusion, and cites evidence that is immaterial to the claims and defenses in this case because

adding to the organization's ongoing voter-education efforts does not constitute a diversion of resources generally and would not amount to a diversion "from" another activity. Further, Ms. Dennis's declaration is inadmissible to the extent that Common Cause is now identifying resource diversion not identified by Ms. Dennis during the organization's 30b6 witness deposition when she was asked if there was "[a]nything else that Common Cause Georgia is claiming as nonfinancial resources that were diverted" and she responded, "No, I think that's it" (Common Cause Dep. 66:22-67:1) or in responses to discovery. *See Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) ("When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.").

30. Common Cause took part in direct communications with community members and its own members and created channels to build resources for coalition partners. See Ex. 19, Dennis Dep. 49:24-50:3, 47:24-48:2; Ex. 20, Dennis Decl. ¶¶ 20-22.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this case.

31. Common Cause needed more people in order to do its programmatic work, and needed to hire more staff members to focus on redistricting. See Ex. 19, Dennis Dep. at 49:1-6, 48:7, 9-13, 18-21; Ex. 20, Dennis Decl. ¶¶ 21-22.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and cites evidence that is immaterial to the claims and defenses in this case because adding to the organization’s ongoing voter-education efforts does not constitute a diversion of resources generally and would not amount to a diversion “from” another activity. Further, Ms. Dennis’s declaration is inadmissible to the extent that Common Cause is now identifying resource diversion not identified by Ms. Dennis during the organization’s 30b6 witness deposition when she was asked if there was “[a]nything else that Common Cause Georgia is claiming as nonfinancial resources that were diverted” and she responded, “No, I think that’s it” (Common Cause Dep. 66:22-67:1) or in responses to discovery. See *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

32. The League diverted personnel, time, and resources to educate its membership and community about the maps. See Ex. 22, Bolen Dep. 32:1-10; 36:20- 24; Ex. 23, Bolen Decl. ¶¶ 24-28.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as a legal conclusion, and is immaterial to the claims and defenses in this litigation.

33. The League knocked on doors, talked to people, and left information about redistricting. See Ex. 22, Bolen Dep. 24:22-25:25; Ex. 23, Bolen Decl. ¶¶ 24- 28.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as a legal conclusion, and is immaterial to the claims and defenses in this litigation. Further, the evidence cited does not support the fact stated because the “door knocking” referenced in the deposition predated the adoption of the redistricting maps the League is challenging. League Dep. 25:4-16.

34. The League focused on engaging the public, working with partner organizations to get information out, and encouraging people to express their opinions to their legislators and committees. See Ex. 22, Bolen Dep. 40:19-41:5; Ex. 23, Bolen Decl. ¶¶ 24-28.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as a legal conclusion, and is immaterial to the claims and defenses in this litigation. Further, the evidence cited does not support the fact stated because these efforts listed predated the adoption of the redistricting maps the League is challenging according to the 30b6 witness for the League, who characterized the League’s work “as preventing what happened with these maps” and making sure that there was “meaningful input” during the legislative process before the maps were enacted. League Dep. 40:19-41:5.

35. The League provided additional education due to a gap of knowledge among its membership, including handling many calls from members confused about their district, where to vote, and other related issues. See Ex. 22, Bolen Dep. 35:35-36:4; Ex. 23, Bolen Decl. ¶¶ 24-28.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this litigation. Further, the evidence cited does not support the fact stated because engaging with members about their districts and where to vote, according to the 30b6 witness for the League is “something we’re always doing” and “there will be some of that for sure” whenever there are new maps drawn. League Dep. 36:1-4, 7-12.

36. Had Common Cause not had to divert its resources, it typically would have completed other activities central to its purpose. See Ex. 19, Dennis Dep. 52:21- 25 (e.g., Common Cause would have had more conversations with election boards and officers, built out more resources to educate voters, worked with local law enforcement, and worked on voting security); Ex. 20, Dennis Decl. ¶¶ 21-26.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as a legal conclusion, and cites evidence that is immaterial to the claims and defenses in this case because adding to the organization’s ongoing voter-education efforts does not constitute a diversion of resources generally and would not amount to a diversion “from” another activity. Further, Ms. Dennis’s declaration is inadmissible to the extent that Common Cause is now identifying resource diversion not identified by Ms. Dennis during the organization’s 30b6 witness deposition when she was asked if there was “[a]nything else that Common Cause Georgia is claiming as nonfinancial resources that were diverted” and she responded, “No, I think that’s it” (Common Cause Dep. 66:22-67:1) or in responses to discovery. See *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir. 1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot

thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

37. Common Cause was unable to complete other activities it had hoped to achieve. See Ex. 19, Dennis Dep. 54:3-13, 55:24-56:7, 57:8-17, 58:2-18, 59:11-25 (e.g., it hoped to educate and engage with the community on a broadband accessibility initiative, and eminent domain procedures, as well as go beyond its legislative preview, and hire additional staff); Ex. 20, Dennis Decl. ¶¶ 21-26.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered, is stated as a legal conclusion, and cites evidence that is immaterial to the claims and defenses in this case because adding to the organization’s ongoing voter-education efforts does not constitute a diversion of resources generally and would not amount to a diversion “from” another activity. Further, Ms. Dennis’s declaration is inadmissible to the extent that Common Cause is now identifying resource diversion not identified by Ms. Dennis during the organization’s 30b6 witness deposition when she was asked if there was “[a]nything else that Common Cause Georgia is claiming as nonfinancial resources that were diverted” and she responded, “No, I think that’s it” (Common Cause Dep. 66:22-67:1) or in responses to discovery. See *Van T. Junkins & Assocs., Inc. v. U.S. Indus., Inc.*, 736 F.2d 656, 657 (11th Cir.

1984) (“When a party has given clear answers to unambiguous questions which negate the existence of any genuine issue of material fact, that party cannot thereafter create such an issue with an affidavit that merely contradicts, without explanation, previously given clear testimony.”).

38. The League was unable to continue and complete other activities it had hoped to work on and achieve because of the redistricting. See Ex. 22, Bolen Dep. 33:6-24 (e.g., the League hoped to register its members and the community to vote and educated them about voting); Ex. 23, Bolen Decl. ¶¶ 24-28.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this litigation. Further, the evidence cited does not support the fact stated because the 30b6 representative for the League testified that the redistricting process led to the diversion, not the redistricting plans, and that the changes as a result of SB 202 were a cause of the alleged diversion. League Dep. 33:6-34:17.

39. Had the League not had to divert its resources as a result of the redistricting, it typically would have completed other activities central to its purpose. See Ex. 22, Bolen Dep. 73:8-20 (e.g., the League would have pushed forward with working with high schools and college to register eligible students

and educate them about the voting process, and aiding in voting); Ex. 23, Bolen Decl. ¶ 28.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered and is immaterial to the claims and defenses in this litigation. Further, the evidence cited does not support the fact stated because the 30b6 representative for the League testified that the redistricting process led to the diversion, not the redistricting plans, and that the changes as a result of SB 202 were a cause of the alleged diversion. League Dep. 33:6-34:17.

