

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

DYAMONE WHITE; DERRICK SIMMONS;  
TY PINKINS; CONSTANCE OLIVIA  
SLAUGHTER HARVEY-BURWELL,

*Plaintiffs,*

vs.

STATE BOARD OF ELECTION  
COMMISSIONERS; TATE REEVES *in his  
official capacity as Governor of Mississippi;*  
LYNN FITCH *in her official capacity as  
Attorney General of Mississippi;* MICHAEL  
WATSON *in his official capacity as  
Secretary of State of Mississippi.*

*Defendants.*

**4:22-cv-00062-MPM-JMV**

**PLAINTIFFS' REPLY MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION TO  
PARTIALLY EXCLUDE DR. DAVID A. SWANSON AS AN EXPERT**

**TABLE OF CONTENTS**

	<b><u>Page</u></b>
PRELIMINARY STATEMENT .....	1
ARGUMENT .....	3
I. DAUBERT APPLIES IN THE BENCH-TRIAL CONTEXT.....	3
II. THE COURT SHOULD GRANT PLAINTIFFS’ DAUBERT MOTION.....	5
A. Defendants Confuse Daubert Requirements with Merits Considerations .....	5
B. Dr. Swanson is Not an Expert in Electoral-Map Drawing.....	7
C. Dr. Swanson is Not an Expert in EI Analysis.....	9
D. Dr. Christopher Bonneau’s Experience with EI is Irrelevant .....	12
CONCLUSION.....	15

## TABLE OF AUTHORITIES

	<u>Page(s)</u>
<b>Cases</b>	
<i>Allen v. Milligan</i> , 599 U.S. 1 (2023).....	1, 7, 9
<i>Alpha Phi Alpha Fraternity v. Raffensberger</i> , 1:21-CV-05337, 2023 WL 7037537 (N.D. Ga. Oct. 26, 2023) .....	7, 8
<i>Atl. Specialty Ins. Co. v. Porter Inc.</i> , 742 F. App'x 850 (5th Cir. 2018) .....	3
<i>Atl. Specialty Ins. Co. v. Porter Inc.</i> , Civ. Act. No. 15-570, 2016 WL 6569346 (E.D. La. Nov. 4, 2016) .....	3
<i>Bridgelux, Inc. v. Cree, Inc.</i> , Civ. Act. No. 9:06-cv-240, 2008 WL 5549448 (E.D. Tex. Aug. 20, 2008) .....	3
<i>Bryant v. 3M Co.</i> , 78 F. Supp. 3d 626 (S.D. Miss. 2015).....	10
<i>Giusto v. Int'l Paper Comp.</i> , 571 F. Supp. 3d 1346 (N.D. Ga. 2021) .....	8
<i>Goforth v. Paris</i> , No. CIVA 5:02-cv-94, 2007 WL 988733 (M.D. Ga. Mar. 30, 2007).....	8
<i>Gonzalez v. Harris Cnty., Tex.</i> , 601 F. App'x 255 (5th Cir. 2015) .....	15
<i>Grand Isle Shipyards, Inc. v. Black Elk Offshore Operations, LLC</i> , Civ. Act. No. 15-129, 2021 WL 533706 (E.D. La. Feb. 12, 2021) .....	3, 4
<i>GWTP Invs., L.P. v. SES Americom, Inc.</i> , No. 3:04-CV-1383-L, 2007 WL 7630459 (N.D. Tex. Aug. 3, 2007).....	6
<i>Hall v. La.</i> , 108 F. Supp. 3d 419 (M.D. La. 2015).....	15
<i>Hinds Cnty. Republican Party v. Hinds Cnty., Miss.</i> , 432 F. Supp. 3d 684 (S.D. Miss. 2020).....	14
<i>In re Taxotere (Docetaxel) Products Liability Lit.</i> , MDL No. 16-2740, 2019 WL 3997122 (E.D. La. Aug. 23, 2019) .....	8
<i>Kumar v. Frisco Indep. Sch. Dist.</i> , 476 F. Supp. 3d 439 (E.D. Tex. 2020).....	15
<i>Marcel v. Placid Oil Co.</i> , 11 F.3d 563 (5th Cir. 1994) .....	6
<i>Perez v. Bruister</i> , Civ. Act. No. 3:13-cv-1001, 2014 WL 3729176 (S.D. Miss. July 25, 2014) .....	4
<i>Petteway v. Galveston Cnty.</i> , No. 3:22-cv-57, 2023 WL 6786025 (S.D. Tex. Oct. 13, 2023) .....	7
<i>Pipitone v. Biomatrix, Inc.</i> , 288 F.3d 239 (5th Cir. 2002) .....	5, 7

*Ray v. City of Columbus*,  
 No. 1:09CV213-SA-DAS, 2011 WL 3629225 (N.D. Miss. Aug. 17,  
 2011) ..... 13

*Rodriguez v. Harris Cnty., Tex.*,  
 964 F. Supp. 2d 686 (S.D. Tex. 2013) ..... 15

*Shu-Hui Wu v. Miss. State Univ.*,  
 626 F. App'x 535 (5th Cir. 2015) ..... 10

*Singleton v. Merrill*,  
 582 F. Supp. 3d 924 (N.D. Ala. 2022) ..... 7, 9

*Taylor v. Detroit Diesel Realty, Inc.*,  
 No. 3:12-CV-506, 2014 WL 2013348 (S.D. Miss. May 16, 2014) ..... 10

*Theoharris v. Rongen*,  
 No. C13-1345RAJ, 2014 WL 3563386 (W.D. Wash. July 18, 2014) ..... 13

*Thornburg v. Gingles*,  
 478 U.S. 30 (1986) ..... 7

*UGI Sunbury LLC v. A Permanent Easement for 1.7575 Acres*,  
 949 F.3d 825 (3d Cir. 2020) ..... 3

*United States v. Ebron*,  
 683 F.3d 105 (5th Cir. 2012) ..... 10

*United States v. Haines*,  
 803 F.3d 713 (5th Cir. 2015) ..... 12

*United States v. McKesson Corp.*,  
 2:08-cv-214, 2012 WL 12930902 (N.D. Miss. Feb. 14, 2012) ..... 5

*Vogler v. Blackmore*,  
 352 F.3d 150 (5th Cir. 2003) ..... 9

*Wu v. Miss. State Univ.*,  
 No. 1:13-CV-00002-DMB, 2014 WL 5799972 (N.D. Miss. Nov. 7,  
 2014) ..... 10

**Rules**

Fed. R. Civ. P. 26(a)(2)(D)(ii) ..... 13

Fed. R. Evid. 701 ..... 12

Fed. R. Evid. 702 ..... 14

**Other Authorities**

29 Charles Alan Wright, Arthur R. Miller, & Victor James Gold, Federal  
 Practice and Procedure § 6265 (1st ed. 2014) ..... 10

Advisory Note to Fed. R. Evid. 702 ..... 9

Plaintiffs file this Reply Memorandum in Support of their Motion to Partially Exclude Dr. David A. Swanson as an Expert. ECF No. 164 (“Motion”). For the reasons stated herein, as well as those set forth in Plaintiffs’ Memorandum of Law in Support of their Motion (ECF No. 165), the Court should grant Plaintiffs’ requested relief and exclude Dr. Swanson from offering opinion testimony on topics about which he is concededly unqualified as an expert.

### **PRELIMINARY STATEMENT**

Defendants admit that Dr. Swanson is not an expert in electoral map-drawing. They concede that Dr. Swanson is not an expert in Ecological Inference (“EI”) analysis. And they cannot explain why he should be allowed to offer expert opinion testimony at trial on those subjects despite this conceded inability to meet the standard set forth in Rule 702.

Defendants do not dispute Dr. Swanson’s lack of expertise on the subject of electoral map-drawing, but argue he should be able to opine on it anyway because, in essence, there is “no such thing as an expert on electoral-map-drawing.” ECF No. 169 (“Opposition”) at 11. That is inconsistent with the basic nature of the *Gingles* inquiry as just reaffirmed by the Supreme Court, in which Plaintiffs establish the first *Gingles* precondition through the testimony of an expert map-drawer qualified by their experience and/or training, who proffers an illustrative electoral map and explains why it is consistent with traditional districting principles. *See, e.g., Allen v. Milligan*, 599 U.S. 1, 18–20, 31–33 (2023). Plaintiffs have put forth electoral-map drawing expert William Cooper, who has provided the Court with *four* maps—two illustrative and two “least change” maps—that satisfy *Gingles* 1 by adding a Black-majority Supreme Court district that comports with traditional districting principles. ECF No. 164-4, Cooper Expert Report, Ex. D. at 26–31,

32–35.<sup>1</sup> A defense witness who seeks to opine on Mr. Cooper’s *Gingles* illustrative plans or contest their consistency with traditional districting principles would need to have the experience, skills, or training to do so, which Dr. Swanson concededly does not.

With respect to King’s Electoral Inference (“EI”) analysis, Dr. Swanson’s admitted lack of expertise precludes him from testifying on the subject as an expert under Rule 702. Defendants similarly claim that no expertise is needed because “anyone” can make the same observations as Dr. Swanson. But even if it were true that “anyone” could offer an assessment of EI analysis of voting data, that would only mean that Dr. Swanson’s testimony would be unnecessary and entirely unhelpful to the Court. In any case, Dr. Swanson’s putative testimony, as set out in his report and his deposition, includes not just observations but also critiques that he is admittedly unqualified to give (and that indeed stem from his lack of understanding of the EI technique). Nor can Dr. Swanson’s improper testimony regarding EI analysis be salvaged by reference to Dr. Bonneau, another one of Defendants’ experts. Dr. Swanson remains unqualified to opine on the subject regardless of Dr. Bonneau’s qualifications or the purported scope of his testimony.

Having conceded Dr. Swanson’s lack of qualifications under Rule 702, Defendants instead argue that Dr. Swanson should be able to opine on subjects where he is not an expert anyway because this is a bench trial, where “as a matter of law, *Daubert* is not implicated.” Opp. at 5–6. But Rule 702, and the Court’s gatekeeping function under it, do not disappear in a bench trial. And while the standard for the admission of expert testimony is undoubtedly more relaxed in the bench-trial context, courts can and do grant *Daubert* motions in that context where the expert lacks the necessary qualifications. Dr. Swanson exemplifies why *Daubert* plays a role even in the bench

---

<sup>1</sup> Unless otherwise stated, citations to exhibits herein refer to Exhibits A–I (ECF No. 164-1–164-9) appended to Plaintiffs’ Motion (ECF No. 164).

trial context: Allowing him to offer opinion testimony on multiple topics for which he concededly lacks sufficient expertise to qualify under the Rules, subject to various mini-*Daubert* disputes in open court during trial, would waste the time and resources of the Court and the parties and promote confusion in the record.

In sum, Plaintiffs' Motion and memorandum in support, as well as the concessions made by Defendants in their Opposition, make clear that the Court should grant Plaintiffs' Motion and partially exclude Dr. Swanson as an expert.

### **ARGUMENT**

#### **I. DAUBERT APPLIES IN THE BENCH-TRIAL CONTEXT**

The essential premise of Defendants' Opposition is that "*Daubert* is not implicated in a bench trial." Opp. at 1, 4–5. It is therefore Defendants' position that Dr. Swanson should be permitted to take the stand and testify on any matter that he pleases, only for the Court to *later* address any evidentiary objections to his testimony. According to Defendants, proceeding in this manner would promote judicial efficiency. *Id.* at 4–7. Defendants are wrong on all accounts. Courts routinely consider and grant *Daubert* motions in bench trials. *See, e.g., Bridgelux, Inc. v. Cree, Inc.*, Civ. Act. No. 9:06-cv-240, 2008 WL 5549448, at \*3 (E.D. Tex. Aug. 20, 2008) (granting partial exclusion of expert under *Daubert*); *Atl. Specialty Ins. Co. v. Porter Inc.*, Civ. Act. No. 15-570, 2016 WL 6569346, at \*6–\*7 (E.D. La. Nov. 4, 2016) (excluding expert testimony) *aff'd* 742 F. App'x 850 (5th Cir. 2018); *Grand Isle Shipyards, Inc. v. Black Elk Offshore Operations, LLC*, Civ. Act. No. 15-129, 2021 WL 533706, at \*3 (E.D. La. Feb. 12, 2021) (granting motion to exclude testimony) (quoting *UGI Sunbury LLC v. A Permanent Easement for 1.7575 Acres*, 949 F.3d 825, 833 (3d Cir. 2020)).

To be sure, the Court's gatekeeping function under *Daubert* is somewhat more relaxed in the bench-trial context. *See Perez v. Bruister*, Civ. Act. No. 3:13-cv-1001, 2014 WL 3729176, at

\*1 (S.D. Miss. July 25, 2014). But there is a world of difference between relaxed and non-existent. Even in a bench trial, “a court may not ‘sidestep[ ] Rule 702 altogether and decline[ ] to perform any assessment of [expert] testimony before trial.’” *Grand Isle Shipyards*, 2021 WL 533706, at \*3.

Applying *Daubert* in the bench-trial context is not only consistent with the law and the Federal Rules (which require that expert testimony be premised on relevant skill, expertise, training or education, (*see* Rule 702)), but it also makes sense. Contrary to Defendants’ unsupported assertions (Opp. at 4-7), it would not enhance “judicial efficiency” for Dr. Swanson to take the stand, attempt to testify (potentially at length) on multiple areas where he concededly lacks any relevant experience or skill, and then deal with ensuing mess live, on a piecemeal basis, in the courtroom. That is a recipe for wasting hours of trial time that could be saved at the front-end through the exercise of the Court’s proper gatekeeping role. By contrast, Plaintiffs have presented ample documentation of Dr. Swanson’s lack of qualifications on certain topics which the Court is best poised to review now in order to streamline the presentation of evidence and avoid confusion at trial.

Defendants’ suggestion that Dr. Swanson’s trial testimony will be narrower than his deposition testimony is irrelevant. Opp. at 7 (stating Dr. Swanson will respond to “far fewer questions likely to be asked at trial” compared to his deposition). The point of Plaintiffs’ broad questioning of Dr. Swanson on his qualifications during his deposition was to assess the admissibility of his testimony on the various topics over which he has claimed expertise. *See, e.g.*, ECF No. 164-1, Swanson Deposition, Ex. A at 14–15, 17:13–25, 19:8–9, 52:18–21, 165:2–3, 107:16–23, 117–118. The issue now is whether Dr. Swanson’s deposition testimony confirms that he lacks sufficient qualifications under Rule 702 to offer *any* testimony on electoral map-making and EI analysis.



Further, regardless of his deposition testimony, the Court will presumably have to reckon with Dr. Swanson's expert report (assuming Defendants seek to admit it at trial). Indeed, Dr. Swanson's report includes opinions on a litany of topics pertaining to electoral map-making that fall within the exclusive purview of a qualified expert. *See, e.g.*, ECF No. 164-2, Swanson Expert Report, Ex. B at 29–37 (supposed core retention analysis); 37–46 (supposed compactness analysis). Limiting the scope of Dr. Swanson's direct examination to those topics about which he is qualified to opine does not mean Defendants may sneak in other inadmissible and improper opinion evidence in his written reports.

Granting Plaintiffs' motion would ensure an efficient and fair presentation of the evidence at trial. Defendants' suggested alternative course of dealing with Dr. Swanson's plainly inadmissible expert opinions piecemeal and on the fly will not.

## **II. THE COURT SHOULD GRANT PLAINTIFFS' *DAUBERT* MOTION**

### **A. Defendants Confuse *Daubert* Requirements with Merits Considerations**

Defendants again mischaracterize the purpose of the *Daubert* inquiry when they argue that Plaintiffs have failed to challenge the accuracy of Dr. Swanson's opinions. Opp. at 8–9. Rule 702 (and, by extension, *Daubert*) is not meant to exclude factually incorrect testimony, though that is certainly a likely outcome of the rigorous application of Rule 702's qualification requirements. At bottom, Rule 702 is meant to ensure the reliability of opinion testimony proffered by purported experts by reference to their qualifications. Accordingly, a *Daubert* motion need not attack the accuracy of the unqualified witness opinions to merit the exclusion (or partial exclusion) of the challenged opinions. *See Pipitone v. Biomatrix, Inc.*, 288 F.3d 239, 250 (5th Cir. 2002). As this Court held in *United States v. McKesson Corp.*, “*Daubert* analysis applies to the process of the expert's conclusions, not the merits of the conclusions themselves.” 2:08-cv-214, 2012 WL 12930902, at \*1 (N.D. Miss. Feb. 14, 2012). Defendants' assertions (Opp. at 8, 10) that Plaintiffs

have failed to challenge the accuracy of certain of Dr. Swanson’s opinions is thus irrelevant. It is Dr. Swanson’s lack of qualifications under Rule 702 to offer those opinions that is the issue.

And in any case, Plaintiffs *do* challenge the accuracy and relevance of Dr. Swanson’s analysis. With respect to Dr. Swanson’s compactness and core retention analyses, Plaintiffs have demonstrated that Dr. Swanson outsourced these calculations to an unreliable and discredited third-party, Bryan GeoDemographics (“BGD”). ECF No. 165 at 18–19; *see Marcel v. Placid Oil Co.*, 11 F.3d 563, 567–68 (5th Cir. 1994) (excluding unreliable study that expert witness purported to rely on). Notably, Defendants do nothing to refute the point that courts have routinely found BGD not credible. Apparently seeking to minimize the role of BGD in Dr. Swanson’s analysis, Defendants contend that BGD merely served as an “assistant” to Dr. Swanson. Opp. at 11. But Dr. Swanson did not simply “delegate[] [] some computational work” to BGD (*id.*)—he concededly wholly outsourced all of the relevant calculations in his compactness analysis of Cooper’s illustrative maps to BGD. Swanson Expert Report, Ex. B at 8; Swanson Deposition, Ex. A at 43:10–18; *cf. GWTP Invs., L.P. v. SES Americom, Inc.*, No. 3:04-CV-1383-L, 2007 WL 7630459, at \*10 (N.D. Tex. Aug. 3, 2007) (explaining that expert testimony should be excluded where the expert “relies wholeheartedly on the opinion of another person in forming his opinions”).

And with respect to Dr. Swanson’s *sui generis* “diversity” analysis, Plaintiffs need not challenge the accuracy of his work on this topic because it is *irrelevant* to the *Gingles* analysis. ECF No. 165 at 19. Indeed, Dr. Swanson ultimately agreed with Plaintiffs that “diversity” is not a traditional districting principle in Mississippi, and that he had no idea if such analysis had been previously applied to evaluating electoral maps. Swanson Deposition, Ex. A at 161:21–163:4, 164:21–165:3. Even if Dr. Swanson were qualified to provide a “diversity” analysis, expert testimony that is irrelevant is unhelpful to the factfinder and must be excluded under *Daubert*.

*Pipitone*, 288 F.3d at 245 (“[E]xpert testimony is admissible under *Daubert* only if it is both relevant and reliable.”).

**B. Dr. Swanson is Not an Expert in Electoral-Map Drawing**

Defendants do not contest Dr. Swanson’s lack of relevant experience, skills, or training in electoral map-drawing. ECF No. 165 at 18–19. Instead, they argue that a witness need not be an expert in electoral map-making to offer expert opinion testimony on the topic because there is “no such thing as an expert on electoral-map-drawing.” Opp. at 11; *see id.* at 10–13.

That assertion is inconsistent with the law and with the uniform practice in Section 2 vote dilution cases, which require at the first stage of the *Gingles* analysis that Plaintiffs put forth an expert to demonstrate, via the creation of illustrative maps, that the minority group be “sufficiently large and [geographically] compact to constitute a majority in a reasonably configured district.” *See Allen*, 599 U.S. at 18 (internal quotation marks omitted) (citing *Thornburg v. Gingles*, 478 U.S. 30, 46–51 (1986)). The *Gingles* 1 experts then analyze the maps according to “traditional districting criteria, such as being contiguous and reasonably compact.” *See id.* Thus, Defendants’ assertion that there is “no such thing as an expert on electoral-map-drawing” beggars belief. Opp. at 11–12. *Gingles* 1 requires courts to consider the testimony of expert electoral map-drawers, and courts routinely do just that. *See, e.g., Singleton v. Merrill*, 582 F. Supp. 3d 924, 937 (N.D. Ala. 2022); *Alpha Phi Alpha Fraternity v. Raffensberger*, 1:21-CV-05337, 2023 WL 7037537 (N.D. Ga. Oct. 26, 2023) (referring to Cooper and the defendants’ expert as “mapping experts”); *Petteway v. Galveston Cnty.*, No. 3:22-cv-57, 2023 WL 6786025, at \*7 (S.D. Tex. Oct. 13, 2023) (recognizing the plaintiffs’ expert as an “expert on map-drawing”).

