

In the Supreme Court of the United States

JOSE TREVINO, ISMAEL G. CAMPOS, AND STATE REPRESENTATIVE ALEX
YBARRA,

Applicants,

v.

SUSAN SOTO PALMER, *et al.*,

Respondents.

**Addendum to Response of Respondents Susan Soto Palmer, et al., in
Opposition to Emergency Application for a Stay of Judgment and
Injunction**

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Expert Report of Dr. Loren Collingwood

Loren Collingwood

2022-11-02

Executive Summary

I have been retained by plaintiffs as an expert and have been asked to analyze whether there is racially polarized voting (RPV) in the Yakima Valley and surrounding areas; to analyze demographic data and examine maps proposed or drafted during the 2021 redistricting process, the Enacted Plan, and Plaintiffs' demonstrative plans; and to conduct electoral performance analyses for a number of plans.

RPV refers to a sustained pattern of voting decisions where race or ethnicity determines electoral outcomes in whole or in part. RPV occurs when white voters cast ballots for the same set of candidates and minority voters cast ballots for a different set of candidates. Specifically, in order to determine the extent of RPV, I was asked to examine whether Latino voters in the Yakima Valley and surrounding areas are politically cohesive and whether white voters vote sufficiently as a bloc to usually prevent Latino voters from electing their candidates of choice.¹

Across 25 elections in and around the Yakima Valley and surrounding areas, featuring statewide elections, state legislative elections, and county elections, several involving Latino candidates, I find very clear patterns of RPV between Anglo and Latino voters in 23 out of 25 (92%) contests. I describe the methods I used to examine RPV and findings in further detail below in my report.

I also conducted what is referred to as a performance analysis (or reconstituted elections analysis). An electoral performance analysis reconstructs previous election results based on new district boundaries to assess whether a minority-preferred or white preferred candidate is most likely to win in different district configurations (i.e., a newly adopted legislative district vs. a demonstrative plan). I only examined previous elections held in jurisdictions (i.e., statewide) that can cover the new enacted map or Plaintiffs' demonstrative plans because district boundaries change from one redistricting cycle to the next. I conducted a performance analysis for Legislative District 15 (LD 15) in the Enacted Plan, as well as three demonstratives for Legislative District 14 (LD 14) provided by Plaintiffs.

¹ Throughout the report I refer to white, Anglo, and non-Hispanic white voters interchangeably. I refer to Latino and Hispanic voters interchangeably.



Additionally, I analyzed redistricting criteria, like compactness, of the LD 15 Enacted and LD 14 demonstrative district plans. Across all criteria, the Demonstrative plans perform comparatively to the Enacted plan. I also reviewed a timeline of the draft maps from the Washington State Redistricting Commission. The timeline shows that several of the maps considered by the Commission would have produced a district in the Yakima Valley that would very likely provide Latino voters the ability to elect legislative candidates of choice.

Moreover, I conducted a voter turnout analysis by race/ethnicity. The results show that white voters gain a turnout advantage in off years (i.e., 2018) vs. in presidential years (i.e., 2020). Thus, the labeling of the district as LD 15 vs. LD 14 reduces Latino voters' ability to elect a candidate of choice. I also analyzed the precincts with large Latino populations that the Commission included in Adams and Grant Counties and those it excluded in Yakima County and find that the included precincts have lower Latino voter registration and disproportionately whiter electorates (relative to voter registration) than the excluded Yakima County precincts.

Based on my analysis, I conclude the following:

- RPV between white and Latino voters is present in 23 of 25 elections I analyzed across 5 election cycles.
- I analyzed votes in elections spanning the whole region as well as elections in specific parts of the region, including county district offices and relevant parts of legislative districts. The results are consistent: RPV is present.
- Latino voters are politically cohesive. Latino voters consistently vote as a group for the same candidates, regularly casting ballots between 75-80% for the Democratic candidate in the partisan contests I analyzed. Meanwhile, a similar share of white voters consistently cast ballots for the Republican candidate.
- I also analyzed a variety of contests featuring Spanish-surname candidates. Latino voters consistently vote as a group for the same candidates, regularly casting ballots between 65-90% for the Spanish-surname candidate. Meanwhile, a similar share of white voters consistently cast ballots for the non-Spanish-surname candidate.
- In the enacted Legislative District 15, white voters voted with sufficient cohesion to defeat the minority-preferred candidate in 7 out of 10 contests that I analyzed, for a block rate of 70%.² Thus, I conclude that white voters usually defeat Latino voters' candidates of choice.

² Between my initial declaration and the drafting of this report, I updated my methodology for evaluating split precincts. I discuss the approach at length further into the report. The result is that one contest, the presidential 2020, switched from narrowly preferencing Trump to narrowly preferencing Biden. My updated approach produces almost identical performance results as those observed in Dave's Redistricting software – a free online

- In Plaintiffs' Demonstrative Map 1, Latino voters' preferred candidate prevailed in 10 of 10 contests that I analyzed.
- In Plaintiffs' Demonstrative Map 2, Latino voters' preferred candidate prevailed in 10 of 10 contests that I analyzed.
- In Plaintiffs' Demonstrative map 3; Latino voters' preferred candidate prevailed in 9 of 10 contests that I analyzed.
- Plaintiffs' demonstrative maps perform similarly on redistricting criteria as compared to the enacted map, including on compactness scores, contiguity, population deviation, and county and precinct splits. All three of Plaintiffs' demonstrative maps contain a Legislative District 14 with over 50% Latino Citizen Voting Age Population (CVAP).
- A review of the Commission timeline shows that several of the maps considered by the Commission would have produced a district in the region that would very likely provide Latino voters the ability to elect legislative candidates of choice. Instead, the Commission chose a district that maximally reduces Latinos' ability to elect candidates of choice.
- Anglo voters vote at higher rates than Latino voters in both the 2020 and 2018 general elections. However, the voter turnout gap between the two groups widens in 2018 (when LD 15 would be up for election) relative to 2020 (when LD 14 would be up). Further, the Commission failed to include several high-density Latino precincts into the plan, instead opting to include precincts with fewer Latinos who also vote at a lower rate.

My opinions are based on the following data sources: Washington State general election precinct returns from 2012-2020; individual-level voter file data produced from the Secretary of State's (SoS) office capturing voters who cast ballots in the 2012, 2014, 2016, 2018, and 2020 general elections; the 2012 and 2020 individual voter file capturing voting in those years' primary elections; 2010 and 2020 US Census block data; the 2010 Census surname database; the shape files for the Enacted Plan; and geojson, block assignment, or shape files for the Commission's draft maps and Plaintiffs' demonstrative maps provided by Plaintiffs' counsel. My opinions are also based upon my general expertise and experience. My work is ongoing in this matter, and my opinions are based on the information available to me as of the date of this report. I reserve the right to supplement or amend my findings based on additional information.

I am being compensated at a rate of \$400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

database analysts used to evaluate redistricting plans. The very minor change does not alter my overall opinions.

The rest of the report explains my methods and presents my results, including: 1) a review of the method I used to estimate precinct racial demographics; 2) a list of the elections analyzed, 3) 5-County RPV analysis using statewide contests and one congressional contest; 4) Spanish-surname candidate analysis; 5) electoral performance analysis of both enacted and alternative maps; 6) compactness and district characteristics analysis; 7) analysis of the redistricting commission's timeline; and 8) voter turnout analysis by race.

Background and Qualifications

I am an associate professor of political science at the University of New Mexico. Previously, I was an associate professor of political science and co-director of civic engagement at the Center for Social Innovation at the University of California, Riverside. I have published two books with *Oxford University Press*, 39 peer-reviewed journal articles, and nearly a dozen book chapters focusing on sanctuary cities, race/ethnic politics, election administration, and RPV. I received a Ph.D. in political science with a concentration in political methodology and applied statistics from the University of Washington in 2012 and a B.A. in psychology from the California State University, Chico, in 2002. I have attached my curriculum vitae, which includes an up-to-date list of publications, as Exhibit 1 to this report.

In between obtaining my B.A. and Ph.D., I spent 3-4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting, map-drawing, and demographic analysis for the Inland Empire Funding Alliance in Southern California. I was the redistricting consultant for the West Contra Costa Unified School District's independent redistricting commission in California, where I was charged with drawing court-ordered single-member districts. I am contracted with the Roswell, NM, Independent School District to draw single member districts.

I served as a testifying expert for the plaintiff in the Voting Rights Act Section 2 case *NAACP v. East Ramapo Central School District*, No. 17 Civ. 8943 (S.D.N.Y.), on which I worked from 2018 to 2020. In that case, I used the statistical software eiCompare and WRU to implement Bayesian Improved Surname Geocoding (BISG) to identify the racial/ethnic demographics of voters and estimate candidate preference by race using ecological data. I am the quantitative expert in *LULAC v. Pate* (Iowa), 2021, and have filed an expert report in that case. I am the BISG expert in *LULAC Texas et al. v. John Scott et al.*, No. 1:21-cv-0786-XR, 2022. I filed two reports and have been deposed in that case. I was the RPV expert for the plaintiff in *East St. Louis Branch NAACP, et al. v. Illinois State Board of Elections, et al.*, and filed two reports in that case. I was the Senate Factors expert for plaintiff in *Pendergrass v. Raffensperger* (N.D. Ga. 2021), and filed a report in that case. I served as the RPV expert for plaintiff in *Johnson, et al., v. WEC, et al.*, No. 2021AP1450-OA, and filed three reports in that case. I was the RPV expert for plaintiff in *Faith Rivera, et al. v. Scott Schwab and Michael Abbott*. I filed a report, was deposed, and testified at trial in that case. I served as the RPV expert for the intervenor in *Walen and Henderson v. Burgum and Jaeger*, No 1:22-cv-00031-PDW-CRH, where I filed a report and testified at trial. I am the RPV expert in *Lower Brule Sioux Tribe v. Lyman County*, where I filed a report and testified at trial.

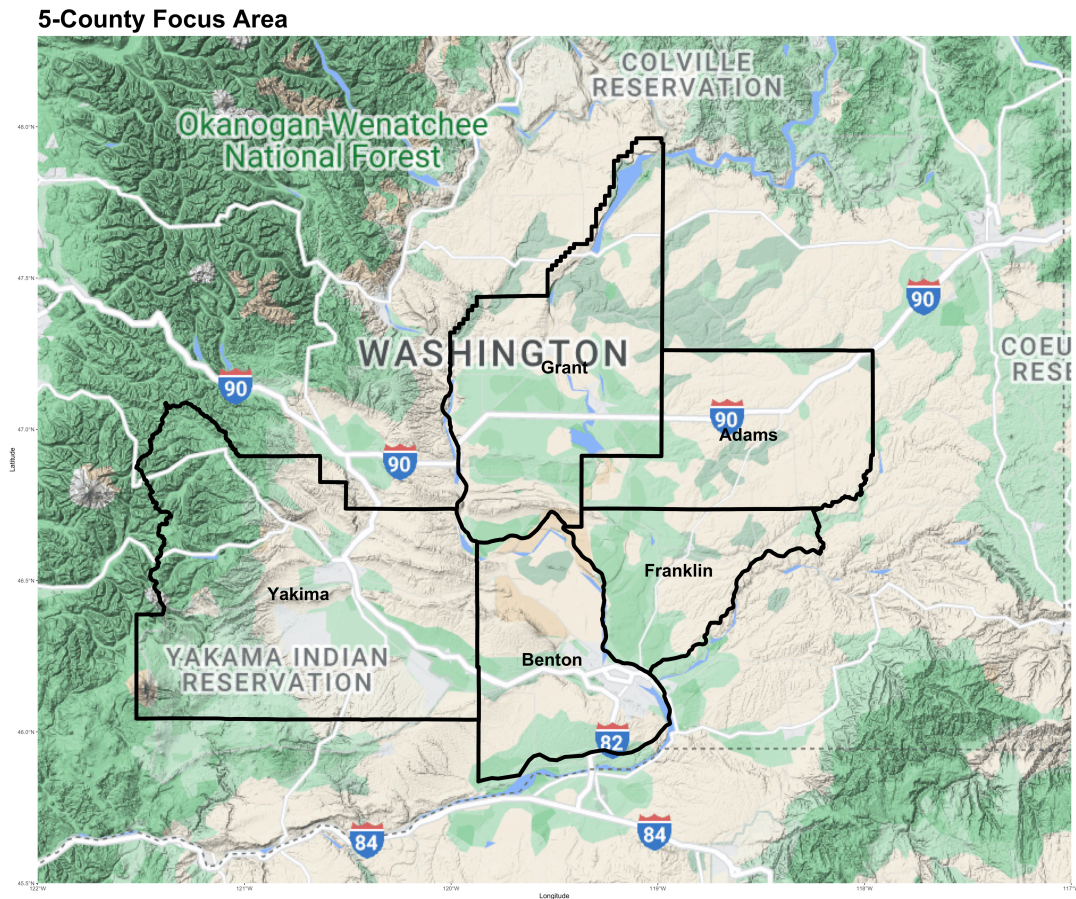
I. Racially Polarized Voting

RPV occurs when minority voters regularly vote for one candidate or set of candidates, and white voters regularly vote for another candidate or set of candidates. The favored candidate of minority voters is called a “candidate of choice.” To assess RPV in the present case, we test whether Hispanic voters back the same candidate and whether Anglo voters favor a different candidate.

As a general rule, RPV scholars turn to precinct vote returns and estimates of racial demographics in the same geolocation to assess the presence or absence of RPV. I analyze multiple elections across five election years (2012, 2014, 2016, 2018, and 2020) to determine whether a pattern of RPV is present in the Yakima Valley region and surrounding areas and within specific electoral districts (i.e., previous legislative district 15). I look at these five years of elections because Secretary Hobbs provided historical voter files for those same years, which is my source of demographic voting data, and because these years feature Latino or Spanish-surname candidates.

RPV does not necessarily mean voters are racist or intend to discriminate. However, in situations where RPV is present, majority voters may often be able to block minority voters from electing candidates of choice by voting as a broadly unified bloc against minority voters’ preferred candidate. At issue in this report, however, is whether the enacted state legislative map dilutes Latino voters’ votes in and around Legislative District 15 in the Enacted Plan. Figure 1 highlights the specific counties in which I conduct an RPV analysis: Adams, Benton, Franklin, Grant, and Yakima.

Figure 1. Yakima Valley and surrounding areas, WA 5-County Focus Area.



A. Racially Polarized Voting Estimation Approach

To determine if RPV exists in different geographic areas, it is generally necessary to infer individual level voting behavior from aggregate data – a problem called ecological inference. The analysis attempts to observe how groups of voters (i.e., Latinos or non-Hispanic whites) voted in a particular election based on precinct vote returns and the demographic composition of the people who live in those precincts.

There are several methods for analyzing whether RPV exists: homogeneous precinct analysis (i.e., taking the vote average across high density white precincts vs. high density Hispanic precincts), ecological regression (ER), ecological inference (EI), and ecological inference Rows by Columns (RxC). In this report, I rely on the ecological inference (EI) and the Rows by Column (RxC) methods to assess whether voting is racially polarized, using functions in the eiCompare R package (Collingwood et al. 2020). I focus my attention on the two top-of-the-ticket candidates in each contest. I present vote-choice estimates for Latino and non-Hispanic white voters.

My assessment is based on 21 general election contests and four primary contests using two different types of statistical analyses, each producing vote choice by race. The results of

my analysis show that RPV between Latino and non-Hispanic white voters is clearly present in 23 of the 25 contests I analyzed (92%).

B. List of General Elections Analyzed

Tables 1 and 2 list the 21 general and four primary elections I analyzed, with columns indicating year, contest, type (general or primary), whether the contest is partisan, Democratic and Republican candidate names in the context of partisan contests, Spanish-surname and non-Spanish surname in the case of non-partisan contests, and whether RPV is present. I focus on contests between 2012-2020 because those are the years for which I have historical voter file data that I use to generate precinct demographic estimates and because these are the most probative elections. I analyze the statewide contests subset to the 5-county region, but in some of the local contests I only analyze the results in one county (i.e., county supervisor). In my discussion of the results, I note the geography subsets explicitly.

Table 1. List of partisan contests analyzed, between 2012-2020.

Year	Contest	Type	Partisan	DemCandidate	GOPCandidate	RPV
2020	President	General	YES	Biden	Trump	YES
2020	Governor	General	YES	Inslee	Culp	YES
2020	Attorney General	General	YES	Ferguson	Larkin	YES
2020	Treasurer	General	YES	Pellicciotti	Davidson	YES
2018	U.S. Senate	General	YES	Cantwell	Hutchinson	YES
2018	U.S. Rep D4	General	YES	Brown	Newhouse	YES
2018	LD 15 State Senate	General	YES	Aguilar	Honeyford	YES
2016	U.S. Senate	General	YES	Murray	Vance	YES
2016	President	General	YES	Clinton	Trump	YES
2016	Governor	General	YES	Inslee	Bryant	YES
2012	LD 15 Position 2	Primary	YES	Gonzalez	Taylor	YES
2012	LD 15 State Rep.	General	YES	Gonzalez	Taylor	YES
2014	LD-15 State Senate	Primary	YES	Munoz	Honeyford	YES
2014	LD-15 position 2	Primary	YES	Martinez-Chavez	Taylor	YES
2014	LD 15 State Senate	General	YES	Munoz	Honeyford	YES
2014	LD 15 State Rep.	General	YES	Martinez-Chavez	Taylor	YES
2016	LD-14 Position 1	General	YES	Soto Palmer	Johnson	YES
2020	LD-13 Position 1	Primary	YES	Castaneda Diaz	Dent	YES
2020	LD 13 Position 1	General	YES	Castaneda Diaz	Dent	YES

Table 2. List of non-partisan contests analyzed, between 2012-2020.

Year	Contest	Partisan	SpanishSurname	NonSpanishSurname	RPV
2020	Franklin County Commish D2	NO	Peralta	Mullin	YES
2020	State Supreme Court, Seat 3	NO	Montoya-Lewis	Larson	YES
2020	Sup. of Public Instruction	NO	Espinoza	Reykdal	NO
2018	State Supreme Court, Seat 8	NO	Gonzalez	Choi	NO
2018	Yakima County Board D3	NO	Soto Palmer	Childress	YES
2016	Yakima County Board D2	NO	Manjarrez	Anderson	YES

C. Data Preparation

To conduct the RPV analysis, I gathered precinct election returns from the Washington Secretary of State election results website³ and the Redistricting Data Hub.⁴ I also downloaded precinct shape files from the Secretary of State’s website,⁵ and the Redistricting Commission’s website.

Beginning with the precinct vote returns, for each election contest I analyze, I divide each candidate’s vote by the total number of votes in that election, as well as the total number of estimated voters in that precinct. For example, in a precinct with 1,000 voters, if Biden scored 800 votes and Trump 200, I produce a Percent Biden value of 0.8 (80%) and a Percent Trump value of 0.2 (20%). However, my approach also lets me capture possible voter drop off for different election contests. Thus, while 1000 people might have voted in the presidential contest, maybe just 850 cast ballots for another contest in the same election year. Thus, I further account for no vote in these down-ballot races. In the statistical model, I then weight each precinct by its total vote size to account for variation in precinct population size.

Next, I generate the demographic statistics of each voting precinct. Analysts can generate precinct demographics in a variety of ways all containing some degree of estimation. One common approach is to use citizen voting age population (CVAP) data from the American Community Survey (ACS) 5-year estimates. The ACS is a roughly 2% sample of all American households per year. Thus, by stacking the ACS across five years, a mid-point estimate captures roughly 10% of American households. The advantage of the ACS over the U.S. Census is that it is ongoing instead of only every 10 years, and the ACS includes questions about citizenship status. This latter advantage is crucial in estimating Latino voting since

³ <https://www.sos.wa.gov/elections/research/election-results-and-voters-pamphlets.aspx>

⁴ <https://redistrictingdatahub.org/state/washington/>

⁵ <https://www.sos.wa.gov/elections/research/precinct-shapefiles.aspx>

many U.S. Latinos are not citizens and thus using voting age population as a demographic indicator can vastly over-estimate the size of the Latino electorate.

Using ACS data requires statisticians to estimate precinct demographics using spatial interpolation methods from block group to the precinct. This is because precinct lines and block groups do not overlap completely and/or are not nested.

Another method is to gather voter file data, which provides information about who actually voted in each election and in which precinct each voter lives. Because both the vote return data and the voter file contain precinct information, this method of precinct demographic composition does not suffer from the spatial interpolation challenge posed with ACS or Census demographic data. In some states, each voter's race is listed as a column in the voter file; however, this is not the case in Washington. Therefore, in order to generate an estimate of a precinct's racial demographics, I estimate each voter's racial distribution then aggregate all voters' racial distributions within a precinct together. I opt for this latter approach because it provides greater demographic composition precision – especially in the context of lower turnout primary elections. When estimating RPV across groups who vary significantly in population size and voter turnout (as is the case between whites and Latinos here, as I will show in the report's section on voter turnout), greater precision in who voted enables a more precise vote choice estimate by racial group.

To generate my demographic estimates, I gathered voter file data from the Secretary of State for general election years 2012, 2014, 2016, 2018, and 2020, and for the 2012, 2014, and 2020 August primaries. The files include all registered voters recorded shortly after that fall's general election (or the primary). The file includes first name, surname, address, and a column recording the date of each individual voter's last recorded vote. I subset each file to the relevant 5-county region, and further subset to people who cast a ballot in each general election contest. I then geocoded these data using Geocodio to extract each unique household's latitude and longitude (coordinates).⁶ Geocodio is a leading geocoding service that interfaces with various statistical software programs for relatively straightforward individual record geocoding. Experts in my field can select a variety of geocoders (e.g., Geocodio, Google, Opencage). I have used all these services and they produce highly similar results.

I then forward geocoded these lat/long coordinates into the appropriate Census blocks, using 2010 blocks for 2012 and 2014, and 2020 blocks for 2016-2020. This entails a geospatial points-to-polygons approach where I locate each coordinate in its appropriate Census block by overlaying a spatial points layer onto a spatial polygons layer. This process adds the 13-digit Census block FIPS code to each record, which I need to conduct Bayesian Improved Surname Geocoding (BISG) – which is a straightforward method for

⁶ <https://www.geocod.io/>

probabilistically estimating an individual's race based on surname and neighborhood racial composition.⁷

The data now contain all the ingredients necessary to use the BISG algorithm to estimate individual-level race probabilities, including: surname, residential address, latitude, longitude, county, precinct, and vote history.