40. Dr. Duchin analyzed whether CD 6, CD 13, CD 14 adhered (or not) to traditional redistricting principles. See Ex. 24, Duchin Rpt. 67-80. FOOTNOTE 12 Since filing her Rebuttal Report, Dr. Duchin has identified a few errata in her initial report – none of which changes any of her analysis, opinions, “ultimate findings [or] conclusions.” She has since served a notice of errata, attached to the Love Decl. for full completeness. None of the changes described in the errata alter Plaintiffs’ positions or claims herein. Ex. 37, Notice of Errata to Dr. Moon Duchin January 13, 2023 Expert Report, at 2.

RESPONSE: Objection. The evidence cited does not support the fact stated because the cited portion of Dr. Duchin’s report did not consider whether CD 6, CD 13, and CD 14 adhered to traditional redistricting principles.

Instead, it reviewed three possible bases for whether race predominated over other criteria. Deposition of Moon Duchin [Doc. 88] (“Duchin Dep.”) 165:9-21.

41. Traditional redistricting principles were often undermined in the Challenged Districts in a manner that resulted in “packing” and “cracking.” See Ex. 24, Duchin Rpt. 4.

RESPONSE: Objection. The evidence cited does not support the fact stated because this reference to Dr. Duchin’s report explains her process for analysis, not her conclusions about whether packing and cracking occurred.

42. “Packing” and “cracking” is “the related practices of overconcentrating Black and Latino voters on one hand, or splitting communities and dispersing their voters over multiple districts on the other.” See Ex. 24, Duchin Rpt. 4. “BVAP” means “to denote the share of voting age population that is Black alone” and “BHVAP” refers to “the share . . . that is Black and/or Latino.” See Ex. 24, Duchin Rpt. 81.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, Dr. Duchin testified that there is no bright-line threshold regarding when a district is packed or cracked. Duchin Dep. 31:25-32:5, 32:6-21, 126:8-16.

43. Dr. Duchin further found that the Challenged Districts' boundaries were infected with "acutely race-conscious moves," See Ex. 24, Duchin Rpt. 4.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is stated as argument rather than as a statement of fact. Further, the evidence cited does not support the fact stated because this reference to Dr. Duchin's report only says in her opinion a few examples showed "acutely race-conscious moves."

44. Dr. Duchin found that CD 6 was "targeted to eliminate electoral opportunity," "specifically by removing Black and Hispanic voters from CD 6 and replacing them with White suburban, exurban, and rural voters in Forsyth and Dawson counties." See Ex. 24, Duchin Rpt. 4, 10.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

45. Dr. Duchin found that "this [targeting] is corroborated by the core retention numbers that show that CD 6 was singled out for major reconfiguration." See Ex. 24, Duchin Rpt. 10.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin said she was only offering the opinion that there was

evidence of predominance and that she could not rule out a political goal. Duchin Dep. 181:13-183:6.

46. Dr. Duchin found that CD 6 county splits are consistent with cracking in CD 6. See Ex. 24, Duchin Rpt. 73.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin said she was only offering the opinion that there was evidence of predominance and that she could not rule out a political goal. Duchin Dep. 181:13-183:6. Further, Dr. Duchin testified that there is no bright-line threshold regarding when a district is packed or cracked. Duchin Dep. 31:25-32:5, 32:6-21, 126:8-16.

47. In particular, Dr. Duchin found that the pattern of cracking includes: a lower BVAP and BHVAP in the portions of Cherokee, Cobb, Fulton, and Gwinnett Counties assigned to CD 6 than those assigned to CDs 5, 7, 9, 11, 13, or 14. See Ex. 24, Duchin Rpt. 73.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, Dr. Duchin testified that there is no bright-line threshold regarding when a district is packed or cracked. Duchin Dep. 31:25-32:5, 32:6-21, 126:8-16.

48. Dr. Duchin found that “race-conscious county splitting” caused CD 13 to remain “highly packed.” See Ex. 24, Duchin Rpt. 5.

RESPONSE: Objection. The evidence cited does not support the fact stated because the cited portion of the report does not make the causal connection of the use of race-conscious county splitting to cause a district to remain highly packed, but rather noted that the district was kept highly packed. Further, Dr. Duchin testified that there is no bright-line threshold regarding when a district is packed or cracked. Duchin Dep. 31:25-32:5, 32:6-21, 126:8-16.

49. Dr. Duchin found that with one unremarkable exception, each of the county splits is consistent with a pattern of packing in CD 13. See Ex. 24, Duchin Rpt. 73.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin said she was only offering the opinion that there was evidence of predominance and that she could not rule out a political goal. Duchin Dep. 181:13-183:6. Further, Dr. Duchin testified that there is no bright-line threshold regarding when a district is packed or cracked. Duchin Dep. 31:25-32:5, 32:6-21, 126:8-16.

50. Dr. Duchin found that the pattern in CD 13 includes: a higher BVAP and BHVAP in the portion of Cobb, Douglas, Fayette, Fulton, and Henry Counties assigned to CD 13 than those assigned to CDs 3, 5, 6, 7, 10, or 11. See Ex. 24, Duchin Rpt. 73.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

51. Dr. Duchin found that Cobb County’s population is within 0.1% of the ideal congressional district size of 765,136 people, but the county is nevertheless split into four congressional districts. See Ex. 24, Duchin Rpt. 22, 72.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is stated as argument rather than as a statement of fact. Further, the evidence cited does not support the fact stated. While Dr. Duchin notes those statistics, the fact connects them in a way Dr. Duchin does not.

52. Dir. Wright testified splitting counties “poses problems with elections.” See Ex. 13, Wright Dep. 119:6-9.

RESPONSE: Objection. The evidence cited does not support the fact stated because Ms. Wright was explaining the reasoning for why she would “limit the splitting of counties,” not that splitting counties always poses problems with elections. Wright Dep. 119:2-15.

53. Dr. Duchin found that the changes to CD 14 are “distinctive in terms of density and racial composition.” See Ex. 24, Duchin Rpt. 68.

RESPONSE: Objection. The evidence cited does not support the fact stated because that quote appears nowhere in the cited section. Dr. Duchin

said she was only offering the opinion that there was evidence of predominance and that she could not rule out a political goal. Duchin Dep. 181:13-183:6.

54. Dr. Duchin further found that CD 14’s incursion into Cobb...can’t be justified in terms of compactness or respect for urban/rural communities of interest.” See Ex. 24, Duchin Rpt. 69.

RESPONSE: Defendants admit that the Court may consider this evidence for purposes of the summary judgment motion.

55. Dr. Duchin found that the community of interest testimonies provided to the Redistricting Committees “make it clear that the changes to . . . CD 14 lack justification by community-of-interest reasoning.” Whereas residents of the core CD 14 in Northwest Georgia counties frequently used words identifying rural interests, residents of the newly-added Western Cobb County area frequently used words identifying urban ones. See Ex. 24, Duchin Rpt. 79-80.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

56. The “record of strong pushback” demonstrates CD 14’s boundaries are dissonant in terms of shared community interests. See Ex. 24, Duchin Rpt. 5.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that her only opinion regarding community testimony was that changes to congressional districts 6 and 14 lacked justification by community-of-interest reasoning. Duchin Dep. 205:9-206:20.