In this case, to meet their *Gingles* 1 burden, Plaintiffs have offered Mr. Cooper, a widely-recognized expert in electoral map-drawing. Cooper Expert Report, Ex. D. *See also Allen*, 599 U.S. at 31–33. Mr. Cooper has in turn provided the Court with two illustrative maps and two “least

change” maps demonstrating that a Black-majority Supreme Court district can be drawn in Mississippi consistent with traditional districting principles. Cooper Expert Report, Ex. D at 26–31, 32–35. Defendants could have sought to offer an individual qualified by virtue of their electoral map-drawing experience and skill to opine on Mr. Cooper’s analyses and his illustrative plans. *Cf. Alpha Phi Alpha*, 2023 WL 7037537, at \*18–\*20 (assigning less weight to the defendants’ rebuttal expert based on recurring credibility issues with his testimony). Instead, Defendants insist that their demographics expert, Dr. Swanson, should be able to opine on Mr. Cooper’s maps despite their concession that he is *not* an expert on electoral-map drawing and knows nothing about how electoral maps are drawn or analyzed. *See Opp.* at 11–13. Just because an expert is qualified to testify on *one* topic does not mean that he can testify on *any* topic. *See e.g., Giusto v. Int’l Paper Comp.*, 571 F. Supp. 3d 1346, 1362 (N.D. Ga. 2021) (“a witness qualified as an expert in one subject may not offer expert testimony on another subject in which the witness is not qualified”) (quoting *Goforth v. Paris*, No. CIVA 5:02-cv-94, 2007 WL 988733, at \*3 (M.D. Ga. Mar. 30, 2007)); *In re Taxotere (Docetaxel) Products Liability Lit.*, MDL No. 16-2740, 2019 WL 3997122, at \*1–\*2 (E.D. La. Aug. 23, 2019).

To little effect, Defendants contend that “legislators” and “judges,” rather than experts, are the ones responsible for drawing electoral districts. *Opp.* at 11–12. True, legislators often draw electoral maps, but they do so with the benefit of experienced and skilled staffers. For instance, the Mississippi legislators rely on the Legislative Committee of Performance Evaluating and Expenditure Review (“PEER”) and the Standing Joint Legislative Committee on Reapportionment & Redistricting (“SJLCRR”). *See Booth Deposition*, Ex. J at 37:1-6; 39:8-14; 61:5-63:18. As for judges, they do not personally “draw” electoral maps; rather, as discussed above, they rely on analyses and illustrative maps provided by experts—and at the remedial phase, they typically

employ special masters. *See Allen*, 599 U.S. at 20–23 (affirming district court’s rejection of map adopted by legislature in light of illustrative maps provided by the plaintiffs’ experts including Mr. Cooper); *Singleton*, 582 F. Supp. 3d at 937 (explaining that the *court will retain* an “eminently qualified expert to draw... a map that complies with the federal law for use in Alabama’s 2022 congressional elections”). And in any event, what legislators and courts do is not the issue. For purposes of meeting *Gingles* 1, the question is whether Plaintiffs’ illustrative plans comport with traditional districting principles. Only an expert can offer an opinion on that question.

Because Dr. Swanson is concededly not an expert in electoral map-drawing, he should not be permitted to offer expert opinion and analysis testimony on this topic at trial.

**C. Dr. Swanson is Not an Expert in EI Analysis**

Defendants also admit that Dr. Swanson is not an expert on ecological inference analysis. Opp. at 3 (“Dr. Swanson is not offered as an expert on King’s Ecological Inference analysis (‘King’s EI’).”); *see* ECF No. 165 at 16-17. They instead claim that Dr. Swanson’s testimony with respect to EI—a complex form of Bayesian statistical inference analysis—does not require any special expertise, because “anyone” can point out the purported flaws in Dr. Burch’s analysis. Opp. at 14; *see id.* at 2.

But Defendants do not and cannot support the contention that *any* person could understand EI methodology or could replicate an EI analysis or review and meaningfully understand a dataset on which EI was based. *See Vogler v. Blackmore*, 352 F.3d 150, 156 n.5 (5th Cir. 2003) (explaining that the best test for “determining when experts may be used” is “the common sense inquiry [into] whether the untrained layman” would be able to make the same assessment without “a specialized understanding of the subject.” (quoting Advisory Note to Fed. R. Evid. 702)). Rather, their argument appears to be that Dr. Swanson is a dilettante—that, by dint of his general background as a social scientist and his passing familiarity with EI as a concept, he is capable of

articulating some criticisms of Dr. Burch's EI analysis even without relevant experience with EI or an understanding of EI as a method. But even where a witness has some special knowledge or experience, the witness's area of expertise must "match[] the subject matter of the witness's testimony" in order for the testimony to be proper under Rule 702. *Bryant v. 3M Co.*, 78 F. Supp. 3d 626, 632 (S.D. Miss. 2015) (quoting 29 Charles Alan Wright, Arthur R. Miller, & Victor James Gold, Federal Practice and Procedure § 6265 (1st ed. 2014)). Testimony that does not rest on relevant expertise "does not qualify as an appropriate expert opinion." *Taylor v. Detroit Diesel Realty, Inc.*, No. 3:12-CV-506, 2014 WL 2013348, at \*3 (S.D. Miss. May 16, 2014). It is well-established that "an expert opinion will not help [the factfinder] if it is offered on an issue for which a witness's scientific, technical, or other specialized knowledge is not needed." *Wu v. Miss. State Univ.*, No. 1:13-CV-00002-DMB, 2014 WL 5799972, at \*12 (N.D. Miss. Nov. 7, 2014), *aff'd sub nom. Shu-Hui Wu v. Miss. State Univ.*, 626 F. App'x 535 (5th Cir. 2015).

An examination of Dr. Swanson's oversimplistic opinion confirms that his testimony would not be helpful to the Court. First, Dr. Swanson observes that Dr. Burch's code utilized an incorrect list of counties, by including Adams County instead of Bolivar County. ECF No. 164-3, Swanson Surrebuttal Report, Ex. C at 2; 168 at 2. Plaintiffs agree with Defendants that Dr. Swanson's observation requires no special expertise. Like Dr. Swanson, this Court can just as easily read Dr. Burch's code to see if it in fact included Adams County instead of Bolivar County. *See, e.g., United States v. Ebron*, 683 F.3d 105, 137 (5th Cir. 2012) (holding that testimony identifying individuals captured in surveillance footage does not constitute expert opinion); *Wu*, 2014 WL 5799972, at \*12 (holding that factfinder can independently determine whether an individual's speech is intelligible, without need for expert testimony). Notably, as Plaintiffs' Motion explained, Dr. Swanson did not attempt to replicate Dr. Burch's results using the correct

list of counties—presumably because he has no experience using King’s EI—and had he done so, he would have realized that the results contained in Dr. Burch’s report are accurate, notwithstanding the error in the code initially shared with Dr. Swanson.<sup>2</sup> See ECF No. 165 at 7; ECF No. 164-1, Swanson Deposition, Ex. A at 306:3–15.

Dr. Swanson’s other “critique” of Dr. Burch’s analysis is that she compares voter turnout between White voters and non-White voters, instead of White voters and Black voters. Opp. at 14. Dr. Burch clearly states the racial categories she compared in her rebuttal report (White vs. Non-White, as well as Black vs. Non-Black), which this Court can see for itself. *E.g.*, ECF No. 164-6, Burch Rebuttal Report, Ex. F at 10-12 (“White Mississippi citizens are far more likely to vote than non-White Mississippi citizens.”); *id.* at 11 n.31 (“Statewide, Black turnout was estimated to be 42% (41% to 43%), while non-Black turnout was 57% (50% to 64%).”). Dr. Swanson’s restatement of Dr. Burch’s rebuttal report is not paired with any analysis or expertise, as he has testified that he has no experience with analyzing voter behavior or King’s EI. *See supra*. Dr. Swanson does not perform any analysis to determine whether using a White/Black dichotomy instead of a White/Non-White split would make a material difference in Mississippi, and he lacks the understanding of EI to know whether the analysis can or should be performed that way. *See, e.g.*, Swanson Deposition, Ex. A at 320:1-24. Indeed, according to Dr. Swanson’s own report, the non-Black, non-White population in Mississippi is exceedingly small (and therefore unlikely to influence the results): 93.9% of the state’s population is either Black or White. Swanson Expert Report, Ex. B at 17; Swanson Deposition, Ex. A at 156:13-16. Merely regurgitating the fact that

---

<sup>2</sup> Plaintiffs have provided the corrected code to Defendants and explained that Dr. Burch’s rebuttal report is accurate and needs no correction. Ex. J (September 21, 2023 Email from counsel for Plaintiffs to counsel for Defendants attaching the corrected code).

Dr. Burch's EI analysis compares White voters to non-White voters and Black voters to non-Black voters, without any informed basis to opine on whether that approach has any relevance or effect on Dr. Burch's results or conclusions, is not helpful to the Court.<sup>3</sup>

Dr. Swanson has no discernible expertise that qualifies him to testify about ecological inference and Defendants do not claim otherwise. His opinions should be excluded.

**D. Dr. Christopher Bonneau's Experience with EI is Irrelevant**

In response to Plaintiffs' motion to exclude Dr. Swanson as an expert on ecological inference, Defendants repeatedly counter that a *different* defense witness, Dr. Bonneau, has the expertise that Dr. Swanson lacks. Opp. at 3, 14. This argument fails as well.

As an initial matter, Dr. Bonneau's expertise, if any, has no bearing on Dr. Swanson's qualifications, and thus Dr. Swanson cannot compensate for his own lack of expertise by now pointing to Dr. Bonneau. Nowhere in either of Dr. Swanson's reports does he purport to have consulted with or relied upon Dr. Bonneau. *See generally* Swanson Expert Report, Ex. B; Swanson Surrebuttal Report, Ex. C. Rather, Dr. Swanson "engaged the services of Bryan Geodemographics," whose principal, Thomas Bryan has been discredited by numerous courts, as explained *supra*, *see* Swanson Expert Report, Ex. B at 13, and who in any case is also not claimed to have any experience with analysis.

---

<sup>3</sup> Although not specifically raised by Defendants, to the extent that they seek to admit Dr. Swanson's testimony as lay opinion under Rule 701 of the Federal Rules of Evidence, that fails as well. Under Rule 701, lay opinion testimony is permitted when "it has the effect of describing something *that the [triers of fact] could not otherwise experience for themselves* by drawing upon the witness's sensory and experiential observations that were made as a first-hand witness to a particular event." *United States v. Haines*, 803 F.3d 713, 733 (5th Cir. 2015) (emphasis original) (citation omitted). "Testimony on topics that the [factfinder] is fully capable of determining for itself is not 'helpful to clearly understanding the witness's testimony,' and therefore is inadmissible under Rule 701." *Id.* (quoting Fed. R. Evid. 701). Here, the Court, sitting as the finder of fact, can read for itself the counties and racial categories that Dr. Burch utilized, without relying on Dr. Swanson's lay interpretation. *See id.* (holding that interpretation of commonly used language is "well within the province" of the factfinder).



Moreover, and in any event, Dr. Bonneau does not opine on—or even mention—Dr. Burch’s reports. The only mention of ecological inference by Dr. Bonneau comes in his sur-rebuttal report, which is titled, “Rebuttal to *Responsive Report of Dr. Orey.*” ECF No. 166-3, Bonneau Surrebuttal Report at 1 (emphasis added). Dr. Burch does not appear at all in Dr. Bonneau’s sur-rebuttal report. *See generally id.* And Dr. Bonneau’s initial report did not address ecological inference at all. ECF No. 164-7, Bonneau Deposition, Ex. G at 109:119-20 (“In my January report I did not do any work regarding ecological inference.”). Nor did Dr. Bonneau reference Dr. Burch’s work in any way at his deposition on September 29, 2023, and Dr. Burch’s reports were not among the documents he reviewed in advance of his deposition. *See id.* at 9:4-8. Whatever expertise Dr. Bonneau may have regarding ecological inference, he did not apply it towards any evaluation of Dr. Burch’s reports, as required by Rule 702, and he cannot now offer an opinion on Dr. Burch’s work. (Defendants’ belated attempt to shoehorn a rebuttal of Dr. Burch into Dr. Bonneau’s rebuttal of Dr. Orey—well after the conclusion of depositions and discovery—also constitutes an improper disclosure under Rule 26, and Plaintiffs reserve the right to move in limine and object to such testimony on that ground.). *See Ray v. City of Columbus*, No. 1:09CV213-SA-DAS, 2011 WL 3629225, at \*6–7 (N.D. Miss. Aug. 17, 2011) (explaining that rebuttal reports are “intended solely to contradict or rebut evidence on the same subject matter identified by another expert witness” and excluding opinion that failed to rebut an opposing expert); *Theoharris v. Rongen*, No. C13-1345RAJ, 2014 WL 3563386, at \*3 (W.D. Wash. July 18, 2014) (explaining that parties must provide expert rebuttal disclosure within 30 days of the other party’s disclosure, and the rebuttal expert’s testimony is for the sole purpose of rebutting the other party’s expert) (citing Fed. R. Civ. P. 26(a)(2)(D)(ii)).

Defendants also suggest that, because Dr. Bonneau intends to testify about ecological inference, somehow “[t]his Court should hear all the testimony concerning King’s EI.” Opp. at 15. However, Rule 702 requires an individualized examination into the qualifications of each expert witness being offered. *See* Fed. R. Evid. 702 (“A witness who is qualified as an expert...may testify...”). Plaintiffs are unaware of any case law that calls for the admission of all putative experts on a subject, regardless of their qualifications or total lack thereof, as soon as one expert is allowed to testify.

And to whatever extent Dr. Bonneau’s putative testimony could relate to Dr. Swanson’s ability to testify, Dr. Bonneau does not dispute the accuracy and validity of ecological inference as a tool to measure voter behavior. At his deposition, Dr. Bonneau acknowledged that ecological inference is generally regarded as the most reliable statistical method for assessing voter behavior in voting rights cases. Bonneau Deposition, Ex. G at 108:1-17, 109:7-11; *see, e.g., Hinds Cnty. Republican Party v. Hinds Cnty., Miss.*, 432 F. Supp. 3d 684, 700 (S.D. Miss. 2020) (noting that ecological inference is “widely recognized and accepted in voting cases”). Dr. Bonneau further testified that, based on reputable academic literature, the results of ecological inference analyses have been found to be consistent with results of exit polls, which he took to be evidence of the method’s validity and accuracy. Bonneau Deposition, Ex. G at 115:8-116:6, 118:5-119:22, 120:6-16. Far from what Defendants now seek to characterize as “guesses,” (Opp. at 15), ecological inference is the gold standard for generating accurate estimates of voting patterns.

Perhaps because their own expert has endorsed the reliability of ecological inference, Defendants now emphasize the flaws with a different statistical method, known as ecological regression, that Plaintiffs’ experts *do not use* and is irrelevant to this case. Opp. at 15. The consensus—in both judicial and expert opinions—is that ecological inference addresses the

limitations of ecological regression and generates more accurate estimates. *See, e.g., Hall v. La.*, 108 F. Supp. 3d 419, 434 (M.D. La. 2015) (“Ecological Inference (EI) is a mathematical technique similar to, but largely regarded as an improvement upon, the traditional Ecological Regression (ER) technique approved in *Gingles* to analyze aggregate level data.”); *Rodriguez v. Harris Cnty., Tex.*, 964 F. Supp. 2d 686, 759 (S.D. Tex. 2013) (explaining methodological improvements), *aff’d sub nom. Gonzalez v. Harris Cnty., Tex.*, 601 F. App’x 255 (5th Cir. 2015); *Kumar v. Frisco Indep. Sch. Dist.*, 476 F. Supp. 3d 439, 505 (E.D. Tex. 2020) (finding that ecological inference is “a more reliable method” than ecological regression).

To the extent that Dr. Bonneau’s experience with ecological inference is at all relevant, it only makes Dr. Swanson’s inexperience more glaring. There is no dispute that Dr. Swanson is not and cannot be qualified as an expert in ecological inference. Accordingly, his testimony as to ecological inference must be excluded.

### **CONCLUSION**

For the reasons stated herein, as well as those set forth in Plaintiffs’ Memorandum of Law in Support of Their Motion to Partially Exclude Dr. Swanson as an Expert (ECF No. 165), the Court should GRANT Plaintiffs’ Motion at ECF No. 164 and partially exclude Dr. Swanson as an expert.

Respectfully submitted,

/s/ Jonathan K. Youngwood  
SIMPSON THACHER & BARTLETT LLP  
Jonathan K. Youngwood (Miss. Bar No. 106441)  
425 Lexington Avenue  
New York, NY 10017  
(212) 455-2000  
*jyoungwood@stblaw.com*

\*Admitted *pro hac vice*

ACLU FOUNDATION  
Ari J. Savitzky\*  
Sophia Lin Lakin\*  
Ming Cheung\*  
Victoria Ochoa\*\*  
125 Broad Street, 18th Floor  
New York, New York 10004  
(212) 549-2500  
*asavitzky@aclu.org*

*\*\*Pro hac vice motion forthcoming*

*slakin@aclu.org*  
*mcheung@aclu.org*

AMERICAN CIVIL LIBERTIES UNION  
OF MISSISSIPPI FOUNDATION  
Joshua Tom (Miss. Bar No. 105392)  
101 South Congress Street  
Jackson, MS 39201  
(601) 354-3408  
*JTom@aclu-ms.org*

SOUTHERN POVERTY LAW CENTER  
Jade Olivia Morgan (Miss. Bar No. 105760)  
Leslie Faith Jones (Miss. Bar No. 106092)  
111 East Capitol Street, Suite 280  
Jackson, MS 39201  
(601) 948-8882  
*jade.morgan@splcenter.org*  
*leslie.jones@splcenter.org*

Bradley E. Heard\*  
Ahmed Soussi\*  
Sabrina Khan\*  
150 E Ponce de Leon Avenue, Suite 340  
Decatur, GA 30030  
(470) 521-6700  
*bradley.heard@splcenter.org*  
*ahmed.soussi@splcenter.org*  
*sabrina.khan@splcenter.org*

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I, Jonathan Youngwood, hereby certify that on December 15, 2023, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to all parties on file with the Court.

/s/ Jonathan Youngwood  
Jonathan Youngwood

**From:** Ari Savitzky <asavitzky@aclu.org>  
**Sent:** Thursday, September 21, 2023 4:41 PM  
**To:** Mike Wallace; Rex Shannon; Gerald Kucia  
**Cc:** Youngwood, Jonathan; External - Leslie Jones; Joshua Tom; Ming Cheung  
**Subject:** RE: Deposition Dates in White v. SBEC  
**Attachments:** neweicentraldist.txt; EI syntax and output central district.txt

Mike and all:

Following up with two points. First, I wanted to state explicitly what I think is already implicit, namely that we are agreeing to conduct Dr. Swanson's deposition outside of the September 29 discovery deadline in order to accommodate his schedule. Fine by us, but just wanted that to be clear. As noted, we will wait to hear from you all regarding his timing.

Second, I'm attaching a dataset ("neweicentraldist.txt") for Dr. Burch's ecological inference analysis of voter turnout by race in the Central District that corrects for the transposition of Bolivar and Adams counties in the previously provided dataset, which was flagged in Dr. Swanson's surrebuttal report. I am also attaching the corresponding EI script and raw results (for ease of reference, the script is annotated with asterisks to explain what the pieces of the code do). No corrections or changes are being made to Dr. Burch's Rebuttal Report.