BISG is a widely used and reliable method researchers use to estimate individual-level race prediction. The California Secretary of State uses the method to help them better understanding voter turnout by race, and the Washington State Auditor's office recently used the approach in a performance audit. Furthermore, BISG uses publicly available data (publicly available lists of voters in this case, and Census block population counts) to transparently estimate individual-level race estimation. At a very basic level, for each voter in the voter file, the BISG formula combines information about that voter's surname and where that voter lives. We can do this because many surnames are indicative of race. This is especially the case for people with Spanish surnames. For instance, a surname such as Hernandez is much more likely to be held by a person of Hispanic descent, whereas a surname like Collingwood is more likely to be held by a non-Hispanic white person. The 2010 Census tabulated the racial distribution of all surnames occurring at least 100 times in the United States, and thus, this surname list serves as one data point as to each voter's race probability.⁸

The second bit of information draws on where each voter lives. I locate each voter within a Census block, which is the smallest geographic unit in which the Census provides demographic counts. Thus, if that same voter with the Hernandez surname lives in a block that is 97% Hispanic, the probability of them being Hispanic will increase. However, if that same voter with the surname Hernandez lives in a block that is just 25% Hispanic, then the probability that they are Hispanic will decrease. The BISG formula will provide five probabilities for each voter: the probability they are non-Hispanic white, Black, Hispanic, Asian/Pacific Islander, or Race Other.

Of the files I received from the Secretary of State's office, I rely on eight files of registered voters containing information on who voted (and who did not vote) in the last general election – or in the last primary election. Each file contains all registered voters in the state as of the date listed, and is the first file to list vote history for the previous relevant election. Thus, the 2016 file captures individual level behavior for the 2016 general election; the 2018 file captures individual level behavior for the 2018 general election; and the 2020 file captures individual level behavior for the 2020 general election. I gather the historical voter file closed to each date because it best captures what the electorate looked like at the time. It is not sufficient, for instance, to gather the latest Washington registered voter file,

⁷ Later in the report I conduct a voter turnout analysis on 2020 and 2018 general election registrants. For this part, I geocoded and performed BISG for all registered voters in the 5-county region.

⁸ https://www.census.gov/topics/population/genealogy/data/2010_surnames.html

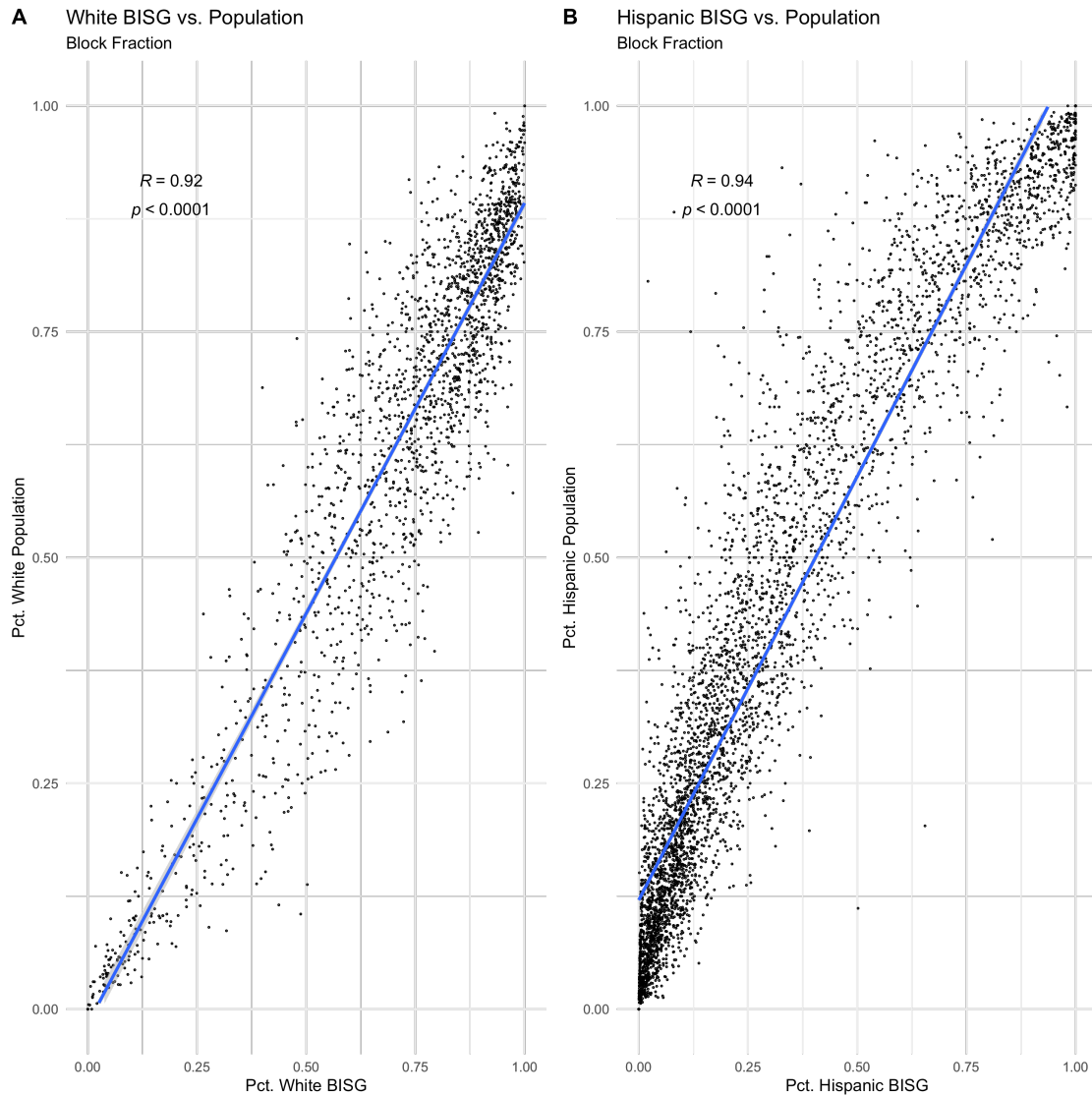
then subset to people who cast ballots in the requisite elections because people have since moved within and outside of the state, and within and outside of the various focus counties.

I use the `bigR` package (Decker-Frain and Sachdeva 2021) – an extension of the `eiCompare` software suite—to estimate the race probability of all voters because I can use 2020 Census population data rather than 2010 Census counts. I also attach these Census counts onto each individual voter record so that I can validate BISG prediction accuracy. I loaded either 2010 or 2020 Census block level population estimates into my statistical software using the U.S. Census data file known as P.L. 94-171 data, which the U.S. Census Bureau created from the 2010 and 2020 Census data. These files contain population (i.e., demographic) counts for all Census blocks in the United States. The P.L. 94-171 data is the main dataset used in redistricting every 10 years. If, for instance, we want to know how many people live in Block X we must turn to the P.L. data for the answer. Because I am only interested in Washington voters, I narrow the P.L. data to Washington.

Using the P.L. 94-171 data, I develop block-level demographic counts for non-Hispanic single race white, Hispanic, non-Hispanic single race AAPI (Asian American Pacific Islander), non-Hispanic single race Black, and race other. These counts are then sent into the BISG algorithm and used as the geographic probability side of the BISG formula.

By way of validation, I aggregated the 2020 voter file with BISG probabilities attached by race to the Census Block by summing each racial group's probability. We should observe a robust positive relationship between BISG and population data at the aggregate level. To apply this to the subject data set, I calculated the percentage of individuals from each racial group per block and did the same at the population level. Figure 2 plots out the relationship between percent race by BISG and percent race by population (for non-Hispanic white and Hispanic). The correlation for the two ethno-racial population groups hovers between 0.92-0.94, the regression line (blue) is positive and statistically significant. This result indicates that the BISG formula worked correctly in this case and as we would expect, with a high correlation.

Figure 2. BISG vs. population scatterplots at the block level by classified non-Hispanic white and Hispanic voters.



To enter the surname race probabilities, the BISG package incorporates the 2010 U.S. Census surname database. This database includes race probabilities for the same five racial categories of every name occurring in the United States at least 100 times. Names that are uncommon are imputed to the surname racial probability average. With these two bits of information, the BISG method uses Bayes' Theorem to produce a race estimate for the five aforementioned racial groups for every voter. The BISG Bayes formula in the Appendix provides the details of the formula.

The final step is to aggregate each racial probability to the precinct then join with the election data using unique county precinct identifiers. For example, in a precinct with 1,000 2020 voters, each voter will have a probability between 0-1 for white, Black, Hispanic,

AAPI, and other. For instance, there might be a Collingwood who lives in a block within this precinct. BISG might assign this voter a 0.917 probability of being white, a 0.059 probability of being Black, a 0.006 probability of being Hispanic, a 0.002 of being Asian, and a 0.015 probability of being race: other. To generate the percentage of voters in the precinct that are Hispanic, for instance, I sum each voters' probability of being Hispanic then divide by 1,000. That percentage is then my racial Hispanic demographic estimate in that precinct.

Finally, and as noted, I opt for the BISG method as my source of demographic input into the ecological model instead of using voting age population (VAP) or CVAP counts for reasons of turnout variation by race. According to U.S. Census estimates, 77% of eligible whites in Washington State cast ballots in 2020 general election, whereas 54% of eligible Hispanics cast ballots in the same election.⁹ In the United States as a whole, 53.7% of citizen voting age Hispanics reported to have voted in the 2020 general election. Meanwhile, 70.9% of citizen voting age non-Hispanic whites reported to have voted in the same election. Further, as my turnout analysis later in the report demonstrates, this turnout gap between white and Hispanic voters grows further in off-year midterm elections. Thus, by relying on VAP or CVAP as my demographic input, I would not be able to account for this gap in racial turnout as cleanly.

D. Racially Polarized Voting

Once all the precinct data are cleaned and joined, for each contest, I subset the precincts to the appropriate geographic unit – either all five counties in the case of statewide contests and legislative seats fully contained in the 5-county region, or relevant portions of legislative seats within the region. I use two methods to estimate racially polarized voting between non-Hispanic whites and Latinos: 1) Ecological Inference (EI); and 2) Rows by Columns (RxC). These are two of the commonly used and reliable methods to estimate vote choice by race using precinct data. Both approaches produce very similar estimates: Out of the 25 contests, both methods produce RPV in 23 contests for a rate of more than 92%.

Figure 3 presents the EI results of the contests that do not feature Spanish-surname candidates. The colored bar and number represent the point estimate – the most likely vote estimate given the underlying data. The little black bars represent the statistical uncertainty inherent in the model, in this case the 95% confidence or credible interval. In short, with the confidence interval, we can be 95% confident that the true vote estimate lies somewhere in between the low and high point represented by the error bar. The top row presents the RPV results for the 2020 Treasurer contest. Column one reports results for the Democratic candidate, Column 2 results for the Republican candidate.

⁹ <https://www.census.gov/data/tables/time-series/demo/voting-and-registration/p20-585.html>

For example, EI estimates that in the 2020 Treasurer contest, Latino voters preferred Pellicciotti (77% - 23%) whereas white voters preferred Davidson (79% - 21%). In the 2020 presidential election, EI estimates that 78% of Latino voters backed Biden, whereas just 27% of whites did so. Turning to Column 2, the pattern is reversed with just 22% of Latinos backing Trump and 73% of whites backing Trump. These results are consistent with a pattern of racially polarized voting.

The gubernatorial contest (Row 3) reveals a similar pattern of RPV: 75% of Latino voters backed Inslee, whereas just 24% of white voters did so. Instead, white voters gave 76% of their support to Culp, whereas just 25% of Latinos did. A similar pattern emerges for attorney general: Bob Ferguson notched 79% of the Latino vote but just 25% of the white vote. Instead, white voters backed Larkin with 75% of their vote, and Latinos voted 21% for Larkin. Again, these results demonstrate racially polarized voting.

The 2018 statewide contests show once again a similar pattern: About 80% of Latino voters backed Senator Cantwell in her re-election contest against Hutchinson. White voters, however, preferred Hutchinson with about 74% of their vote. The Congressional District 4 contest also shows significant racial polarization: 78% of Latinos backed Brown, whereas 74.3% of white voters backed the Republican Newhouse.

Finally, the 2016 statewide contests subset to the 5-county region reveals strong Latino support for the Democratic candidates of Murray for U.S. Senate (84%), Clinton for U.S. President (79%), and Inslee for Governor (82%). White voters, however, backed the Republican candidate, respectively, 69% for Vance, 71% for Trump, and 73% for Bryant.

Figure 3. Racially Polarized Voting assessment in statewide contests subset to the Yakima Valley 5-county region: Adams, Benton, Franklin, Grant, Yakima. Ecological Inference (EI) method.

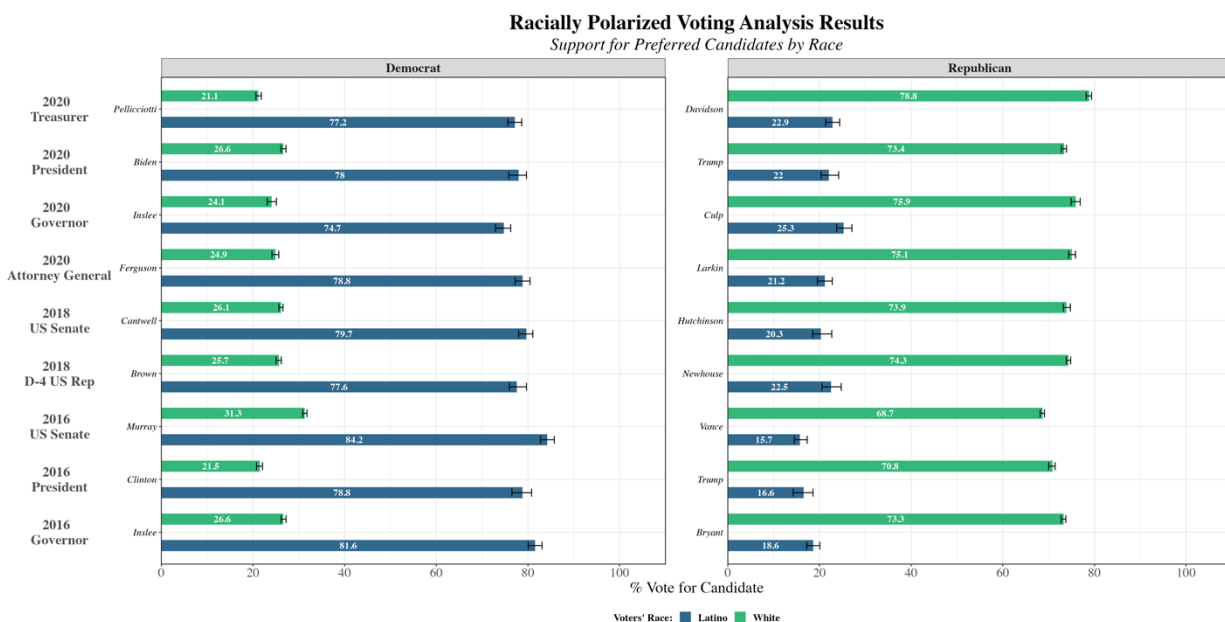
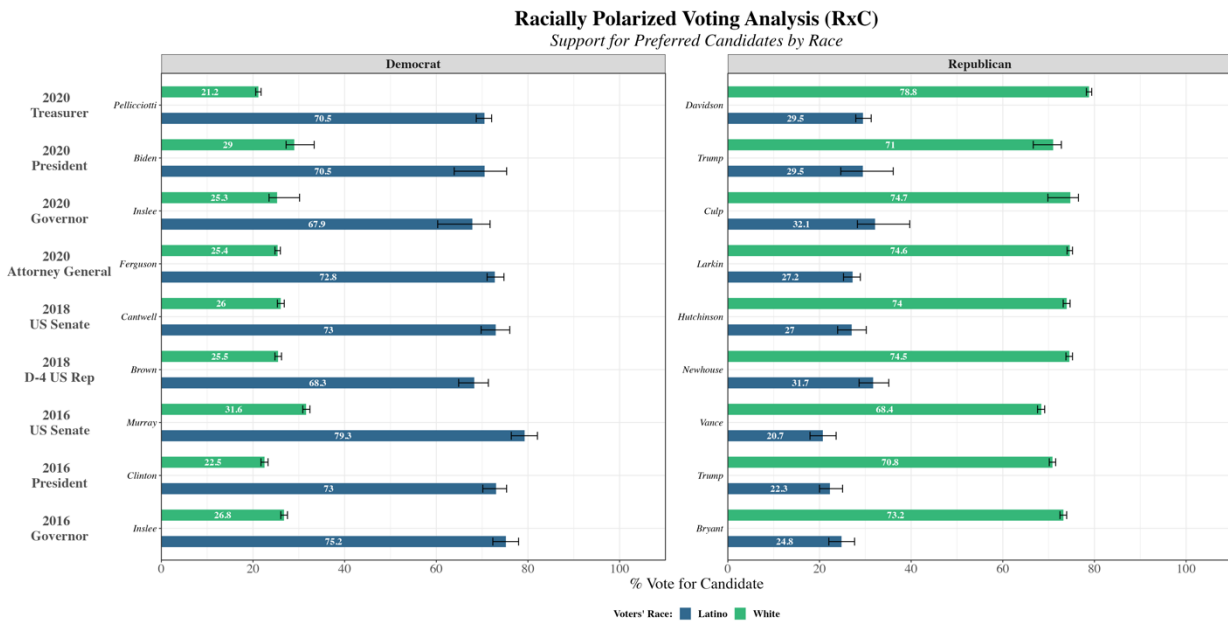


Figure 4 presents the same contests but analyzed with the RxC method. In the model, I incorporated variables for “other candidates” (often a smattering of candidates or write-ins achieving maybe 2% of the vote), no votes, and a catch-all “race other.” For presentation, I only show the white and Latino estimates for the top two candidates. The results are exceedingly consistent with the ecological inference approach presented above and show high levels of racially polarized voting between Latino and white voters in the 5-County area.

Figure 4. Racially Polarized Voting assessment in statewide contests subset to the Yakima Valley 5-county region: Adams, Benton, Franklin, Grant, Yakima. Rows by Columns (RxC) method.



I then analyzed 16 contests featuring Spanish-surname candidates. Each of these candidates are Latino except for Manjarrez (Yakima County District 2), who is married to a Latino individual thereby taking his surname. Because we know that voters often proxy ethnicity based on surname (Barreto 2010), I include that candidate as well. Four of these contests are primary contests which are denoted “primary” in the left-hand contest label.

RPV exists in 14 of these 16 contests, with Latino voters strongly backing the Spanish-surname candidate in each contest. In just one contest do white voters also back the Spanish-surname candidate (Gonzalez in the 2018 non-partisan State Supreme Court Seat 8). However, in the 2018 state supreme court election, neither candidate was white, and the challenger (Choi) was not considered to be a serious challenger due to Choi’s lack of fundraising, lack of endorsements, late start in campaigning, and a prior lawsuit where the Attorney General sued him for not making required campaign disclosures.¹⁰ In the 2020

¹⁰ For example, see <https://www.spokesman.com/stories/2018/sep/17/two-of-three-incumbents-unchallenged-in-state-supr/>

Superintendent of Public Instruction election, whites nearly evenly split their vote. Specifically, in the 2020 contest for Superintendent of Public Instruction, 67.8% of Latinos backed the Latino candidate Espinoza, whereas 49.6% of whites did so.

Analyzing the elections with Spanish surname candidates, in the 2020 State Supreme Court Position 3 contest, 73% of Latinos backed Montoya, whereas Anglos preferred Larson by a margin of 66%. In the 2020 Legislative District 13 Position 1, 70% of Latino voters supported Castañeda Diaz whereas white voters backed Dent with 87% of their vote.¹¹ The 2020 Legislative District Position 1 primary produced fairly similar RPV results: 89% of white voters backed Dent, with 61% of Latino voters backing Castañeda Diaz. Note how the primary contest has larger statistical uncertainty (observed by the wider confidence bands) due to lower turnout which has the statistical effect of reducing the size of the Latino population across the precinct distribution.

In the 2020 Franklin County District 2 contest, Latino voters supported Peralta by a margin of 89%, with only 11% for Mullen. Anglo voters, however, backed Mullen by a margin of 87%, with only 13% for Peralta.

Turning next to three 2018 contests, I analyzed Yakima County District 3, State Supreme Court Position 8, and State Senate Legislative District 15. In Yakima D3, 83% of Latino voters backed Soto Palmer, whereas 77% of non-Hispanic white voters backed Childress. In the State Supreme Court contest, 75% of Latino voters preferred Gonzalez, but so did 51% of Anglo voters (see additional analysis above). Finally, in the State Senate 15 contest, Latinos preferred Aguilar (81%), whereas Anglos preferred Honeyford (82%).

In 2016, I analyzed Yakima County District 2, where 74% of Latino voters supported Manjarrez while 62% of whites preferred Anderson. In Legislative District 14 Position 1 (Yakima County only), 88% of Latino voters preferred Soto Palmer, but 83% of white voters preferred Johnson.

I analyzed four 2014 contests and two 2012 contests. In the 2014 State Senate District 15 primary election contest, Munoz received 69% of Latino support, whereas Honeyford attracted 86% of white support. In the 2014 State Representative District 15 primary election, Martinez Chavez notched 79% of the Latino vote, whereas the white vote preferred Taylor with 88%.

In the 2014 State Senate District 15 general election contest, Munoz received 65% of Latino support, whereas Honeyford attracted 86% of white support. In 2014 State Representative District 15 general election, Martinez Chavez notched 68% of the Latino vote, whereas the white vote preferred Taylor with 85%.

Finally, in the 2012 State Representative District 15 contest, Gonzalez received 89% of the Latino vote, whereas Taylor scored 85% of the white vote. In the primary that same year,

¹¹ In this analysis I include only precincts located in Grant County, because that region is included is part of the 2021 enacted and/or plaintiff's demonstrative map.