57. Dr. Duchin found that the splitting of Cobb County is “consistent with . . . submerging a small and diverse urban community in CD 14,” including a higher BVAP and BHVAP in the portion of Cobb County assigned to CD 14 than to CD 6 or CD 11. See Ex. 24, Duchin Rpt. 73.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated. Dr. Duchin testified that her only opinion regarding community testimony was that changes to congressional districts 6 and 14 lacked justification by community-of-interest reasoning. Duchin Dep. 205:9-206:20.

58. Dr. Duchin drew an alternative congressional plan that more closely adheres to the traditional redistricting principles. See Ex. 24, Duchin Rpt. 5, 25.

RESPONSE: Objection. The evidence cited does not support the fact stated. The cited portions of Dr. Duchin’s report do not indicate that the alternative plan “more closely adheres to the traditional redistricting

principles,” nor does it indicate what those principles are, or what the comparator is for this particular fact.

59. Dr. Duchin’s alternative congressional plan is more compact than the enacted plan and splits fewer counties, municipalities, and state precincts into fewer pieces. See Ex. 24, Duchin Rpt. 5, 25.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered.

60. Dr. Duchin’s alternative congressional plan changes BVAP from 66.7% to 52.0% and BHVAP from 77.2% to 58.8% in CD 13. See Ex. 24, Duchin Rpt. 25.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

61. Dr. Duchin’s alternative congressional plan removes Black communities in Cobb County from CD 14, reducing BVAP from 14.3% to 7.6%. See Ex. 24, Duchin Rpt. 25.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because the cited page does not reference Cobb County.

62. Dr. Duchin’s alternative congressional plan raises the District 6 BVAP and BHVAP closer to the prior map and creates another minority opportunity district. See Ex. 24, Duchin Rpt. 25.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because the cited page does not refer to the “prior map.”

63. The Duncan-Kennedy plan is more compact than the enacted plan and splits fewer counties, municipalities, and state precincts into fewer pieces. See Ex. 24, Duchin Rpt. 22; Ex. 25, Kennedy-Duncan Plan. FOOTNOTE 13 Available at https://www.legis.ga.gov/api/document/docs/default-source/reapportionment-document-library/congress/cong-s18-p1-packet.pdf?sfvrsn=dd7b16e7_2.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because the cited pages do not refer to compactness of the districts on the Duncan-Kennedy plan.

64. Senator Kennedy’s plan does not feature some of the “acutely race-conscious moves” present in the enacted congressional plan, including moving CD 6 further north into Dawson County and submerging a heavily Black portion of Cobb County into CD 14. See Ex. 24, Duchin Rpt. 4, 69; Ex. 25,

Kennedy-Duncan Plan; Ex. 26, SB 2EX.15 FOOTNOTE 14 Available at https://www.legis.ga.gov/api/document/docs/default-source/reapportionment-document-library/congress/cong-s18-p1-packet.pdf?sfvrsn=dd7b16e7_2;
FOOTNOTE 15 Available at https://www.legis.ga.gov/api/document/docs/default-source/reapportionment-document-library/congress/congress-prop1-2021-packet.pdf?sfvrsn=104b7388_2.

RESPONSE: Objection. The fact does not comply with LR 56.1(B)(1) because it is not separately numbered. Further, the evidence cited does not support the fact stated because the cited pages do not refer to comparisons between the enacted plan and the Kennedy-Duncan plan.

65. Dr. Duchin found evidence of “racially imbalanced transfers of population” that were “emphatically not required by adherence to traditional districting principles.” See Ex. 24, Duchin Rpt. 67-69.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin never offered the opinion that race predominated over traditional districting principles in her report, Duchin Dep. 181:24-182:14. Further, Dr. Duchin only testified in the cited portion of her deposition that racially imbalanced population transfers are “suggestive evidence, not conclusive evidence” of predominance. Duchin Dep. 180:18-181:23.

66. To test Defendant's purported partisanship justification, Dr. Duchin generated 100,000 redistricting plans with an explanatory algorithm seeking electoral success for the Republican Party, using 2020 presidential election data. See Ex. 27, Duchin Supp. Rpt., at 7-8.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

67. Dr. Duchin found that the middle range of congressional districts in BVAP percentage "show clear signs of 'cracking'" in the enacted plan, relative to the comparison plans." See Ex. 27, Duchin Supp. Rpt. 8.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24. Further, Dr. Duchin testified that there is no bright-line threshold regarding when a district is packed or cracked. Duchin Dep. 31:25-32:5, 32:6-21, 126:8-16.

68. Dr. Duchin found that SB 2EX is consistent with "a plan [] drawn by using minority racial population to secure partisan advantage in a state with roughly 50-50 partisan support." See Ex. 27, Duchin Supp. Rpt. 8.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24. Further, Dr.

Duchin testified that she did not know the number of majority BVAP districts on any of the plans she had the computer draw. Duchin Dep. 225:22-226:3.

69. Dr. Duchin concluded that SB 2EX “does not suggest a race-neutral pursuit of partisan advantage, but rather a highly race-conscious pursuit of partisan advantage.” See Ex. 27, Duchin Supp. Rpt. 8.

RESPONSE: Objection. The evidence cited does not support the fact stated. Dr. Duchin testified that the only considered compactness as a traditional districting principle. Duchin Dep. 220:23-221:24. Further, Dr. Duchin testified that she did not know the number of majority BVAP districts on any of the plans she had the computer draw. Duchin Dep. 225:22-226:3.

70. Racial demographic data is available at the census-block level. See Ex. 28, Strangia Dep. 103:17-23.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

71. Race is highly correlated with political affiliation in Georgia. See Ex. 29, Thomas L. Brunell, Ph.D, “Report on Racial Bloc Voting in Georgia,” LEGIS00019244-19244.23 at LEGIS00019244.23.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

72. Dr. Duchin concluded that district boundaries that split state precincts and sort voters at the census-block level can be “especially revealing.” See Ex. 24, Duchin Rpt. 75.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

73. Dr. Duchin found that splits to state precincts “highlight the predominance of race over even partisan concerns.” See Ex. 24, Duchin Rpt. 75.

RESPONSE: Defendant admits that the Court may consider this evidence for purposes of the summary judgment motion.

74. Dr. Duchin found that split precincts at the border of CD 6 “show significant racial disparity, consistent with an effort to diminish the electoral effectiveness of CD 6 for Black voters.” See Ex. 24, Duchin Rpt. 75.

RESPONSE: Objection. The evidence cited does not support the fact stated because Dr. Duchin testified that she did not know if the split precincts in the chart were contiguous or had noncontiguous portions. Duchin Dep. 199:15-200:10.