Thanks,

Ari

**Ari Savitzky**

Senior Staff Attorney, Voting Rights Project

American Civil Liberties Union

125 Broad St., New York, NY 10004

212.549.2681 | 401.529.3982 (cell) | [asavitzky@aclu.org](mailto:asavitzky@aclu.org)

*Pronouns: he, him, his*

[aclu.org](http://aclu.org)  



*This message may contain information that is confidential or legally privileged. If you are not the intended recipient, please immediately advise the sender by reply email that this message has been inadvertently transmitted to you and delete this email from your system.*

<p style="text-align: right;">1</p> <p>1 IN THE UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF MISSISSIPPI 2 GREENVILLE DIVISION 3 DYAMONE WHITE, et al. PLAINTIFFS 4 VS. NO. 4:22-cv-00062-SA-JMV 5 STATE BOARD OF ELECTION COMMISSIONERS, et al. DEFENDANTS 6 7 8 9 ***** 10 DEPOSITION OF JAMES FREDERICK "TED" BOOTH 11 ***** 12 13 Taken at Butler Snow, 14 1020 Highland Colony Parkway, Suite 1400, 15 Ridgeland, Mississippi, on Friday, March 10, 2023, 16 beginning at approximately 9:29 a.m. 17 18 19 20 21 ***** 22 23 CATHY M. WHITE, CCR Certified Court Reporter #1309 Notary Public 24 cathywhitecsr@gmail.com Post Office Box 5658 25 Brandon, Mississippi 39047</p>	<p style="text-align: right;">3</p> <p>1 A P P E A R A N C E S (Cont.) 2 3 P. RYAN BECKETT, ESQUIRE ryan.beckett@butlersnow.com 4 B. PARKER BERRY, ESQUIRE parker.berry@butlersnow.com Butler Snow, LLP 5 1020 Highland Colony Parkway, Suite 1400 Ridgeland, Mississippi 39157 6 601.948.5711 7 COUNSEL FOR THE WITNESS 8 9 ALSO PRESENT: Ayesha Ahsan (via Zoom) Brandon Johnson (via Zoom) Jake Heller (via Zoom) 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">2</p> <p>1 A P P E A R A N C E S 2 3 LESLIE FAITH JONES, ESQUIRE leslie.jones@splcenter.org Southern Poverty Law Center 4 111 East Capitol Street, Suite 280 Jackson, Mississippi 39201 5 601.948.8882 6 JOSHUA F. TOM, ESQUIRE jtom@aclu-ms.org 7 American Civil Liberties Union of Mississippi Foundation 8 Post Office Box 2242 Jackson, Mississippi 39225-2242 9 601.354.3408 10 ARI SAVITZKY, ESQUIRE (via Zoom) asavitzky@aclu.org 11 MING CHEUNG, ESQUIRE (via Zoom) mcheung@aclu.org 12 KELSEY A. MILLER, ESQUIRE kmiller1@aclu.org 13 American Civil Liberties Union Foundation 125 Broad Street, 18th Floor 14 New York, New York 10004 212.549.2681 15 16 AHMED SOUSSI, ESQUIRE ahmed.soussi@splcenter.org Southern Poverty Law Center 17 150 East Ponce de Leon Avenue, Suite 340 Decatur, Georgia 30030 18 470.521.6700 19 COUNSEL FOR PLAINTIFFS 20 21 REX M. SHANNON III, ESQUIRE rex.shannon@ago.ms.gov GERALD KUCIA, ESQUIRE 22 gerald.kucia@ago.ms.gov Office of the Attorney General 23 Post Office Box 220 Jackson, Mississippi 39205 24 601.359.4184 25 COUNSEL FOR DEFENDANTS</p>	<p style="text-align: right;">4</p> <p>1 INDEX 2 3 Style ..... 1 4 Appearances ..... 2 5 Index ..... 4 6 Examination by Ms. Jones ..... 5 7 Certificate of Court Reporter ..... 105 8 Certificate of Deponent ..... 106 9 10 EXHIBIT INDEX 11 MAR 12 Exhibit 13 1 Objections 9 14 2 Stipulation 9 15 3 1/6/23 Letter from Booth to Tom 45 16 4 Section 9-3-1 53 17 5 SJLCRR-000001 - 000005 61 18 6 House Bill No. 868 70 19 7 12/3/21 e-mail ffrom Collins to Booth, 76 SJLCRR-000006 - 000008 20 21 8 Booth's notes 103 22 23 24 25</p>

Cathy M. White, CCR

5	<p>1 JAMES FREDERICK "TED" BOOTH, 2 having been duly sworn, was examined and testified as 3 follows:</p> <p>4 EXAMINATION</p> <p>5 BY MS. JONES:</p> <p>6 Q. Good morning, Mr. Booth. 7 A. Good morning. 8 Q. My name is Leslie Faith Jones, and I'm an 9 attorney with the Southern Poverty Law Center in 10 Jackson, Mississippi. 11 A. Yes, ma'am. 12 Q. Our office in Jackson. And I represent the 13 plaintiffs in this case. I provided Ms. White with 14 the caption. And are you familiar with the case that 15 we're here for today? 16 A. I have some familiarity with it, yes. 17 Q. So then you know that we, as the plaintiffs, 18 are challenging the State's district maps for the 19 Mississippi Supreme Court. 20 A. Yes, I understand that. 21 Q. So before we go any further, can you please 22 spell your name for the record? 23 A. Okay. My name is James Frederick Booth, 24 F-R-E-D-E-R-I-C-K, Booth, B-O-O-T-H. I am commonly 25 called Ted Booth. It's a nickname I've had since</p>	7	<p>1 MS. JONES: Can everyone on Zoom identify 2 themselves, please? 3 Can they hear us? 4 MR. BECKETT: Can I call the record, so they 5 don't -- 6 MS. JONES: Sure. 7 MR. BECKETT: There's a Ming Cheung. 8 MR. CHEUNG: Yes, good morning. Ming Cheung 9 from the ACLU. I represent the plaintiffs. 10 MS. JONES: Anyone else? 11 MR. BECKETT: Yeah, I'm going to get there. 12 Ari? 13 MR. SAVITZKY: This is Ari Savitzky from the 14 ACLU just observing. My apologies for any (audio 15 distortion). 16 MR. BECKETT: Thank you, Ari. 17 Brandon? 18 MR. JOHNSON: Yes. Brandon Johnson also from 19 the ACLU, and I'm just observing. 20 MR. BECKETT: And then Jake. We have a Jake 21 Heller. He's still on mute. We'll come back. 22 And then -- 23 MS. AHSAN: Sorry, the connection (audio 24 distortion), but my name is Ayesha Ahsan and I'm 25 with ...</p>
6	<p>1 birth. 2 MS. JONES: Okay. So I am Leslie Faith Jones 3 with Southern Poverty Law Center, and I'm just going 4 to ask everyone to identify themselves for the record 5 and then we'll go to Zoom. Is that okay? 6 MR. BECKETT: Why don't you start? 7 MR. TOM: Sure. Joshua Tom with the ACLU 8 Mississippi on behalf of the plaintiffs. 9 MR. SOUSSI: Ahmed Soussi for the Southern 10 Poverty Law Center on behalf of plaintiffs. 11 MS. MILLER: Kelsey Miller, ACLU, on behalf 12 of the plaintiffs. 13 MR. KUCIA: Gerald Kucia on behalf of the 14 defendants from the Attorney General's Office. 15 MR. SHANNON: Rex Shannon with the 16 Mississippi Attorney General's Office for the 17 defendants. 18 MR. BERRY: Parker Berry with Butler Snow. 19 Standing Joint Legislative Committee on 20 Reapportionment and Redistricting, which is a nonparty 21 in this matter. 22 MR. BECKETT: Ryan Beckett with Butler Snow 23 also representing the Standing Joint Legislative 24 Committee on Reapportionment and Redistricting, a 25 nonparty in this matter.</p>	8	<p>1 MR. BECKETT: Ayesha, you're frozen. I 2 didn't touch it. I think we just lost it. 3 MR. SHANNON: I don't think all these folks 4 are attorneys. Can y'all represent that they're all 5 attorneys with ACLU? 6 MR. SOUSSI: Ayesha is an extern for the 7 Southern Poverty Law Center. 8 MS. JONES: And Jake Heller is an intern with 9 the ACLU. 10 (Discussion had off the record, not 11 reported.) 12 MR. BECKETT: Can I read my statement? 13 MS. JONES: Yes. I was going to have you go 14 next after folks identify themselves. 15 MR. BECKETT: I'm going to read a preliminary 16 statement into the record. 17 Mr. Booth is a lawyer and he represents the 18 Standing Joint Legislative Committee on 19 Reapportionment and Redistricting as staff counsel. 20 We've agreed to tender him for this deposition today 21 based on our objections and a stipulation agreed to by 22 the parties in this case. 23 Without objection, I'm asking the court 24 reporter to enter into this record as Exhibit 1 the 25 objections previously filed by the Standing Joint</p>

Cathy M. White, CCR

cathywhitecsr@gmail.com

601.405.3762



<p style="text-align: right;">9</p> <p>1 Committee.</p> <p>2 There are no objections?</p> <p>3 MS. JONES: No.</p> <p>4 (Exhibit No. 1 marked.)</p> <p>5 MR. BECKETT: I'm also asking the court</p> <p>6 reporter to enter into this record as Exhibit 2 the</p> <p>7 jointly agreed stipulation signed by the parties.</p> <p>8 (Exhibit No. 2 marked.)</p> <p>9 MR. BECKETT: By proceeding according to</p> <p>10 these objections and stipulation, Mr. Booth and the</p> <p>11 Standing Joint Committee do not agree to waive the</p> <p>12 attorney-client privilege, the legislative privilege,</p> <p>13 or any other evidentiary privilege available to them.</p> <p>14 And with that, thank you, you may proceed.</p> <p>15 MS. JONES: Yes, sir. Thank you.</p> <p>16 BY MS. JONES:</p> <p>17 Q. Okay, Mr. Booth. So you understand that you</p> <p>18 are under oath today. Correct?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And this means that you're swearing to the</p> <p>21 truthfulness and accuracy of your answers?</p> <p>22 A. Yes, I understand that.</p> <p>23 Q. And the oath that you took today will have</p> <p>24 the same effect as if you were testifying in court?</p> <p>25 A. Yes, I understand that.</p>	<p style="text-align: right;">11</p> <p>1 instruction.</p> <p>2 A. I will follow the instructions.</p> <p>3 Q. Do you understand that you must answer my</p> <p>4 questions unless Mr. Beckett instructs you not to</p> <p>5 answer?</p> <p>6 A. I understand that.</p> <p>7 Q. Okay. To make it easier for Ms. White, we</p> <p>8 will speak one at a time so that we don't speak over</p> <p>9 each other. Does that sound okay?</p> <p>10 A. I think that is appropriate.</p> <p>11 Q. All right. And if you have a question about</p> <p>12 any of the questions I ask, if you can't understand my</p> <p>13 question, will you let me know?</p> <p>14 A. I will let you know.</p> <p>15 Q. All right. And if you need to take a break,</p> <p>16 please feel free to let us know.</p> <p>17 A. I will let you know.</p> <p>18 Q. I'm just asking that we refrain from taking a</p> <p>19 break between a question and an answer.</p> <p>20 A. I understand that.</p> <p>21 MR. BECKETT: We agree to that.</p> <p>22 MS. JONES: Okay.</p> <p>23 BY MS. JONES:</p> <p>24 Q. And if at any time during this deposition you</p> <p>25 realize that you need to clarify an answer, you'll let</p>
<p style="text-align: right;">10</p> <p>1 Q. So thank you for taking the time to be with</p> <p>2 us today. And before we go any further, I just want</p> <p>3 to go over a few ground rules. Have you been deposed</p> <p>4 before?</p> <p>5 A. I have never been deposed before.</p> <p>6 Q. Really? Okay. Well, as can you see, this</p> <p>7 deposition is being transcribed by Ms. White. Cathy</p> <p>8 White is our court reporter today. And it's important</p> <p>9 that you answer audibly --</p> <p>10 A. Yes.</p> <p>11 Q. -- so that she can record what you say, as</p> <p>12 opposed to shaking your head.</p> <p>13 A. Right.</p> <p>14 Q. Does that make sense?</p> <p>15 A. That makes sense.</p> <p>16 Q. All right. And I'm going to ask you</p> <p>17 questions in accordance with the stipulation that</p> <p>18 Mr. Beckett read today as agreed by the parties in</p> <p>19 this case. And you're going to provide answers.</p> <p>20 A. That is correct.</p> <p>21 Q. Okay. And you understand that you are to</p> <p>22 answer my questions unless your attorney instructs you</p> <p>23 not to answer?</p> <p>24 A. I understand that.</p> <p>25 Q. Okay. And you choose to follow that</p>	<p style="text-align: right;">12</p> <p>1 me know?</p> <p>2 A. I will let you know.</p> <p>3 Q. Okay. And then we can get that clarified on</p> <p>4 the record. Sound good?</p> <p>5 A. We can do that, yes.</p> <p>6 Q. Thank you. Do you have any questions about</p> <p>7 anything that I've talked to you about so far?</p> <p>8 A. I have no questions.</p> <p>9 Q. Is there any reason that you cannot provide</p> <p>10 accurate testimony today?</p> <p>11 A. I know of no reason why I cannot.</p> <p>12 Q. So just for the record, are you taking any</p> <p>13 medications that might impact your ability to testify</p> <p>14 today?</p> <p>15 A. I do not think any medication I have -- I</p> <p>16 take would impair my ability to testify.</p> <p>17 Q. Okay. Thank you. So I'm going to start with</p> <p>18 just a few background questions. Where were you --</p> <p>19 when were you born?</p> <p>20 A. I was born May 25th, 1955.</p> <p>21 Q. And where?</p> <p>22 A. In New Orleans, Louisiana.</p> <p>23 Q. Where do you live currently?</p> <p>24 A. I live in the city of Jackson, 1319 Poplar</p> <p>25 Boulevard, 39202.</p>

Cathy M. White, CCR

13	<p>1 Q. And have you ever lived outside of 2 Mississippi or New Orleans? 3 A. I briefly lived in Evanston, Illinois, from 4 1980 to 1982, when I was a graduate student at 5 Northwestern University. 6 Q. And other than that, you've been a resident 7 of Mississippi? 8 A. Aside from I attended college and law school 9 at Tulane University in New Orleans, so I returned to 10 New Orleans for those. But aside from the time I 11 spent in New Orleans when I was a small child, when I 12 was a college student, law student, and the time I 13 spent at Northwestern, I've lived in Mississippi the 14 balance of my life. 15 Q. Okay. And you just mentioned Tulane. So you 16 went to Tulane for law school. Correct? 17 A. College and law school, yes. 18 Q. College and law school. And you also 19 mentioned Northwestern University. 20 A. For graduate school. 21 Q. For graduate school? 22 A. Yes, ma'am. 23 Q. Do you have any other degrees in higher 24 education? 25 A. I have no other degree.</p>	15	<p>1 Redistricting. Those roles I took on in 1998, when I 2 was promoted to the position of general counsel. 3 Historically, the general counsel of the PEER 4 Committee has carried out those responsibilities. 5 When I moved to the executive director's position, I 6 retained them simply because we were so close to 7 deadlines for doing congressional and legislative 8 redistricting, I did not believe others on my staff 9 would be able to carry out my responsibilities. So I 10 retained them and retain them to this day. 11 Q. Yes, sir. So I'm going to asking you a few 12 questions about everything that you just shared. 13 A. Yes. 14 Q. So tell me again, what are PEER's 15 responsibilities broadly? 16 A. Once again, PEER is an audit and evaluation 17 committee. It does research projects, audit projects, 18 evaluations on state government programs and agencies. 19 The thrust of the projects generally are to determine 20 how agencies are spending money, are they efficient, 21 are they effective. In some cases, we conduct 22 compliance reviews of agencies in the executive branch 23 of government. Sometimes we do reviews of local 24 governments. But, essentially, that's what PEER does, 25 audit and evaluation to determine whether programs and</p>
14	<p>1 Q. What degree did you obtain at Northwestern? 2 A. I took a master's degree in management. At 3 that time, they combined the public and MBA programs 4 into one master's program. I think they've since 5 separated them out. 6 Q. When did you get the master's degree? 7 A. 1982. 8 Q. And when did you graduate from law school? 9 A. 1978. 10 Q. Thank you. So I'm going to ask you a few 11 questions about your professional background. 12 A. Yes. 13 Q. So what's your current title? 14 A. I am executive director of the Joint 15 Legislative Committee on Performance Evaluation and 16 Expenditure Review, also known as the PEER Committee. 17 We are an audit and evaluation arm of the Mississippi 18 Legislature. We conduct reviews of state agencies and 19 other public bodies upon approval by the Committee or, 20 in some cases, by specific statutory authority. We 21 also do research projects on requests from 22 legislators. 23 Also, I function as staff counsel for the 24 Joint Committee on Legislative Reapportionment and the 25 Standing Joint Committee on Congressional</p>	16	<p>1 agencies are spending their money efficiently, 2 prudently, effectively, and legally. 3 Q. And so is PEER responsible for producing 4 anything? 5 A. PEER produces reports. 6 Q. Okay. 7 A. Uh-huh. 8 Q. Anything other than reports? 9 A. Sometimes PEER produces memos to legislators 10 who ask specific research questions. 11 Q. How many reports has PEER produced? 12 A. My goodness. I would have to go back and 13 look at our files on that, but I believe in the area 14 of reports, we are somewhere up in the 700 range. I 15 haven't gone to look at the numbers on the files in 16 some time, but we produce a great number of reports. 17 We've been in existence for 50 years now, so you would 18 expect us to have produced a lot of reports. 19 Q. How many people currently work for PEER? 20 A. At this point in time, we've just had someone 21 leave, but we usually have about 20 people working in 22 employment positions with PEER. 23 Q. And in general, what are your 24 responsibilities as executive director for PEER? 25 A. To manage, control, and direct the staff in</p>

Cathy M. White, CCR

17	<p>1 their research activities, to engage in liaison                  2 functions with the Legislature to discuss with them                  3 their expectations respecting PEER, projects they                  4 might want us to engage in. It's usual things that                  5 you would expect of an executive director, to both                  6 manage his organization and interact with his                  7 environment.                  8 Q. So who exactly do you supervise in your role                  9 as executive director?                  10 A. I supervise the executive -- or rather the                  11 deputy directors. I have two deputy directors. I                  12 have a number of analysts. I have editors who edit                  13 reports. I have a business manager who makes sure                  14 that we are processing purchase orders and invoices                  15 properly. I have a chief information officer who                  16 keeps our IT systems working. I also have -- I                  17 manage, in my capacity as staff counsel, an employee                  18 who is hired with funds appropriated to the Joint                  19 Reapportionment Committee. I have Mr. Ben Collins,                  20 who is a GIS operator. He understands how to do                  21 mapping work.                  22 Q. Okay.                  23 A. Yeah.                  24 Q. I'm going to ask you some questions about                  25 that shortly with the mapping work.</p>	19	<p>1 Q. And your business manager?                  2 A. Gail Taylor.                  3 Q. And you mentioned analysts.                  4 A. Oh, I have a broad range, a number of                  5 analysts. Do I need to go down the list and provide                  6 you with the names? I can do that.                  7 Q. We'll hold off on that.                  8 MR. BECKETT: Yeah. We're getting -- I want                  9 to be fair to you in background with PEER, but we're                  10 not anywhere close to judicial redistricting at this                  11 point.                  12 MS. JONES: Yes. I'm moving along. Thank                  13 you.                  14 BY MS. JONES:                  15 Q. So you mentioned the Standing Joint                  16 Legislative Committee on Reapportionment and                  17 Redistricting. So we have that as the SJLCRR.                  18 A. Uh-huh.                  19 Q. Is there another title by which I should call                  20 that group?                  21 A. There are two committees. There is the Joint                  22 Legislative Committee on Reapportionment, which does                  23 legislative reapportionment, and then there's the                  24 Joint Congressional Redistricting Committee, which                  25 develops congressional plans. The membership of the</p>
18	<p>1 A. Yeah.                  2 Q. But with regard to PEER, does anyone at PEER                  3 assist you with carrying out your duties?                  4 A. Well, yes. I mean, my deputy directors                  5 assist me. They have responsibilities for overseeing                  6 the management of projects. We meet regularly to                  7 determine how projects are progressing, whether we're                  8 on -- whether we're working on our proper time lines.                  9 We have deadlines for finishing projects. So my two                  10 deputy directors assist me directly. I have, once                  11 again, a chief information officer with whom I meet                  12 regularly on issues regarding our computer systems. I                  13 have a business manager with whom I work regularly                  14 regarding the processing of invoices and purchase                  15 orders and the like. So those people would be -- with                  16 respect to PEER, would be my key staff that I work                  17 with on a regular basis. Also, I work from time to                  18 time directly with some of the analysts who are                  19 working on assignments that I give them directly.                  20 Q. So what are the names of your deputy                  21 directors?                  22 A. My deputy directors at PEER are Mr. Lonnie                  23 Edgar, and Ms. Jennifer Sebren, S-E-B-R-E-N.                  24 Q. And who is your chief information officer?                  25 A. Dr. Kirby Arinder.</p>	20	<p>1 two committees is identical.                  2 Q. Okay. What I'm going to do is call it SJLCRR                  3 for now.                  4 A. And I will understand that's what you are                  5 planning on doing.                  6 Q. Okay.                  7 A. Uh-huh.                  8 Q. So what is the SJLCRR?                  9 A. The Legislature created joint committees to                  10 be responsible for carrying out the redistricting                  11 functions after a decennial census comes out, and they                  12 are made up of appointees from the existing                  13 congressional districts. They also have some members                  14 who serve by virtue of their positions as chairs and                  15 vice chairs of the Elections Committee and the                  16 Apportionment and Elections Committee.                  17 Q. And what's the relationship between PEER and                  18 SJLCRR?                  19 A. Okay. Back in the late '80s -- and once                  20 again, I want you to understand this, I was a very                  21 junior person at PEER at the time. So I'm going to be                  22 telling you what I have observed because, until 1998,                  23 when I became general counsel, I had no responsibility                  24 with respect to redistricting. But in the late '80s,                  25 the Legislature decided, at the time when we were</p>