RPV is present between the same candidates: Latino voters supported Gonzalez (92%) while Anglo voters supported Taylor (85%).

Together, these results show that Latino voters at high levels prefer the same candidates for political office, and white voters consistently prefer different candidates. Further, white voters are politically cohesive with one another and vote as a bloc against the Latino preferred candidates, leading to the defeat of the Latino candidates of choice, at least within the subset 5-county area.

Figure 5. Racially Polarized Voting assessment in contests featuring Spanish-surname candidates. Ecological Inference (EI) method.

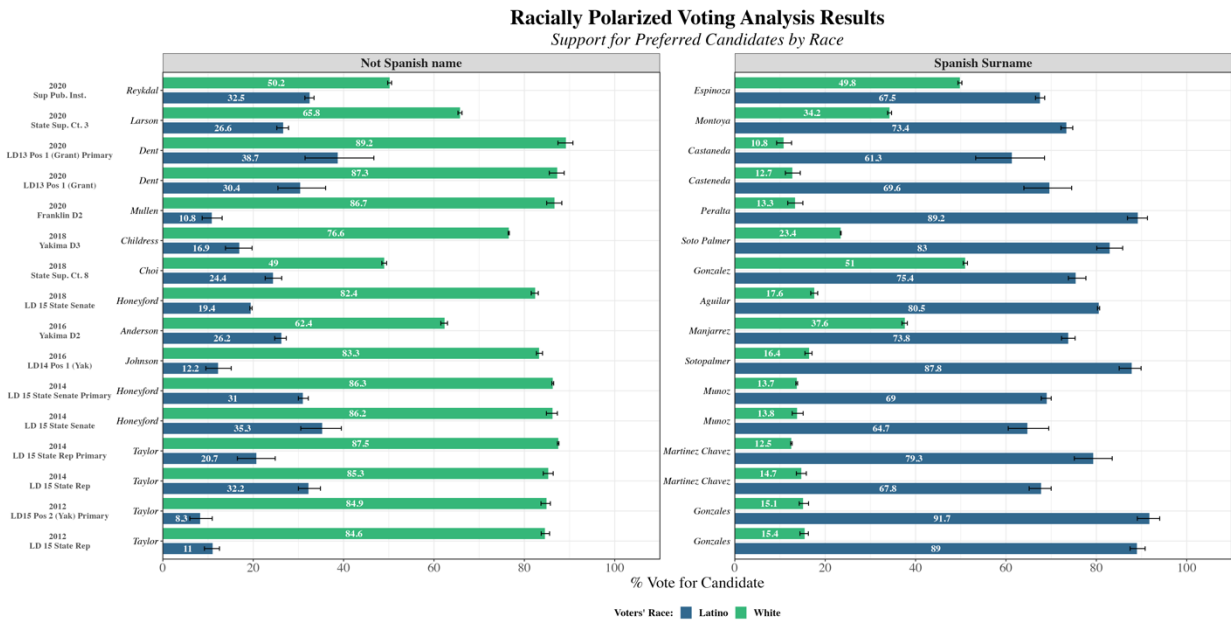
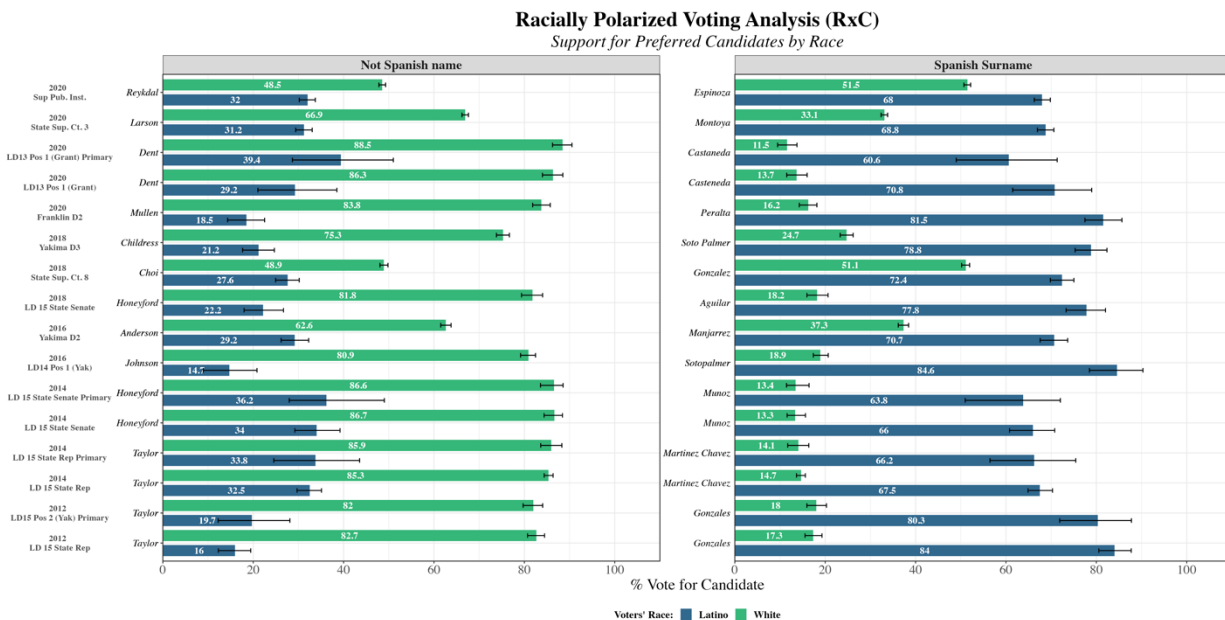


Figure 6 presents the RxC estimates. The results are consistent with the EI model, and show that a high level of RPV is present in 14 of the 16 contests considered.

Figure 6. Racially Polarized Voting assessment in contests featuring Spanish-surname candidates. Rows by Columns (RxC) method.



E. Performance Analysis of Enacted Plan vs. Plaintiffs' Demonstrative Plans

I was also asked to determine whether the white majority usually blocks Latino voters from electing candidates of choice. I assess this in two ways.

First, I assess whether the white- or Latino-preferred candidates win in the aforementioned Spanish-surname local contests. If the white-preferred candidate wins that means that white voters are blocking Latino voters' ability to elect candidates of choice. However, if on average, Latino voters' preferred candidate usually wins, that means white block voting is not present. I conduct this analysis for the local contests that cover only part of the jurisdiction.

Table 3 lists the results. For each row, I present the election year, the contest, the type (primary or general), whether the contest is partisan, the Spanish-surname candidate and their vote percent, the non-Spanish-surname candidate and their vote percent, and whether white voters blocked the Latino-preferred candidate. In every single contest, white voters voted as a bloc to defeat the Latino-preferred candidate, providing strong evidence for Gingles III.

Table 3. List of legislative or county/local elections featuring contests with Spanish Surnames, between 2012-2020, candidate vote totals, and whether White voters blocked the Latino-preferred candidate from winning.

Year	Contest	Type	Partisan	SpanishSur	PercentSp	NonSpanishSur	PercentNsp	Blocked
2020	LD-13 Position 1	Primary	YES	Castaneda Diaz	22.81	Dent	74.35	Yes
2020	LD 13 Position 1	General	YES	Castaneda Diaz	28.57	Dent	71.33	Yes
2020	Franklin Commish D2	General	NO	Peralta	40.79	Mullen	59.07	Yes
2018	LD 15 State Senate	General	YES	Aguilar	39.41	Honeyford	60.59	Yes
2018	Yakima Board D3	General	NO	Soto Palmer	40.29	Childress	59.71	Yes
2016	LD-14 Position 1	General	YES	Soto Palmer	33.95	Johnson	66.05	Yes
2016	Yakima Board D2	General	NO	Manjarrez	48.22	Anderson	51.78	Yes
2014	LD-15 State Senate	Primary	YES	Munoz	24.49	Honeyford	75.51	Yes
2014	LD-15 position 2	Primary	YES	Martinez-Chavez	24.67	Taylor	75.33	Yes
2014	LD 15 State Senate	General	YES	Munoz	27.24	Honeyford	72.76	Yes
2014	LD 15 State Rep.	General	YES	Martinez-Chavez	27.59	Taylor	72.41	Yes
2012	LD 15 Position 2	Primary	YES	Gonzalez	38.92	Taylor	61.08	Yes
2012	LD 15 State Rep.	General	YES	Gonzalez	29.97	Taylor	70.03	Yes

Second, I examine whether the minority-preferred candidate wins in contests featuring racially polarized voting in statewide/exogenous elections subset to the enacted LD 15 and to several demonstrative plans. Specifically, I test whether majority-bloc voting is sufficient to prevent minority voters from electing their candidate of choice by analyzing whether alternative district maps can be drawn that are more likely to result in minority voters electing their preferred candidates of choice than under the enacted district map.

To do so, I conducted electoral performance analyses on Legislative District 15 in the Enacted Plan, as well as a set of demonstrative alternative plans provided to me by counsel for the Plaintiffs. An electoral performance analysis reconstructs previous election results based on new district boundaries to assess whether a minority or white preferred candidate is most likely to win in a given jurisdiction under consideration (i.e., a newly adopted legislative district).

This type of inquiry informs a RPV analysis in districts that have not yet had elections because it tests whether different plans would provide a more equal ability for minority voters to participate in the electoral process and to elect candidates of choice. Thus, the performance analysis shows that a remedy is possible.

I gathered precinct results across the same set of statewide elections (and the 4th congressional district) in which I conducted my RPV assessment.¹² To examine how a candidate performs in the enacted District 15, I then subset the precincts to only those falling within the new District 15 boundary. I use the same method to assess Plaintiffs' demonstrative districts with different boundaries.

This approach often results in a generally small number of precincts being split across district boundaries, leaving the choice as to whether to allocate all votes in that precinct to

¹² Note, I do not include the two statewide contests in which RPV is not present because blocking is not possible in those instances.

District 15, none, or some. This concern is resolved by taking an additional step with regard to precincts that are split across district boundaries. I overlaid the voting tabulation district (vtd) polygon shape file with the 2020 block polygon shape file and join population-level data including voting age population (VAP). Because blocks are fully nested inside vtDs in this instance, I can make adjustments to precinct vote totals by weighting split precinct votes by total voting age population. In precincts that split between districts, I take blocks on the one side of the district boundary to estimate the share of the VAP that is inside/outside of the district.¹³ This helps to improve the vote estimate.

As a point of comparison, one way to address this issue may be to turn to geographic distribution instead of population distribution. For example, a precinct might be geographically split 50-50 between a hypothetical District 4 and District 8. If there are 100 votes in the precinct, I could assign 50 votes to the part of the precinct in the district, and divide all candidate votes in half. If Trump had received 70 of the precinct's initial 100 votes, and Biden 30, I would assign Trump 35 votes (70×0.5) and Biden 15 (30×0.5) totaling 50 votes.

A more appropriate method is to take account of where the population lives within the precinct by using blocks – a much smaller and more compact geographic unit. Each block contains a tally for voting age population (VAP); therefore, I can sum the VAP for all blocks for the part of the precinct falling inside of District 4, and for the part of the precinct outside of D4. This method more adequately accounts for population distribution within the precinct instead of relying on geographic area alone. It could be the case that 70% of the VAP resides in the part of the precinct falling into D4, and 30% in a neighboring district. So instead of multiplying the initial 100 votes by 0.5, for District 4, I multiply the precinct's initial 100 votes by 0.7. In this scenario, Trump would receive 49 of the 70 votes and Biden 21 votes. While the candidate vote share ratio might be the same the Trump net differential moves from plus 20 (35-15) to plus 28 (49-21).

Once I have accounted for split precincts, I combine all precincts and their candidate votes together. For each contest, I then sum votes for candidate 1 and candidate 2, respectively, and divide by total votes cast. I replicate this procedure for the enacted and three Plaintiff demonstratives maps.

Summary of Electoral Performance Results

This section presents electoral performance plots showing comparisons between the Enacted Plan (Legislative District 15) and the three demonstrative plans Plaintiffs provided for an alternative Legislative District 14. The question I am examining is whether the enacted plan and alternative demonstrative plans provide Latino voters a greater ability to elect candidates of choice in the Yakima Valley and surrounding areas.

¹³ <https://www.census.gov/cgi-bin/geo/shapefiles/index.php?year=2020&layergroup=Blocks+%282020%29>;
<https://redistrictingdatahub.org/dataset/washington-block-pl-94171-2020/>

I found that the enacted LD 15 does not provide Latino voters in the district an equal opportunity to elect candidates of choice, while the Plaintiffs illustrative maps do provide Latino voters with an ability to elect such candidates.

To determine the competitiveness of the district, I examined eight elections subset to the district boundaries. The maps of the district boundaries I analyzed are shown below in Figures 7 - 10.

Figure 7. Enacted Washington House Legislative District 15.

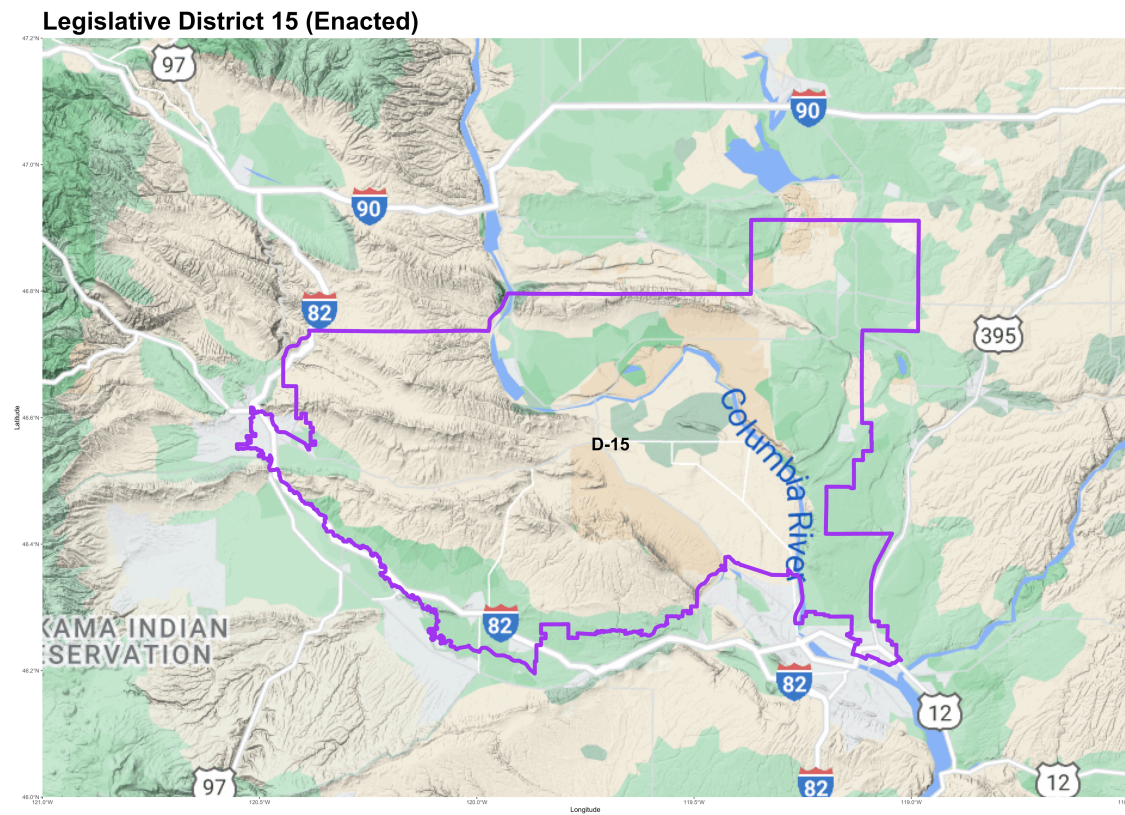


Figure 8. Washington House Legislative District 14, Plaintiffs' Demonstrative 1.

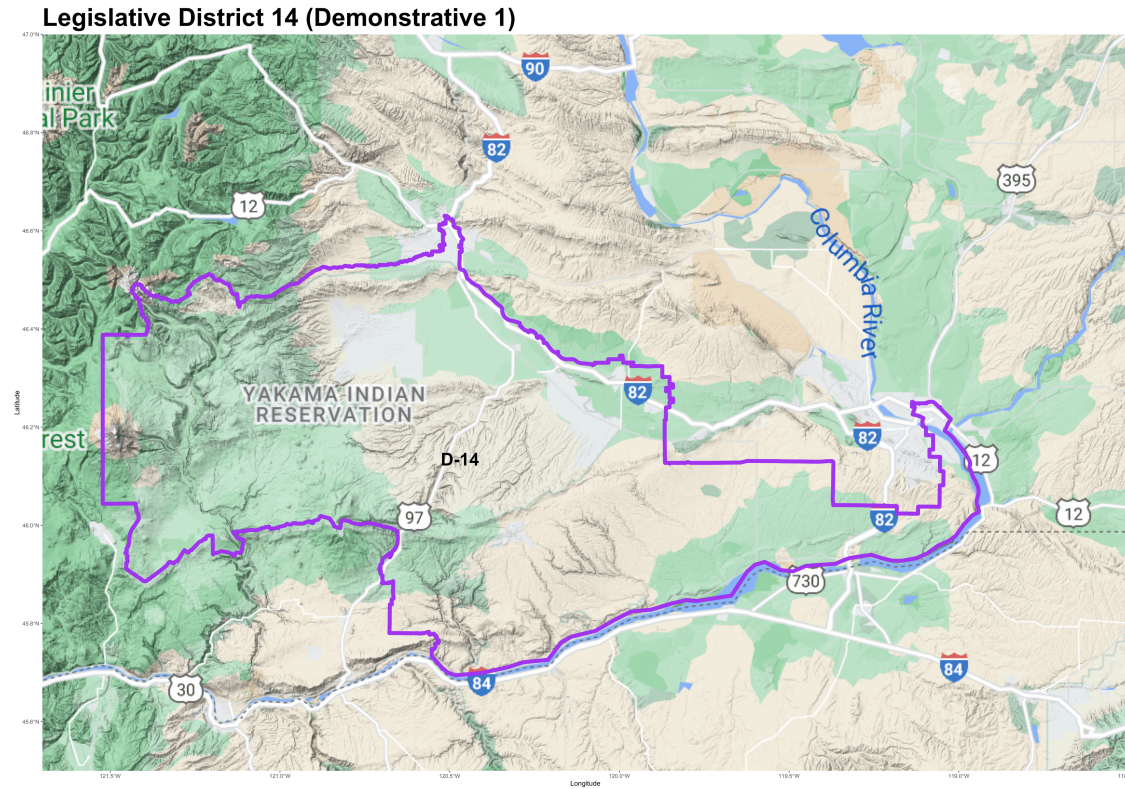


Figure 9. Washington House Legislative District 14, Plaintiffs' Demonstrative 2.

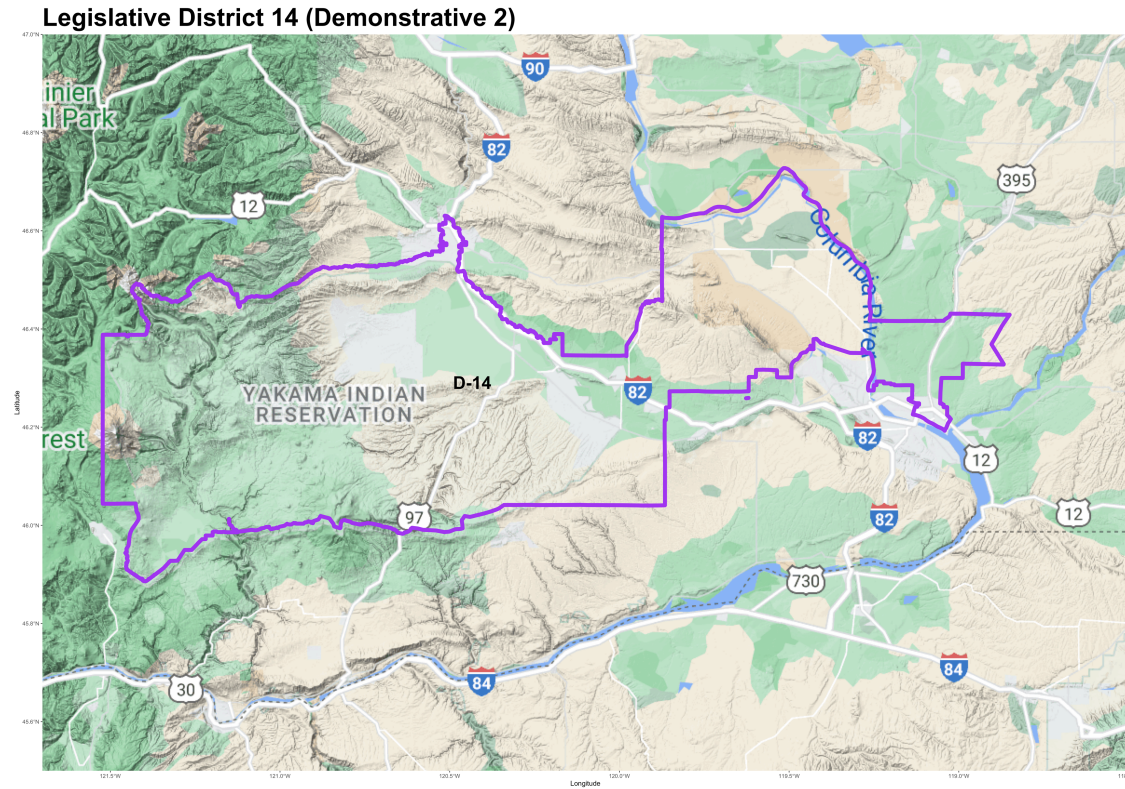
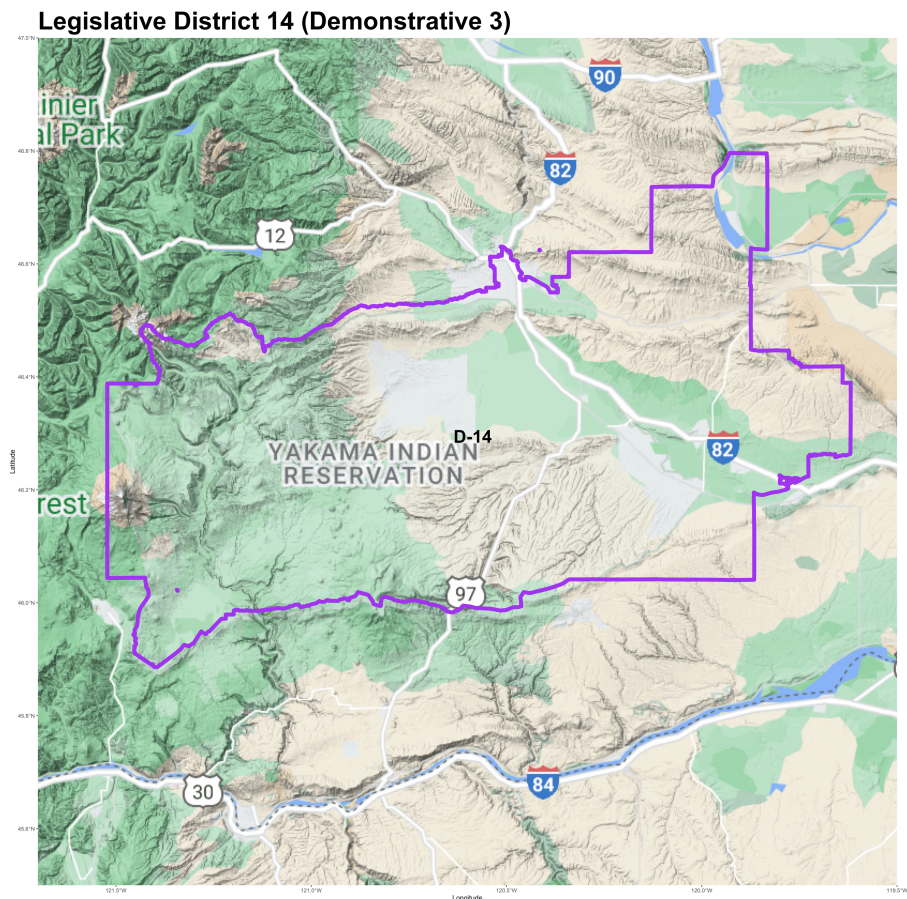


Figure 10. Washington House Legislative District 14, Plaintiffs' Demonstrative 3.