75. There is no prediction of voters’ political behavior at finer distinctions than the precinct level. See Ex. 28, Strangia Dep. 96:20-98:18.

RESPONSE: Objection. The evidence cited does not support the fact stated because Mr. Strangia testified in that portion of his deposition that because Maptitude can allocate political data to blocks, the formula displays estimated political data at the block level. Deposition of Robert Strangia [Doc. 99] (“Strangia Dep.”) 96:25-97:3.

Respectfully submitted this 10th day of May, 2023.

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CERTIFICATE OF COMPLIANCE

Pursuant to L.R. 7.1(D), the undersigned hereby certifies that the foregoing Statement has been prepared in Century Schoolbook 13, a font and type selection approved by the Court in L.R. 5.1(B).

/s/ Bryan P. Tyson

Bryan P. Tyson

EXHIBIT A

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

GEORGIA STATE CONFERENCE OF)	No.
NAACP, et al.,)	1:21-CV-5338-ELB-SCJ-
)	SDG
Plaintiff,)	
)	
vs.)	
)	
STATE OF GEORGIA, et al.,)	
)	
Defendant.)	
_____)	

VIDEOTAPED 30(b)(6) and 30(b)(1) DEPOSITION OF
 LEGISLATIVE AND CONGRESSIONAL REAPPORTIONMENT OFFICE
 (MS. GINA WRIGHT)
 January 26, 2023
 9:17 a.m.
 18 Capitol Square SW
 Atlanta, Georgia

Reported by: Marcella Daughtry, RPR, RMR
 CA CSR 14315
 GA No. 6595-1471-3597-5424

1 screen during this conversation?

2 A Yes.

3 Q Was demo -- demographic data reflected on the
4 screen as well?

5 A Yes. There would have been demographic, as
6 well as political. I'm not sure how clearly they could
7 see that from where they were and the way that it was
8 projected, because I wasn't there with them, but it would
9 have been on the screen for -- while we were doing it.

10 Q Do you know if there was data reflecting the
11 race of citizens in the different districts on the
12 screen? Was it racial data --

13 A What do you mean?

14 Q Yeah, was it racial data reflected on the
15 screen?

16 A Yes.

17 Q Yeah, it doesn't mean you had demographic,
18 yeah.

19 A Racial data, as well as political data.

20 Q I'm sorry. I might have misheard you.

21 A Yes.

22 Q Thank you for that confirmation.

23 Did you literally make the change to Dawson
24 during that meeting?

25 A Yes.

1 Q Yeah.

2 Was the discussion just, let's add Dawson, or
3 was there anything more specific about that? It looks
4 like the entirety of Dawson County was added.

5 A Yes. We moved -- both those two counties were
6 in -- added in whole. Of course, trying to divide
7 counties was not -- as we talked about earlier, it poses
8 problems with elections and whatnot, so trying to limit
9 the splitting of counties.

10 I think there was discussion about the fact
11 that Georgia 400 runs up through that district, so there
12 is a common road traveling through there, as far as those
13 areas being together, but the -- there was a lot of
14 discussion going on. Again, I wasn't in the room, so
15 it's...

16 Q Could you hear what was in the room?

17 A I could, but again, I'm looking at other things
18 while they are discussing --

19 Q I see.

20 A -- what they are doing.

21 Q So based on your knowledge -- I understand you
22 couldn't necessarily hear everything, but based on your
23 knowledge, was there any other factors that were
24 considered in the room when deciding to add Dawson County
25 to CD 6?

EXHIBIT B

Georgia State Conference of The NAACP, et al. v. S

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IN UNITED STATES DISTRICT COURT
FOR NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION
GEORGIA STATE CONFERENCE OF
THE NAACP, et al.,
Plaintiffs,
vs.
CIVIL ACTION FILE NO.
1:21-CV-5338-ELB-SCJ-SDG
STATE OF GEORGIA, et al.,
Defendants.

COMMON CAUSE, et al.,
Plaintiffs,
vs.
CIVIL ACTION FILE NO.
1:22-CV-00090-ELB-SCJ-SDG
BRAD RAFFENSPERGER,
Defendants.

30(b)(6) DEPOSITION OF COMMON CAUSE
(TREAUNNA DENNIS)
January 13, 2023
11:04 a.m.
Taylor English Duma LLP
1600 Parkwood Circle, Suite 200
Atlanta, Georgia
Robyn Bosworth, RPR, CRR, CRC, CCR-B-2138

1 being able to have the capacity to organize a
2 learning community for the 2020 -- the top of the
3 year January 2022, but we had the desire to do so to
4 better understand how redistricting impacts our
5 state.

6 Q Can you explain a little bit more what you
7 mean by a learning community or organizing of
8 learning community?

9 A Yeah, so a learning community can be a
10 session where we're better understanding what are
11 benchmarks, what are trends, what are best
12 practices, what are solutions, what are things that
13 we kind of need to know that academics would track
14 with redistricting so we could have a better
15 understanding of a holistic view of redistricting.

16 Q So has any part of that project been
17 undertaken in 2022?

18 A No.

19 Q Do you have plans to start that in 2023?

20 A We do not have plans, but we have thought
21 of it, but nothing has been planned as of now.

22 Q Anything else that Common Cause Georgia is
23 claiming as nonfinancial resources that were
24 diverted as a result of the adoption of the
25 redistricting maps in 2021?

1 A No, I think that's it.

2 Q I know we just started out in 2023; I just
3 want to make sure I've got everything. Is there
4 anything else you want to add to that in terms of
5 diversion of resources in 2023?

6 A No.

7 Q In 2022, was there work other than the
8 redistricting work that the -- that Common Cause
9 Georgia increased during that year?

10 A In 2022, that was just last month. What
11 year are we in? So in 2022 we did increase our
12 efforts in elections -- in our elections work, but
13 we did have to hire staff to do so.

14 Q And was that the staff -- the one staff
15 person that was hired in 2022?

16 A Yes.

17 Q Is there anything else, any other work
18 that increased other than the redistricting work?

19 A No.

20 Q Can you testify about what -- the number
21 of hours that would have been devoted to voter
22 engagement and the other activities that you've
23 described of Common Cause Georgia but for the
24 redistricting maps being adopted?

25 MR. JAMIESON: Objection, vague.

1 Q And that number of individuals are folks
2 that currently reside in Districts 6, 13, and 14?

3 A Yes.

4 Q Is Common Cause Georgia willing to provide
5 us a list of those individuals?

6 MR. JAMIESON: Objection.

7 MS. LAROSS: Subject to the objection, are
8 you --

9 MR. JAMIESON: She can answer yes, no,
10 otherwise instruct not to answer subject to
11 associational privilege.

12 MS. LAROSS: So are you instructing her --
13 do I understand that that list would not be produced
14 to us because of the associational privilege?

15 MR. JAMIESON: Correct.

16 MS. LAROSS: Counsel, would you be willing
17 to produce that list pursuant to a protective order?

18 MR. JAMIESON: If we're going to discuss
19 that, I think we should go off record and we can
20 confer, but otherwise -- well, I'd say let's go off
21 record if we want to discuss that.