21	<p>1 beginning to increase the use of technology in</p> <p>2 redistricting, that there needed to be a place where</p> <p>3 there could be a staff providing support to the</p> <p>4 redistricting effort and, for reasons that I am not</p> <p>5 certain of, they placed the responsibility for</p> <p>6 managing and overseeing this, or I should say they</p> <p>7 co-located it, with PEER.</p> <p>8 A decision was made and, once again, I was</p> <p>9 not privy to the decision to make this -- the decision</p> <p>10 to make the general counsel of PEER, who back in 1989</p> <p>11 was a gentleman named Mr. Steven Miller, to -- it was</p> <p>12 decided that he would function as the staff counsel</p> <p>13 for the reapportionment efforts and redistricting</p> <p>14 efforts, and that he would be solely responsible for</p> <p>15 overseeing and managing computer operators, providing</p> <p>16 work space for the legislators, to pay bills</p> <p>17 associated with the operations of redistricting. The</p> <p>18 executive director had no role -- the PEER had no role</p> <p>19 in the process.</p> <p>20 So what happened here was that the general</p> <p>21 counsel became staff counsel for reapportionment.</p> <p>22 Bills for -- to pay for, say, computer systems and</p> <p>23 contractors and things like that ran through the PEER</p> <p>24 business office, but -- and then eventually, the CIO</p> <p>25 at PEER became responsible for making sure firewalls</p>	23	<p>1 the Mississippi Legislature?</p> <p>2 A. I have always been within the PEER Committee.</p> <p>3 So I've had various titles with the PEER Committee. I</p> <p>4 carried analyst titles and was general counsel, and</p> <p>5 now executive director. But I've not worked for any</p> <p>6 other staff of the Mississippi Legislature.</p> <p>7 Q. Before joining SJLCRR, did you work on any</p> <p>8 cases or matters related to redistricting?</p> <p>9 A. Before I became staff counsel in 1998, I</p> <p>10 worked on a variety of things with PEER, but I do not</p> <p>11 recall doing anything that touched on redistricting.</p> <p>12 Q. Have you had any other experience working on</p> <p>13 redistricting on any issues outside of the Mississippi</p> <p>14 Legislature?</p> <p>15 A. I have not engaged in any redistricting</p> <p>16 activities, you would say. I have done presentations</p> <p>17 before for the National Conference of State</p> <p>18 Legislatures, which has a redistricting and elections</p> <p>19 committee where people who have roles similar to mine</p> <p>20 meet and discuss things. Once back a couple of years</p> <p>21 ago, I was asked to appear before a committee in the</p> <p>22 state of Louisiana to talk about how Mississippi does</p> <p>23 redistricting. That would be it.</p> <p>24 Q. Okay. So you have no other experience</p> <p>25 working on redistricting matters outside of</p>
22	<p>1 properly operated to ensure security of the computers.</p> <p>2 But those were the functions that PEER staff</p> <p>3 had with respect to redistricting. Rank and file</p> <p>4 analysts, the executive director, other staff with the</p> <p>5 PEER Committee had no responsibility with respect to</p> <p>6 redistricting.</p> <p>7 Q. So how long has SJLCRR been in existence?</p> <p>8 A. I would have to go back and check the source</p> <p>9 line on the code for that, but I do know that our</p> <p>10 involvement began when the Legislature was preparing</p> <p>11 to engage in the round of redistricting following the</p> <p>12 1990 census.</p> <p>13 Q. Okay. And your current position with SJLCRR</p> <p>14 now is staff counsel?</p> <p>15 A. When I perform functions for the</p> <p>16 reapportionment, redistricting, I am still using the</p> <p>17 title "staff counsel."</p> <p>18 Q. And have you held any other positions at</p> <p>19 SJLCRR?</p> <p>20 A. No.</p> <p>21 Q. How long have you worked with the Mississippi</p> <p>22 Legislature?</p> <p>23 A. I became an employee of the Mississippi</p> <p>24 Legislature on November 19th, 1984.</p> <p>25 Q. Okay. Have you held any other positions with</p>	24	<p>1 Mississippi?</p> <p>2 A. Not on any plans or anything like that, no.</p> <p>3 Q. Okay. So do you understand why you're being</p> <p>4 deposed today?</p> <p>5 A. I understand that there is a suit regarding</p> <p>6 the districts, the Mississippi Supreme Court</p> <p>7 districts, the three districts, and that you all are</p> <p>8 trying to seek information on any activities that I or</p> <p>9 my staff may have engaged in relative to the</p> <p>10 development or the mapping of Supreme Court districts.</p> <p>11 Q. So you understand that the lawsuit that has</p> <p>12 been brought by Dyamone White, Derrick Simmons, Ty</p> <p>13 Pinkins and Constance Harvey-Burwell, are the</p> <p>14 plaintiffs in this case, and that's who we represent.</p> <p>15 A. I understand that, yes.</p> <p>16 Q. So when I talk about plaintiffs, that's who</p> <p>17 I'm speaking of.</p> <p>18 A. Yes, uh-huh.</p> <p>19 Q. And when I talk about this litigation, I'm</p> <p>20 talking about the case that we're here on today --</p> <p>21 A. Yes.</p> <p>22 Q. -- challenging the Mississippi Supreme Court</p> <p>23 district lines.</p> <p>24 A. Yes.</p> <p>25 Q. Okay. When did you first hear about this</p>

Cathy M. White, CCR

cathywhitecsr@gmail.com

601.405.3762

25	<p>1 lawsuit?</p> <p>2 A. I first heard about this lawsuit when y'all</p> <p>3 provided -- when we received our subpoena to produce</p> <p>4 documents. That was back in December, I believe.</p> <p>5 Q. Okay. What did you think about it?</p> <p>6 MR. BECKETT: I'm going to object to that.</p> <p>7 What did he think about the subpoena? What did he</p> <p>8 think about the lawsuit?</p> <p>9 BY MS. JONES:</p> <p>10 Q. What do you think about the lawsuit</p> <p>11 challenging the Mississippi Supreme Court district</p> <p>12 lines?</p> <p>13 MR. BECKETT: I'm going to object to that.</p> <p>14 MR. SHANNON: Join in that.</p> <p>15 MR. BECKETT: Instruct him not to answer</p> <p>16 that.</p> <p>17 MS. JONES: So you're instructing him on the</p> <p>18 basis of privilege or some --</p> <p>19 MR. BECKETT: What does his opinion -- how is</p> <p>20 his opinion relevant? "What do you think" is asking</p> <p>21 for his opinion. We're here to talk about facts,</p> <p>22 those things in that box. His opinion of the lawsuit</p> <p>23 is not relevant. He's a lawyer. He's not here to</p> <p>24 offer a legal opinion. I'm not going to let him do</p> <p>25 that.</p>	27	<p>1 A. Yes.</p> <p>2 Q. What did you -- what did you prepare in</p> <p>3 response to plaintiffs' discovery requests?</p> <p>4 A. There were some questions about any work that</p> <p>5 my office may have done with respect to any plans or</p> <p>6 proposals to make changes to the boundaries of the</p> <p>7 Mississippi Supreme Court district lines. I believe</p> <p>8 we provided a couple of documents: One produced in</p> <p>9 2021, which dealt with Transportation Commission</p> <p>10 boundaries, which are, of course, identical to Supreme</p> <p>11 Court boundaries; and a document from 2016 regarding a</p> <p>12 proposed change to the Supreme Court boundaries. We</p> <p>13 also provided you with information on electronic media</p> <p>14 that we had stored in our offices from an older</p> <p>15 computer system that we once had that we have not used</p> <p>16 since 2007, and that media is in the box that's</p> <p>17 sitting behind you.</p> <p>18 Q. Yes, sir. So I just want to ask you a couple</p> <p>19 of questions about the deposition today. Without</p> <p>20 going into any substance of conversations you had with</p> <p>21 your attorneys, what did you do to prepare for the</p> <p>22 deposition today?</p> <p>23 A. Looked back over some of the materials that</p> <p>24 we had provided to you all.</p> <p>25 Q. Other than meet with your attorneys, did you</p>
26	<p>1 MS. JONES: Right. We're not asking him for</p> <p>2 a legal opinion, just it was a general opinion based</p> <p>3 on his experience about what he thought of the</p> <p>4 lawsuit.</p> <p>5 MR. BECKETT: I'm going to instruct him not</p> <p>6 to answer that on my stated objections.</p> <p>7 BY MS. JONES:</p> <p>8 Q. Have you discussed this lawsuit with anyone</p> <p>9 other than your attorneys?</p> <p>10 A. I have discussed this with my attorneys and,</p> <p>11 when we were preparing responses, discovery responses,</p> <p>12 I discussed this with Ben Collins, my GIS person,</p> <p>13 because we had to go back in computer files and find</p> <p>14 anything that we had done for a member of the</p> <p>15 legislature related to Supreme Court districts.</p> <p>16 Q. Okay. Are you aware of any other voting</p> <p>17 rights redistricting cases in Mississippi?</p> <p>18 A. Well, there was a congressional case, there</p> <p>19 is a case pending regarding the redistricting of the</p> <p>20 Mississippi House and the Mississippi Senate.</p> <p>21 Q. Do you know of any others?</p> <p>22 A. Those are the ones that I know about. Those</p> <p>23 are the ones that I'm primarily interested in.</p> <p>24 Q. Okay. You said you were involved in</p> <p>25 preparation for discovery responses in this case?</p>	28	<p>1 meet with anyone else?</p> <p>2 A. I talked to Mr. Collins. He gave me a ride</p> <p>3 out here today. I don't drive.</p> <p>4 Q. Anyone else?</p> <p>5 A. No. Well, let's see. Well, my attorneys,</p> <p>6 the three of us who were sitting in the room the other</p> <p>7 day. That's it.</p> <p>8 Q. Okay. So with regard to Mr. Collins, how</p> <p>9 long did you talk to him for your preparation?</p> <p>10 A. We just -- we rode up here today and I said</p> <p>11 today I'm going up to answer -- to participate in a</p> <p>12 deposition, and we're going to be talking in part</p> <p>13 about some of those documents that you prepared at my</p> <p>14 request from the files in our computers that were</p> <p>15 responsive to their questions about proposals that we</p> <p>16 worked on regarding the boundaries of those districts.</p> <p>17 Q. Okay.</p> <p>18 A. He needed to know why I was getting him to</p> <p>19 drive me up here.</p> <p>20 Q. Did you discuss anything else?</p> <p>21 A. No, you know.</p> <p>22 Q. As it relates to this case.</p> <p>23 A. No, no.</p> <p>24 Q. I'm sorry. As it relates to the case.</p> <p>25 A. Yeah, right.</p>



29	<p>1 Q. And without going into any substance of the</p> <p>2 conversation you had with your attorneys, you said</p> <p>3 that you met with your attorneys to prepare for this</p> <p>4 deposition?</p> <p>5 A. We did.</p> <p>6 Q. How long did you meet with them?</p> <p>7 A. Mr. Beckett came over at about 1:15</p> <p>8 yesterday, and we talked, I think, probably until</p> <p>9 about 3:25 maybe, 3:30.</p> <p>10 MR. BECKETT: That sounds about right.</p> <p>11 BY MS. JONES:</p> <p>12 Q. Okay. Did you take any notes during that</p> <p>13 meeting to prepare for this deposition?</p> <p>14 A. I did not take any notes. I just listened</p> <p>15 carefully.</p> <p>16 Q. Did you review any documents?</p> <p>17 A. We talked about the documents that -- once</p> <p>18 again, the documents that we had provided you</p> <p>19 regarding some possible changes to the Supreme Court</p> <p>20 boundaries. We went over some of the filings that</p> <p>21 Mr. Beckett had made regarding objections and some --</p> <p>22 that kind of material, but that's what we were talking</p> <p>23 about, and that's what we went over.</p> <p>24 Q. So it refreshed your memory to go over these</p> <p>25 documents?</p>	31	<p>1 these are the notes that he has represented to me --</p> <p>2 they're not attorney-client privileged. I don't claim</p> <p>3 a privilege over them -- that he prepared for himself</p> <p>4 in trying to create his timeline about what happened</p> <p>5 in 2016 and 2021.</p> <p>6 MS. JONES: Okay. And we can have access to</p> <p>7 those? Do you want to enter them as an exhibit now or</p> <p>8 do you need to provide them for us later?</p> <p>9 MR. BECKETT: However you care to do it.</p> <p>10 I mean, have you got another copy of this?</p> <p>11 THE WITNESS: Somewhere on my computer.</p> <p>12 MR. BECKETT: I can make copies of it.</p> <p>13 MS. JONES: I just know we have to give a</p> <p>14 copy to you, to the court reporter.</p> <p>15 MR. BECKETT: Right.</p> <p>16 MS. JONES: We can proceed now and then do</p> <p>17 that at a break, if that makes sense.</p> <p>18 MR. BECKETT: That will be fine.</p> <p>19 MS. JONES: That way, we can keep going. Can</p> <p>20 I just see that, just briefly?</p> <p>21 MR. BECKETT: You may.</p> <p>22 MS. JONES: Thank you.</p> <p>23 MR. KUCIA: After you get done, can we see</p> <p>24 those?</p> <p>25 MS. JONES: Sure. I'll just keep going.</p>
30	<p>1 A. Sure, sure.</p> <p>2 Q. Did you take any notes or mark up these</p> <p>3 documents in any way?</p> <p>4 A. No, I didn't mark up any documents.</p> <p>5 Q. Did you bring any documents with you today?</p> <p>6 A. I have a few documents with me.</p> <p>7 Q. What are they? What did you bring?</p> <p>8 A. I brought copies of the two plans that we had</p> <p>9 provided you all with the other day. I brought with</p> <p>10 me a couple of -- some rough notes that I put together</p> <p>11 long before we sat down with Mr. Beckett yesterday on</p> <p>12 things that I thought might be pertinent to what we</p> <p>13 would be talking about today.</p> <p>14 MS. JONES: Okay. Can we see those</p> <p>15 documents? Can we mark them as an exhibit?</p> <p>16 MR. BECKETT: On what basis?</p> <p>17 MS. JONES: Well, if he brought them with him</p> <p>18 today in preparation for the deposition, we should be</p> <p>19 able to see what those are.</p> <p>20 MR. BECKETT: Let's go off the record just a</p> <p>21 minute.</p> <p>22 (Discussion had off the record, not</p> <p>23 reported.)</p> <p>24 (Recess.)</p> <p>25 MR. BECKETT: You asked for his notes, and</p>	32	<p>1 MR. BECKETT: If everybody wants, I can have</p> <p>2 somebody make copies, but I don't want to disrupt your</p> <p>3 deposition. I appreciate the breaks. I didn't know</p> <p>4 what was in here, and I didn't want him to produce</p> <p>5 anything that came from our meeting.</p> <p>6 MS. JONES: Yes, sir. We understand. And</p> <p>7 we'll just keep going and it will get sorted out --</p> <p>8 MR. BECKETT: Sure.</p> <p>9 MS. JONES: -- in a moment.</p> <p>10 BY MS. JONES:</p> <p>11 Q. And thank you, Mr. Booth.</p> <p>12 So just really quick, you had testified that</p> <p>13 you haven't been deposed before. Correct?</p> <p>14 A. That is correct.</p> <p>15 Q. Have you ever testified in court before?</p> <p>16 A. I have never had to testify in court before.</p> <p>17 Q. Okay. We are going to move along. I want to</p> <p>18 ask you a few more questions about PEER.</p> <p>19 A. Yes.</p> <p>20 Q. So speaking about PEER and redistricting in</p> <p>21 general.</p> <p>22 A. Uh-huh.</p> <p>23 Q. What is the legislative process for</p> <p>24 redistricting as you understand it?</p> <p>25 MR. BECKETT: Are we talking about with</p>

<p style="text-align: right;">33</p> <p>1 respect to -- I don't want to object, but are we 2 talking about with respect to the Supreme Court 3 districts? 4 MS. JONES: With respect to the judicial 5 districts, yes, sir. 6 A. There are, to my knowledge, no statutes or 7 rules that pertain to the redistricting of the 8 Mississippi Supreme Court, that would deal with 9 legislative redistricting of the Mississippi Supreme 10 Court. 11 BY MS. JONES: 12 Q. So then with PEER's redistricting 13 responsibilities -- well, does PEER have redistricting 14 responsibilities? 15 A. Once again, PEER, per se, has no 16 redistricting responsibility except to provide its 17 counsel, to function as staff counsel, and to process 18 bills and invoices and the like, as I told you 19 earlier. PEER doesn't redistrict. The only 20 redistricting bodies, per se, that are established in 21 law are the Joint Committee for Legislative 22 Reapportionment and the Joint Congressional 23 Redistricting, yeah. 24 Q. So then explain to me, because I am trying to 25 understand, just one more time.</p>	<p style="text-align: right;">35</p> <p>1 A. Well, what I would -- 2 MR. BECKETT: Can I ask you just to give him 3 a time frame? Do you mean, like, in the years where 4 they're actually actively following decennial census, 5 or do you mean, like, over a 10-year span? Just if we 6 can clarify what years or what period of time. 7 MS. JONES: Thank you, Mr. Beckett. 8 BY MS. JONES: 9 Q. Can we do both? So to the extent, generally 10 speaking, what is PEER's -- what percentage of PEER's 11 work is geared towards this redistricting function? 12 MR. BECKETT: I'm sorry. Do you mean the 13 staff counsel? Because he's testified three times 14 that PEER does not do redistricting. 15 BY MS. JONES: 16 Q. The staff counsel, the work that you just -- 17 A. Uh-huh. 18 Q. Yes, the staff counsel work. 19 A. It's going to depend on where we are in the 20 10-year cycle. When we are engaging in work -- 21 redistricting work, preparing plans after the census 22 data comes out, it's entirely possible for me to spend 23 my whole workday and then some hours working on 24 redistricting. After we have developed plans, my 25 responsibilities with respect to PEER -- with respect</p>
<p style="text-align: right;">34</p> <p>1 A. Sure. 2 Q. What are the redistricting functions that 3 PEER is responsible for? 4 A. Once again, PEER provides a counsel who 5 manages and oversees the functions for redistricting 6 for the Joint Committees and also processes bills and 7 provides administrative support. The person who 8 serves in the staff counsel's job is supposed to 9 assist the Joint Committees in doing their job. 10 Q. And how long has PEER played this role, since 11 when? 12 A. I believe I told you back in around 1989, if 13 I remember correctly. And as I said, I was not 14 involved. I worked for PEER, but I was not involved 15 in redistricting. I seem to recall that is when the 16 general counsel at PEER began to perform functions for 17 the reapportionment committees. 18 Q. And do you recall who was responsible for 19 these reapportionment functions, as I believe you're 20 saying, before PEER, who was responsible for these 21 functions before 1989? 22 A. I do not know. 23 Q. Do you know about the percentage of PEER's 24 work that is dedicated to this function that you've 25 described?</p>	<p style="text-align: right;">36</p> <p>1 to redistricting often fall to as little as an hour a 2 day. 3 Q. So what plans are you referring to when 4 you -- when 100 percent of your time is focused on 5 this effort? 6 A. Legislative and congressional. 7 Q. And do any of those plans involve any of the 8 judicial districts? 9 A. When I'm working 100 percent, when I'm doing 10 working for the redistricting -- legislative 11 redistricting efforts and the congressional efforts, I 12 am not doing anything on redistricting but legislative 13 and congressional redistricting, yeah. 14 Q. Earlier you testified about PEER producing 15 reports. Is that correct? 16 A. Yes, the PEER committee produces reports. 17 Q. And I think you said it's been several 18 hundred reports. 19 A. Oh, it's been many, many reports, yes. 20 Q. Has PEER ever produced a report on 21 redistricting? 22 A. I do not remember PEER ever producing a 23 report on redistricting. 24 Q. Okay. Does PEER play any role in the 25 map-drawing process?</p>