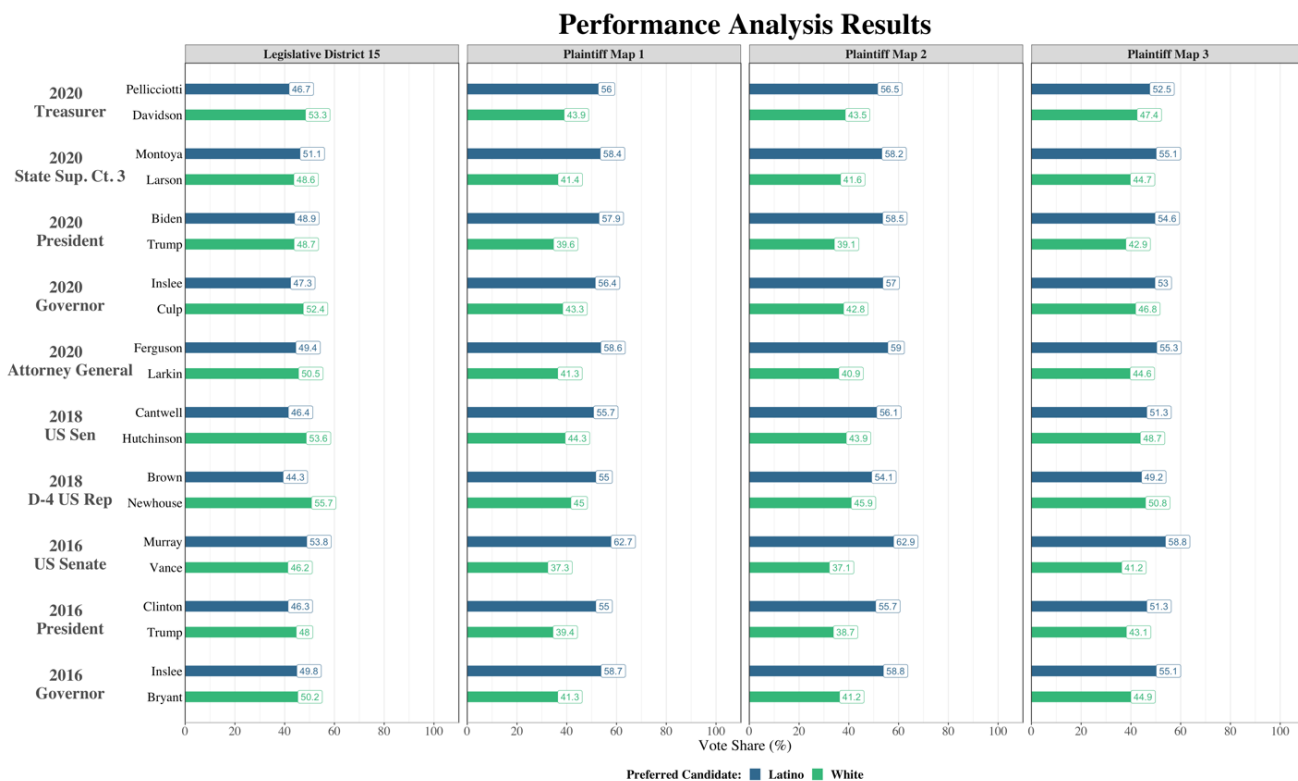


Turning to the results, Figure 11 shows four columns: Column 1 presents results subset to the enacted map, Column 2 is Plaintiffs' Demonstrative map 1, Column 3 is Plaintiffs' Demonstrative map 2, and Column 4 is Plaintiffs' Demonstrative map 3.

Performance analysis of the enacted map shows the white-preferred candidate winning 7 of 10 contests. Latino-preferred candidates win in only three contests: the 2020 Presidential election, the 2020 State Supreme Court Position 3, and the 2016 U.S. Senate race. Thus, the Latino-preferred candidate loses 70% of the time.

Plaintiffs' demonstrative plans provide Latino voters with a much greater chance of electing candidates of choice and gaining representation in this geographic area. Both Plaintiffs' demonstratives 1 and 2 show the Latino-preferred candidates winning all 10 contests for a win-rate of 100%. Plaintiffs' Demonstrative map 3 shows the Latino-preferred candidates winning 9 of 10 contests for a win-rate of 90%.

Figure 11. Electoral Performance analysis, 2016-2020 statewide general elections, paneled by enacted LD 15, LD 14 Plaintiff Demonstratives 1-3.



The performance analyses of the enacted and demonstrative plans provide strong evidence of white bloc voting – that is, the enacted LD 15 map will enable the white majority to block Latino voters’ ability to elect candidates of choice. However, Plaintiffs’ alternative districts provide Latino voters with an opportunity to elect candidates of their choice.

II. District Characteristics Analysis

Using Dave’s Redistricting software,¹⁴ I gathered statistics about the enacted LD 15 as well as the Plaintiffs’ three demonstrative plans showing their level of adherence to traditional redistricting criteria. Table 3 outlines several statistics about each plan, including: total population, population deviation, percent white CVAP, percent Latino CVAP, district compactness (Reock and Polsby), overall plan compactness (Reock and Polsby), county-district and district-county splits, and precinct splits.

Compactness scores range from 0-1, with 1 being perfect compactness, like a circle. County-district splits measure how much the map splits counties across districts and vice

¹⁴ Dave’s Redistricting is a free and publicly available software and database map drawers use to develop redistricting plans. Washington’s own Redistricting Commission employed this software during the map drawing process.

versa for district-county splits. In both cases, for splits the smaller the number, the more desirable from a mapping perspective.

Overall, on measures of population deviation, demographics, compactness, and splits, the Plaintiffs' demonstrative maps perform similarly to or better than the enacted LD 15. The population deviation of the enacted LD 15 and Plaintiffs' demonstratives are all very close to zero and virtually identical.

Table 4. Enacted and Demonstrative map statistics.

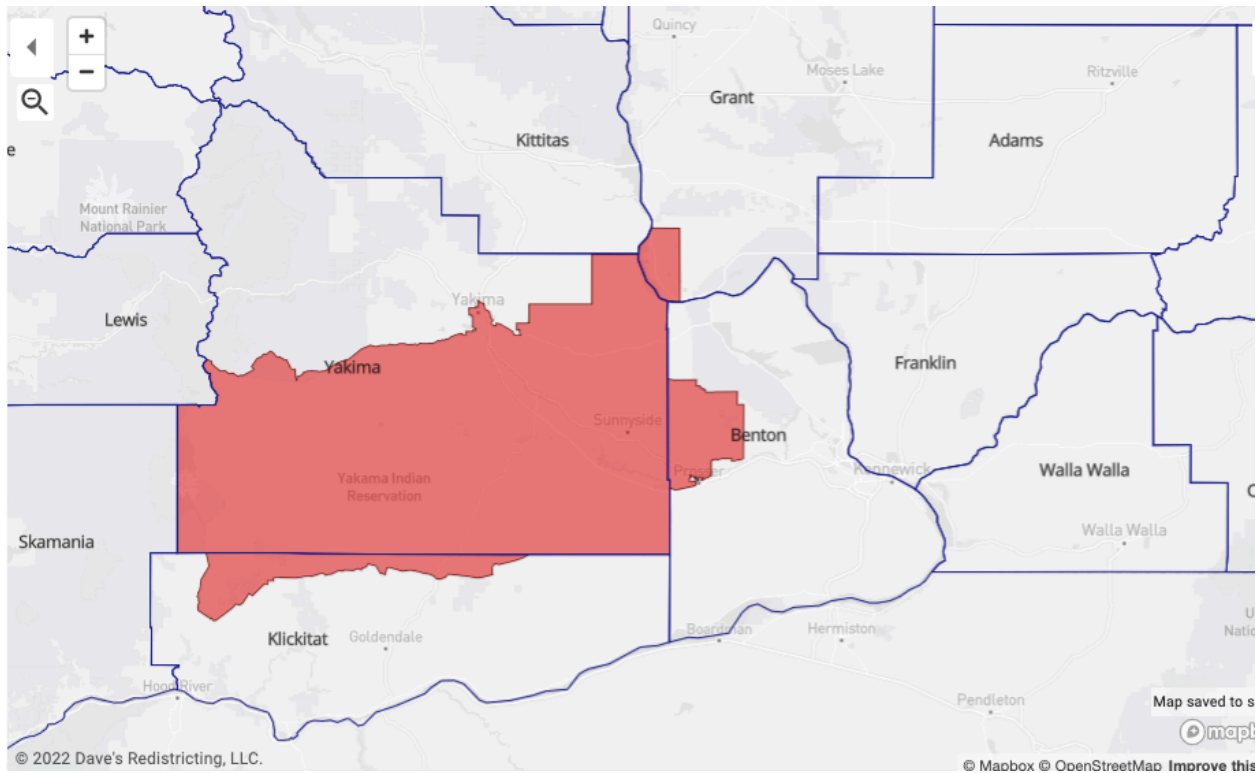
Statistic	Enacted	Alt 1	Alt 2	Alt 3
Population	157253	157247	157269	157223
Pop. Dev.	-0.0001	0	0.0001	-0.0002
WCVAP20	43.2	37	35.7	40.1
LCVAP20	51.5	52.5	53.6	50.2
District Reock	0.3226	0.2142	0.1766	0.3312
District Polsby	0.2372	0.2131	0.1812	0.3168
Map Reock	0.3993	0.3883	0.3918	0.395
Map Polsby	0.3204	0.3119	0.3114	0.3189
County-District	1.61	1.56	1.6	1.61
District-County	1.25	1.21	1.25	1.25
Precinct Splits	284	279	280	280

As Table 4 demonstrates, LD 14 in all three of Plaintiffs' demonstrative maps has a Latino CVAP of over 50%. Demonstrative 1 has LD 14 with a 52.5% Latino CVAP, Demonstrative 2 has LD 14 with 53.6% Latino CVAP, and Demonstrative 3 has LD 14 with a Latino CVAP of 50.2%.

On population deviation, all three of Plaintiffs' demonstrative plans match or beat enacted LD 15. For compactness scores for the relevant district, Plaintiffs' Demonstrative 3 has a higher Reock and Polsby-Popper score than the Enacted LD 15. Plaintiffs' Demonstrative 1 and 2 have slightly lower Reock scores, but Polsby-Popper scores that are very similar, and all of the demonstrative districts' compactness scores are reasonable. Further, all of the statewide demonstratives provided by Plaintiffs have higher or very similar Reock and Polsby-Popper scores for the overall map.

In terms of splits, all three of Plaintiffs' demonstrative districts contain the same or fewer county-district or district-county splits as the enacted map. And as shown in Figure 12, LD 14 in Demonstrative 3 splits only 4 counties (Yakima, Benton, Franklin, and Grant), while enacted LD 15 splits 5 (Benton, Yakima, Franklin, Adams, and Grant). Plaintiffs' demonstrative districts include a portion of Klickitat County to match the boundary of the Yakama Nation Reservation. Finally, all three of Plaintiffs' demonstratives contain fewer precinct splits.

Figure 12. County View of Plaintiffs’ Demonstrative 3, LD 14.



III. Commission’s Draft Maps and Decision Timeline

The Washington State Redistricting Commission consisted of five people: 1 independent non-voting chair, Sarah Augustine; two Democratic appointees, April Sims and Brady Walkinshaw; and two Republican appointees, Paul Graves and Joe Fain. In the redistricting process, the commissioners and/or their staff drafted and considered a number of maps, including various configurations of LD 14 and LD 15. Plaintiffs’ counsel provided me with the links and shapefiles/block assignment files for these maps.

Table 5 compares these LD 14 and 15 drafts, including the name of each draft, the district numbering (whether 15 or 14), the Latino CVAP according to the 2019 5-Year ACS data (the data considered by commissioners during their map-drawing process), the Latino CVAP according to the most recent 2020 5-Year ACS data, and the Latino-preferred candidate’s vote share across eight statewide election contests. These eight election contests are drawn from the statewide contests that I used to assess performance above, and for which I have identified a Latino-preferred candidate, and thus they allow us to see whether the draft maps perform for Latino voters.

Table 5. Decision Timeline.

Map	Dist #	'19 5-Yr ACS Latino CVAP %	'20 5-Yr ACS Latino CVAP %	Vote Share of Latino-Preferred Candidate (shaded if > white-preferred candidate's vote share)							
				2020 Pres% Biden	2020 Gov% Inslee	2020 AG% Ferguson	2020 Treas.% Pellicciotti	2018 U.S. Senate% Cantwell	2016 Pres% Clinton	2016 Gov% Inslee	2016 U.S. Senate% Murray
9.8 LD Draft Dominique Meyers to Sims	15	44.9	46.4	53	51.5	53.6	50.9	50.1	49.4	53.4	56.8
9.21 Fain Proposal Fain public release	15	33.8	35.5	46.2	44.4	46.2	43.3	43.7	41.9	46.7	49.8
9.21 Graves Proposal Graves public release	15	34.2	36.3	40.6	38.8	40.7	37.7	38.8	37.3	42.1	45.7
9.21 Sims Proposal Sims public release	15	44.7	46.1	54.1	52.5	54.6	51.9	51.4	50.4	54.4	58
9.21 Walkinshaw Prop Walkinshaw public release	14	40.4	41.5	55.4	53.7	55.8	53.1	53.7	51.5	55.3	59.4
10.25 Sims Proposal Sims public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
10.25 Walkinshaw Prop Walkinshaw public release	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.3 Graves LD 14 (2) Graves proposal	14	50.6	52.0	55.6	53.9	56.3	53.6	53.2	52.8	56.4	60.3
11.7 New leg proposal Anton Grose to Paul Graves	14	50.9	52.6	50.7	49.3	51.3	48.7	48.2	48.3	51.7	55.7
11.8 Fain V2 Fain proposal	15	50.6	52.0	52.4	50.8	52.9	50.2	50.0 ¹⁵	50.0	53.4	57.4
11.10 BW 11.10 new VRA Walkinshaw proposal	14	52.6	54	58.8	57.3	59.5	56.9	56.8	56.0	59.6	63.6
11.11 Base proposal Brady Walkinshaw	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.11 Graves1110LD Anton Grose to Graves, Sims	14	50.3	52	49.7	48.2	50.3	47.6	47.3	47.4	50.8	54.8
11/12¹⁶ April Sims to Paul Graves	15	49.2	50.6	47.9	46.3	48.3	45.7	45.4	45.4	48.9	52.8
11.12 Graves Draft Nov12 (1) Paul Graves and staff	15	50.2	51.6	49.0	47.4	49.5	46.8	46.5	46.5	50.0	53.9
11.13 BW leg proposal Ali O'Neil to Fain staff	14	51.6	53	56.1	54.4	56.8	54.1	53.5	53.3	56.8	60.7
11.15 Copy of 11/14 7:30pm Merged D Map Walkinshaw/Sims	15	49.2	50.5	47.9	46.3	48.4	45.7	45.5	45.4	48.9	52.8
11.15 R Prop Rebalanced Osta Davis to Ali O'Neil	15	50	51.5	48.9	47.3	49.4	46.7	46.4	46.3	49.8	53.8
Enacted Plan	15	50	51.5	48.9	47.3	49.4	46.6	46.3	46.3	49.8	53.7

¹⁵ Light shade indicates a percentage tie (50%-50%).

¹⁶ The numbers here are different than those presented in my initial report submitted in August. In discovery, Plaintiffs' counsel discovered that the Dave's Redistricting App file I previously used had been modified after November 12. Plaintiffs' counsel received the correct version of the file in a production from DRA in response to a subpoena and gave me the appropriate geojson file which I used to generate these numbers.

This analysis first shows that commissioners proposed and considered maps that would have provided Latino voters at least an equal opportunity to elect candidates of choice, although the commissioners ultimately did not select those. In addition, the drafts demonstrate that proposals making the Latino opportunity district LD 14, rather than LD 15, were considered and presented by commissioners. Finally, the drafts in the table, which are displayed chronologically, show that as the map-drawing progressed and negotiations continued, the performance for Latino preferred candidates was systematically reduced, ending with the Enacted Plan.

IV. Voter Turnout Comparison and Justification for Even District Number

The commission's decision to label the Latino opportunity district LD 15 versus LD 14 has ramifications for whether Latino voters will be able to elect candidates of choice in this seat. This is because Latino turnout in the 5-county region is lower than white turnout in non-presidential years (LD 15) compared to presidential years (LD 14), and LD 14 has more elections in the presidential election year.

For each LD in Washington, there are three seats (two house representatives, and one state senator). Each state representative is elected every two years, while state senators are elected every four years. But the election years vary by district. For instance, all three of LD 15's positions will be up for election in 2022 (off-year); the next state house election will then be in 2024, while the next state senate election will be in the off-year 2026. By comparison, only two of LD 14's positions will be up for election in 2022 (the house seats), but all three seats will then be up for election in 2024 (with the senate seat always lined up with the presidential and gubernatorial election).

Turnout as Percent of Voter Registration

Using BISG voter file calculations from the 2018 and 2020 general elections, Table 6 presents estimated voter turnout by race/ethnicity (Anglo, Latino) in the 5-county region. To calculate turnout, I split the voter file based on who voted in 2020 and who did not, then sum the probability white column across the region. I then divide the total estimated number of white voters by the total number of estimated white registrants. I then do the same for the probability Hispanic column.

The 2020 general turnout information is presented in the first two columns of Table 6, followed by the 2018 general turnout information in the third and fourth columns. Overall, the findings show that registered Anglos are more likely to vote in both the 2020 general and the 2018 general. The overall 2020 white advantage in turnout is 21%. Specifically, 80% of white registered voters voted in the 2020 general, whereas just 59% of Latino voters did.

Voter turnout for both groups declined in the 2018 general election. I estimate that 65.4% of white registrants voted in the 2018 general election compared to just 38.4% of Latino voters, resulting in a white advantage of 27 percentage points. Compared to the 2020

general, white voters have an additional 6.1% turnout advantage over Latino voters in the 2018 general. Thus, by labeling the district LD 15 rather than LD 14, regardless of the CVAP numbers, white voters will have a disproportionately larger electoral composition advantage than if the commission had chosen to label the district LD 14, given that LD 14 holds more elections in line with the presidential election year.

Table 6. Voter turnout comparison across 2020 and 2018 general elections by Anglo and Hispanic/Latino registrants. Data calculated using BISG on voter files for both years.

Race	Pct. Voted 20G	White - Hisp. 20G	Pct. Voted 18G	White - Hisp. 18G	Diff 18G - Diff 20G
White	0.798		0.654		
Hispanic	0.589	0.209	0.384	0.27	0.061

Turnout as a Percent of Citizen Voting Age Population (CVAP)

I also calculated voter turnout as a function of Citizen Voting Age Population (CVAP). To do so, I take the estimated number of white and Latino actual voters, respectively, and divide by the CVAP estimates for the same groups. I gathered county-level CVAP data from the Redistricting Data Hub Washington State page, which provides 2016-2020 CVAP estimates, and 2014-2018 CVAP estimates based on the 5-year American Community Survey (ACS).¹⁷

The results are similar to the voter registration results, although somewhat attenuated in terms of differences in turnout across the two groups and across the two years.

Table 7 shows the 2020 general election turnout differences across Anglo and Hispanic voters relative to 2020 CVAP in the 5-county region. The table also includes a relative turnout difference between the two racial groups across the two election years. In 2020, I estimate that 200,501 white and 51,596 Latino registrants, respectively, cast a ballot. Taking these numbers and dividing by each group’s CVAP, I place white turnout at 74.3% and Latino turnout at 51.1%, for a white turnout advantage of 23.2%.

Table 7. Voter turnout comparison in 2020 general elections by Anglo and Hispanic/Latino, as percent of CVAP. Data calculated using BISG on voter files for both years and CVAP as denominator.

Total CVAP	White CVAP	Hispanic CVAP	White Vote	Hispanic Vote	White TO	Hispanic TO	Difference	Off Year Adv.
398735	269880	100960	200501	51596	0.743	0.511	0.232	0.022

Table 8 shows the 2018 general election turnout differences across Anglo and Hispanic voters relative to 2018 CVAP in the 5-county region. In 2018, I estimate that 154,316 white and 29,033 Latino registrants, respectively, cast a ballot. Taking these numbers and

¹⁷ <https://redistrictingdatahub.org/state/washington/>.

dividing by each group’s 2018 CVAP estimates, I place white turnout at 57.5% and Latino turnout at 32.1%, for a white turnout advantage of 25.4%.