22 MS. LAROSS: Sure, we'll discuss that with
23 you off the record.

24 BY MS. LAROSS:

25 Q What percentage of Common Cause Georgia's

EXHIBIT C

Georgia State Conference of The NAACP, et al. v. S

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

)
GEORGIA STATE CONFERENCE OF THE)
NAACP, ET AL.,) CASE NO. 1:21-CV-5338-
) ELB-SCJ-SDG
PLAINTIFFS,)
)
v.)
)
STATE OF GEORGIA, ET AL.,)
)
DEFENDANTS.)

)
COMMON CAUSE, ET AL.,) CASE NO. 1:22-CV-00090-
) ELB-SCJ-SDG
PLAINTIFFS,)
)
v.)
)
BRAD RAFFENSPERGER,)
)
DEFENDANT.)

30(b)(6) DEPOSITION OF JULIE BOLEN
(TAKEN by DEFENDANTS)
ATTENDING VIA ZOOM IN COBB COUNTY, GEORGIA
JANUARY 13, 2023

ALSO PRESENT: Caren E. Short, Esq.
Thomas Tai, Esq.
Leah Ritter

REPORTED BY: Meredith R. Schramek
Registered Professional Reporter
Notary Public
(Via Zoom in Mecklenburg County,
North Carolina)

1 through the process so people understood what was going
2 on. We encouraged them to weigh in and make their
3 concerns known.

4 Many of our members testified at various
5 hearings that the redistricting committees held. They
6 held some across the state. We had members at almost
7 every one of those. They held, of course, committee
8 hearings during the process. People sent e-mails and
9 called their legislators. They wrote postcards en
10 masse to the legislators and the legislators on the
11 committees.

12 Several of our leagues did door knocking,
13 where they went out in neighborhoods and talked to
14 people and left information about redistricting, that
15 it was going on and that it was something people would
16 want to pay attention to.

17 And post redistricting, there's been a
18 tremendous effort. So people were aware district lines
19 had changed, they might be represented by different
20 people, how to find the information about their
21 potentially new district, where to vote.

22 So lots and lots of work has gone on around
23 that.

24 Q Okay. Do you have any documents reflecting
25 that work? That you -- well, let me ask that question

1 A We will always be watching the redistricting
2 process. But the process was very worrisome and we
3 spent a lot of effort while the process was going on
4 trying to get it to move to a more fair, you know, and
5 transparent process. So that took a lot of effort.

6 Q And what were you unable to do as a result of
7 that effort that you just described?

8 MS. LOVE: Objection.

9 You can answer.

10 THE WITNESS: Okay. We have a -- as I
11 mentioned, we're mostly volunteers, nearly all
12 volunteers. So we have finite resources.

13 Normally, we would be trying to educate --
14 register voters and educate them about voting. We had
15 an extra heavy lift because of SB 202 that changed --
16 dramatically changed Georgia's voting laws. So we had
17 a ton of work to do just on helping people be able to
18 vote after that law passed. And we couldn't do as much
19 as we would have liked to do or needed to because the
20 redistricting process had a lot of problems with it.

21 So our resources couldn't be put on what we
22 would consider, you know, our normal -- something that
23 was really, really important and in line with our
24 normal work.

25

1 BY MR. JACOUTOT:

2 Q And I'm sorry, I might have just missed that.
3 The -- is that the SB 202 law that you're referring to?

4 A The SB 202 law that was passed and changed
5 almost everything about voting in Georgia. And people
6 are still confused about it.

7 Q Okay. So it's sort of a combination of that
8 law and the redistricting maps that had created an
9 increase in the effort for the League?

10 MS. LOVE: Objection.

11 BY MR. JACOUTOT:

12 Q You can answer.

13 MS. LOVE: You can answer.

14 THE WITNESS: I think the change in the
15 voting laws just intensified the need for our services
16 that we would have normally provided as did biased
17 maps.

18 BY MR. JACOUTOT:

19 Q Do you recall what year SB 202 was passed?

20 A It went into -- I think it's been two
21 sessions ago it was passed. And then it went into
22 effect in -- I can't remember which election it went
23 into effect with. It must have been after -- it was
24 after the 2020 election. So it must have been 2021 it
25 went into effect.

1 for people because we got lots and lots of calls about
2 people being confused about what district they were in,
3 where they went to vote, and all that kind of thing.
4 So that's something we're always doing.

5 Q Would you say that that's typical work when
6 there's a new map -- strike that.

7 Would you say that the educating of
8 constituents, members of the public about the maps and
9 their respective districts, is that typical when
10 there's a new map drawn through the redistricting
11 process?

12 A There will be some of that for sure.

13 Q Are you able to identify any personnel or
14 members that had their usual tasks changed as a result
15 of the Georgia 2021 redistricting map?

16 MS. LOVE: Objection.

17 You can answer.

18 THE WITNESS: I think in a volunteer
19 organization, they're just -- volunteers are just not
20 tracked like that. But we do stay in very close touch
21 with our 11 local leagues. And so we know that, yes,
22 indeed, people did spend a lot of additional time on
23 redistricting across the state.

24 BY MR. JACOUTOT:

25 Q How are you able to know that if you're not

1 A No. There was a broad array of work around
2 the 2021 maps.

3 Q And what was that broad array of work?

4 A So it was educating people about that the
5 process was going on and what we would desire to see in
6 a fair process.

7 We -- so tell me your question again to make
8 sure I'm not going off track here. Repeat your
9 question.

10 Q Yeah, sure. I believe you responded to my
11 question about -- well, I'll go through it.

12 First I asked you, you know, whether most of
13 your work related to the 2021 redistrict maps involved
14 this litigation. You responded that, no, there was a
15 broad array of work done for that.

16 Then I asked you if you could describe that
17 broad array of work.

18 MS. LOVE: Objection.

19 THE WITNESS: Okay. So I would probably
20 characterize our work as preventing what happened with
21 these maps. We worked hard to engage the public and
22 work with partner organizations and get information out
23 and encourage people to express their opinions to their
24 legislators and the committees, all in an effort to
25 help those legislators understand that the public wants

1 a fair and open and transparent process. They want to
2 have a chance to have meaningful input.

3 So a lot of work went on around that notion,
4 that we wanted good maps and we were going to try to
5 prevent bad maps.

6 BY MR. JACOUTOT:

7 Q Okay. And that -- and you would agree with
8 me that that work all took place before the Georgia
9 2021 maps were signed into law; correct?

10 MS. LOVE: Objection to form.

11 You can answer.

12 THE WITNESS: Am I supposed to --

13 MS. LOVE: Unless I direct you not to answer,
14 you can answer.

15 THE WITNESS: Okay.

16 A lot of work went into prevention, it's
17 true, and then after the fact, trying to come up with a
18 way to achieve the objective of having fair maps where
19 certain voters are not mistreated.

20 MR. JACOUTOT: I'm not sure I understood that
21 response.

22 Could the court reporter read that back?

23 (Record read as requested.)