37	<p>1 A. Once again, PEER's role in the map-drawing                  2 process is limited to the staff counsel directing                  3 people who work for the Joint Legislative                  4 Reapportionment Committee, Mr. Collins, for example,                  5 or contractors who work for us who develop maps. But                  6 once again, PEER doesn't draw maps.                  7 Q. Does PEER have a relationship with the                  8 Secretary of State's Office?                  9 A. A relationship?                  10 Q. For example, does PEER meet with the                  11 Secretary of State's Office in the redistricting                  12 process or for the redistricting process?                  13 MR. BECKETT: I'm going to object. We                  14 continue to ask what PEER does in redistricting, and                  15 he's been very clear. This is like four or five times                  16 now that we've implied that PEER does redistricting,                  17 and he's been very clear that it does not.                  18 MS. JONES: Yes, sir.                  19 BY MS. JONES:                  20 Q. We're just trying to understand if there are                  21 any other roles that PEER plays and interacts with any                  22 other state agencies as it relates to redistricting.                  23 I realize the role --                  24 A. Yeah.                  25 Q. -- that you've testified to and we're --</p>	39	<p>1 A. Uh-huh.                  2 Q. Earlier you testified that there are two                  3 committees --                  4 A. Uh-huh.                  5 Q. -- I believe under that umbrella.                  6 A. Correct.                  7 Q. Can you explain that to me again?                  8 A. There's a Standing Joint Committee on                  9 Legislative Reapportionment, which is responsible for                  10 developing redistricting plans for the Mississippi                  11 State House and the Mississippi State Senate. There                  12 is also a Standing Joint Congressional Redistricting                  13 Committee, which is responsible for developing                  14 congressional redistricting plans.                  15 Q. So if we are focused on the --                  16 A. Uh-huh.                  17 Q. -- Legislative Reapportionment Committee on                  18 the Mississippi --                  19 A. Uh-huh.                  20 Q. -- State and Senate --                  21 A. Uh-huh.                  22 Q. State house and senate side.                  23 A. Uh-huh.                  24 Q. Is there a name for that committee that's                  25 separate from the congressional side? I'm just trying</p>
38	<p>1 A. Uh-huh. Uh-huh.                  2 Q. -- just trying to clarify --                  3 MR. BECKETT: Let her --                  4 BY MS. JONES:                  5 Q. We're just trying to clarify all the entities                  6 and all the relationships so that we understand.                  7 A. Uh-huh.                  8 MR. BECKETT: And are we limited to judicial                  9 redistricting, or are you asking him about all                  10 redistricting?                  11 BY MS. JONES:                  12 Q. So judicial redistricting, does PEER interact                  13 at all with the Secretary of State's Office?                  14 A. No.                  15 Q. Does PEER exchange any data or information                  16 with the Secretary of State's Office?                  17 A. With respect to judicial redistricting?                  18 Q. Yes, sir.                  19 A. No.                  20 Q. Has the Secretary of State's Office ever                  21 requested information from PEER with regard to                  22 redistricting?                  23 A. With respect to judicial redistricting, no.                  24 Q. Okay. So I want to understand, better                  25 understand, the SJLCRR.</p>	40	<p>1 make sure --                  2 A. Yeah.                  3 Q. -- we're talking about the same thing when we                  4 talk about --                  5 A. The statutes create two different committees                  6 and, once again, the membership of them is the same,                  7 but there is a Joint Congressional Redistricting                  8 Committee and then there is the Standing Joint                  9 Committee on Legislative Reapportionment.                  10 Q. So the Standing Joint Committee --                  11 A. Yeah.                  12 Q. -- would be the name for the Mississippi                  13 side, for the state House and Senate?                  14 A. The legislative side, yes.                  15 Q. So the Reapportionment Committee --                  16 A. Uh-huh.                  17 Q. -- if I say that, then we're talking about                  18 the same thing?                  19 A. Yeah, yeah.                  20 Q. I just want to make sure.                  21 A. Sure, sure.                  22 Q. Okay. I'm going to say Reapportionment                  23 Committee.                  24 A. Okay. Good.                  25 Q. And you'll understand what I mean when I say</p>



41	<p>1 that?</p> <p>2 A. Yes, I will.</p> <p>3 Q. Okay. And I think I will understand, also.</p> <p>4 So you've testified, it's my understanding that you've</p> <p>5 testified that the Reapportionment Committee --</p> <p>6 A. Uh-huh.</p> <p>7 Q. -- overseas the appropriation that's made to</p> <p>8 PEER. Is that correct?</p> <p>9 A. The appropriation is made to the Joint</p> <p>10 Reapportionment Committee. PEER manages it.</p> <p>11 Q. Okay. So PEER manages the appropriation</p> <p>12 that's made --</p> <p>13 A. Right, uh-huh.</p> <p>14 Q. -- through the Joint Reapportionment</p> <p>15 Committee?</p> <p>16 A. Right, right.</p> <p>17 Q. And is that appropriation funded on an annual</p> <p>18 basis?</p> <p>19 A. That is funded on an annual basis.</p> <p>20 Q. And who is the staff person who is funded</p> <p>21 through that appropriation?</p> <p>22 A. I pay the salaries of Mr. Ben Collins, who is</p> <p>23 my GIS operator, with those appropriated funds.</p> <p>24 Q. How long has that position existed?</p> <p>25 A. I'm going to have to -- back before I took</p>	43	<p>1 MR. BECKETT: Can I ask how this relates to</p> <p>2 Supreme Court redistricting?</p> <p>3 MS. JONES: We're going to be talking about</p> <p>4 the role of Mr. Collins, I believe, and with respect</p> <p>5 to the responses that you all provided to our request</p> <p>6 for documents and information. So I'm just trying to</p> <p>7 establish the position, who's held it, so when we ask</p> <p>8 the questions, we have a basis for doing so.</p> <p>9 MR. BECKETT: Okay. Well, I'd like to see us</p> <p>10 get back to Supreme Court redistricting at some point.</p> <p>11 MS. JONES: Yes, sir.</p> <p>12 MR. BECKETT: Because we have a stipulation</p> <p>13 that says that's what we're here to talk about.</p> <p>14 MS. JONES: Yes, sir.</p> <p>15 MR. BECKETT: And this was not supposed to be</p> <p>16 everything that PEER does. PEER's not even being</p> <p>17 deposed. I've been trying to be lenient, but this is</p> <p>18 getting very detailed about PEER, which is not in our</p> <p>19 stipulation. The relationship between PEER and the</p> <p>20 Standing Joint Committee has been fully explored, and</p> <p>21 I'd ask that we at least try to get back to Supreme</p> <p>22 Court redistricting, because that was the agreement</p> <p>23 that we had.</p> <p>24 MS. JONES: We are actually -- I'm about to</p> <p>25 ask specific questions about the responses. Mr. Booth</p>
42	<p>1 over, there was a person who was a salaried staff</p> <p>2 person who was a GIS operator. So that's going back</p> <p>3 to the early '90s, yeah.</p> <p>4 Q. Was anyone in that role prior to the early</p> <p>5 '90s, that you know of?</p> <p>6 A. There were some contractors, the Mississippi</p> <p>7 Automated Resource Information System, MARIS, which is</p> <p>8 an arm of the college board. Mississippi Institutions</p> <p>9 of Higher Learning provided contractors who did the</p> <p>10 drawing of the lines back in the early '90s.</p> <p>11 Q. Okay.</p> <p>12 A. Uh-huh.</p> <p>13 Q. So other than contractors and the one person</p> <p>14 that you --</p> <p>15 A. Yeah.</p> <p>16 Q. -- mentioned, has anyone else served in that</p> <p>17 role?</p> <p>18 A. As I said, there was an employee in the early</p> <p>19 '90s. And then, in the early 2000s, I had a</p> <p>20 contractor working with me who wanted to stick around</p> <p>21 a little while longer, so I moved him into an</p> <p>22 employment position. So for a couple of years, I had</p> <p>23 two GIS employees working for me.</p> <p>24 Q. And who were those employees?</p> <p>25 A. I had --</p>	44	<p>1 signed a cover letter. I'm about to get into that and</p> <p>2 offer the responses on PEER letterhead. So we're also</p> <p>3 just trying to understand the connection between PEER</p> <p>4 and the Joint Reapportionment Committee, which is --</p> <p>5 MR. BECKETT: He's explained that --</p> <p>6 MS. JONES: -- why we're asking these</p> <p>7 questions.</p> <p>8 MR. BECKETT: He's explained that four or</p> <p>9 five times at this point.</p> <p>10 MS. JONES: Yes, sir.</p> <p>11 BY MS. JONES:</p> <p>12 Q. So, Mr. Booth --</p> <p>13 A. Yes.</p> <p>14 Q. -- turning your attention, we are going to</p> <p>15 talk about the documents that we received.</p> <p>16 A. Yes.</p> <p>17 Q. And I'm going to show them to you.</p> <p>18 A. Sure.</p> <p>19 Q. And offer them as an exhibit.</p> <p>20 A. Uh-huh.</p> <p>21 Q. And to your counsel.</p> <p>22 A. Uh-huh.</p> <p>23 Q. So with respect -- there you go, sir.</p> <p>24 MR. BECKETT: And as I mentioned to you, he</p> <p>25 may need a little extra time to read.</p>

45	<p>1 MR. BECKETT: Yes.</p> <p>2 BY MS. JONES:</p> <p>3 Q. And I actually caught myself when I was about</p> <p>4 to go on, so please take your time.</p> <p>5 A. Thank you.</p> <p>6 MR. TOM: Do we need to mark this as an</p> <p>7 exhibit, Leslie?</p> <p>8 MS. JONES: I was going to mark it once they</p> <p>9 identified it to say, but I wanted him to say what I'm</p> <p>10 showing him. And we can --</p> <p>11 A. This is the letter I sent you.</p> <p>12 MS. JONES: Yes, sir. So we want to mark</p> <p>13 this as -- I guess this will be Exhibit 1.</p> <p>14 MR. TOM: We've had Exhibit 1 and 2 already,</p> <p>15 the objections and the stipulation. This will be 3.</p> <p>16 MS. JONES: Yes, I'm sorry, 3. I apologize.</p> <p>17 (Exhibit No. 3 marked.)</p> <p>18 BY MS. JONES:</p> <p>19 Q. All right. So I'm showing you what's been</p> <p>20 marked as Exhibit 3, Mr. Booth.</p> <p>21 A. Yes, uh-huh.</p> <p>22 Q. Do you recognize this document?</p> <p>23 A. I do.</p> <p>24 Q. What is it?</p> <p>25 A. It is a letter that I sent you all with</p>	47	<p>1 A. Well, aside from -- well, it's in the</p> <p>2 Constitution and it's required. It is required</p> <p>3 constitutionally for us to do that.</p> <p>4 MR. BECKETT: Are we talking about</p> <p>5 legislative redistricting?</p> <p>6 MS. JONES: I'm about to ask those questions.</p> <p>7 MR. BECKETT: Because I'm not going to let</p> <p>8 him testify about legislative and congressional</p> <p>9 redistricting.</p> <p>10 BY MS. JONES:</p> <p>11 Q. So, Mr. Booth, do all state offices get</p> <p>12 redistricted?</p> <p>13 A. All state offices, to my knowledge, do not</p> <p>14 get redistricted.</p> <p>15 Q. Do the Supreme Court districts get</p> <p>16 redistricted?</p> <p>17 MR. SHANNON: Object to the form of the</p> <p>18 question.</p> <p>19 MR. BECKETT: Object to the form.</p> <p>20 BY MS. JONES:</p> <p>21 Q. You can still answer.</p> <p>22 MR. BECKETT: You can answer.</p> <p>23 BY MS. JONES:</p> <p>24 Q. Do Supreme Court districts get redistricted</p> <p>25 every 10 years according to the census?</p>
46	<p>1 respect to -- in response to your subpoenas that made</p> <p>2 clear what I've been saying in testimony, that PEER's</p> <p>3 relationship, operational relationship, with respect</p> <p>4 to drawing redistricting boundaries really is limited</p> <p>5 to the staff counsel supervising the staff, the GIS</p> <p>6 staff, computer staff, other consultants, that PEER,</p> <p>7 per se, does not do redistricting studies, maps, or</p> <p>8 plans.</p> <p>9 Q. So as staff counsel --</p> <p>10 A. Uh-huh.</p> <p>11 Q. -- for the Reapportionment Committee --</p> <p>12 A. Yes.</p> <p>13 Q. -- do you have any formal authority over any</p> <p>14 Reapportionment Committee members?</p> <p>15 A. Committee members are legislators.</p> <p>16 Q. Yes.</p> <p>17 A. And I do not have authority over members. I</p> <p>18 work for the members. If I -- so that's -- I have no</p> <p>19 authority over members.</p> <p>20 Q. Speaking of redistricting and the census, you</p> <p>21 testified earlier, I believe, that certain offices are</p> <p>22 redistricted every 10 years because of the census?</p> <p>23 A. Legislative seats and congressional, uh-huh.</p> <p>24 Q. And what's your understanding for why this</p> <p>25 happens every 10 years?</p>	48	<p>1 A. To my knowledge, no.</p> <p>2 Q. Do you know why not?</p> <p>3 MR. BECKETT: Object to the form.</p> <p>4 MR. SHANNON: Join.</p> <p>5 BY MS. JONES:</p> <p>6 Q. You can still answer.</p> <p>7 A. Restate your question.</p> <p>8 Q. Do you know why the Supreme Court districts</p> <p>9 don't get redistricted every 10 years?</p> <p>10 A. I do not.</p> <p>11 Q. Do the Public Service Commission districts</p> <p>12 get redistricted?</p> <p>13 A. They do not.</p> <p>14 Q. Do you know why the Public Service Commission</p> <p>15 districts don't get redistricted every 10 years?</p> <p>16 A. I do not.</p> <p>17 Q. Do the Transportation Commission districts</p> <p>18 get redistricted?</p> <p>19 A. They do not.</p> <p>20 Q. Do you know why they do not get redistricted</p> <p>21 every 10 years?</p> <p>22 A. I do not.</p> <p>23 Q. Are the redistricting processes the same for</p> <p>24 the congressional, legislative, and judicial districts</p> <p>25 in Mississippi?</p>

Cathy M. White, CCR

cathywhitecsr@gmail.com

601.405.3762

49	<p>1 MR. BECKETT: Object to the form.</p> <p>2 MR. SHANNON: Object to the form of the</p> <p>3 question.</p> <p>4 A. Once again, I know of no processes for</p> <p>5 Supreme Court, Transportation or PSC districts. I do</p> <p>6 know about the form for congressional and legislative.</p> <p>7 BY MS. JONES:</p> <p>8 Q. Do you know when the Supreme Court districts</p> <p>9 were last redrawn?</p> <p>10 A. I do not.</p> <p>11 Q. Who would be responsible for redrawing those</p> <p>12 districts?</p> <p>13 MR. BECKETT: Object to the form.</p> <p>14 MR. SHANNON: Join.</p> <p>15 A. The Legislature establishes them, so</p> <p>16 presumably the Legislature would be responsible for</p> <p>17 making changes should they desire to make changes.</p> <p>18 BY MS. JONES:</p> <p>19 Q. Do you know what the population deviation is</p> <p>20 for those districts?</p> <p>21 A. I do not know the population deviation for</p> <p>22 those districts.</p> <p>23 Q. Would the Joint Reapportionment Committee</p> <p>24 review population deviation for the Supreme Court</p> <p>25 districts?</p>
50	<p>1 A. The Committee would not review deviations for</p> <p>2 those districts. The Committee works on legislative</p> <p>3 redistricting.</p> <p>4 Q. So who would be responsible for reviewing the</p> <p>5 population deviation for those districts?</p> <p>6 MR. BECKETT: Object to the form.</p> <p>7 A. I do not know who would be responsible for</p> <p>8 that.</p> <p>9 BY MS. JONES:</p> <p>10 Q. Is the population deviation of Supreme Court</p> <p>11 districts an issue of interest for the Joint</p> <p>12 Reapportionment Committee?</p> <p>13 MR. BECKETT: Object to the form. Instruct</p> <p>14 him not to answer.</p> <p>15 MS. JONES: So, Mr. Beckett, it's my</p> <p>16 understanding you can only instruct him not to answer</p> <p>17 for matters of privilege. There are no other</p> <p>18 objections -- if there's not a privileged matter here,</p> <p>19 then he is required to answer my questions.</p> <p>20 MR. BECKETT: He is staff counsel to that</p> <p>21 Committee and, to the extent these questions are</p> <p>22 asking him to testify as to the advice he would give</p> <p>23 to members of the Committee with respect to any</p> <p>24 redistricting, that's attorney-client privilege, and</p> <p>25 it enjoys a legislative privilege.</p>
51	<p>1 MS. JONES: Okay. So on the basis of</p> <p>2 privilege, you're telling him not to answer.</p> <p>3 MR. BECKETT: To the extent you're asking him</p> <p>4 what he does with respect to -- I'm sorry. Can you</p> <p>5 read the question back?</p> <p>6 (The court reporter read pending question.)</p> <p>7 MR. BECKETT: Okay. I'm just going to object</p> <p>8 to the form. I'm not going to instruct him not to</p> <p>9 answer. I withdraw the instruction.</p> <p>10 MS. JONES: Thank you, sir.</p> <p>11 MR. BECKETT: But I do object to the form.</p> <p>12 A. I know of no instance where the Joint</p> <p>13 Committee, Reapportionment Committee, has questioned</p> <p>14 me about population deviations.</p> <p>15 BY MS. JONES:</p> <p>16 Q. During your time with the Mississippi</p> <p>17 Legislature, do you recall how often the subject of</p> <p>18 changing the Supreme Court Districts has been</p> <p>19 discussed?</p> <p>20 MR. SHANNON: Object to the form of the</p> <p>21 question.</p> <p>22 BY MS. JONES:</p> <p>23 Q. With legislators and the Joint</p> <p>24 Reapportionment Committee.</p> <p>25 A. I do not recall the number of times that the</p>
52	<p>1 matter of Supreme Court redistricting has been</p> <p>2 discussed.</p> <p>3 Q. Who would have been -- let me strike that.</p> <p>4 I'll go back.</p> <p>5 Do you know when the Mississippi Supreme</p> <p>6 Court districts were last redrawn?</p> <p>7 A. I do not.</p> <p>8 Q. If I said it was in 1987, would that refresh</p> <p>9 your recollection at all?</p> <p>10 A. Once again, I do not remember when they were</p> <p>11 last redrawn.</p> <p>12 Q. Okay. I'm going to show you one -- I'm just</p> <p>13 presenting the statute to you.</p> <p>14 A. Uh-huh.</p> <p>15 Q. Mississippi Code Annotated Section 9-3-1.</p> <p>16 A. Uh-huh.</p> <p>17 Q. I'll show you a copy.</p> <p>18 A. Okay.</p> <p>19 Q. Take your time. So we're going to enter this</p> <p>20 as an exhibit. I just handed you a document.</p> <p>21 A. Yes.</p> <p>22 Q. And it is a copy of a statute.</p> <p>23 A. Yes.</p> <p>24 Q. Is that what I gave you?</p> <p>25 A. Yes, yes.</p>