Table 8. Voter turnout comparison in 2018 general elections by Anglo and Hispanic/Latino, as percent of CVAP. Data calculated using BISG on voter files for both years and CVAP as denominator.

Total CVAP	White CVAP	Hispanic CVAP	White Vote	Hispanic Vote	White TO	Hispanic TO	Difference
384995	268330	90365	154316	29033	0.575	0.321	0.254

Comparing Latino Electoral Composition in Included vs. Excluded Precincts

Finally, I analyzed Latino and white turnout rates and electoral composition in high-density Latino communities from Grant and Adams Counties that are included in the enacted LD 15, and compare that against other nearby high-density Latino communities in Yakima County that were excluded from the district. While these are all high Latino CVAP areas, my analysis shows that the included areas produce a higher white electoral composition than do the excluded regions of the map. In other words, while the high-density Latino communities from Grant and Adams Counties that were included in the district were necessary to achieve a bare HCVAP majority, those communities’ electorates are disproportionately white compared to the Yakima County precincts that were excluded from the district.

The enacted map includes the following high-Latino precincts: Adams (413, 415, 511, 512) and Grant (26). These include parts of the communities of Othello and Mattawa. A 2018 general election voter file analysis reveals that these precincts contain about 633 registered Anglo voters, and 1,881 registered Latino voters.

However, due to turnout differential in the 2018 general election, (white = 64%, Hispanic = 37%), white voters made up 36% of election day voters despite being 25% of registrants. The pattern is replicated in the 2020 general election, where white voters were 28% of the electorate despite being 23% of registrants. This illustrates the deleterious effect of the decision to give the district the number 15 rather than 14: the electorate in these precincts is 8 points whiter in the off-year election than in the presidential election.

By contrast, the enacted plan excludes from the district the following neighboring high-density Latino precincts in Yakima County: 901, 2101, 2102, 2103, 2501, 2502. These include parts of the communities of Wapato, Toppenish, and Mabton. I estimate that as of the 2018 general election 428 white voters were registered in these precincts, while 4,579 Latino voters were on the rolls. Therefore, whites only comprised about 8% of registered voters. Accounting for turnout, the white composition of the 2018 electorate bumped up a bit to 11%. By 2020, the white share of registered voters dropped slightly to 7%, with electoral composition at 8%.

Table 9 below illustrates these findings.

Table 9. Comparison of included versus excluded precincts.

Precincts	Registered Voter Share (2018)	2018 Election Electorate Composition	Net White Advantage over Registration Share (2018)	Registered Voter Share (2020)	2020 Election Electorate Composition	Net White Advantage over Registration Share (2020)
Included Adams & Grant Latino Precincts	73% Latino, 25% white	61% Latino, 36% white	+23%	75% Latino, 23% white	70% Latino, 28% white	+10%
Excluded Yakima Latino Precincts	83% Latino, 8% white	80% Latino, 11% white	+6%	84% Latino, 7% white	83% Latino, 8% white	+2%

The commission’s choice to include the Adams and Grant County precincts and exclude the Yakima County precincts has two notable effects. First, the Adams and Grant County precincts have lower shares of Latino registered voters compared to the Yakima precincts (73% v. 83%). Second, the Adams and Grant County precincts have disproportionately white *electorates* relative to their voter registration, whereas in the Yakima County precincts Latino vote share narrowly trails Latino registration. This is particularly pronounced in the 2018 off-year election, where the white advantage in the Adams and Grant County precincts is four times greater than in the Yakima County precincts.

The commission’s decision of which high-density Latino precincts to include and exclude, coupled with the decision to label the district LD 15 with senate elections in off-years, thus helps explain why the district will not perform to provide Latino voters an equal opportunity to elect their candidates of choice.

Conclusion

In conclusion, racially polarized voting between white and Latino voters is present in the Washington Yakima Valley and surrounding 5-county region. The pattern is overwhelming. I examined 25 elections, and 23 demonstrate clear patterns of RPV using both the ecological inference and the rows by columns methods.

Further, in past elections, white voters voted sufficiently as a bloc to usually defeat minority voters preferred candidates in 7 of 10 statewide (plus congressional) elections analyzed in this report. When I examined white blocking of Latino preferred candidates, I observed 11 white voting blocks in 11 legislative or county/local elections. Despite this, the state drew legislative boundaries that affords these same minority voters fewer opportunities to elect candidates of choice than what their population and voting strength suggests.

In addition, Plaintiffs provided three demonstrative plans that contain majority-Latino configurations of LD 14, which compare similarly or superior to the enacted plan on redistricting criteria, and that allow Latino candidates an equal opportunity to elect their candidates of choice. In contrast, the enacted plan has produced a map that blocks minority voters' ability to elect candidates of choice, although draft maps proposed and considered during the redistricting process provided districts in the Yakima Valley and surrounding areas that would have provided Latino candidates with an equal opportunity to elect candidates of choice. Moreover, the choice to label the relevant district LD 15 rather than LD 14, especially given the number of elections in presidential years in each legislative district and lower Latino voter turnout especially in the off-year, further limits the ability of Latinos to elect candidates of their choice in LD 15. Finally, the nonperformance of the district is illustrated by the commission's decision to include Latino precincts with lower registration and turnout rates than neighboring Latino precincts that were excluded from the district.

Appendix

BISG Formula

Given the voter's surname $s \in \mathcal{S}$, geographic area $g \in \mathcal{G}$, and race $r \in \mathcal{R}$, the probability of a voter i being of race $R_i = r$ given their geographic area $G_i = g$ and surname $S_i = s$ is given by Bayes' Theorem as:

$$\Pr(R_i = r | S_i = s, G_i = g) = \frac{\Pr(G_i = g | R_i = r) \Pr(R_i = r | S_i = s)}{\sum_{r' \in \mathcal{R}} \Pr(G_i = g | R_i = r') \Pr(R_i = r' | S_i = s)}$$

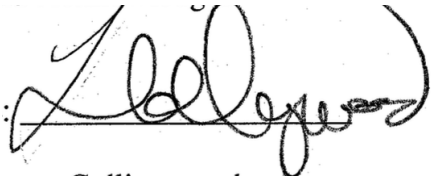
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Decter-Frain, Ari, and Pratik Sachdeva. 2021. *Bisg: Bayesian Improved Surname Geocoding*.

Pursuant to 28 U.S.C. § 1746, I, Loren Collingwood, declare that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Loren Collingwood", written over a horizontal line.

Dr. Loren Collingwood
Dated: November 2, 2022

Supplemental Expert Report of Dr. Loren Collingwood

Loren Collingwood

2023-01-25

Executive Summary

I have been retained by plaintiffs as an expert, and have been asked to analyze whether there is racially polarized voting (RPV) in the Yakima Valley region, to analyze demographic data, and to conduct electoral performance analyses.

In this report I present an analysis of RPV in the most recent 2022 Legislative District 15 election for Washington State Senate. I also examined the supplemental and initial reports of Intervenor Defendants' expert, Mark Owens.

In line with my previous findings, my analysis of this election does not change my opinion that contests are generally polarized by race in LD-15 and the Yakima Valley generally. Using the same methodology as in my previous reports, I find that non-Hispanic white voters cohesively backed candidate Nikki Torres between 84-88%, meanwhile, Latino voters backed the other candidate, Lindsey Keesling between 60-68%. These findings are consistent with patterns of racially polarized voting.

My opinions are based on the following data sources: Washington State 2022 general election precinct returns downloaded from the Secretary of State's (SOS) website,¹ and ballot status reports from the SOS website.² My work is ongoing in this matter, and my opinions are based on the information available to me as of the date of this report. I reserve the right to supplement or amend my findings on the basis of additional information.

I am being compensated at a rate of \$400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

Background and Qualifications

I am an associate professor of political science at the University of New Mexico. Previously, I was an associate professor of political science and co-director of civic engagement at the Center for Social Innovation at the University of California, Riverside. I have published two books with *Oxford University Press*, 40 peer-reviewed journal articles, and nearly a dozen book chapters focusing on sanctuary cities, race/ethnic politics, election administration, and RPV. I received a Ph.D. in political science with a concentration in political

¹ <https://results.vote.wa.gov/results/20221108/turnout.html>

² <https://www.sos.wa.gov/elections/research/2022-general-election.aspx>

PLAINTIFF'S
EXHIBIT

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methodology and applied statistics from the University of Washington in 2012 and a B.A. in psychology from the California State University, Chico, in 2002. I have attached my curriculum vitae, which includes an up-to-date list of publications, as Exhibit 1 to this report.

In between my B.A. and Ph.D., I spent 3-4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting and map-drawing and demographic analysis for the Inland Empire Funding Alliance in Southern California. I was the redistricting consultant for the West Contra Costa Unified School District, CA, independent redistricting commission in which I was charged with drawing court-ordered single member districts. I am contracted with Roswell, NM, Independent School District to draw single member districts.

I served as a testifying expert for the plaintiff in the Voting Rights Act Section 2 case *NAACP v. East Ramapo Central School District*, No. 17 Civ. 8943 (S.D.N.Y.), on which I worked from 2018 to 2020. In that case, I used the statistical software eiCompare and WRU to implement Bayesian Improved Surname Geocoding (BISG) to identify the racial/ethnic demographics of voters and estimate candidate preference by race using ecological data. I am the quantitative expert in *LULAC vs. Pate (Iowa)*, 2021, and have filed an expert report in that case. I am the BISG expert in *LULAC Texas et al. v. John Scott et al. (1:21-cv-0786-XR)*, 2022. I filed two reports and have been deposed in that case. I was the RPV expert for the plaintiff in *East St. Louis Branch NAACP, et al. vs. Illinois State Board of Elections, et al.*, having filed two reports in that case. I am the Senate Factors expert for plaintiff in *Pendergrass v. Raffensperger (N.D. Ga. 2021)*, having filed a report in that case. I am the RPV expert for plaintiff in *Johnson, et al., v. WEC, et al., No. 2021AP1450-OA*, having filed three reports in that case. I am the RPV expert for plaintiff in *Faith Rivera, et al. v. Scott Schwab and Michael Abbott*. I filed a report, was deposed, and testified at trial in that case. I served as the RPV expert for the intervenor in *Walen and Henderson v. Burgum and Jaeger No 1:22-cv-00031-PDW-CRH*, where I filed a report and testified at trial. I am the RPV expert in *Lower Brule Sioux Tribe v. Lyman County* where I filed a report and testified.

Data Preparation

To conduct the analysis, I gathered precinct election returns and ballot return statistics. The ballot return statistics provide individual-level data on who voted, their name, address, precinct, county, and whether election administrators rejected their ballot. I use the exact same methodology and analytical approach as in my previous reports, so please visit those documents for further details.

First, I subset the ballot return data to only individuals residing in the counties comprising LD-15 (Adams, Benton, Franklin, Grant, Yakima). Second, I subset out any individual whose ballot indicates it was rejected. Third, I geocoded all individuals to extract their residence latitude/longitude coordinates, and placed them in their precinct using a points to

polygons overlay. Fourth, using forward-geocoding, I extracted their GEOID (2020 block) to identify their block.

Fifth, using each individual's name and Census block, I conducted Bayesian Improved Surname Geocoding (BISG) to estimate each individual's probability of being non-Hispanic white, Black, Hispanic, Asian/Pacific Islander, or Race: other. Sixth, I collapsed each individual-level probability to the precinct by summing each individual's respective race probabilities within a precinct. For example, in a precinct with 10 people, if 10 people each have a probability of being white at 0.9, I sum 0.9 10 times which returns 9 (90% white). Finally, I joined these data with the election precinct vote returns based on the common precinct column in both datasets.

Beginning with the precinct vote returns, for each election contest I analyze, I divide each candidate's vote by the total number of votes in that election. For example, in a precinct with 1,000 voters, if Biden scored 800 votes and Trump 200, I produce a Percent Biden value of 0.8 (80%) and a Percent Trump value of 0.2 (20%).

However, my approach also lets me capture possible voter drop off for different election contests. Thus, while 1000 people might have voted in the top of the ticket contest, maybe just 850 cast ballots in LD-15 in the same election year. Thus, I further account for no vote in these down-ballot races. In the statistical model, I then weight each precinct by its total vote size to account for variation in precinct population size.

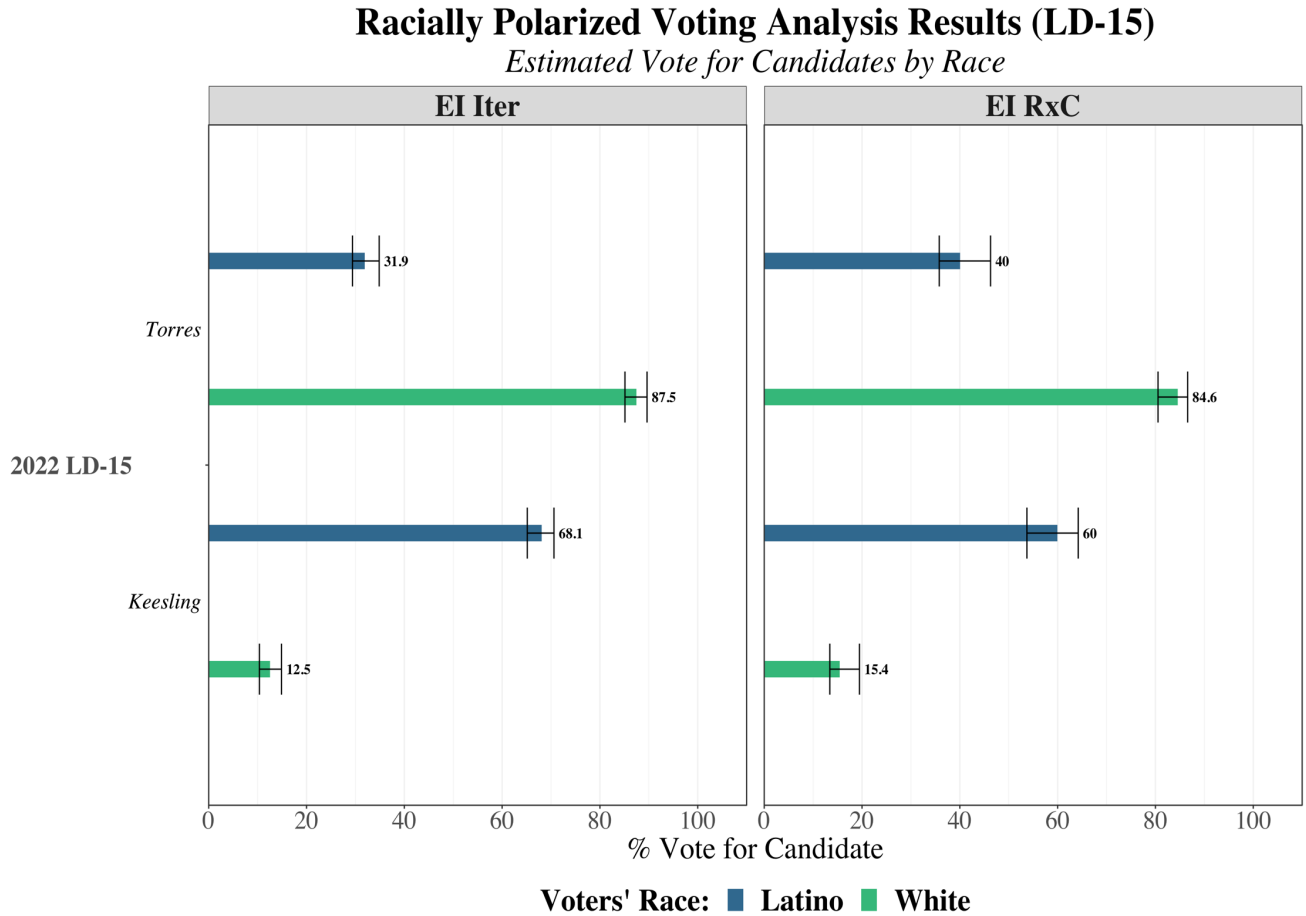
Next, I generate the demographic statistics of each voting precinct. To generate the percentage of voters in the precinct that are Hispanic, for instance, I sum each voters' probability of being Hispanic then divide by 1,000. That percentage is then my racial Hispanic demographic estimate in that precinct.

Racially Polarized Voting Analysis

As with my initial report, I use both Ecological Inference (EI) and Rows by Columns (RxC) to estimate vote choice by race/ethnicity, focusing specifically on non-Hispanic white and Hispanic voters. Figure 1 presents the results. Beginning with the left panel (EI Iter), we see that whites give Torres 87.5% of their vote, whereas Latinos backed Torres with an estimated 32%. Instead, Latinos preferred Keesling at 68%, whereas whites give Keesling just 12.5% of their vote. This is clearly racially polarized voting.

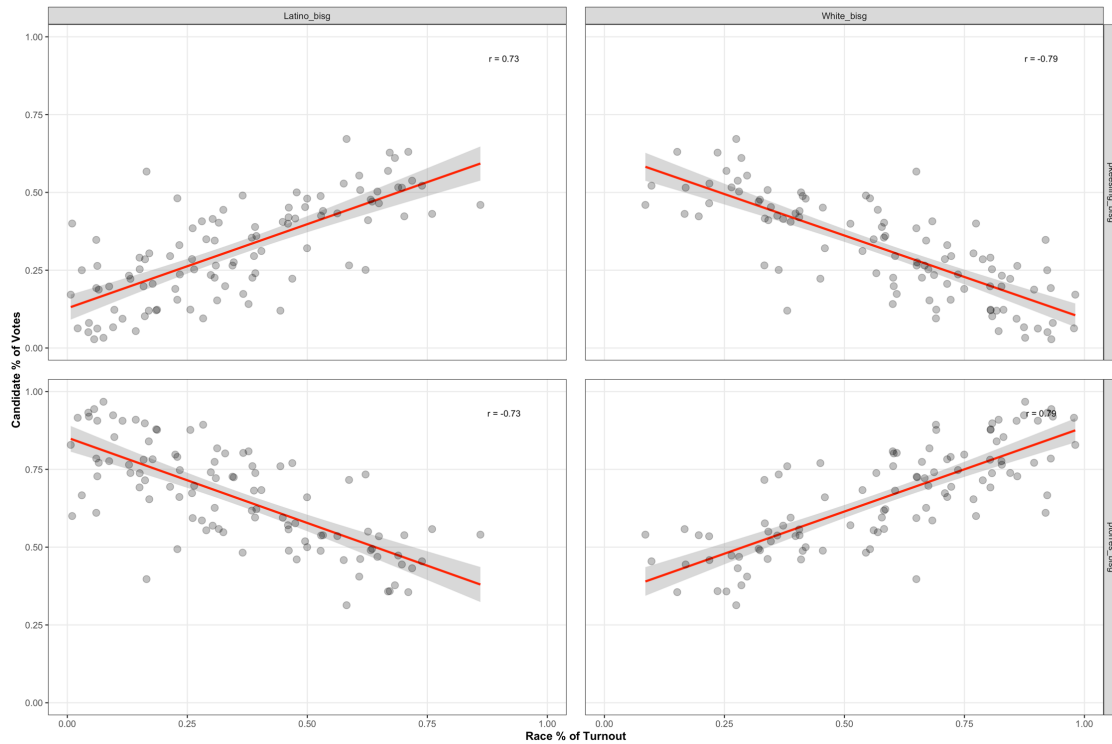
The second panel shows the results for the RxC method, which are consistent with the EI iterative approach although somewhat attenuated. Here, Latinos provide Keesling with a 60-40% margin over Torres. White voters, on the other hand, strongly back Torres (85%) to Keesling (15%).

Figure 1. Racially Polarized Voting assessment in the LD-15 contest between Torres and Keesling.



As another means for assessing polarization, Figure 2 shows a series of bivariate scatterplot further detailing strong racially polarized voting in LD-15. Beginning on the top-left panel, we observe an upward sloping line, showing that as the voting population in a precinct becomes more Latino, the percentage of voters backing Keesling steadily rises. The correlation is 0.73, an extremely strong relationship. Meanwhile, in the lower right quadrant, we observe a similar but even more stark trend – which is that as a precinct becomes more white, the percentage of the vote going to Torres steadily rises.

Figure 2. Racially Polarized Voting assessment in the LD-15 contest between Torres and Keesling.



Comment on Owen’s report and Turnout by Race

Dr. Owens finds that Latino voters nearly evenly cast ballots for Keesling and Torres in the most recent 2022 LD-15 election. He suggests that this is evidence of a lack of cohesion among Latino voters. There are a few aspects of Dr. Owens’ analysis that suggest his results are likely misleading.

First, Dr. Owens does not use the more commonly used methods to estimate vote choice by race. He does not use King’s EI or Rows by Columns – the two methods most often used and accepted. Instead, he used linear regression, or what is commonly known as Goodman’s Regression. Goodman’s regression does not bound the model between 0-100, so it is possible to get non-sensical values like negative voting and 130%. This is the key reason why King and others developed newer methods.

In addition, Dr. Owens does not account for voter turnout in any way, even though the election returns that report turnout were publicly available at the time he produced his supplemental report. Even when using CVAP or VAP as an estimate for vote, an expert can still attempt to account for variation in voter turnout by race/ethnicity. The way to do this is to divide candidate votes by CVAP, not by total vote; generate a dummy no-vote column, calculate the EI estimates, and then only calculate vote choice by race to voters estimated

to have voted. By not accounting for turnout by race, Dr. Owens assumes that whites and Hispanics vote at the same rate. As I demonstrated in my previous report, this is not the case.

Finally, Dr. Owens does not provide candidate choice estimates for white voters in the 2022 LD 15 race. Rather he simply examines whether Latinos are cohesive, and concludes that since according to his estimates, barely more than 50% of Latino voters are casting ballots for Keesling, they are not cohesive. He provides no context or analysis as to how whites voted, yet concludes that Torres was “the clear candidate of choice among non-Hispanic White voters.” Owens Supplemental Report at 2.