24 BY MR. JACOUTOT:

25 Q Now, Ms. Bolen, I want to focus on that

1 Q How did the League make this determination?

2 A We used our membership roster to look at --
3 first look at ZIP codes that were part of the three
4 disputed districts. And if ZIP codes were split, then
5 we had to go further to make sure the member's address
6 was indeed in the district.

7 Q And how many members did the League determine
8 were affected?

9 A We have members in every district. I don't
10 know the number because the membership does fluctuate
11 over time a little bit. So we have to almost go back
12 and do the process a second time to count.

13 Q Okay. So who is the member that -- member or
14 members that the League is representing for the
15 purposes of this action who has been impacted by the
16 2021 redistricting plans?

17 MS. LOVE: Objection. I'm going to direct
18 the witness not to answer and divulge any membership
19 identity information. That information is protected
20 for those individuals under their association rights to
21 the First Amendment. And we have discussed this in
22 prior discovery dispute in meet and confer.

23 So I'll direct you not to answer that one.

24 BY MR. JACOUTOT:

25 Q To be clear, I'm not asking for any sort of

1 membership list or anything like that.

2 But is the organization not prepared to
3 identify an individual -- any individual who has been
4 affected by the 2021 redistricting map?

5 MS. LOVE: Are you asking me? Or is that
6 question for Julie?

7 MR. JACOUTOT: That's a question for
8 Ms. Bolen.

9 MS. LOVE: Okay. I'll note my objection on
10 the record.

11 But you can answer, Julie.

12 THE WITNESS: Okay. Say it one more time to
13 make sure I've got it.

14 MR. JACOUTOT: I'll have the court reporter
15 read it back so it is exactly how I phrased it.

16 (Record read as requested.)

17 THE WITNESS: Okay. So you're asking me if
18 I'm prepared to identify an individual; however, I
19 can't identify an individual based on my attorney's
20 direction. So ...

21 BY MR. JACOUTOT:

22 Q That may be your response.

23 A Okay. And I may ask for a break here pretty
24 soon.

25 Q Sure.

EXHIBIT D

Georgia State Conference of The NAACP, et al. v. S

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE OF)
THE NAACP, et al.)
Plaintiffs,)

vs.) Case No. 1:21-CV-5338
) ELB-SCG-SDG

STATE OF GEORGIA, et al,)
Defendants.)

STATE OF GEORGIA, et al.,)
Plaintiffs,) Case No. 1:22-CV-00090
vs.) ELB-SCJ-SDG

BRAD RAFFENSPERGER,)
Defendant.)

Deposition of Moon Duchin, PhD
(Signature is reserved.)
February 27, 2023
1:07 p.m.

Remote via Zoom technology

Reported by: Carla J. Hopson, RPR, CCR-1816

1 Q And you use a couple of terms there in
2 quotes, packing and cracking. What do you do to
3 determine if a district is packed with blacks and
4 Latino voters, for example?

5 A So are you asking the definition that I
6 used or are you asking what I do to assess?

7 Q Well, that's a good point. Let's break
8 it into two sections. Let's start with the
9 definition and then kind of the assessment process.
10 So if you -- if you were to define the term packing,
11 how would you define that?

12 A Right. So I understand packing to mean
13 the overconcentration of a district with members of
14 a particular group beyond what is necessary for
15 their preferences to prevail.

16 Q And so in looking at the enacted plans
17 for Congressional, State Senate and State House in
18 Georgia, how did you go about then determining
19 whether particular districts were packed?

20 A I think that maybe the best indication
21 of that is to compare them to the alternative plans
22 that I furnished, which in my cases show that
23 opportunity can be present with far lower levels of
24 black and Latino demographic population.

25 Q So in your mind is there a numeric

1 threshold a particular minority group reaches to be
2 a packed district?

3 A No. And I'm on the record and quite a
4 few scholarly publications are going against the use
5 of bright-line numerical threshold.

6 Q And so then kind of the -- I guess the
7 converse is cracking. What is your definition of
8 cracking?

9 A So generally I understand cracking to be
10 a strategy of dispersal in which a group which could
11 have had influence or controlling impact on
12 electoral outcomes is instead spread out over
13 several districts in slightly suppressed numbers --
14 slightly or sometimes greatly suppressed numbers in
15 a way that diminishes or eliminates electoral
16 opportunity.

17 Q And I'm assuming like with packing
18 there's no numeric threshold involves in that. It's
19 an assessment you make of a district and the
20 surrounding population. Is that fair to say?

21 A Yes.

22 Q So moving to 1.2 you list the various
23 materials that you used in the preparation of your
24 report; correct?

25 A Correct.

1 regions which are very heavily black I found that I
2 was creating some district with very high black
3 percentage just as a matter of human geography but
4 that even though that was happening it did not
5 impede my ability to draw additional majority
6 districts. So that the Gingles threshold standard
7 is quite easily met in this part of the state.

8 Q And so then in your mind the 86.5
9 percent district on Alt 2 wouldn't be packed because
10 the Gingles threshold can be met in districts around
11 it?

12 A Well, the term packed is -- is not as we
13 saw before a matter of bright lines. It's
14 definitely true -- as I said, when I have two
15 different demonstration plans it's often that I'm
16 trying to illustrate a tradeoff.

17 And so here Alt 2 has fewer majority
18 districts than Alt 1 does but still more than the
19 state. And on the other hand, it's a bit more
20 compact, maybe even substantially more compact
21 depending on what you think counts as a substantial
22 difference.

23 So you're seeing tradeoffs here. And I
24 think it's the -- the stats that we see in Alt 1
25 where there are nine majority BVAP districts, ten

1 population displacement.

2 Is that the methodology you used to look
3 at racial gerrymandering consideration?

4 A So 10.1 looks at retention displacement
5 and so called disruption. 10.2 looks at splitting.
6 So those are the two major methods I propose. 10.3
7 looks at community narratives. So those are the
8 elements I have her in Section 10.

9 Q And so in terms of -- you titled this
10 section racial gerrymandering. I think as we talked
11 very specifically so far, you're not saying that
12 Congress, House and Senate plans are racial
13 gerrymanderers, right?

14 A I'm not sure that I'd know how to
15 designate something a racial gerrymander full stop.
16 Instead, I understand racial gerrymandering to be a
17 legal terms of art referring to constitutional
18 provisions that have been interpreted over the years
19 to tell us race shouldn't predominate. So an
20 equally apt title for this section could be the
21 predominance of race over other criteria.

22 Q And you conclude that races predominates
23 over other criteria as least as to retention
24 displacement, district disruption, splitting of
25 geographic units and community narratives; is that

1 shifts.

2 Q And how did you go about doing the --
3 garnering the information about, for example,
4 Senator, now Representative Au or Senator Islam?

5 A Let's see. So I think I -- one thing
6 that I had encountered is a list of who -- I'm
7 actually not sure how to pronounce it. Galeo or
8 Galeo had -- had endorsed in the elections. So I
9 got -- you know, I really used sort of every means
10 at my disposal to try to figure out who were the
11 candidates aligned with the grass roots organization
12 representing black and Latino voters.