53	<p>1 Q. I'm trying to establish that is what I gave 2 you.</p> <p>3 A. Yes, you did. You gave me 9-3-1.</p> <p>4 Q. Yes, Mississippi Code Annotated Section 5 9-3-1. What is the title of this section?</p> <p>6 A. It says "Districts."</p> <p>7 Q. Okay. And it gives the three Supreme Court 8 districts as outlined by the counties. Is that 9 correct?</p> <p>10 A. It does.</p> <p>11 Q. And towards the bottom of the page, under 12 "Credits," it says that this law became effective 13 December 14th, 1987.</p> <p>14 A. The source line says that, yes.</p> <p>15 Q. Is that correct?</p> <p>16 A. That is correct.</p> <p>17 MS. JONES: Okay. So we're just going to 18 enter this as Exhibit 4. 19 (Exhibit No. 4 marked.) 20 BY MS. JONES: 21 Q. So with the current boundaries for the 22 Mississippi Supreme Court being in 1987, would there 23 have been a study of any kind related to those, that 24 districting plan? 25 MR. SHANNON: Object to the form.</p>	55	<p>1 to these districts.</p> <p>2 BY MS. JONES: 3 Q. Do you know if anyone would have been 4 responsible for addressing any alternative district 5 lines for the Mississippi Supreme Court? 6 MR. BECKETT: Object to the form. 7 MR. SHANNON: Join. 8 A. I do not know who would have been. 9 BY MS. JONES: 10 Q. Do you know if anyone would have been 11 responsible for proposing any alternative districting 12 scheme for the Mississippi Supreme Court? 13 MR. BECKETT: Object to the form. 14 MR. SHANNON: Join. 15 A. Once again, as we said a moment ago, the 16 Legislature establishes them. The Legislature could 17 change them. So a member of the Legislature could. 18 BY MS. JONES: 19 Q. What role does the Joint Apportionment 20 Committee play in the map-drawing process? 21 MR. BECKETT: Object to the form. Can you be 22 more specific? Are you talking about in 1987 with the 23 Supreme Court districts? 24 MS. JONES: I'm talking about generally at 25 the moment, and then I will be more specific.</p>
54	<p>1 MR. BECKETT: Object to the form. 2 A. I know now of no study. 3 BY MS. JONES: 4 Q. So who would have been responsible for a 5 study, if there had been one? 6 MR. BECKETT: Object to the form. 7 MR. SHANNON: Object to the form. 8 A. I do not know who would have been responsible 9 for it. 10 BY MS. JONES: 11 Q. So would anyone have been responsible for 12 assessing any potential costs as relates to these 13 district lines? 14 MR. BECKETT: Object to the form. 15 MR. SHANNON: Join. 16 A. I do not know who would have been responsible 17 for making assessments of costs. 18 BY MS. JONES: 19 Q. Would anyone have been responsible for 20 collecting data from the decennial census as it 21 relates to these lines? 22 MR. BECKETT: Object to the form. 23 MR. SHANNON: Join. 24 A. I don't know who would be responsible for 25 collecting census data and reviewing it with respect</p>	56	<p>1 BY MS. JONES: 2 Q. So, generally, what role -- and I'm talking 3 about the Joint Apportionment Committee -- 4 A. Uh-huh. 5 Q. -- under the SJLCRR, making sure I'm on the 6 right path here. 7 A. Yes. 8 Q. What role, if any, does that Committee play 9 in the map-drawing process? 10 MR. BECKETT: For judicial or for 11 legislative? I just need you to be more specific. 12 THE WITNESS: Yeah. 13 BY MS. JONES: 14 Q. Well, I was going to ask about specifically 15 for Mississippi Supreme Court, but I also just want to 16 understand the process, just generally. It's my 17 understanding we can ask you general questions about 18 the process so then we can understand the basis for 19 our specific Mississippi Supreme Court district. So 20 generally speaking, what role does the Joint 21 Apportionment Committee play in the map-drawing 22 process? 23 MR. BECKETT: Object to the form. 24 You can answer. 25 A. Okay. As we told you before, I believe the</p>

<p style="text-align: right;">57</p> <p>1 Joint Reapportionment Committee, in developing maps  2 for the redistricting of the Mississippi House and the  3 Senate, develops maps that are made or that are  4 developed as part of an overall plan to redistrict the  5 House and Senate. And likewise, such maps and reports  6 are produced for congressional redistricting.  7 BY MS. JONES:  8 Q. Can you recall any meetings that the Joint  9 Reapportionment Committee has had with legislators  10 during the map-drawing process for the Mississippi  11 Supreme Court districts?  12 A. Okay. The Committee, the Joint Committee, to  13 my knowledge, has had no meetings on the subject of  14 Supreme Court redistricting plans and maps.  15 Q. Has the Joint Reapportionment Committee met  16 with any legislators during the map-drawing process  17 for the Public Service Commission?  18 A. I know of no meetings that the Committee  19 would have had with other legislators respecting PSC  20 districts.  21 MR. TOM: Is it clear when we're talking  22 about -- can we take a break?  23 MR. BECKETT: Yeah, that's fine.  24 (Recess.)  25 BY MS. JONES:</p>	<p style="text-align: right;">59</p> <p>1 map-drawing process from the Joint Committee for  2 Mississippi Supreme Court districts.  3 Q. And is the U.S. congressional side of the  4 SJLCRR involved in the map-drawing process for the  5 Mississippi Supreme Court districts?  6 A. Members on the congressional committee for  7 redistricting are not involved in the map-drawing  8 process for the Mississippi Supreme Court.  9 Q. And does that also include the Public Service  10 Commission?  11 A. That is correct.  12 Q. And the Transportation Commission?  13 A. Correct.  14 Q. Is there anyone in the SJLCRR who is  15 responsible for map-drawing for the Mississippi  16 Supreme Court?  17 MR. BECKETT: Object to the form.  18 A. If a member of the legislature would like to  19 consider a plan to modify a district of the Supreme  20 Court, or the PSC, or the Department of  21 Transportation, that member could request staff  22 assistance to make those map changes, to change a map,  23 to draw a map.  24 BY MS. JONES:  25 Q. Is there anyone else that would be</p>
<p style="text-align: right;">58</p> <p>1 Q. Mr. Booth, I just want to make sure I clarify  2 our understanding of one thing, and I know I've asked  3 before, so I apologize.  4 The SJLCRR has two components. I think  5 you've testified that there is the Mississippi  6 legislative side with the House and the Senate, and  7 the U.S. congressional side. Is that correct?  8 A. That is correct.  9 Q. Okay. So I'm going to call it the  10 Mississippi legislative side and the U.S.  11 congressional side.  12 A. Okay. Good.  13 Q. So before the break, I asked you questions  14 about the map-drawing process for the Mississippi  15 Supreme Court districts.  16 A. I remember that, yes.  17 Q. Okay. So I just want to go back to that  18 point and then we'll move on.  19 A. Okay.  20 Q. So does the Mississippi Joint Reapportionment  21 Committee for the Mississippi legislative -- the  22 Mississippi Legislative Committee of the SJLCRR, are  23 any of those legislators involved in the map-drawing  24 process for the Mississippi Supreme Court districts?  25 A. Legislators are not involved in the</p>	<p style="text-align: right;">60</p> <p>1 responsible for map-drawing?  2 MR. BECKETT: Object to the form.  3 A. I do not know if anyone else draws maps for  4 Supreme Court, Transportation, PSC.  5 BY MS. JONES:  6 Q. I'm going to show you something else. I'm  7 going to show you --  8 MR. BECKETT: Are we done with 3 and 4?  9 MS. JONES: For the moment, yes.  10 MR. BECKETT: I didn't mean forever. I just  11 wanted to get them out of his way.  12 MS. JONES: No problem. Thank you.  13 BY MS. JONES:  14 Q. So I'm just turning your attention --  15 A. Yes.  16 Q. -- to what was previously labeled as  17 SJLCRR-000001 --  18 A. Yes.  19 Q. -- through 000005.  20 A. Yes.  21 Q. And take your time, sir. I just --  22 A. Uh-huh.  23 MR. BECKETT: Just when you're ready.  24 BY MS. JONES:  25 Q. Yes. Take your time, please.</p>



61	<p>1 A. I recognize the documents.</p> <p>2 Q. Okay. You recognize those?</p> <p>3 A. Yes.</p> <p>4 Q. What is it?</p> <p>5 A. This is a map that was drawn by my GIS staff</p> <p>6 person, Ben Collins, at the request of a member of the</p> <p>7 Legislature that shows the configuration of the</p> <p>8 districts, Supreme Court districts, if Simpson County</p> <p>9 had been moved from the Southern Supreme Court</p> <p>10 District to the Central District.</p> <p>11 MS. JONES: So we're going to mark this</p> <p>12 before we move forward any further. I think this will</p> <p>13 be Exhibit 5, and then I'll ask you a few questions,</p> <p>14 if that's okay.</p> <p>15 (Exhibit No. 5 marked.)</p> <p>16 BY MS. JONES:</p> <p>17 Q. So I just wanted to ask you some basic</p> <p>18 questions about this document.</p> <p>19 A. Yes.</p> <p>20 Q. When was it prepared?</p> <p>21 A. This was prepared in 2016 by my GIS staff</p> <p>22 person, and I'm looking here, and I'm having a hard</p> <p>23 time finding the date, but I -- wait a second. It</p> <p>24 looks like it was 2/26/16, yeah.</p> <p>25 Q. And you say that --</p>	63	<p>1 requests to Mr. Collins. Is that correct?</p> <p>2 A. They can.</p> <p>3 Q. Can anyone else make requests of Mr. Collins?</p> <p>4 A. I prefer that legislators do. Sometimes</p> <p>5 legislators may make a request for another person, but</p> <p>6 that's between the legislator and that other person.</p> <p>7 Q. Are there any other kinds of data requests</p> <p>8 that can be made of Mr. Collins?</p> <p>9 A. Mr. Collins is in the business of drawing</p> <p>10 maps and providing data associated with the maps. If</p> <p>11 Mr. Collins were asked for something other than</p> <p>12 mapping or data associated with a map, I would have to</p> <p>13 sit down with him and talk about whether somebody else</p> <p>14 would be better suited to do the job.</p> <p>15 Q. Okay. So the map-drawing and the data as it</p> <p>16 relates to the maps are the substance of Mr. Collins'</p> <p>17 job?</p> <p>18 A. That is correct.</p> <p>19 Q. Okay. And there are four e-mails, I mean --</p> <p>20 I'm sorry. There are four attachments to this --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- we'll call it e-mail. Is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And what are they?</p> <p>25 A. Well, what we have here are, one, a map of</p>
62	<p>1 A. Yeah.</p> <p>2 Q. Who was it addressed to?</p> <p>3 A. This was to Representative Baker, who at the</p> <p>4 time was a member of the Mississippi House of</p> <p>5 Representatives.</p> <p>6 Q. And the title in the e-mail refers to the</p> <p>7 Supreme Court districts. Correct?</p> <p>8 A. Correct.</p> <p>9 Q. And it references a base plan?</p> <p>10 A. Yes.</p> <p>11 Q. And also says "Simpson Option HB 868." Is</p> <p>12 that correct?</p> <p>13 A. Yes.</p> <p>14 Q. So you testified already that Ben Collins is</p> <p>15 the GIS operations coordinator?</p> <p>16 A. That is correct.</p> <p>17 Q. And who determines his tasks?</p> <p>18 A. I am his supervisor.</p> <p>19 Q. Okay.</p> <p>20 A. And I told him that, if people called over</p> <p>21 here and wanted to take advantage of our computer</p> <p>22 system, our ability to draw things, that if they're</p> <p>23 members of the Legislature, he should provide them</p> <p>24 with assistance.</p> <p>25 Q. So members of the Legislature can make</p>	64	<p>1 the current configuration of the courts.</p> <p>2 MR. BECKETT: Could you identify that by the</p> <p>3 Bates number at the bottom?</p> <p>4 A. Okay. I'm looking at -- I should probably go</p> <p>5 and -- it's zero -- the series of zeros ending in 4</p> <p>6 would be the existing plan. I know that for a fact</p> <p>7 because it shows Simpson County in the Southern</p> <p>8 District. The document 5 preceded by several zeros is</p> <p>9 a proposed modification, which moves Simpson County to</p> <p>10 the Central District. Then we have statistics on</p> <p>11 this. And what -- we have statistics on the sheet</p> <p>12 that is a number 2, which shows certain statistics</p> <p>13 respecting the three Supreme Court districts as</p> <p>14 currently configured, and then we have another one</p> <p>15 over here ending in 3, which shows -- I'm having --</p> <p>16 this is so small, I'm having a very difficult time</p> <p>17 reading this.</p> <p>18 MS. JONES: We can go over it together, if</p> <p>19 that's --</p> <p>20 MR. BECKETT: Would you allow me to assist</p> <p>21 him?</p> <p>22 MS. JONES: Sure.</p> <p>23 BY MS. JONES:</p> <p>24 Q. Well, I did have a plan to go over it</p> <p>25 quickly, so you've sufficiently identified the</p>

65	<p>1 documents.</p> <p>2 A. Okay.</p> <p>3 Q. So you're comfortable moving forward with</p> <p>4 these documents?</p> <p>5 A. Once again, I cannot read 3.</p> <p>6 Q. Okay. We have your counsel who can verify</p> <p>7 that I'm not steering you wrong. How about that?</p> <p>8 A. Okay. All right.</p> <p>9 Q. You've got backup.</p> <p>10 A. Okay.</p> <p>11 Q. So the tables -- so we're talking about the</p> <p>12 documents ending in 02 and 03.</p> <p>13 A. Yes, uh-huh.</p> <p>14 Q. They offer total population deviation</p> <p>15 figures?</p> <p>16 A. Yes.</p> <p>17 Q. And total percentage -- total and percentage</p> <p>18 values for white and Black populations in each</p> <p>19 district?</p> <p>20 A. Correct.</p> <p>21 Q. Total and percentage values for the 18 and</p> <p>22 over population?</p> <p>23 A. Correct.</p> <p>24 Q. And total and percentage values for the 18</p> <p>25 and over population by race?</p>	67	<p>1 THE WITNESS: I can't read the pink.</p> <p>2 BY MS. JONES:</p> <p>3 Q. Okay.</p> <p>4 A. Wait a second. Wait a second. It looks like</p> <p>5 I've got a 2 point -- it looks like 2.8 -- yeah, 2.83.</p> <p>6 Q. Okay. And the Southern District has a 2.79</p> <p>7 percent deviation?</p> <p>8 A. Let me check that. Looks like it, yeah.</p> <p>9 Q. And the Northern District has a 0.05 percent?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. And just looking at the maps -- and</p> <p>12 you started to describe those for us.</p> <p>13 A. Uh-huh.</p> <p>14 Q. We mentioned Simpson County --</p> <p>15 A. Uh-huh,</p> <p>16 Q. -- earlier.</p> <p>17 A. Correct.</p> <p>18 Q. And that these maps are a configuration for</p> <p>19 Simpson County --</p> <p>20 A. Uh-huh.</p> <p>21 Q. -- being added to the Central District. Is</p> <p>22 that correct?</p> <p>23 A. Correct.</p> <p>24 Q. And then finally, the demographic data</p> <p>25 tables --</p>
66	<p>1 A. Correct.</p> <p>2 Q. And the 18 and over population is equivalent</p> <p>3 to voting age population. Is that correct?</p> <p>4 A. That is correct.</p> <p>5 Q. Okay. And the 2016 data shows the districts</p> <p>6 have population deviations. Yes?</p> <p>7 A. I believe it does, yes.</p> <p>8 Q. What do you understand population deviation</p> <p>9 to mean in this context?</p> <p>10 A. In the judicial context, I do not -- I do not</p> <p>11 know. It makes sense to me in other context, but not</p> <p>12 in that.</p> <p>13 Q. What context does it make sense to you?</p> <p>14 A. Well, in the most general sense, when we talk</p> <p>15 about deviation, it means difference in population</p> <p>16 between the districts, in the most general sense.</p> <p>17 Q. So turning your attention to the document</p> <p>18 ending in 02.</p> <p>19 A. Yes.</p> <p>20 Q. The Central District has a negative 2.83</p> <p>21 percent deviation. Is that correct?</p> <p>22 A. I'm looking for that.</p> <p>23 Q. It's a highlighted section.</p> <p>24 MR. BECKETT: It's in the pink. Can you read</p> <p>25 that?</p>	68	<p>1 A. Uh-huh.</p> <p>2 Q. -- correspond to data for both the Supreme</p> <p>3 Court districts --</p> <p>4 A. Uh-huh.</p> <p>5 Q. -- the Public Service --</p> <p>6 A. Uh-huh.</p> <p>7 Q. -- Commission and Transportation Commission</p> <p>8 districts, as well. Correct?</p> <p>9 A. They follow the same boundaries, so, yes, I</p> <p>10 believe they would.</p> <p>11 Q. All right. So I think you've testified that</p> <p>12 a directive from someone in the Mississippi</p> <p>13 legislature would be required for Mr. Collins to</p> <p>14 compile this kind of data?</p> <p>15 A. We would have to have a member ask for it,</p> <p>16 yes.</p> <p>17 Q. To your knowledge, how did -- I believe we</p> <p>18 established, I'm sorry, that this was addressed to a</p> <p>19 member of the legislature on the first page --</p> <p>20 A. Yes.</p> <p>21 Q. -- on the page ending in 01?</p> <p>22 A. Uh-huh, yes.</p> <p>23 Q. And who was that legislator?</p> <p>24 A. As I recall, that was representative Mark</p> <p>25 Baker.</p>

69	<p>1 Q. To your knowledge, do you know how                  2 Representative Baker made this request?                  3 A. As I recall, he contacted Mr. Collins                  4 directly.                  5 Q. When you say he contacted Mr. Collins                  6 directly, do you know how he -- is there a procedure                  7 for that?                  8 A. No. It could be done by e-mail, it could be                  9 done by telephone. Usually, people use telephone.                  10 Q. Okay. Are there any formal logs or recording                  11 procedures for these requests that are made?                  12 A. No.                  13 Q. Would you have any way of knowing who made                  14 the request, as Mr. Collins' supervisor?                  15 A. Mr. Collins tells me when somebody makes a                  16 request like this, so that's how I know.                  17 Q. In terms of this data, has the Joint                  18 Reapportionment Committee, for either the state                  19 legislative side or the U.S. Congressional side, ever                  20 compiled data like this on its own accord?                  21 A. I know of no instance where the Joint                  22 Reapportionment Committee or the Congressional                  23 Redistricting Committee have ever requested or                  24 obtained data like this for the Supreme Court                  25 districts.</p>	71	<p>1 Act to Amend Section 9-3-1 of the Mississippi Code to                  2 Revise the Supreme Court District Boundaries.                  3 Correct?                  4 A. That is correct.                  5 Q. And I previously showed you the code section                  6 that's Exhibit 4 --                  7 A. Uh-huh, yes.                  8 Q. -- that establishes the three districts of                  9 the Supreme Court. Correct?                  10 A. Correct.                  11 Q. And the text of House Bill 868 describes the                  12 counties within the three Supreme Court districts.                  13 Correct?                  14 A. That is correct.                  15 Q. And it looks like, on the first page, Simpson                  16 County is underlined at line 12. Correct?                  17 A. That is correct.                  18 Q. And this would be a part of the first                  19 district as outlined in this document. Is that                  20 correct?                  21 A. Wait a second. Let me check.                  22 Q. And, please, take your time.                  23 A. Oh, yes, yes, yes. That's part of the first                  24 district.                  25 Q. And going -- I apologize. I didn't mean to</p>
70	<p>1 Q. Do you know why?                  2 A. No.                  3 Q. All right. I just want to show you. You can                  4 set that aside for a second. All right. I'm passing                  5 to you and your counsel a document. This says House                  6 Bill 868 on it. And take your time.                  7 A. Sure.                  8 Q. Do you see that okay?                  9 A. It is House Bill 868.                  10 Q. Okay. And this is from the regular session                  11 of 2016. Is that correct?                  12 A. That is what it says.                  13 Q. From the Mississippi Legislature?                  14 A. Yes.                  15 Q. And it looks like it is authored by                  16 Representative Baker?                  17 A. Yes, it says that.                  18 Q. And would that be Representative Mark Baker?                  19 A. I believe it would be.                  20 MS. JONES: Okay. I'm going to ask you just                  21 a couple of questions about this, so I want -- this                  22 will be Number 6.                  23 (Exhibit No. 6 marked.)                  24 BY MS. JONES:                  25 Q. So, Mr. Booth, the title of this bill is An</p>	72	<p>1 speak over you.                  2 A. No. Go ahead.                  3 Q. And going back to what was marked as Exhibit                  4 4, just this document here, if we compare those two                  5 documents --                  6 A. Uh-huh.                  7 Q. -- House Bill 868 --                  8 A. Uh-huh.                  9 Q. -- is adding Simpson County to the first                  10 district. Correct?                  11 A. Correct.                  12 Q. And the original text from Exhibit 4 that                  13 went into effect in 1987 does not include Simpson                  14 County. Correct?                  15 A. Correct.                  16 Q. Okay.                  17 MR. BECKETT: She's going back to Exhibit 4.                  18 THE WITNESS: Oh, okay.                  19 BY MS. JONES:                  20 Q. I'm just making sure that the two say                  21 something different.                  22 A. Okay.                  23 Q. Yes?                  24 MR. BECKETT: We'll stipulate that they do.                  25 BY MS. JONES:</p>