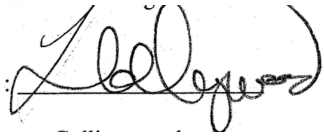
In this report, as in my initial report, the data methods I used enabled my analysis to control for turnout. I can do this by simply summing each voter’s estimated probability of being white, and Hispanic, respectively, then divide by the total number of voters. The data show that 32.5% of the voters in the 2022 LD-15 contest were Hispanic, whereas 61.6% were non-Hispanic white. This is a very stark difference to the 51.5% Hispanic CVAP that comprises the district.

Thus, by not accounting for voter turnout by race in any way, I show here how Dr. Owens’ analysis is flawed. White voters are turning out at significantly higher rates, and so the CVAP inputs into an ecological inference model will bias the results towards white voter’s preferred candidate (Torres). Specifically, a model that does not correct for turnout variation by race will improperly assume a precinct, for instance, is 60% Hispanic (CVAP) when in reality that precinct is not nearly as Hispanic when it comes to people who actually voted. Therefore, this model will show, on average, lower levels of polarization that what actually happened in the election.

Conclusion

In conclusion, racially polarized voting between white and Latino voters is present in the Washington Yakima Valley 5-county region, and in the newly enacted LD-15. The pattern is overwhelming. In my previous report, I examined 25 elections, and 23 demonstrate clear patterns of RPV using both the ecological inference and the rows by columns methods. In this report, I showed evidence of continued racially polarized voting within LD-15. Given these findings, it is clear that the Gingles Test has been met: 1) Plaintiffs have provided plans that produce a compact, majority-Latino district; 2) Racially polarized voting is present between white voters and Latino voters; and 3) The white majority defeats Latino voters’ preferred candidate more often than not, and the enacted plan has produced a map that blocks minority voters’ ability to elect candidates of choice while alternative maps do not.

Pursuant to 28 U.S.C. §1746, I, Loren Collingwood, declare that the foregoing is true and correct.

A handwritten signature in black ink, appearing to read "Loren Collingwood". The signature is written in a cursive style with a horizontal line underneath the name.

Dr. Loren Collingwood
Dated: January 25, 2023

EXHIBIT 1

December 1, 2023 Declaration of Dr. Oskooii



Expert Report Submitted on Behalf of Plaintiffs

in *Soto Palmer, et al. v. Hobbs, et al.*

Kassra AR Oskooii, Ph.D.

University of Delaware

December 1, 2023

A. Background and Qualifications

1. I, Kassra AR Oskooii, am over 18 years of age and am competent to testify.
2. I am a tenured, Associate Professor and Provost Teaching Fellow in the department of Political Science and International Relations at the University of Delaware (“UD”), having joined the faculty in 2016 as an Assistant Professor. I am also an affiliated faculty member at UD’s Data Science Institute, Master of Science in Data Science, Center for Political Communication, and Center for the Study of Diversity. My research and teaching focuses on American political behavior, political methodology, political psychology, political representation, voting rights, and redistricting. My research has appeared in numerous leading peer-reviewed, social science journals, including *Sociological Methods and Research*, *Political Behavior*, *Public Opinion Quarterly*, *Political Psychology*, *British Journal of Political Science*, *Electoral Studies*, *Perspectives on Politics*, *Urban Affairs Review*, *State Politics and Policy Quarterly*, and *Journal of Public Policy*.
3. I received my Ph.D. in Political Science, specializing in American politics, minority and race politics, and political methodology, from the University of Washington in Seattle, Washington in 2016. Prior to that, I received my Master’s Degree in Political Science at the University of Washington and received a political methodology field certificate from the Center for Statistics & the Social Sciences in 2013. I received my Bachelor of Arts in Political Science in 2008 at the University of Washington, with minors in Human Rights and Law, Societies, and Justice.
4. Of relevance to this report, I have taught courses at the University of Delaware related to demographic data collection and analysis, evaluation of redistricting plans for compliance with the Voting Rights Act of 1965 (“VRA”), and the drawing of redistricting plans using traditional redistricting criteria. Relatedly, I have been retained as an expert in redistricting and voting rights cases, including *Dickinson Bay Area Branch NAACP v. Galveston County, Texas*, No. 3:22-cv-117-JVB (S.D. Tex. 2023) (deposed and testified), *Baltimore County Branch of the NAACP v. Baltimore County, Maryland*, No. 1:21-cv-03232-LKG (D. Md. 2022), *Common Cause Florida v. Lee*, No. 4:22-cv-00109-AW-MAF (N.D. Fla. 2022), *Common Cause Florida v. Byrd*, No. 4:22-cv-00109-AW-MAF (N.D. Fla. 2022) (deposed), *Reyes v. Chilton*, No. 4:21-cv-05075-MKD (E.D. Wash. 2021) (deposed), *Finn et al. v. Cobb County Board of Elections and Registration*, No. 1:22-cv-02300-ELR (N.D. Ga. 2022), *Caroline County Branch of the NAACP v. Town of Federalsburg*, Civ. Action No. 23-SAG-00484 (D. Md. 2023), and *Coca v. City of Dodge City, et al.*, Case No. 6:22-cv-01274 (D. Kan. 2022) (deposed).
5. As an expert consultant, I have also advised the State of Maryland on its 2021 Congressional and Legislative redistricting plans. I have also examined and redrawn the 2022 school board district boundaries of the Roswell Independent School District in the state of New Mexico. More information about my qualifications and expert witness and consulting background can be found on my Curriculum Vitae, appended to this declaration as **Exhibit A**.

6. I am being compensated by the plaintiffs at a rate of \$350 an hour for my work on this on this matter. My compensation is not in any way contingent on the content of my opinions or the outcome of this matter.

B. Scope of Work

7. I was asked to prepare legislative redistricting plans for the Washington Legislature (i) that respect traditional redistricting criteria and the redistricting criteria set forth in Washington law, and (ii) that include a legislative district numbered 14 (“LD 14”) in the Yakima Valley region uniting communities of interest in the region and remedying the Section 2 violation found by the district court. With respect to the second requirement, I was asked to draw maps that include an LD 14 that, to the extent possible, unifies the population centers from East Yakima to Pasco that form a community of interest, including cities in the Lower Yakima Valley like Wapato, Toppenish, Granger, Sunnyside, Mabton, and Grandview.
8. I prepared four remedial plans that satisfy all of the above requirements (Plaintiffs’ Remedial Maps 1-4). At the request of Counsel for Plaintiffs, I prepared one additional remedial option that respects traditional redistricting criteria and the redistricting criteria set forth in Washington law, and that unites East Yakima with the Lower Yakima Valley cities listed above but does not include Pasco in LD 14 (Plaintiffs’ Remedial Map 5).
9. Attached to this report, I include district shapes for all five remedial maps in GeoJSON format, as well as block assignment files and pdf images of each remedial maps. I also include the remedial maps in an interactive html format that displays important roadways, geographical markers, and voting precinct boundaries. The maps in html format can be downloaded to a computer and opened on any internet browser.

C. Approach

10. I relied on the applicable redistricting criteria to draw the five remedial maps.
11. In drawing districts, I considered the criteria found in Washington Constitution Article 2, Section 43 and in statute at RCW 44.05.090. I drew districts to have a population as nearly equal as is practicable, consistent with the constitutional one-person-one-vote requirement. I drew districts to follow boundaries of political subdivisions and communities of interest. I minimized the number of counties, municipalities, and precincts split into multiple districts. And I endeavored to draw districts with convenient, contiguous, and compact territory, ensuring that areas of each district are connected and can be readily traversed by road.
12. I also considered other traditional redistricting principles in drawing the remedial plans. To the extent practicable, I sought to minimize changes to districts outside the Yakima Valley region. I also avoided pairing incumbents to the extent practicable, based on publicly available data.

13. I did not consider race or racial demographics in drawing the remedial plans. I did not make visible, view, or otherwise consult any racial demographic data while drawing districts. I did not assess the districts for performance to elect minority candidates of choice.
14. I did not consider election results or any partisan performance metrics in drawing the remedial plans, and I did not make visible, view, or otherwise consult any such data while drawing districts.
15. As indicated in further detail below, I conclude that all five remedial maps herein abide by Washington's redistricting criteria and other traditional redistricting criteria.

D. Plaintiffs' Remedial Map 1

16. Figure 1 below provides a visual depiction of Plaintiffs' Remedial Map 1. Remedial Map 1 includes an LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco. The map also keeps the Yakama Nation Reservation whole in LD 14, along with some off-reservation trust lands and fishing villages.

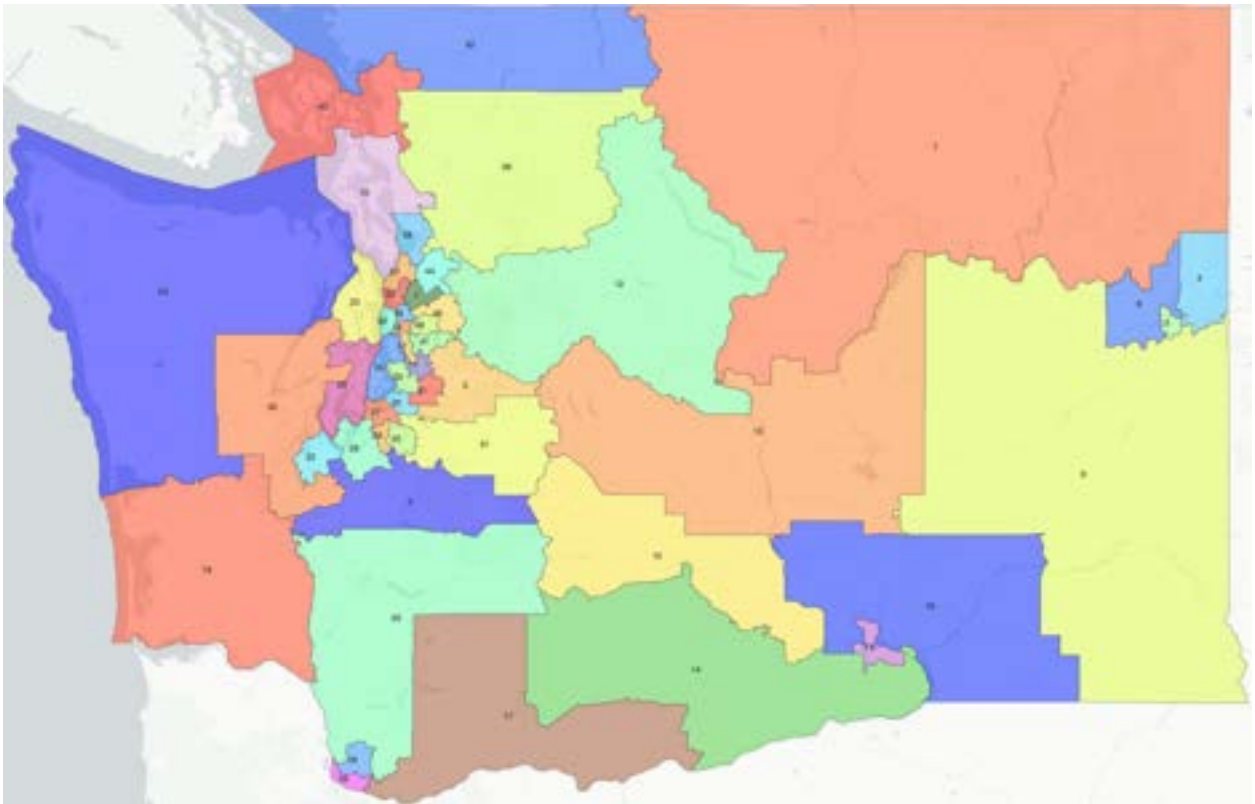


Figure 1: Remedial Map 1

17. **Appendix Table 1**, located at the end of this document provides, for each district in Remedial Map 1, the total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table

1, Remedial Map 1 has a negligible total population deviation¹ of 0.23%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

18. Remedial Map 1's districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 1, which are largely on par with the compactness scores for the Enacted Plan.²
19. Remedial Map 1's districts are comprised of convenient, contiguous territory and are traversable.
20. Remedial Map 1 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 1, including county-district splits and district-county splits.³ Remedial Map 1 performs about the same on county split metrics as compared to the Enacted Plan. With respect to precinct and city splits, I used the updated 2022 precinct boundaries and avoided any precinct or city splits unless such splits were necessary for the purposes of maintaining population equality and/or contiguity (including road connectivity).
21. To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.
22. In summary, Remedial Map 1 is compliant with all relevant redistricting criteria.

E. Plaintiffs' Remedial Map 2

23. Figure 2 below provides a visual depiction of Plaintiffs' Remedial Map 2. Remedial Map 2 contains an LD 14 that is identical to the LD 14 in Remedial Map 1, but offers an alternative configuration of surrounding districts.

¹ Total population deviation for a redistricting plan is calculated by taking the difference between the population deviation in the least and most populous districts.

² Reock score is calculated by taking the ratio of the area of a district to the area of its minimum bounding circle. Polsby-Popper score is calculated by taking the ratio of the area of a district to the area of a circle whose circumference matches the perimeter of the district. Both scores range from 0 to 1. Scores closer to 0 indicate a less compact jurisdiction and scores closer to 1 indicate a more compact jurisdiction.

³ The county-district split metric measures the extent to which the plan splits counties across districts. The district-county split metric measures the extent to which districts are split across counties.

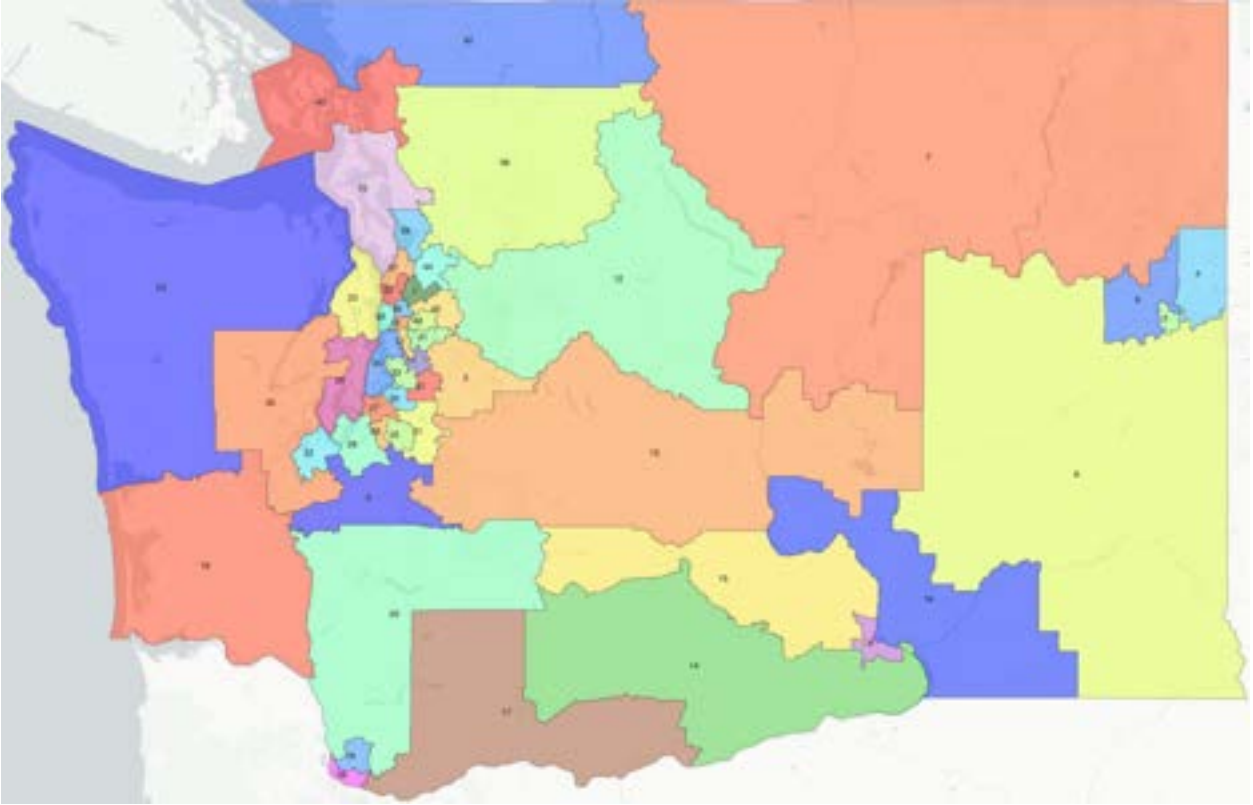


Figure 2: Remedial Map 2

24. **Appendix Table 1** provides, for each district in Remedial Map 2, the total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 2 has a negligible total population deviation of 0.22%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.
25. Remedial Map 2's districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 2, which are largely on par with the compactness scores for the Enacted Plan
26. Remedial Map 2's districts are comprised of convenient, contiguous territory and are traversable.
27. Remedial Map 2 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 2, which performs about the same on metrics of county splits as compared to the Enacted Plan. Cities and precincts were only split when necessary for the purposes of population deviation and/or contiguity (including road connectivity).
28. To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.

29. In summary, Remedial Map 2 is compliant with all relevant redistricting criteria.

F. Plaintiffs' Remedial Map 3

30. Figure 3 below provides a visual depiction of Plaintiffs' Remedial Map 3. Remedial Map 3 includes an LD 14 that unites the population centers forming a community of interest between East Yakima to Pasco. In addition to keeping the Yakama Nation Reservation whole in LD 14, Remedial Map 3 also incorporates into LD 14 all of the Yakama Nation's off-reservation trust lands and fishing villages.

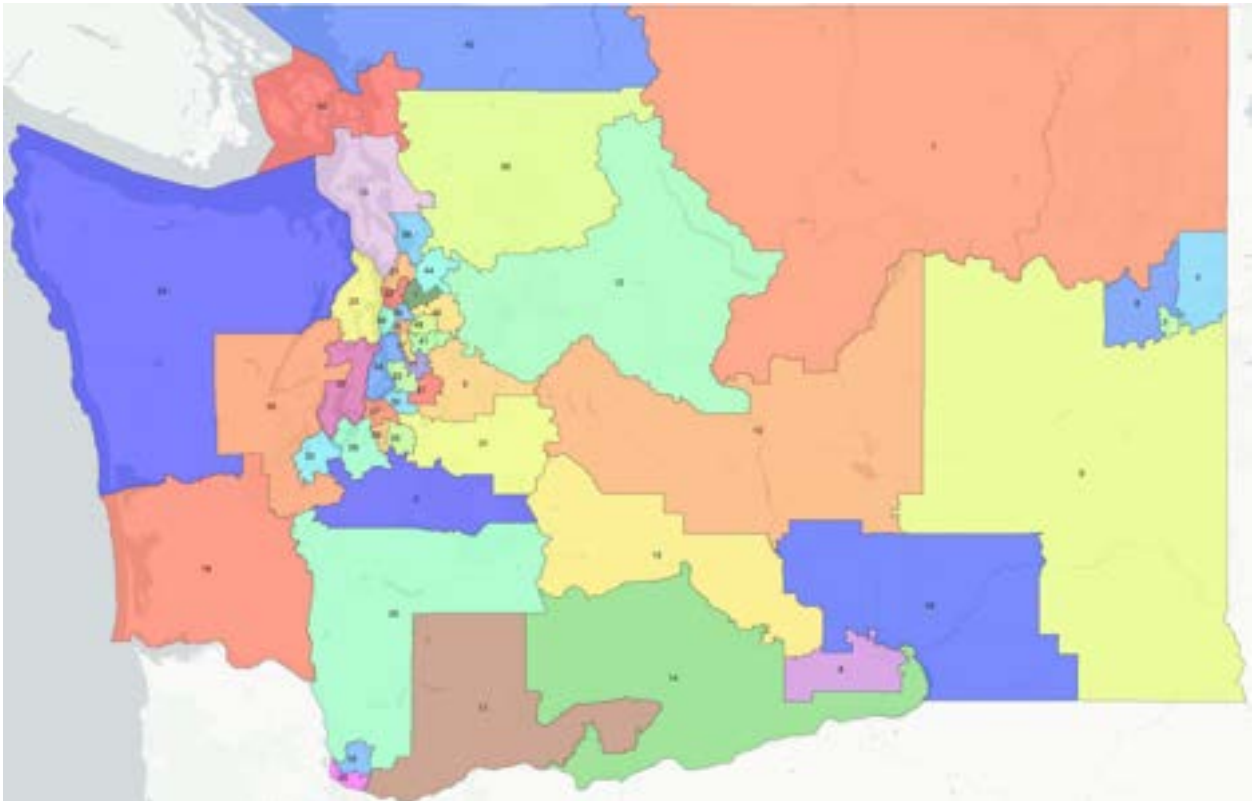


Figure 3: Remedial Map 3

31. **Appendix Table 1** provides, for each district in Remedial Map 3, the total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 3 has a negligible total population deviation of 0.24%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

32. Remedial Map 3's districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 3, which are largely on par with the compactness scores for the Enacted Plan.

33. Remedial Map 3's districts are comprised of convenient, contiguous territory and are traversable.
34. Remedial Map 3 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 3, which performs the same or better on metrics of county splits as compared to the Enacted Plan. Cities and precincts were only split when necessary for the purposes of population deviation and/or contiguity (including road connectivity).
35. To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.
36. In summary, Remedial Map 3 is compliant with all relevant redistricting criteria.

G. Plaintiffs' Remedial Map 4

37. Figure 4 below provides a visual depiction of Plaintiffs' Remedial Map 4. Remedial Map 4 includes an LD 14 that is identical to LD 14 in Remedial Map 3, but offers an alternative configuration of surrounding districts.