13 So the -- this endorsement is a matter
14 of public record. Other than that, I mean, I'm sure
15 I looked at PDM many times to try to figure out what
16 I could about the reelection records. But I didn't
17 use any other non-publicly available resources.

18 Q And do you consider racially imbalanced
19 population transfers in and out of a district as
20 evidence of racial predominance in the consideration
21 of a district map?

22 A I would call it suggestive evidence, not
23 conclusive evidence, but suggestive evidence.

24 Q Do you think a racially imbalanced
25 population shift is suggestive of a racial goal of a

1 map drawer?

2 A Well, I would say consistent with. It
3 really depends. This the kind of assessment for
4 which you want to try to use many different kinds of
5 information together.

6 So there's no -- unlike, say, my
7 effectiveness determination, which I described at
8 length and which became just a yes or no, effective
9 or not effective label. There is no official label
10 in play here. It's -- it's just a matter of
11 assembling as much evidence as I can. That's how I
12 think about it.

13 Q And in this report you assembled as much
14 evidence as you could about the racial
15 considerations in the drawing of these maps; is that
16 right?

17 A I tried to be -- I tried to be
18 comprehensive. I mean, as you know, it's a big
19 state with a lot of districts, a lot of counties.
20 And so I'm sure if I had another few months I could
21 have maybe found some other quantitative approaches.

22 But this -- this reflects an effort to
23 be quite comprehensive in my analysis.

24 Q And so are you offering the opinion in
25 this section of your report that race predominated

1 in the creation of District 56, 48, and 17 -- and 7?
2 I'm sorry.

3 A You mean predominated over TDPs?

4 Q Yes.

5 A Am I offering that opinion? I don't
6 think there's a place where I say something like
7 that quite that way. But I do think I'm presenting
8 evidence that shows that decisions with a marked
9 racial character were made in ways that made
10 traditional principles worse.

11 And so, yes, I think it's reasonable to
12 conclude that race predominates -- that
13 race-inflected decision making predominated over
14 TDPs, yes.

15 Q And are you reaching that conclusion for
16 the Congressional Districts 14 and 6 as well?

17 A That racially-distinctive decisions
18 predominated over TDPs? Sure. I'm comfortable
19 saying that.

20 Q Even though you're making that statement
21 about Congressional District 6 and 14 and Senate 56,
22 48, 17, you still can't rule out a political goal
23 that just had a racial impact; right?

24 A But it's not just a political goal, the
25 racial impact. It's, as I've said a number of

1 times, it's a political goal achieved through racial
2 -- racially-distinctive decisions or the use of race
3 data or the operationalization of race.

4 So I would distinguish that somewhat
5 from mere unintended impacts. I see evidence of the
6 use of race to achieve partisan goals.

7 Q And part of the evidence of that is
8 noted in Appendix C of your report; right?

9 A I think Appendix C is included because
10 it supports that --

11 Well, it's not included because it
12 supports that. It's included because I've tried to
13 be as comprehensive as I can about all aspects of
14 the relevant data. But I do also think that it is
15 -- it fits with that general narrative and helps me
16 arrive at that conclusion.

17 Q If the examples you've given of racially
18 imbalanced population transfers also on Appendix C
19 showed politically imbalance population transfers,
20 you'd expect to see that, right?

21 A I'm sorry. Which part are you asking if
22 I would expect?

23 Q You would expect to see racial imbalance
24 -- racially imbalanced population transfers matching
25 with politically imbalanced population transfers;

1 precincts. Did you do --

2 A That's right.

3 Q -- this kind of analysis for any other
4 precincts on the Congressional plan?

5 A Yes, and that's -- that's what I
6 referenced just a little bit ago as being contained
7 in full in the backup material. So you can see the
8 complete record of which precincts are split and the
9 stats for the splits.

10 Note that as I referenced before, these
11 won't -- we won't be able to look at race versus
12 party in these precinct splits. It's really race
13 only because you cannot break down party preference
14 based on cast votes below the precinct level.

15 Q And just -- and I understand you have
16 that in the backup materials. But just so we're
17 clear, in the written portion of your report, your
18 expert reporter, you've only discussed seven
19 precinct splits in the Congressional plan; right?

20 A I think that's correct. Let me just
21 tour through the section.

22 Yes, just these seven.

23 Q Okay. And do you know if Marietta 5A,
24 Marietta 6A, and Sewill Mill 03 are contiguous
25 precincts or have noncontiguous portions?

1 A Well, let's see. CD 6 and 11. I don't
2 -- let's see. They might be contained in the
3 figures in Appendix C.

4 Let me take a quick look. But
5 otherwise, from memory I wouldn't be able to say. I
6 don't think those are in the figures. So I can't
7 say from memory.

8 Q Okay. I didn't see them either, so
9 that's -- that's --

10 A Okay. We agree.

11 Q And in Table 42 you use kind of the same
12 language we just said. There's a showing of
13 significant racial disparity consistent with an
14 effort to diminish the electoral effectiveness of CD
15 6 for black voters.

16 You're not saying that was the effort.
17 You're just saying the evidence is consistent with
18 that kind of effort, right?

19 A That's right. I've made an effort to be
20 disciplined about the language.

21 Q When you reviewed -- the next page over
22 there's kind of a District CD 4 and 10 precinct
23 split with the boundaries.

24 A Yes.

25 Q Did you look to see if there were other

1 for taking seriously all that testimony. So as you
2 said a moment ago, many opportunities were provided.
3 But I don't see any indication that it was used to
4 inform the choices that were made.

5 Now, again, that doesn't mean I can be
6 certain that it wasn't used. But there's no public
7 record of how it was used. If there had been, I
8 would have been happy to follow the method.

9 Q And in looking at this section of your
10 report, are you offering any opinions about the
11 public comment or is it just kind of you -- you
12 created this keyword summary of it and pointed out
13 various things that people said from different
14 areas?

15 A So I did -- I did some keyword
16 searching, but I also attempted to read it through
17 in full. I mean, and there's so much of it that I
18 think you could probably better call that an overall
19 skim and then a keyword search.

20 But your question is am I characterizing
21 that testimony beyond what's presented here?

22 Q Right. Well, my -- the question is --
23 I'm sorry. My question is for this section, Section
24 10.3, the only opinion I saw in this section was
25 that the changes to CD 6 and CD 14 lack

1 justification by community of interest reasoning.
2 Is that correct that that's the only opinion in this
3 section?

4 A That's the only opinion as such. But
5 there are other useful, I think, pieces of
6 information in this section about the kind of
7 character of different parts of the state,
8 particularly CD 14 and the states northwest had
9 quite a volumen of strong testimony about what it
10 was like and who lives there.

11 You know, I would say that a great deal
12 of the public testimony was sort of expressing
13 support or lack of support for certain decisions.
14 What I tried to do in this Section 10.3 was to
15 extract community of interest testimony, which is to
16 say what do particular neighborhoods, regions or
17 areas have in common that's salient to redistricting
18 decisions.