73	<p>1 Q. Okay. Are you personally familiar at all</p> <p>2 with House Bill 868?</p> <p>3 A. No, I am not.</p> <p>4 Q. Do you recall discussing this modification</p> <p>5 for the Supreme Court districts with Representative</p> <p>6 Baker back in 2016 during the session?</p> <p>7 A. I do not recall discussing House Bill 868</p> <p>8 with Mr. Baker.</p> <p>9 Q. Were you working as SJLCRR staff counsel in</p> <p>10 2016?</p> <p>11 A. I was.</p> <p>12 Q. Did you assist with this work in any way for</p> <p>13 Mr. Baker?</p> <p>14 A. All we -- all our staff did was draw the map</p> <p>15 that Mr. Collins prepared.</p> <p>16 Q. Do you remember discussing House Bill 868</p> <p>17 with any members of the SJLCRR?</p> <p>18 A. I do not remember discussing House Bill 868</p> <p>19 with any members of the Committee.</p> <p>20 Q. So that includes members on the state</p> <p>21 legislative side?</p> <p>22 A. I do not remember discussing this bill with</p> <p>23 any members of those Committees.</p> <p>24 Q. Including also the U.S. Congressional side of</p> <p>25 the SJLCRR?</p>	75	<p>1 MR. BECKETT: We can sort them out later?</p> <p>2 MS. JONES: Yes.</p> <p>3 (Discussion had off the record, not</p> <p>4 reported.)</p> <p>5 BY MS. JONES:</p> <p>6 Q. I'm showing you, you and your counsel, what</p> <p>7 has been -- what was previously marked as SJLCRR</p> <p>8 000006 --</p> <p>9 A. Correct.</p> <p>10 Q. -- through 000008.</p> <p>11 A. Yes.</p> <p>12 Q. Do you recognize these documents?</p> <p>13 A. I do recognize these documents.</p> <p>14 Q. What are they, or what is it?</p> <p>15 A. In 2021, we received, or Mr. Collins</p> <p>16 received, a request from Senator Sarita Simmons to do</p> <p>17 some work on the first and second Supreme Court</p> <p>18 districts, Transportation districts, Public Service</p> <p>19 Commission districts, and he developed these maps in</p> <p>20 response to that request.</p> <p>21 Q. Okay. So the subject here is, "Simmons</p> <p>22 legislative assistance." Correct?</p> <p>23 A. Correct.</p> <p>24 Q. And in the body of the e-mail -- and that's</p> <p>25 e-mail from Mr. Collins, as you said?</p>
74	<p>1 A. That's correct.</p> <p>2 Q. Any other legislator outside of the SJLCRR?</p> <p>3 Did you have a conversation with any of them about</p> <p>4 this?</p> <p>5 A. No, I do not recall any conversation.</p> <p>6 Q. And House Bill 868 did not pass. Is that</p> <p>7 correct?</p> <p>8 A. That's what I understand.</p> <p>9 Q. Do you know why?</p> <p>10 A. No, I do not.</p> <p>11 MR. BECKETT: Object to the form.</p> <p>12 BY MS. JONES:</p> <p>13 Q. And Section 9-3-1 of the Mississippi Code</p> <p>14 that is Exhibit 4 is still in effect today. Is that</p> <p>15 correct?</p> <p>16 MR. BECKETT: If you know.</p> <p>17 A. Well, once again, by interpreting the source</p> <p>18 line, the latest change on the source line is 1987. I</p> <p>19 would think that it hasn't changed since 1987.</p> <p>20 BY MS. JONES:</p> <p>21 Q. Yes, sir. Thank you.</p> <p>22 Okay. I'm going to show you one more set of</p> <p>23 documents.</p> <p>24 MS. JONES: And, yes, these are -- I think</p> <p>25 we're good on this for the moment.</p>	76	<p>1 MR. SHANNON: Counsel, can you reference a</p> <p>2 Bates number just for the record?</p> <p>3 MS. JONES: I apologize. I don't think I</p> <p>4 actually did the exhibit, so thank you for -- yes.</p> <p>5 These documents previously marked as</p> <p>6 SJLCRR-000007 through 000008, we will mark as Exhibit</p> <p>7 7.</p> <p>8 (Exhibit No. 7 marked.)</p> <p>9 BY MS. JONES:</p> <p>10 Q. Okay. So turning your attention now to</p> <p>11 Exhibit 7, this is an e-mail from Ben Collins to you.</p> <p>12 Is that correct?</p> <p>13 A. This was -- yes.</p> <p>14 Q. And this was dated Friday, December 3rd,</p> <p>15 2021?</p> <p>16 A. Correct.</p> <p>17 Q. Okay. And I think I said already, the</p> <p>18 subject is "Simmons legislative assistance"?</p> <p>19 A. Correct.</p> <p>20 Q. And then attached, it says, "attached are the</p> <p>21 two geographic components of the legislative</p> <p>22 assistance request from Sen. S. Simmons."</p> <p>23 A. Uh-huh.</p> <p>24 Q. "Yes"?</p> <p>25 A. Correct.</p>

77	<p>1 Q. And then attached, as we see, the document</p> <p>2 ending in 07 is Central Transportation District with</p> <p>3 Tallahatchie and Leflore additions?</p> <p>4 A. Correct.</p> <p>5 Q. It's a map. And then the document ending in</p> <p>6 08 is the Central Transportation District, current?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. So as it relates to this Exhibit 7,</p> <p>9 are you familiar with this legislative assistance</p> <p>10 request referred to in this e-mail?</p> <p>11 A. I do recall, yes.</p> <p>12 Q. Who is Sen. S. Simmons?</p> <p>13 A. That is Sarita Simmons, who is a member of</p> <p>14 the state Senate.</p> <p>15 Q. And how did your office originally receive</p> <p>16 this request?</p> <p>17 A. As I recall, she contacted -- I believe she</p> <p>18 did contact Ben and I told him to proceed with this</p> <p>19 the way he would proceed with any request like this</p> <p>20 from a legislator.</p> <p>21 Q. And when you said for him to proceed, are</p> <p>22 there any policies or procedures for what that means?</p> <p>23 A. Well, if this person says would you prepare a</p> <p>24 map for me that does X, Y, Z, they will prepare a map</p> <p>25 that does X, Y, Z.</p>	79	<p>1 have been originally a part of?</p> <p>2 A. They were -- under the existing plan, they're</p> <p>3 part of the Northern Supreme Court District.</p> <p>4 Q. And the existing plan is the map ending in</p> <p>5 08. Correct?</p> <p>6 A. Correct, uh-huh.</p> <p>7 Q. Okay. So for the map ending in 07, it shows</p> <p>8 a 2020 total population for the Central District?</p> <p>9 A. Uh-huh, yes.</p> <p>10 Q. With the addition of the two counties.</p> <p>11 Correct?</p> <p>12 A. Correct.</p> <p>13 Q. And that would be 974,895. Correct?</p> <p>14 A. That is correct.</p> <p>15 Q. What would be the source for this population</p> <p>16 data?</p> <p>17 A. This would have been using the 2020 census</p> <p>18 data that we had received.</p> <p>19 Q. This map also shows a district-wide BVAP.</p> <p>20 Correct?</p> <p>21 A. Correct.</p> <p>22 Q. And BVAP, B-V-A-P, stands for Black</p> <p>23 voting-age population. Correct?</p> <p>24 A. Correct.</p> <p>25 Q. And that says 49.07 percent?</p>
78	<p>1 Q. And when he prepares that document in</p> <p>2 response to that request --</p> <p>3 A. Uh-huh.</p> <p>4 Q. -- does he review that with you?</p> <p>5 A. He tells me what he has prepared and I will</p> <p>6 say, did the person requesting it want you to do the</p> <p>7 things you did here, and they said yes, and I will say</p> <p>8 very good.</p> <p>9 Q. Is there any other analysis that you and</p> <p>10 Mr. Collins do with regard to these requests?</p> <p>11 A. The usual and customary source of things, as</p> <p>12 you see over in the margin, we provide statistical</p> <p>13 information on the districts. It's something that we</p> <p>14 will -- we always provide on maps when anyone is</p> <p>15 proposing making some changes in a district.</p> <p>16 Q. Okay. Well, turning your attention to the</p> <p>17 map, we will start with Central Transportation</p> <p>18 District with Tallahatchie and Leflore additions.</p> <p>19 A. Yes.</p> <p>20 Q. So would you interpret this map to be adding</p> <p>21 Tallahatchie and Leflore Counties to the Central</p> <p>22 District?</p> <p>23 A. I interpret it to be adding those two</p> <p>24 counties to the Central District.</p> <p>25 Q. And which districts would those two counties</p>	80	<p>1 A. Correct.</p> <p>2 Q. If we compare the map ending in 07 and 08 --</p> <p>3 A. Uh-huh, yes.</p> <p>4 Q. -- the original plan, the BVAP for the</p> <p>5 original plan ending in 08, the map ending in 08, is</p> <p>6 48.33 percent. Correct?</p> <p>7 A. That is correct.</p> <p>8 Q. So the map ending in 07 has an increase in</p> <p>9 BVAP. Correct?</p> <p>10 A. Correct.</p> <p>11 Q. Okay. Still on 07, the left-hand side</p> <p>12 towards the bottom, there is an 18-plus percent BVAP</p> <p>13 written in blue. Can you see that? I know it's</p> <p>14 small.</p> <p>15 A. I am having a very difficult time reading</p> <p>16 that.</p> <p>17 MR. BECKETT: Can I read it to him?</p> <p>18 MS. JONES: Yeah, that's fine.</p> <p>19 MR. BECKETT: Just so you know, this says</p> <p>20 percentage 18 plus, underscore, Black population</p> <p>21 (BVAP). Did you understand that?</p> <p>22 THE WITNESS: Yes, I understood what you</p> <p>23 read.</p> <p>24 BY MS. JONES:</p> <p>25 Q. And directing your attention to the map</p>

Cathy M. White, CCR

cathywhitecsr@gmail.com

601.405.3762

81	<p>1 itself, when you look at Tallahatchie and Leflore 2 Counties on the map, and Mr. Beckett -- 3 A. He may be able to see that. 4 Q. They're showing a majority BVAP for 18 and 5 over population for Tallahatchie and Leflore Counties. 6 Correct? 7 A. Correct. 8 MR. BECKETT: Can you see that? May I read 9 it to him? 10 MS. JONES: Yeah, yeah. Absolutely. 11 MR. BECKETT: I don't want to interrupt 12 your -- 13 MS. JONES: No, no. 14 MR. BECKETT: Tallahatchie, and it says 55.54 15 percent. 16 THE WITNESS: Yeah. That's the bottom 17 number. Right? 18 MR. BECKETT: And then Leflore says -- it's 19 in blue, which is why you probably can't see it as 20 well, 71.19 percent. 21 THE WITNESS: Correct. 22 BY MS. JONES: 23 Q. Do you recall reviewing this data at all? 24 A. When you said "reviewing it," he told me what 25 he produced and he showed it to me.</p>	83	<p>1 Q. Or about this request at all? 2 A. No. 3 Q. Do you know if Mr. Collins received any 4 feedback, as his supervisor? 5 A. I do not know. 6 Q. Do you recall any other conversations of this 7 analysis with adding Tallahatchie and Leflore Counties 8 to the Central District? 9 A. I do not. 10 Q. In any other context? 11 A. I do not. 12 Q. Okay. I just want to ask one other quick 13 question about the map ending in 008, so the current 14 map. 15 A. Uh-huh. 16 Q. The right-hand side, it shows the total 17 Central District populations for 2020 and 2010. 18 Correct? 19 A. Let's see. That shows -- yes, 2020 and 2010. 20 Q. Okay. And so for -- it also shows that there 21 was a change in population for 2020 to -- from 2010, 22 excuse me, to 2020. Is that correct? 23 A. It does reflect a change. 24 Q. And that change is a decrease in population 25 of 27,231 people?</p>
82	<p>1 Q. And did you have any further conversation 2 with Mr. Collins about any of this? 3 A. I don't remember having any further 4 conversations. 5 Q. Did you have any conversations with Senator 6 Simmons about this? 7 A. I just told him, you need to provide the 8 information. 9 Q. Did you have any conversations with the 10 SJLCRR about this? 11 A. No. 12 Q. So that's the state legislative side of 13 SJLCRR. 14 A. No. 15 Q. And the U.S. congressional side of SJLCRR? 16 A. No. 17 Q. Was this data transmitted to anyone other 18 than you? 19 A. Well, ultimately, Mr. Collins would have 20 provided this to the requester. 21 Q. And that would be Senator Simmons? 22 A. Yeah, uh-huh. 23 Q. Did you receive any feedback from Senator 24 Simmons about this data? 25 A. No.</p>	84	<p>1 A. I don't do arithmetic that quickly, but it's 2 certainly -- 3 MR. BECKETT: It's here at the bottom. 4 A. Oh, there it is. Yes, it does. Yeah, there 5 it is. 6 BY MS. JONES: 7 Q. Yes, I apologize. I just identified -- and 8 that percentage, not to ask for your math skills, is a 9 decrease or a negative 2.91 percent? 10 A. Correct. 11 Q. You know lawyers love math, Mr. Booth. 12 So I just want to ask just a couple of 13 follow-up questions to both the 2016 and 2021 request. 14 A. Yes. 15 Q. First, do you recall if Mr. Collins received 16 any other data requests other than 2016 and 2021? 17 A. With respect to -- 18 Q. With respect to -- 19 A. Judicial? 20 Q. -- Supreme Court districts, yes. 21 A. I do not know of any that he ever received 22 other than these. 23 Q. Do you know of any requests that he received 24 for the public service transportation -- I'm sorry. I 25 mean, the Public Service Commission?</p>

85	<p>1 A. Any of those dis- -- no.</p> <p>2 Q. Or for the Transportation Commission?</p> <p>3 A. No.</p> <p>4 Q. And has anyone else at SJLCRR on the state</p> <p>5 legislative side reviewed any analysis -- reviewed any</p> <p>6 data other than these legislative requests?</p> <p>7 A. Well --</p> <p>8 MR. BECKETT: Let me object to the form.</p> <p>9 MS. JONES: I can ask again. I'm sorry.</p> <p>10 BY MS. JONES:</p> <p>11 Q. Let me ask again. I apologize. Do you</p> <p>12 recall if Mr. Collins or anyone else under your</p> <p>13 supervision --</p> <p>14 A. Uh-huh.</p> <p>15 Q. -- received any other requests other than</p> <p>16 2016 and 2021 --</p> <p>17 A. I do not --</p> <p>18 Q. -- for the Supreme Court districts?</p> <p>19 A. I do not know of any.</p> <p>20 Q. Or for the Public Service Commission?</p> <p>21 A. I do not know of any.</p> <p>22 Q. Or for the Transportation Commission?</p> <p>23 A. I do not know of any.</p> <p>24 Q. And no one on the legislative, state</p> <p>25 legislative side of SJLCRR, made any requests or asked</p>	87	<p>1 decade. What happens sometimes during the years after</p> <p>2 redistricting, the Committee goes dormant and doesn't</p> <p>3 reorganize. So because of that, they don't meet, and</p> <p>4 I can't remember if he had actually been named to the</p> <p>5 Committee. Because after they had completed the</p> <p>6 redistricting in 2012, they didn't meet anymore.</p> <p>7 Q. So when you say they didn't meet anymore</p> <p>8 after 2012, when would it have been reconstituted?</p> <p>9 A. For the next round of redistricting.</p> <p>10 Q. So that would have been --</p> <p>11 A. First part of this decade, the current</p> <p>12 decade.</p> <p>13 Q. Okay. So not until the 2020 --</p> <p>14 A. Yeah.</p> <p>15 Q. -- redistricting cycle?</p> <p>16 A. Right, yeah. And once again, he may have</p> <p>17 been named, but the Committee did not reorganize after</p> <p>18 we did the redistricting in that first part of the</p> <p>19 decade.</p> <p>20 Q. And just to clarify --</p> <p>21 A. Sure.</p> <p>22 Q. -- are we talking about Mr. Baker being on</p> <p>23 the state legislative side of the SJLCRR or on the</p> <p>24 U.S. congressional side?</p> <p>25 A. Membership is usually identical for those.</p>
86	<p>1 for any of this information in any way?</p> <p>2 A. I know of no requests for the information.</p> <p>3 Q. And the same with the U.S. congressional side</p> <p>4 of SJLCRR?</p> <p>5 A. It would be the same for the congressional</p> <p>6 side.</p> <p>7 MS. JONES: Okay. I'm going to ask if we</p> <p>8 could just take a quick break.</p> <p>9 MR. BECKETT: Sure.</p> <p>10 (Recess.)</p> <p>11 BY MS. JONES:</p> <p>12 Q. So, Mr. Booth, I just want to ask a few</p> <p>13 clarifying questions, and then we're going to get to</p> <p>14 the box.</p> <p>15 A. Okay.</p> <p>16 Q. So before the break, we were talking about</p> <p>17 the legislative assistance request.</p> <p>18 A. Yes.</p> <p>19 Q. And we spoke about Representative Baker and</p> <p>20 Senator Simmons.</p> <p>21 A. Correct.</p> <p>22 Q. Back in 2016, was Representative Baker a</p> <p>23 member of the SJLCRR?</p> <p>24 A. I am trying to remember. I believe he was,</p> <p>25 if I remember correctly, in the early part of that</p>	88	<p>1 Q. Okay.</p> <p>2 A. I can't remember when it's not.</p> <p>3 Q. Okay. So if he was on the Committee --</p> <p>4 A. Yeah.</p> <p>5 Q. -- it would have been around 2012 on both</p> <p>6 sides of the Committee?</p> <p>7 A. Correct.</p> <p>8 Q. For Senator Simmons, was she a member of the</p> <p>9 SJLCRR in 2021 when she made the request?</p> <p>10 A. Senator Sarita Simmons was not a member of</p> <p>11 the Committee.</p> <p>12 Q. Has she ever been a member of the Committee?</p> <p>13 A. No, she has not.</p> <p>14 Q. We have discussed a number of different</p> <p>15 committees today.</p> <p>16 A. Yes.</p> <p>17 Q. So just for clarity, with respect to your</p> <p>18 time with the Mississippi Legislature since 1984 --</p> <p>19 A. Uh-huh.</p> <p>20 Q. -- have any other committees ever conducted</p> <p>21 any redistricting of the Supreme Court Districts?</p> <p>22 A. I have no personal knowledge of other</p> <p>23 committees' work in the area of redistricting. I only</p> <p>24 know about what my committees have done. So I can't</p> <p>25 answer that with any certainty.</p>