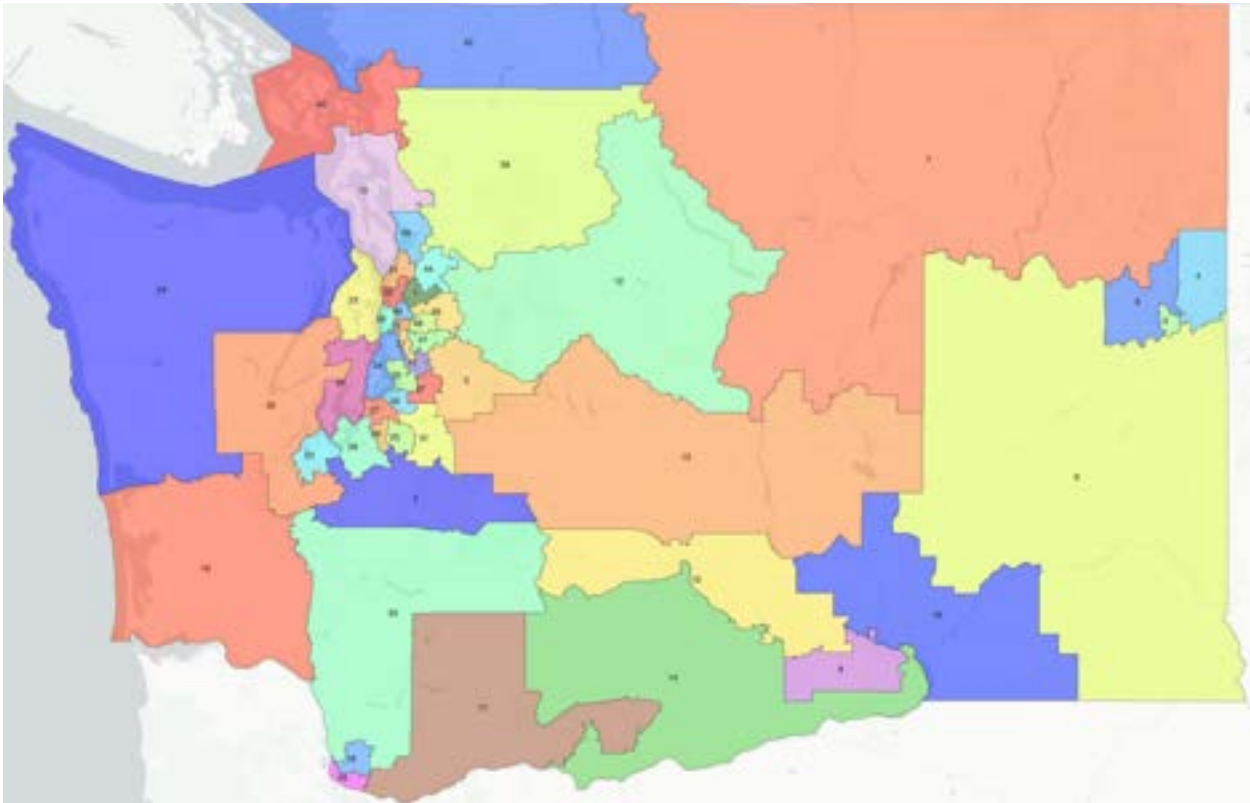


Figure 4: Remedial Map 4

38. **Appendix Table 1** below provides, for each district in Remedial Map 4, the total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 4 has

a negligible total population deviation of 0.24%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.

39. Remedial Map 4's districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** below provides the Reock and Polsby-Popper compactness scores for Remedial Map 4, which are largely on par with the compactness scores for the Enacted Plan.
40. Remedial Map 4's districts are comprised of convenient, contiguous territory and are traversable.
41. Remedial Map 4 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** below provides statistics regarding county splits for Remedial Map 4, which performs about the same on metrics of county splits as compared to the Enacted Plan. Cities and precincts were only split when necessary for the purposes of population deviation and/or contiguity (including road connectivity).
42. To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.
43. In summary, Remedial Map 4 is compliant with all relevant redistricting criteria.

H. Plaintiffs' Remedial Map 5

44. Figure 5 below provides a visual depiction of Plaintiffs' Remedial Map 5. Remedial Map 5 includes an LD 14 that unites the population centers in Yakima County that form a community of interest, including East Yakima and cities in the Lower Yakima Valley like Wapato, Toppenish, Granger, Sunnyside, Mabton, and Grandview. The map also keeps the Yakama Nation Reservation whole in LD 14 and keeps nearly the entire district wholly within Yakima County.

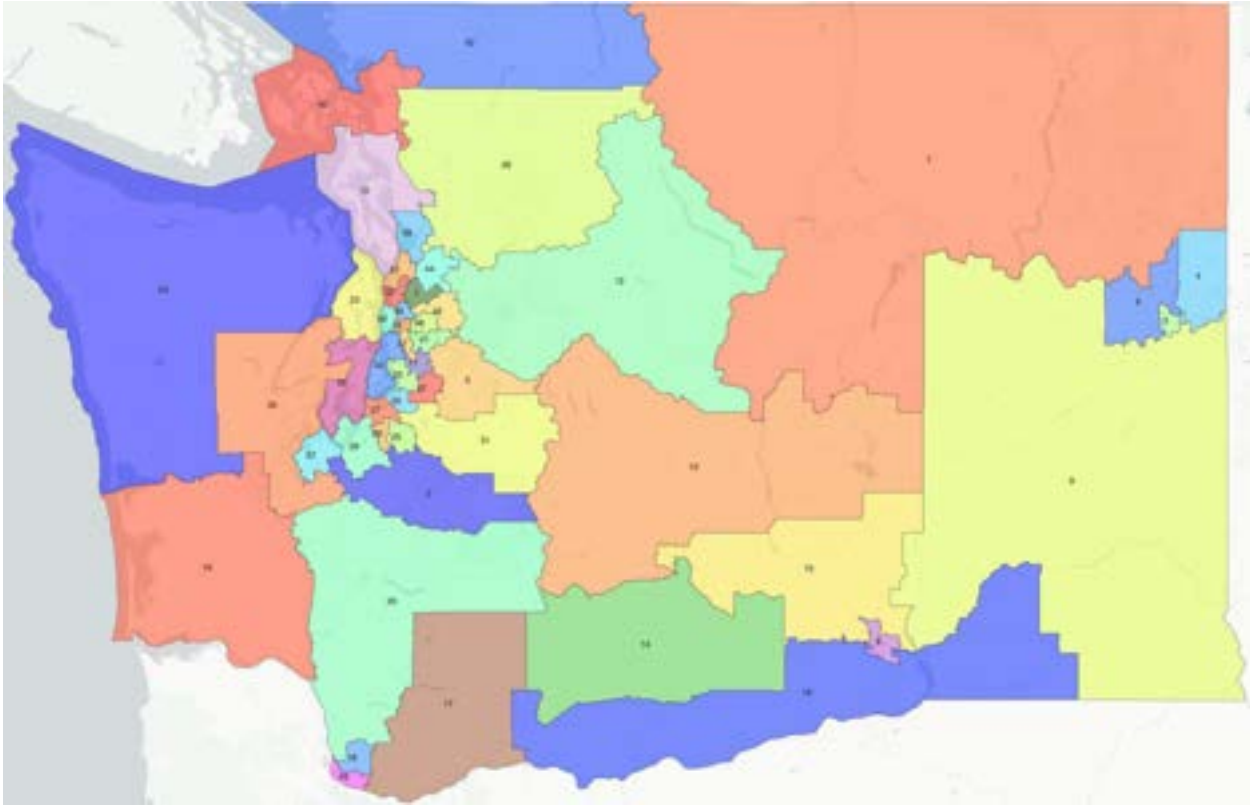


Figure 5: Remedial Map 5

45. **Appendix Table 1** in the Appendix provides, for each district in Remedial Map 5, the total population based on Washington’s adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 4 has a negligible total population deviation of 0.25%, which is the same as the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.
46. Remedial Map 5’s districts are reasonably shaped and compact, particularly given the often oddly shaped precinct and municipal boundaries and variable topography in Washington. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 5, which are largely on par with the compactness scores for the Enacted Plan.
47. Remedial Map 5’s districts are comprised of convenient, contiguous territory and are traversable.
48. Remedial Map 5 respects communities of interest and minimizes splitting counties, cities, and precincts. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 5, which performs about the same on metrics of county splits as compared to the Enacted Plan. Cities and precincts were only split when necessary for the purposes of population deviation and/or contiguity (including road connectivity).

49. To the extent practicable after complying with the above criteria, I endeavored to minimize changes to districts outside the Yakima Valley region and avoid pairing incumbents.
50. In summary, Remedial Map 5 is compliant with all relevant redistricting criteria.

I. Conclusion

51. I reserve the right to modify, update, or supplement my report as additional information is made available to me.
52. Pursuant to 28 U.S.C. § 1746, I, Kassra AR Oskooii, declare under penalty of perjury that the foregoing is true and correct.

Executed by:



Dr. Kassra AR Oskooii

Dated: December 1, 2023

Table 2 – Compactness Scores

	Enacted Map	Remedial Map 1	Remedial Map 2	Remedial Map 3	Remedial Map 4	Remedial Map 5
Reock	0.44	0.42	0.42	0.43	0.42	0.43
Polsby-Popper	0.33	0.32	0.31	0.32	0.32	0.32

Table 3 – County Split Metrics

	Enacted Map	Remedial Map 1	Remedial Map 2	Remedial Map 3	Remedial Map 4	Remedial Map 5
Number of Counties Split	18	20	19	20	19	19
County-District Splitting	1.61	1.68	1.64	1.61	1.63	1.62
District-County Splitting	1.25	1.25	1.26	1.24	1.25	1.26

Kassra A.R. Oskooii

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Academic Appointments	<p>University of Delaware Political Science & International Relations</p> <p>Associate Professor 2021-Present Assistant Professor 2016-2021 Provost Teaching Fellow 2022-Present</p> <p><i>Current Faculty Affiliations:</i> Data Science Institute (DSI) 2023-Present Master of Science in Data Science (MSDS) 2023-Present Center for Political Communication (CPC) 2016-Present Center for the Study of Diversity (CSD) 2016-Present</p> <p><i>Former Faculty Affiliations:</i> Race, Justice, Policy Research Initiative (RJPRI) 2017-2023</p>	
Education	<p>University of Washington Ph.D., 2016 Department of Political Science General Fields: American Politics & Political Methodology Specialized Field: Minority and Race Politics</p> <p>University of Washington M.A., 2013 Department of Political Science Center for Statistics & the Social Sciences (CSSS) Political Methodology Field Certificate (2013)</p> <p>University of Washington B.A., 2008 Major: Political Science Minors: Human Rights and Law, Societies, & Justice</p>	
Peer-Reviewed Journal Publications	<p>“In the Shadow of September 11: The Roots and Ramifications of Anti-Muslim Attitudes in the United States.” <i>Advances in Political Psychology</i>. w/ Lajevardi, N., Saleem, M., and Docherty, M. (Forthcoming)</p> <p>“Social Mobility Through Immigrant Resentment: Explaining Latinx Support for Restrictive Immigration Policies and Anti-Immigrant Candidates.” <i>Public Opinion Quarterly</i>. w/ Hickel, F., and Collingwood, L. (Forthcoming)</p>	

- “The Participatory Implications of Racialized Policy Feedback.” 2023. **Perspectives on Politics**, 21(3): 932-950. w/ Garcia-Rios, S., Lajevardi, N. and Walker, H.
- “Undermining Sanctuary? When Local and National Partisan Cues Diverge.” 2023. **Urban Affairs Review**, 59(1): 133-169. w/ Collingwood, L. & Martinez, G.
- “Fight Not Flight: The Effects of Explicit Racism on Minority Political Engagement.” 2022. **Electoral Studies**, 80: 102515. w/ Besco, R., Garcia-Rios, S., Lagodny, J., Lajevardi, N., Tolley, E.
- “Hate, Amplified? Social Media News Consumption and Anti-Muslim Policy Support.” 2022. **Journal of Public Policy**, 42: 656-683. w/ Lajevardi, N. and Walker, H. (FirstView)
- “Estimating Candidate Support in Voting Rights Act Cases: Comparing Iterative EI and EI-RxC Methods.” 2022. **Sociological Methods and Research**, 51(1): 271-304. w/ Barreto, M., Collingwood & Garcia-Rios, S.
- “Beyond Generalized Ethnocentrism: Islam-Specific Beliefs and Prejudice toward Muslim Americans.” 2021. **Politics, Groups, and Identities**, 9(3): 538-565. w/ Dana, K. & Barreto, M.
- “Opinion Shift and Stability: The Information Environment and Long-Lasting Opposition to Trump’s Muslim Ban.” 2021. **Political Behavior**, 43: 301–337. w/Lajevardi, N. & Collingwood, L.
Covered in: *The Washington Post (Monkey Cage)*
- “The Role of Identity Prioritization: Why Some Latinx Support Restrictionist Immigration Policies and Candidates.” 2020. **Public Opinion Quarterly**, 84: 860–891. w/ Hickel, F., Alamillo, R. & Collingwood, L.
- “Perceived Discrimination and Political Behavior.” 2020. **British Journal of Political Science**, 50(3): 867-892.
- “The Paradox Between Integration and Perceived Discrimination Among American Muslims.” 2020. **Political Psychology**, 41(3): 587-606. w/ Lajevardi, N., Walker, H. & Westfall, A.
Winner of the 2019 American Political Science Association Race, Ethnicity, and Politics Section Best Paper Award.
- “Veiled Politics: Experiences with Discrimination among Muslim Americans.” 2019. **Politics and Religion**, 12(2): 629-677. w/ Dana, K., Lajevardi, N., & Walker, H.

“Partisan Attitudes toward Sanctuary Cities: The Asymmetrical Effects of Political Knowledge.” 2018. *Politics and Policy*, 46 (6): 951-984. w/ Dreier, S. & Collingwood, L.

“A Change of Heart? Why Individual-Level Public Opinion Shifted against Trump’s Muslim Ban.” 2018. *Political Behavior*, 40: 1035-1072. w/ Collingwood, L. & Lajevardi, N.

Covered in: *The Washington Post (Monkey Cage)*, *Vox*, *ThinkProgress*, *NPR*, *Al Jazeera*, *Middle East Eye*, *Psychology Today*, & *Social Psych Online*

“Old-Fashioned Racism, Contemporary Islamophobia, and the Political Isolation of Muslim Americans in the Age of Trump.” 2018. *Journal of Race, Ethnicity, and Politics*, 3(1): 112-152. w/ Lajevardi, N.

“The Politics of Choice Reconsidered: Partisanship, Ideology, and Minority Politics in Washington’s Charter School Initiative.” 2018. *State Politics and Policy Quarterly*, 18(1): 61-92. w/ Collingwood, L. & Jochim, A.

“Muslims in Great Britain: The Impact of Mosque Attendance on Political Behaviour and Civic Engagement.” 2018. *Journal of Ethnic and Migration Studies*, 44(9): 1479-1505. w/ Dana, K.

“eiCompare: Comparing Ecological Inference Estimates across EI and EI: RxC.” 2016. *R Journal*, 8(2): 92-101. w/ Collingwood, L., Barreto, M. & Garcia-Rios, S.

“How Discrimination Impacts Sociopolitical Behavior: A Multidimensional Perspective.” 2016. *Political Psychology*, 37(5): 613-640.

“Mosques as American Institutions: Mosque Attendance, Religiosity and Integration into the Political System among American Muslims.” 2011. *Religions*, 2(4): 504-524. w/ Dana, K. & Barreto, M.

Book Chapters
Encyclopedic
Entries

“Discrimination.” In *Edward Elgar Encyclopedia of Political Sociology* edited by Maria Grasso and Marco Giugni. (Forthcoming)

“Race and Racism in U.S. Campaigns.” 2020. In *Oxford Handbook on Electoral Persuasion* edited by Liz Suhay, Bernie Grofman, and Alex Trechsel, 15:278–295. w/ Christopher Parker, Christopher Towler, and Loren Collingwood.

Book Reviews

“Understanding Muslim Political Life in America: Contested Citizenship in the Twenty-First Century.” Edited by Brian R. Calfano and Nazita Lajevardi. Philadelphia: Temple University Press, 2019. 248p. *Perspectives on Politics*.

Public Writing

“Biden reverses Trump’s ‘Muslim Ban.’ Americans support the decision.” **The Washington Post** (*Monkey Cage*) (27 January, 2021). w/ Lajevardi, N. and Collingwood, L.

“Targeted: Veiled Women Experience Significantly More Discrimination in the U.S.” **Religion in Public** (21 January, 2020). w/ Dana, K., Lajevardi, N., and Walker, H.

“Here’s what the Democrats need to do to get the DREAM Act through Congress.” **LSE American Politics and Policy Blog** (29 January, 2018). Also covered by Newsweek U.S. Edition. w/ Walker, H. and Garcia-Rios, S.

“Why Individual-Level Opinion Rapidly Shifted Against Trump’s ‘Muslim Ban’ Executive Order.” **Religion in Public** (17 January, 2018). w/ Collingwood, L. and Lajevardi, N.

“Allies in name only? Latino-only leadership on DACA may trigger implicit racial biases among White liberals.” **LSE American Politics and Policy Blog** (28 September, 2017). w/ Garcia-Rios, S. and Walker, H.

“Protests against Trump’s immigration executive order may have helped shift public opinion against it” **LSE American Politics and Policy Blog** (12 February, 2017). w/ Collingwood, L. and Lajevardi, N.

Select Works In Progress

“The Influence of American Identity on Anti-Muslim Policy Preferences Across Partisans.” w/ Lajevardi, N. (Invited for R&R)

“Neighboring Identities: Psychological and Political Reactions to Xenophobic Campaign Attacks.” w/ Basco, R., Fisher, S., Garcia-Rios, S., Lagodny, J., Lajevardi, N., and Tolley, E. (In Progress)

“Partisan Winners and Losers: Testing Alternative Frames of Congressional Election Results Among White and Latino Voters.” w/ Valenzuela, A. and Collingwood, L. (In Progress)

“Polarizing Cues Revisited: The Role of Partisan Benchmarking.” w/ Kipp, S., Medenica, V., and Walker, H. (In Progress)

“Voting for Violence? Tracing Ethno-Racial and Partisan Differences in Support for Anti-Democratic Violence Before and After the 2020 Presidential Election.” w/ Valenzuela, A. and Collingwood, L. (In Progress)

“White Candidates and Latino Voters: The Significance of Symbolic vs Substantive Ethnic Cues.” w/ Collingwood, L. and Alamillo, R. (In Progress)

Grants, Fellowships, & Awards

Nominee of UD’s Excellence in Teaching Award	(2023)
UD Provost Teaching Fellow	(2022-)
APSA Race, Ethnicity, and Politics Best Paper Award	(2019)
w/ Nazita Lajevardi, Hannah Walker and Aubrey Westfall	
AAPOR Student-Faculty Diversity Pipeline Award	(2019)

CTAL Instructional Improvement Grant: Engaging Diversity
in Political Science w/ Kara Ellerby (\$11,000) (2018)
POSCIR Seed Research Grant (\$1,500) (2018)
DEL General University Research Grant (\$7,500) (2017)
UW Political Science Research Fellowship (est. \$13,000) (2016)
Dissertation Improvement Research Grant, UCLA (\$3000) (2015)
Dean Recognition for Exceptional Pedagogical Contribution, UW (2014)
Best Graduate Paper in PoliSci (w/Hannah Walker), UW (2014)
UW Center for Democracy & VRA Research Fellowship (\$5,000) (2014)
UW Center for Democracy & VRA Research Fellowship (\$5,000) (2013)
Center for Statistics and the Social Sciences Grant (\$1,000) (2013)
UW WISER Research Grant (\$2500) (2011-14)
UW WISER Survey Research Fellowship (\$20,000) (2011-14)
Grad. Opportunities & Minority Achievement Fellowship (\$4,000) (2010-11)
Donald R. Matthews Graduate Fellowship (\$40,000) (2010-11)
Jody Deering Nyquist Award for Excellence in Public Speaking (2008)

Research Center Affiliations Race, Justice, Policy Research Initiative, UD (2017 -)
Center for Political Communication, UD (2016 -)
Center for the Study of Diversity, UD (2016 -)
UW Center for Democracy and Voting Rights Research (2013-14)
Washington Institute for the Study of Race & Ethnicity (WISER) (2010-16)
Center for Social Science and Statistics (CSSS) (2010-16)
Washington Survey Research Center (WASRC) (2010-15)

Teaching Experience **University of Delaware** (2016 -)
POSC 150: Intro to American Politics (x10)
POSC 230: Intro to Politics and Social Justice (x2)
POSC 413: Minority Politics, Representation, and Voting Rights (x4)
POSC 867: Race, Ethnicity, and Politics (Graduate Seminar) (x3)
POSC 807: American Political Behavior (Graduate Seminar) (x1)

University of Washington (2011-2016)
POLS 202: Intro to American Politics (x2)
POLS 357: Minority Representation and the Voting Rights Act (x1)
POLS 205: Political Science as a Social Science (TA)
POLS 317: US Race and Ethnic Politics (TA)
POLS 353: US Congress (TA)
POLS 503: Advanced Research Design and Analysis (TA)
LAW E 558: Voting Rights Research and the Law (TA)

External Invited Talks/Panels “Diversity and the State of Democratic Citizenship.” Featured invited roundtable sponsored by the **Center for the Study of Democratic Citizenship**. April 23,

2021.

“Shocks to the System: Capturing Opinion Shift and Stability Toward Trump’s Muslim Ban.” Keynote Speaker at the Democracy and Diversity Triannual Conference at the **Center for the Study of Democratic Citizenship** in Montreal, Canada. April 24-25, 2020. [Cancelled Due to COVID-19]

“The New American Electorate.” Panelist. **Princeton University**. Event sponsored by the Center for the Study of Democratic Politics. April 3, 2020. [Cancelled Due to COVID-19]

“Neighboring Identities: Psychological and Political Reactions to Generalized and Particularized Anti-Immigrant Appeals.” w/Sergio Garcia-Rios. **University of Toronto**. Talk Sponsored by the Department of Political Science. March 6, 2020.

“History, Institutions, and Theory Research Coordination Network on Racial and Ethnic Politics.” Panelist. **University of Pennsylvania**. Event sponsored by the American Political Science Association’s Special Projects Fund and the Center for the Study of Ethnicity, Race and Immigration at Penn. February 28-29, 2020.

“Using Observational and Experimental Data to Examine the Sociopolitical Consequences of Perceived Discrimination.” **Rutgers University**. Talk sponsored by the Emerging Trends Lecture Series & the Center for the Experimental Study of Politics and Psychology. April 27, 2018.

“A Change of Heart? Using Panel Designs to Establish Causality with Real Events.” w/Loren Collingwood. **Princeton University**. Talk sponsored by the Center for the Study of Democratic Politics. April 26, 2018.