19 There were a lot of other preferences
20 expressed that I didn't attempt to summarize.

21 Q I know we've been in this report for a
22 little while, but are there other opinions that you
23 offer in this report that we haven't discussed or
24 that are not -- well, let me ask it this way.

25 First of all, are there other opinions

1 districts with a 55 percent Trump advantage rather
2 than just a 50 percent would influence the findings.
3 And I found that the findings were robust -- robust
4 to these different upstream choices.

5 So I have a pretty high confidence that
6 the selection of the Trump election doesn't distort
7 the findings here.

8 Q And so your selection in 2.1, you're
9 working through the experiment on partisan
10 advantage, and you say, "I can ask whether plans
11 selected for partisanship but with no race data tend
12 to have the same hallmarks of racial sorting that I
13 find in the enacted plans."

14 And this is not an analysis that you
15 conducted for your January 13th report. Why is
16 that?

17 A Well, at the time of the January 13th
18 report I was not aware that the parties responsible
19 for creating the state's plan were acknowledging
20 partisanship as an open pursuit. I became aware of
21 that when I read the deposition transcript. And
22 that suggested a study like this.

23 Q Can you walk me through what Figure 4
24 shows based on the experiment that you conducted for
25 House, Senate, and Congressional.

1 A Yes, I'll note that Figure 4 should be
2 thought of as just setting the table for the
3 findings which occur in Figures 5 and onward. So
4 just as a preliminary matter, what Figure 4 shows is
5 that these chain runs succeed in producing maps that
6 are at least as Trump favoring while being
7 respectful to traditional principles.

8 In this case I've just chosen
9 compactness to single out. But as I said, I
10 confirmed from these kinds of chain runs that
11 they're also comparable to or sometimes better than
12 the enacted plan on the other TDPs that have metrics
13 associated to them. I've just chosen compactness
14 here as an example.

15 So that's what you see in these figures.
16 You see the number of Trump-favoring districts.
17 Again, that yellow or amber dot represents the
18 enacted plan. And what you're seeing is a cloud of
19 data points that shows you the kind of tendencies
20 encountered along this run.

21 And you can see that it's -- these chain
22 runs are finding more Trump-favoring districts,
23 especially at the House level, while finding
24 comparable or usually better compactness.

25 Q And so then the number of blue dots that

1 the districts either.

2 Q And for these different pieces, did
3 you -- do you -- did you analyze any racial data or
4 did you just instruct the steps not to consider that
5 in terms of the development of a plan?

6 A As far as I'm aware, there are no --
7 well, at least no publicly released ensemble
8 techniques. They use race to propose a change to a
9 plan. I've just never seen that.

10 Instead what you might see is what I
11 described here, which is making a random proposal of
12 change and then flipping a coin to decide whether to
13 accept that change. Sometimes that's done in a way
14 that take a look at racial demographics.

15 But here in the first experiment where I
16 was looking for more majority black districts it was
17 that coin flip that takes the number of majority
18 black districts into account.

19 But in the second part where we're
20 leaking at partisanship, no race data was used at
21 all at any stage, proposal or acceptance.

22 Q So we don't know for sure what the
23 number of majority BVAP districts, majority BHVAP
24 districts are on any of the steps. So we just don't
25 know the -- what that is, right?

1 A That's right. We don't know that,
2 although I handed over enough materials to go back
3 and compute if one would like.

4 Q Well, and I guess what I'm really trying
5 to ask is that in terms of districting plan that
6 provide effective districts, there's no interaction
7 here between effective districts, partisan goals,
8 race. This is solely looking at the question of
9 Trump favoring districts and compactness; is that
10 right?

11 A Well, that's what you see in Figure 4.
12 But, you know, again, it plays sort of a table
13 setting role. All I'm showing here is I designed
14 the experiment to get at least as many Trump
15 favoring districts while still being compact and
16 respecting counties.

17 And this confirms, at least, that I
18 achieved more Trump-favoring districts and good
19 compactness. I could have shown you the same plot
20 for other features, but I did check that it was
21 doing a good job with the other TDPs as well.

22 Q Okay. So let's move beyond the table
23 setting to the food on Figure 5 and the other
24 analysis. So can you walk me through -- next you're
25 looking at whether the enacted plan is unusual in

EXHIBIT E

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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

GEORGIA STATE CONFERENCE
OF THE NAACP; GEORGIA
COALITION FOR THE PEOPLE'S
AGENDA, INC.; GALEO LATINO
COMMUNITY DEVELOPMENT FUND,
INC.,

CIVIL ACTION NO.

Plaintiffs,

1:21-CV-5338-ELB-
SCJ-SDG

vs.

STATE OF GEORGIA; BRIAN
KEMP, in his official
capacity as the Governor
of the State of Georgia;
BRAD RAFFENSPERGER, in his
official capacity as the
Secretary of State of
Georgia,

Defendants.

VIDEOTAPED DEPOSITION OF ROBERT (ROB) STRANGIA
APPEARING REMOTE FROM
ATLANTA, GEORGIA
FEBRUARY 24, 2023
11:01 A.M. EASTERN

Reported Remotely By:
Judith L. Leitz Moran,
RPR, RSA, CCR-B-2312
APPEARING REMOTELY

1 Gina Wright and Brian Knight titled Job
2 Responsibilities, right?

3 A Yes.

4 Q And you sent that on Wednesday,
5 April 28th, 2021?

6 A Yes.

7 Q And do you see the middle paragraph here
8 that states "My GIS" -- starts with "My GIS
9 Database Administration"?

10 A Yes.

11 Q You see the sentence -- you say: "much of
12 this, especially the building and merging of our
13 Election Database with Census Data, would be
14 extremely difficult to teach to anyone."

15 Do you see that?

16 A Yes.

17 Q When you say the building and merging of
18 our election database with census data, what --
19 what do you mean by that?

20 A So we get election data from the
21 Secretary of State at the precinct level or for
22 precinct layer of geography. So we're consistent
23 here.

24 And it -- what's called -- through
25 Maptitude can allocate election and registration

1 data to blocks based on the voting age population
2 of those blocks.

3 So it's an estimate, it's not -- it's --
4 you know, it's not -- you know, it's not true data,
5 it's just -- it's just an estimate.

6 Q So -- so how does -- how does -- how does
7 the allocation work?

8 A Okay. So you have the precinct, which is
9 not a census unit of geography, but you can only
10 build legislative districts by using census
11 geography.

12 And the -- keep in mind that election
13 results are captured by precinct level. So a
14 precinct can have -- you know, you can have a dozen
15 blocks in it.

16 Q Uh-huh.

17 A So with the blocks you would have no way
18 of knowing, any of those blocks, you would have no
19 way of knowing the registration data or election
20 results for any of those blocks in there because
21 the data was not collected at those.

22 So at the process in Maptitude and I
23 think it might have been referring to with formula,
24 it's more of a process.

25 But when it's allocated through Maptitude