Cathy M. White, CCR

cathywhitecsr@gmail.com

601.405.3762

89	<p>1 Q. So that would -- would that be the same</p> <p>2 answer for the Public Service Commission?</p> <p>3 A. Correct.</p> <p>4 Q. And the Transportation Commission?</p> <p>5 A. Correct.</p> <p>6 Q. As far as you know, have any of these</p> <p>7 committees ever been assigned by law to redraw the</p> <p>8 Supreme Court districts?</p> <p>9 A. I know of no instance when that has happened.</p> <p>10 Q. Has any committee ever been assigned by law</p> <p>11 to redraw the Supreme Court districts?</p> <p>12 A. I know of no instance of that happening.</p> <p>13 Q. Is that the same for the Public Service</p> <p>14 Commission?</p> <p>15 A. Correct.</p> <p>16 Q. And the Transportation Commission?</p> <p>17 A. Correct.</p> <p>18 Q. Do you know of any committee that we have</p> <p>19 talked about today, since 1984, that has conducted</p> <p>20 redistricting of the Supreme Court districts?</p> <p>21 A. I know of no committee that has conducted a</p> <p>22 redistricting of the Supreme Court districts.</p> <p>23 Q. Is the same true for the Public Service</p> <p>24 Commission?</p> <p>25 A. To my knowledge, I know of no committee, no</p>	91	<p>1 systems, but making sure that the firewall is secure.</p> <p>2 Q. And who's your CIO again?</p> <p>3 A. Dr. Kirby Arinder.</p> <p>4 Q. Thank you. Who has access to the computer</p> <p>5 systems?</p> <p>6 A. Mr. Collins has access to the computer</p> <p>7 system. I have physical access to the computer</p> <p>8 system, but I do not use the system, so I would not be</p> <p>9 able to do anything with the system. We have had</p> <p>10 contractors before to -- from the Mississippi</p> <p>11 Automated Resource Information System who have helped</p> <p>12 us during redistricting, and they help us and have</p> <p>13 access to the computers.</p> <p>14 Q. And how often are these -- is this computer</p> <p>15 system used?</p> <p>16 A. Well, the computer system is used when we do</p> <p>17 redistricting. It is used when people make requests</p> <p>18 of Mr. Collins, like the couple of things we've talked</p> <p>19 about here. And from time to time, a member may ask</p> <p>20 us to please print out a copy of their district map,</p> <p>21 the computers we use to bring up district maps. So</p> <p>22 they get used a great deal.</p> <p>23 Q. Is there any other data on these systems</p> <p>24 besides the -- or I guess let me ask this: What is</p> <p>25 the data on the computer systems?</p>
90	<p>1 committee of the legislature that has effected a</p> <p>2 change in those districts.</p> <p>3 Q. Is that also true for the Transportation</p> <p>4 Commission?</p> <p>5 A. That would be true for the transportation</p> <p>6 districts, also.</p> <p>7 Q. Okay. Mr. Booth, I'm going to ask you just a</p> <p>8 few more questions.</p> <p>9 A. Uh-huh.</p> <p>10 Q. I want to talk about -- ask you about the</p> <p>11 computer systems that PEER houses for the SJLCRR.</p> <p>12 A. Correct. Okay.</p> <p>13 Q. So what are those computer systems?</p> <p>14 A. All right. At first, you're going to have to</p> <p>15 forgive some imprecision because I am not an IT</p> <p>16 person. So I'm going to explain to the best of my</p> <p>17 ability what we use. We currently use and have used,</p> <p>18 since late 2007, PCs that run a software known as</p> <p>19 Maptitude, which is a redistricting GIS software, and</p> <p>20 that's what we have been -- we have used for the last</p> <p>21 couple of rounds of redistricting.</p> <p>22 Q. Who manages your computer system?</p> <p>23 A. Mr. Collins, as my GIS staff person,</p> <p>24 maintains and operates those computers. My CIO at</p> <p>25 PEER has limited responsibility, not for operating the</p>	92	<p>1 A. We have the -- well, obviously, we have the</p> <p>2 census data in the computer system, and we have the</p> <p>3 Maptitude software in the computer system.</p> <p>4 Q. Is there any other data?</p> <p>5 A. I can't remember any other data we have in</p> <p>6 there. We also have another software program called</p> <p>7 ArcView that runs on that computer that we use from</p> <p>8 time to time for other purposes, other mapping</p> <p>9 purposes, but I can't think of -- and, obviously, the</p> <p>10 data for those maps, other maps, might be in there.</p> <p>11 Q. And when you say maps for other purposes,</p> <p>12 what other purposes do you mean?</p> <p>13 A. If Mr. Collins has downtime and the PEER</p> <p>14 Committee is working on a project that needs a map, I</p> <p>15 will ask him to sit down and help the staff work up a</p> <p>16 map.</p> <p>17 Q. And have any of those downtime map projects</p> <p>18 involved redistricting?</p> <p>19 A. No.</p> <p>20 MR. BECKETT: Just to clarify, you mean at</p> <p>21 the Supreme Court districts or the related districts.</p> <p>22 Right?</p> <p>23 MS. JONES: Yes, with regard to the Supreme</p> <p>24 Court districts.</p> <p>25 A. Right.</p>

Cathy M. White, CCR

cathywhitecsr@gmail.com

601.405.3762



93	<p>1 BY MS. JONES:  2 Q. Does the SJLCRR have any computer systems  3 housed by any other entity other than PEER?  4 A. I know of -- we have no other computers  5 housed off-site, meaning our office.  6 Q. Okay. So all of your computers are within  7 your office?  8 A. Our computers are in our office.  9 Q. Okay. What is the Sun server?  10 A. Okay. Back in the late '90s, we acquired a  11 Sun computer. This was before we were using PCs.  12 That was programmed by our contractors at the  13 Mississippi Automated Resource Information System out  14 at the Board of Trustees of the Institutions of Higher  15 Learning to help us draw maps. It did for us, in the  16 early 2000s, what these PCs running Maptitude do for  17 us now.  18 Q. So do you personally recall any redistricting  19 data being saved to the Sun server?  20 MR. BECKETT: With respect to judicial?  21 BY MS. JONES:  22 Q. With respect to the judicial --  23 A. I recall --  24 Q. -- districts.  25 A. I recall no project, no request occurring</p>	95	<p>1 Q. What do you know about the content or the  2 contents of these media storage devices?  3 A. Well, as I said, the Sun system was the  4 system that we were using for the post-2000 census  5 rounds of redistricting. So they would have work  6 plans associated with the various activities that we  7 carried on, but they would have nothing, as I recall,  8 on Supreme Court redistricting.  9 Q. And these media storage devices date back to  10 the early 1990s, you testified?  11 A. No. This would have been in the early 2000s.  12 These were the drives for the computer that we used in  13 the first -- in the 2000, post-2000 census  14 redistricting.  15 Q. So who owns these media storage devices?  16 A. Well, the computer was owned by the Joint  17 Reapportionment Committee. The storage devices are,  18 likewise, owned by the Joint Reapportionment  19 Committee.  20 Q. And who maintains them?  21 A. Well, I maintain them in a file cabinet.  22 MR. BECKETT: It's super sophisticated.  23 MS. JONES: And highly classified.  24 BY MS. JONES:  25 Q. And you are testifying today that the data on</p>
94	<p>1 when we were using the Sun system to make changes in  2 Supreme Court districts.  3 Q. So none of the data on the Sun servers is  4 related to the Mississippi Supreme Court districts?  5 A. I cannot remember anything that would have  6 required us to make changes to Mississippi Supreme  7 Court districts that would have been saved in the Sun  8 system.  9 Q. Would that also be true of the Public Service  10 Commission?  11 A. That would be true of PSC.  12 Q. And the Transportation Commission?  13 A. That would be true of Transportation  14 Commission, also.  15 Q. So in accordance with the stipulation that I  16 think is Exhibit 1 --  17 MR. BECKETT: It's Exhibit 2.  18 BY MS. JONES:  19 Q. Exhibit 2. I'm not going to get the numbers  20 correct today. You and your counsel previously -- you  21 identified, as SJLCRR staff counsel, there are 28  22 individual eight millimeter data tapes, seven  23 individual half-inch data tapes, one CD ROM and four  24 Sun hard drives.  25 A. That is what we identified, yeah.</p>	96	<p>1 these media storage devices is limited to  2 redistricting?  3 MR. BECKETT: Legislative.  4 BY MS. JONES:  5 Q. Legislative redistricting.  6 A. Nothing on the Supreme Court.  7 Q. Or the Public Service --  8 A. Correct.  9 Q. Public Service Commission?  10 A. Correct.  11 Q. Or Transportation Commission?  12 A. Correct.  13 Q. Okay. So is anyone -- have you or anyone  14 else at PEER or SJLCRR accessed any of this data since  15 the 2000 redistricting cycle?  16 A. The computer, the Sun system that we had  17 began to malfunction in the late 2000s, around 2007.  18 I had already decided that we were going to conduct  19 all of our new redistricting activities on PCs running  20 Maptitude. So when we began to have problems with the  21 computer, we just ceased using it. We took all the  22 tapes, the drives, and the CDs. We saved them, stored  23 them away, and retired the computer.  24 Q. Are there any other media storage devices in  25 PEER's possession --</p>

97	<p>1 A. I know --</p> <p>2 Q. -- for any other redistricting cycles?</p> <p>3 A. I know of none.</p> <p>4 Q. Are there any other media storage devices in</p> <p>5 SJLCRR's possession for any other redistricting</p> <p>6 cycles?</p> <p>7 A. I know of none.</p> <p>8 MR. BECKETT: Again, we're talking about</p> <p>9 judicial. Right?</p> <p>10 THE WITNESS: Judicial, right. Yeah.</p> <p>11 BY MS. JONES:</p> <p>12 Q. Yes. As it relates to both the Mississippi</p> <p>13 state legislative side of the SJLCRR and the U.S.</p> <p>14 congressional legislative side of SJLCRR, because you</p> <p>15 told me there's two separate sides. And neither of</p> <p>16 them have any --</p> <p>17 A. Yeah.</p> <p>18 Q. -- storage devices, media storage devices, in</p> <p>19 their possession regarding the Mississippi Supreme</p> <p>20 Court district lines?</p> <p>21 A. I know of none in anyone's -- in the</p> <p>22 possession of either of those computers or any of the</p> <p>23 staff that deal with Mississippi Supreme Court</p> <p>24 redistricting.</p> <p>25 Q. Okay. So, Mr. Booth, considering everything</p>	99	<p>1 BY MS. JONES:</p> <p>2 Q. And with regard to the SJLCRR U.S.</p> <p>3 congressional legislative side of the Committee, do</p> <p>4 you know of anyone who has any relevant knowledge of</p> <p>5 the matters we discussed today?</p> <p>6 MR. BECKETT: Object to the form.</p> <p>7 A. I do not.</p> <p>8 BY MS. JONES:</p> <p>9 Q. Do you know of anyone outside of PEER or the</p> <p>10 SJLCRR who has any information about any of the</p> <p>11 matters that we've discussed today, any relevant</p> <p>12 information?</p> <p>13 MR. BECKETT: Same objection.</p> <p>14 A. I do not.</p> <p>15 MS. JONES: All right. I have one last</p> <p>16 general -- two last general questions, but if we can</p> <p>17 take one last break.</p> <p>18 (Discussion had off the record, not</p> <p>19 reported.)</p> <p>20 MS. JONES: Okay. You brought notes today,</p> <p>21 Mr. Booth, and we just need to figure out what we're</p> <p>22 going to do about those, Mr. Beckett. And then the</p> <p>23 only other question is the box. It's our</p> <p>24 understanding that we've already -- the box is</p> <p>25 sufficiently within the record both through the</p>
98	<p>1 we've covered today, do you know anyone else at PEER</p> <p>2 who may have any relevant knowledge about the matters</p> <p>3 we've discussed?</p> <p>4 MR. BECKETT: Object to the form.</p> <p>5 A. Once again, at PEER, PEER staffers, no.</p> <p>6 BY MS. JONES:</p> <p>7 Q. Do you know anyone on the Mississippi</p> <p>8 legislative side of SJLCRR who may have any relevant</p> <p>9 knowledge for the matters that we discussed today?</p> <p>10 A. Mr. Ben Collins is the only person that I can</p> <p>11 think of that's a staff person.</p> <p>12 MR. BECKETT: I think she was talking -- if I</p> <p>13 may.</p> <p>14 You're talking about the members. Right?</p> <p>15 THE WITNESS: Members?</p> <p>16 BY MS. JONES:</p> <p>17 Q. Anyone. Anyone connected to the Mississippi</p> <p>18 state legislative side of the SJLCRR. Does anyone</p> <p>19 have any relevant knowledge, outside of Mr. Collins?</p> <p>20 MR. SHANNON: Object from the standpoint it</p> <p>21 calls for speculation.</p> <p>22 MR. BECKETT: I object to form.</p> <p>23 You can answer.</p> <p>24 A. I know of no one else who would have</p> <p>25 information.</p>	100	<p>1 stipulation, through the subpoena responses. We may</p> <p>2 not do anything with the box at this second, and</p> <p>3 that's -- we think that's okay. The box has been</p> <p>4 established as a part of the case and if we need to --</p> <p>5 MR. SHANNON: Are we on the record right now?</p> <p>6 MR. BECKETT: We are on the record.</p> <p>7 MS. JONES: Yes, sir, Mr. Shannon. Is that</p> <p>8 okay?</p> <p>9 MR. SHANNON: Sure, sure.</p> <p>10 MS. JONES: I guess what I'm saying is, we</p> <p>11 want to just our reserve our right to access the box</p> <p>12 at a later time, if necessary.</p> <p>13 MR. BECKETT: Yeah. I mean, that's fine. I</p> <p>14 mean, we're not going to turn over physical custody of</p> <p>15 it, as we've discussed, but the -- to the extent that</p> <p>16 -- I mean, I think he's testified that, to the best of</p> <p>17 anybody's knowledge, there's nothing related to</p> <p>18 Supreme Court, the Public Service Commission, or the</p> <p>19 Transportation Commission that's on those records.</p> <p>20 To the extent that they have to be accessed</p> <p>21 and you make that decision, then we will be happy to</p> <p>22 go find a forensic data specialist who has equipment</p> <p>23 that goes back, you know, 20-plus years, that can</p> <p>24 access these, these materials, without us potentially</p> <p>25 spoliating them. That's my big concern, is that I</p>

101	<p>1 don't want us to open something, 20-year-old records, 2 to blow up. Right? So if we have to get a specialist 3 to make -- to put them into a manageable, readable, 4 usable, sharable format, then we'll have to conduct a 5 privilege review of that, and we would provide the 6 parties with an estimate of what that costs in terms 7 of the data specialist and the privilege review. 8 So the -- but I'm happy to -- if you want to 9 put the photographs in the record, he can verify the 10 photographs that we provided to you as being 11 reflective of the materials that are in the box. 12 Would that help? 13 MS. JONES: Sure. We weren't sure if you -- 14 MR. BECKETT: We'll be happy to. 15 MS. JONES: -- were okay with the 16 photographs. That's why we relied on the box. 17 MR. BECKETT: The photographs, they came from 18 Mr. Booth, so he can authenticate the photographs, if 19 you want him to. 20 MS. JONES: Okay. I don't think I have a 21 copy of the photographs. 22 MR. SOUSSI: I have them. 23 MS. JONES: Oh, you do? 24 MR. SOUSSI: Yeah. 25 MS. JONES: We have a copy of the</p>	103	<p>1 MS. JONES: Okay. Thank you. We appreciate 2 that. 3 And I think the final thing were the notes. 4 I know there were copies circulating -- 5 MR. BECKETT: I think they got swept up in 6 there. 7 MS. JONES: Right. So let's find -- 8 MR. BECKETT: Yeah, that's them. 9 BY MS. JONES: 10 Q. So these are the notes that you prepared in 11 anticipation of the deposition. Correct? Or in 12 preparation for the deposition? 13 A. I prepared these notes before I sat down with 14 Mr. Beckett. I was beginning to get my thoughts in 15 order about the subject matter that I believed you all 16 would be questioning me on today. 17 MS. JONES: Yes, sir. And we are asking then 18 that these notes be entered as our, I guess, our final 19 exhibit. 20 THE WITNESS: Typos and all. 21 MR. BECKETT: We object to it, but we 22 understand. 23 MS. JONES: Yes, sir. 24 (Exhibit No. 8 marked.) 25 BY MS. JONES:</p>
102	<p>1 photographs. All right. Well, we'll do that and then 2 talk about the notes. 3 MR. BECKETT: And let's use what he -- I 4 think you have what he sent. I sent some other stuff 5 to Josh, but I don't want to be a witness, and he and 6 I had an agreement that that wouldn't be the case. 7 MS. JONES: Right. And that's why we stayed 8 away from the photographs. So maybe I didn't realize 9 Mr. Booth had also produced photographs. 10 MR. BECKETT: We produced -- 11 MR. SOUSSI: There's 10 there and the two 12 hard drives. 13 MR. BECKETT: Let me see if that's -- can we 14 go off the record? 15 (Discussion had off the record, not 16 reported.) 17 MR. BECKETT: As we discussed when we went 18 off the record, we will supplement this record with 19 the photographs that -- 20 Did Mr. Collins take them? 21 THE WITNESS: I believe Ben took a set of 22 photos. 23 MR. BECKETT: So at Mr. Booth's direction, he 24 took a set of photographs, and I will provide those to 25 you.</p>	104	<p>1 Q. All right. Mr. Booth, thank you for your 2 time today and for speaking with us and answering our 3 questions. 4 A. Thank you. 5 Q. We have nothing further at this time. 6 A. Thank you. 7 MR. BECKETT: No redirect. 8 MR. SHANNON: We have no questions. 9 (Whereupon the deposition was concluded at 10 12:01 p.m., the same day.) 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>



1 CERTIFICATE OF COURT REPORTER  
 2 I, Catherine M. White, CSR, and Notary Public  
 3 in and for the County of Rankin, State of Mississippi,  
 4 hereby certify that the foregoing pages, and including  
 5 this page, contain a true and correct transcript of  
 6 the testimony of the witness, as taken by me at the  
 7 time and place heretofore stated, and later reduced to  
 8 typewritten form by computer-aided transcription under  
 9 my supervision and to the best of my skill and  
 10 ability.

11 I further certify that I placed the witness  
 12 under oath to truthfully answer the questions in this  
 13 matter under the power vested in me by the State of  
 14 Mississippi. I further certify that I am not in the  
 15 employ of or related to any counsel or party in this  
 16 matter, and have no interest, monetary or otherwise,  
 17 in the final outcome of the proceedings.

18 Witness my signature and seal this the 21st  
 19 day of March, 2023.

20 \_\_\_\_\_  
 21 CATHERINE M. WHITE, CSR No. 1309

22 My Commission Expires:  
 23 February 1, 2026



1 DEPONENT'S CERTIFICATE  
 2 I, James Frederick "Ted" Booth, the deponent  
 3 in the foregoing deposition, certify that I have read  
 4 the foregoing pages 5 - 104, being the total number of  
 5 pages relating to my testimony, as to the correctness  
 6 thereof, and that after reading said pages and subject  
 7 to any corrections I may have reflected below, I  
 8 certify that this testimony is true, correct and  
 9 complete and that the transcript thereof is true and  
 10 correct.

11 \_\_\_\_\_  
 12 James Frederick "Ted" Booth

13 STATE OF \_\_\_\_\_  
 14 COUNTY OF \_\_\_\_\_

15 SWORN TO AND SUBSCRIBED before me on this the  
 16 \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

17 \_\_\_\_\_  
 18 NOTARY PUBLIC

19 My Commission expires: \_\_\_\_\_

19	PAGE	LINE	CORRECTION	REASON
20	_____	_____	_____	_____
21	_____	_____	_____	_____
22	_____	_____	_____	_____
23	_____	_____	_____	_____
24	_____	_____	_____	_____
25	_____	_____	_____	_____

Cathy M. White, CCR