“Using Observational and Experimental Data to Examine the Sociopolitical Consequences of Perceived Discrimination.” **University of California Los Angeles**. Talk sponsored by the Race, Ethnicity and Politics Workshop. March 5, 2018.

“Muslim-American Attitudes, Sociopolitical Behavior, and Identity.” Panelist/Section Presenter. **University of California Los Angeles**. Event sponsored by the Luskin School of Public Affairs & the National Science Foundation. December 15, 2017.

“Muslim-American Political Behavior.” Panelist/Section Presenter. **Menlo College**. Event sponsored by Menlo College & the National Science Foundation. December 16, 2016.

Internal or
Public
Invited
Talks/Panels

“How Democratic is the U.S. Constitution, and to What Extent did the Founding Fathers Oppose Majority Rule?” Speaker. University Day Public Lecture. March 18, 2023.

“Race, Ethnicity, and Gender in the 2020 Election.” Speaker. Panel sponsored by the the University of Delaware POSCIR. December 14, 2020.

“Building Community: Scholarship and Connection among Faculty of Color.” Speaker. Panel sponsored by the Center for the Study of Diversity (CSD) at the University of Delaware. February 24, 2020.

“Executive Power and the U.S. Democracy.” Talk sponsored by the 2019 YALI Mandela Washington Fellows Program at the University of Delaware. July 2, 2019.

“Opinion Shift and Stability: Long-Lasting Opposition toward Trump’s Muslim Ban.” Talk sponsored by the Department of Sociology and Criminal Justice Colloquium Speaker Series at the University of Delaware. April 24, 2019.

“Old-Fashioned Racism and the Roots of Contemporary Islamophobia.” Talk sponsored by the Center for the Study of Diversity (CSD) Colloquium Speaker Series at the University of Delaware. December 6, 2018.

“Understanding Executive Power in the United States.” Talk sponsored by the 2018 YALI Mandela Washington Fellows Program at the University of Delaware. July 2, 2018.

“The Inclusion and Exclusion of Minority Groups in the United States.” Talk sponsored by the 2017 YALI Mandela Washington Fellows Program at the University of Delaware. July 11, 2017.

“Inclusion and Exclusion: Perceptions of Discrimination in the Workplace.” Diversity Summit Presenter. Talk sponsored by the Office of Equity and Inclusion at the University of Delaware. June 20, 2017.

“What Happens Now Part II? A Forum to Discuss Bigotry & Closed Borders in the Trump Era.” Speaker. Panel sponsored by the Department of Women and Gender Studies, Sociology and Criminal Justice, Political Science and International Relations, & the College of Arts and Sciences at the University of Delaware. February 13, 2017.

“Forum on the Travel Ban Executive Order.” Speaker. Panel sponsored by the University of Delaware Provost Office. February 7, 2017.

“What Happens Now Part I? Fear, Diversity, and Inclusion in Post-U.S. Election.” Speaker. Panel sponsored by Women and Gender Studies, Sociology and Criminal Justice, Political Science and International Relations, History, & the College of Arts and Sciences at the University of Delaware. November

30, 2016.

“Race, Religion, and Gender.” Election Central Panelist. Event sponsored by the Center for Political Communication at the University of Delaware. November 8, 2016.

Select Conference Presentations 2021

“Partisan Winners and Losers: Testing Alternative Frames of Congressional Election Results Among White and Latino Voters.” Online Paper Presentation at the Annual American Political Science Association Conference (APSA).

“Kissing Up and Kicking Down: How Immigrant Resentment Impacts Latinx Support for Donald Trump and Restrictive Immigration Policies.” Online Paper Presentation at the Annual American Political Science Association Conference (APSA).

“How do Political Attacks Affect Racial and Ethnic Self-Identities?” Online Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA).

“Kissing Up and Kicking Down: How Immigrant Resentment Impacts Latinx Support for Donald Trump and Restrictive Immigration Policies.” Online Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA).

2019

“The Significance of Politicized Group Identities: Re-examining the Relationship between Contact with Punitive Political Institutions and Political Participation.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

“Threat or Reassurance? Framing Midterm results among Latinos and Whites.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

“When American Identity Trumps Latinx Identity: Explaining Support for Restrictive Immigration Policies.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

“Anti-Minority Politics and Political Participation: Evidence from Four Countries.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

2018

“Assessing the Link between Interactions with Punitive Political Institutions and Political Behavior.” Paper Presentation at the 2018 Symposium on the Politics of Immigration, Race, and Ethnicity (SPIRE) Meeting in Philadelphia, PA (University of Pennsylvania).

“Are Integrated Muslim Americans More Likely to Perceive Discrimination?” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Boston, MA.

“Opinion Shift and Stability: Enduring Individual-Level Opposition to Trump’s Muslim Ban.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Boston, MA.

“Assessing the Link between Interactions with Punitive Political Institutions and Political Behavior.” Paper Presentation at the 2018 Collaborative Multiracial Post-Election Study (CMPS) Meeting in Los Angeles, CA (UCLA).

2017

“A Change of Heart? Why Individual-Level Public Opinion Shifted against Trump’s Muslim Ban.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in San Francisco, CA.

“Veiled Politics: Experiences with Discrimination among American Muslims.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in San Francisco, CA.

“The Racial Shield as Racism Exoneration: Explaining White Racist Support for Conservative Minority Candidates.” Paper Presentation at the Annual Western Political Science Association Conference (WPSA) in Vancouver BC, Canada.

2016

“Assessing the Mechanism Linking Discrimination to Democratic Engagement.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Philadelphia, PA.

“Estimating Candidate Support: Comparing EI and EI-RxC.” Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA) in Chicago, Illinois.

Student
Supervision

Sadie Ellington, Dissertation Committee Member (POSC)
Enes Aksu, Dissertation Committee Member (POSC)

Enes Tuzgen, Dissertation Committee Member (POSC)
Olga Gerasimenko, Dissertation Committee Member (POSC)
Furkan Karakayan, Dissertation Committee Member (POSC)
Richard Takyi Amoah, Dissertation Committee Member (ECON)
Sheila Afrakomah, Dissertation Committee Member (ECON)
Ahmet Ates, Dissertation Committee Member (POSC)
Charles Mays, Long Paper and Dissertation Chair (POSC)
Ian Mumma, Long Paper Committee Member (POSC)
Clark Shanahan, Long Paper Committee Member (POSC)

Rachel Spruill, Undergraduate Honors Thesis Chair
Jessica Sack, Undergraduate Honors Thesis Chair
Jordan Spencer, Undergraduate Faculty Mentor for the McNair Program
Lauren Turenchalk, Undergraduate Research Supervisor

Professional
Service

Editorial Board Member

Politics and Religion (6/2018 - 12/2021)

Discipline Service

American Political Science Association (APSA) REP Section Chair (2021-2022)

Western Political Science Association (WPSA) Task Force on Equity, Inclusion, and Access in the Discipline (2020-2021)

APSA Race, Ethnicity, and Politics Best Paper Award Committee Member (2020)

University Service

2019 Summer Educational and Cultural Experience Program (SECEP)
Lecturer of Politics and Justice in the United States. (July 27 - August 20, 2019)

Manuscript Reviewer/Referee

American Journal of Political Science, American Political Science Review, American Politics Research, British Journal of Political Science, Belgian Federal office for Science Policy, Behavioral Sciences of Terrorism and Political Aggression, Cambridge University Press, Electoral Studies, European Political Science Review, International Journal of Public Opinion, Journal of Elections, Public Opinion & Parties, Journal of Ethnic and Migration Studies, Journal of Politics, Journal of Race, Ethnicity and Politics, Migration Studies, Perspectives on Politics, Political Behavior, Politics, Groups, and Identities, Political Psychology, Political Research Quarterly, Politics and Religion, Public Opinion Quarterly, Social Science Quarterly, Time-Sharing Experiments for the Social Sciences

Conference Coordination

Politics of Race, Immigration, and Ethnicity Consortium (PRIEC) at the University of Delaware. (2020)

Politics of Race, Immigration, and Ethnicity Consortium (PRIEC) at the University of Washington. (2013)

Latinos and the Voting Rights Act. Center for Democracy and Voting Rights Research at the University of Washington Law School. (2013)

Islam in the Public Sphere Conference. Washington Institute for the Study of Race & Ethnicity (WISER). (2011)

Expert
Consulting
Experience

State of Maryland Attorney General's Office; 2021 MD Redistricting

Baltimore County Branch of the NAACP v. Baltimore County, Maryland, No. 1:21-cv-03232-LKG (D. Md. 2022)

Common Cause Florida v. Lee, 4:22-cv-109-AW-MAF (N.D. Fla.)

Common Cause Florida v. Byrd, No. 4:22-cv-00109-AW-MAF (N.D. Fla. 2022) [Deposed]

Dickinson Bay Area NAACP Branch v. Galveston County, Texas, No. 3:22-cv-117-JVB (S.D. Tex. 2023) [Deposed & Testified]

Reyes v. Chilton, 4:21-cv-05075-MKD (E.D. Wash. 2021) [Deposed]

Roswell Independent School District (RISD); 2022 Redistricting

Caroline County Branch of the NAACP v. Town of Federalsburg, Civ. Action No. 23-SAG-00484 (D.Md. 2023)

Cobb County Board of Elections and Registration, No. 1:22-cv-02300-ELR (N.D. Ga. 2022)

Coca v. City of Dodge City, et al. Case no. 6:22-cv-01274 (D Kan. 2022) [Deposed]

Previous Research Positions **Senior Researcher, Washington Poll** 2010-2014
Public Opinion Survey Design, Programming, and Analysis.

Researcher, Center for Democracy & Voting Rights Research 2013-2014
Racially Polarized Voting (RPV) Analysis of jurisdictions in states such as: California, Florida, Texas, and Washington.

Investigator, Washington State Charter School Initiative 2013
Precinct and school district level data collection and analysis of the I-1240 Vote for S360 Polling Firm and Melinda & Gates Foundation.

Skills & Additional Information **Software:** R, STATA, \LaTeX , ESRI, DRA
Languages: Farsi (Persian)–Native Speaker
R Packages: eiCompare (contributor), eiExpand (contributor)

EXHIBIT 2

December 1, 2023 Declaration of Dr. Collingwood



Expert Report of Dr. Loren Collingwood

Loren Collingwood

2023-12-01

Executive Summary

I have been retained by plaintiffs as an expert, and have been asked to analyze whether five plaintiff proposed remedial maps will perform electorally for Latino voters in Legislative District 14 in the Yakima Valley region– the area comprising Central Washington’s large Latino community.

To assess electoral performance, as in my prior reports, I examine whether the minority-preferred candidate wins in contests featuring racially polarized voting in nine statewide elections subset to LD-14 in each of plaintiffs’ five remedial plans.¹

An electoral performance analysis reconstructs previous election results based on new district boundaries to assess whether a minority or white preferred candidate is most likely to win in a given jurisdiction under consideration (i.e., a newly adopted legislative district).

Based on my analysis, I conclude that all five of plaintiffs’ proposed maps provide Latino voters in the Yakima Valley region with an equal opportunity to elect candidates of choice to the state legislature in LD-14.

My opinions are based on the following data sources: Washington State general election precinct/vtd returns from 2016-2020; 2020 US Census block data, 2021 5-Year American Community Survey (ACS) data, and remedial map geojson files provided by plaintiffs’ counsel.

I am being compensated at a rate of \$400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

Background and Qualifications

I am an associate professor of political science at the University of New Mexico. Previously, I was an associate professor of political science and co-director of civic engagement at the Center for Social Innovation at the University of California, Riverside. I have published two

¹ My prior reports submitted to the court as Trial Exhibits 1-2 and my testimony at trial demonstrate which candidates are majority (white) and minority (Latino) preferred.

books with *Oxford University Press*, 42 peer-reviewed journal articles, and nearly a dozen book chapters focusing on sanctuary cities, race/ethnic politics, election administration, and RPV. I received a Ph.D. in political science with a concentration in political methodology and applied statistics from the University of Washington in 2012 and a B.A. in psychology from the California State University, Chico, in 2002.

In between my B.A. and Ph.D., I spent 3-4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting and map-drawing and demographic analysis for the Inland Empire Funding Alliance in Southern California. I was the redistricting consultant for the West Contra Costa Unified School District, CA, independent redistricting commission in which I was charged with drawing court-ordered single member districts. I am contracted with Roswell, NM, Independent School District to draw single member districts.

I served as a testifying expert for the plaintiff in the Voting Rights Act Section 2 case *NAACP v. East Ramapo Central School District*, No. 17 Civ. 8943 (S.D.N.Y. 2020), on which I worked from 2018 to 2020. In that case, I used the statistical software eiCompare and WRU to implement Bayesian Improved Surname Geocoding (BISG) to identify the racial/ethnic demographics of voters and estimate candidate preference by race using ecological data. I am the quantitative expert in *LULAC vs. Pate (Iowa 2021)*, and have filed an expert report in that case. I am the BISG expert in *LULAC Texas et al. v. John Scott et al.*, 1:21-cv-0786-XR (W.D. Tex. 2022). I filed two reports and have been deposed in that case. I was the RPV expert for the plaintiff in *East St. Louis Branch NAACP, et al. vs. Illinois State Board of Elections, et al.*, (N.D. Ill. 2021), having filed two reports in that case. I am the Senate Factors expert for plaintiff in *Pendergrass v. Raffensperger (N.D. Ga. 2021)*, where I filed two reports, was deposed, and testified at trial. I was the RPV expert for plaintiff in *Johnson, et al., v. WEC, et al.*, No. 2021AP1450-OA (Wis. 2022), having filed three reports in that case. I was the RPV expert for plaintiff in *Faith Rivera, et al. v. Scott Schwab and Michael Abbott* (Kan. 2022). I filed a report, was deposed, and testified at trial. I served as the RPV expert for the intervenor in *Walen and Henderson v. Burgum and Jaeger*, No 1:22-cv-00031-PDW-CRH (D.N.D. 2023), where I filed a report and testified at trial. I was the RPV expert in *Lower Brule Sioux Tribe v. Lyman County* (D.S.D. 2022), where I filed a report. In this case, I was the RPV expert for plaintiffs, where I filed two reports, was deposed, and testified at trial. I was the RPV expert for plaintiff in *IE United et al. v. Riverside County*, CVRI2202423 (Cal. Super. Ct. 2022), where I filed a report and was deposed. I was the RPV expert for plaintiff in *Paige Dixon v. Lewisville Independent School District, et al.*, Civil Action No. 4:22-cv-00304 (E.D. Tex. 2022), where I filed two expert reports. I was the RPV expert for plaintiff in *Turtle Mountain Band of Chippewa Indians v. Jaeger*, No. 3:22-cv-00022-PDW-ARS (D.N.D. 2023), where I filed two reports, was deposed, and testified at trial.

My curriculum vitae was submitted to the Court as Trial Exhibit 531.

Proposed Maps

Plaintiffs' counsel provided me with the geojson files for five remedial maps. Each map's 2021 ACS Citizen Voting Age Population (CVAP) demographic estimates are presented in Table 1 below.

Table 1. Demographics 2021 CVAP.

Demographic	Map.1	Map.2	Map.3	Map.4	Map.5
Percent Hispanic CVAP 2021	51.65	51.65	50.14	50.14	47
Percent White CVAP 2021	37.14	37.14	38.86	38.86	42.34
Percent Black CVAP 2021	1.37	1.37	1.34	1.34	1.51
Percent Native CVAP 2021	7.08	7.08	7.04	7.04	6.91
Percent AAPI CVAP 2021	1.95	1.95	1.96	1.96	1.75

In terms of electoral performance, I previously analyzed the performance of LD-15 in the Enacted Plan. An electoral performance analysis tests whether different plans would provide a more equal ability for minority voters to participate in the electoral process and to elect candidates of choice. For the performance analysis, I gathered precinct results for the following nine statewide elections: 2016 U.S. Senate, 2016 President, 2016 Governor, 2018 U.S. Senate, 2020 Treasurer, 2020 State Supreme Court Position 3, 2020 President, 2020 Governor, 2020 Attorney General. To examine how a candidate performs in plaintiffs' remedial versions of LD-14, I then subset the precincts to only those falling within the new LD-14 boundary. I did not use district-based elections for the performance analysis because by nature they do not allow for a full reconstruction of previous elections in the new proposed district boundaries. For this reason, in addition to the low turnout and other unusual circumstances outlined in my prior reports, the LD-15 2022 election is not a probative gauge of performance in remedial districts, and I did not utilize it to analyze the performance of remedial districts in this report.

Assessing electoral performance in the proposed maps, LD-14 performs well – and similarly – for Latino voters in all five of plaintiffs' remedial maps. It should be noted that maps 1 and 2, then 3 and 4 are the same LD-14 so produce identical numbers. The average margin of victory in Maps 1 and 2 in my analysis is 14.3% for the Latino-preferred candidate. The average margin of victory in Maps 3 and 4 in my analysis is 14.1% for the Latino-preferred candidate. Finally, the average margin of victory in Map 5 is 13.6%. Thus, all maps produce similar electoral outcomes. Notably, Latino-preferred state legislative candidates will frequently receive a lower percentage than statewide candidates, and that is especially the case where the candidate is also Latino. As a result, these performance results are sufficient to provide Latino voters with an equal opportunity to elect candidates to the state legislature. The results of my analysis are reported below in Figure 1 and Table 2 in the Appendix.

Figure 1. Electoral Performance analysis, Legislative District 14, 2016-2020 statewide general elections, paneled by map alternative.



Conclusion

Overall, each of the five proposed maps perform well for Latino voters' preferred candidates in LD-14. Therefore, Latino voters have a strong possibility of being able to elect their preferred candidate if any of plaintiffs remedial maps 1-5 is selected.

Pursuant to 28 U.S.C. § 1746, I, Loren Collingwood, declare the foregoing is true and correct.

Dr. Loren Collingwood

Dated: December 1, 2023

Appendix

Table 2. Electoral Performance Analysis, LD-14 in Maps 1-5, 2016-2020 contests.

Candidate	Preferred_Candidate	Map	Year	Contest	Vote
Trump	White	Map 1	2020	President	0.407
Biden	Latino	Map 1	2020	President	0.569
Culp	White	Map 1	2020	Governor	0.444
Inslee	Latino	Map 1	2020	Governor	0.554
Larkin	White	Map 1	2020	Attorney General	0.423
Ferguson	Latino	Map 1	2020	Attorney General	0.576
Davidson	White	Map 1	2020	Treasurer	0.449
Pellicciotti	Latino	Map 1	2020	Treasurer	0.551
Larson	White	Map 1	2020	State Sup. Ct. 3	0.424
Montoya	Latino	Map 1	2020	State Sup. Ct. 3	0.574
Trump	White	Map 2	2020	President	0.407
Biden	Latino	Map 2	2020	President	0.569
Culp	White	Map 2	2020	Governor	0.444
Inslee	Latino	Map 2	2020	Governor	0.554
Larkin	White	Map 2	2020	Attorney General	0.423
Ferguson	Latino	Map 2	2020	Attorney General	0.576
Davidson	White	Map 2	2020	Treasurer	0.449
Pellicciotti	Latino	Map 2	2020	Treasurer	0.551
Larson	White	Map 2	2020	State Sup. Ct. 3	0.424
Montoya	Latino	Map 2	2020	State Sup. Ct. 3	0.574
Trump	White	Map 3	2020	President	0.410
Biden	Latino	Map 3	2020	President	0.566
Culp	White	Map 3	2020	Governor	0.448
Inslee	Latino	Map 3	2020	Governor	0.550
Larkin	White	Map 3	2020	Attorney General	0.426
Ferguson	Latino	Map 3	2020	Attorney General	0.573
Davidson	White	Map 3	2020	Treasurer	0.452
Pellicciotti	Latino	Map 3	2020	Treasurer	0.547
Larson	White	Map 3	2020	State Sup. Ct. 3	0.409
Montoya	Latino	Map 3	2020	State Sup. Ct. 3	0.588
Trump	White	Map 4	2020	President	0.410
Biden	Latino	Map 4	2020	President	0.566

Candidate	Preferred_Candidate	Map	Year	Contest	Vote
Culp	White	Map 4	2020	Governor	0.448
Inslee	Latino	Map 4	2020	Governor	0.550
Larkin	White	Map 4	2020	Attorney General	0.426
Ferguson	Latino	Map 4	2020	Attorney General	0.573
Davidson	White	Map 4	2020	Treasurer	0.452
Pellicciotti	Latino	Map 4	2020	Treasurer	0.547
Larson	White	Map 4	2020	State Sup. Ct. 3	0.409
Montoya	Latino	Map 4	2020	State Sup. Ct. 3	0.588
Trump	White	Map 5	2020	President	0.403
Biden	Latino	Map 5	2020	President	0.571
Culp	White	Map 5	2020	Governor	0.443
Inslee	Latino	Map 5	2020	Governor	0.554
Larkin	White	Map 5	2020	Attorney General	0.425
Ferguson	Latino	Map 5	2020	Attorney General	0.575
Davidson	White	Map 5	2020	Treasurer	0.454
Pellicciotti	Latino	Map 5	2020	Treasurer	0.546
Larson	White	Map 5	2020	State Sup. Ct. 3	0.426
Montoya	Latino	Map 5	2020	State Sup. Ct. 3	0.571
Hutchinson	White	Map 1	2018	U.S. Senate	0.455
Cantwell	Latino	Map 1	2018	U.S. Senate	0.545
Hutchinson	White	Map 2	2018	U.S. Senate	0.455
Cantwell	Latino	Map 2	2018	U.S. Senate	0.545
Hutchinson	White	Map 3	2018	U.S. Senate	0.455
Cantwell	Latino	Map 3	2018	U.S. Senate	0.545
Hutchinson	White	Map 4	2018	U.S. Senate	0.455
Cantwell	Latino	Map 4	2018	U.S. Senate	0.545
Hutchinson	White	Map 5	2018	U.S. Senate	0.460
Cantwell	Latino	Map 5	2018	U.S. Senate	0.540
Trump	White	Map 1	2016	President	0.406
Clinton	Latino	Map 1	2016	President	0.538
Bryant	White	Map 1	2016	Governor	0.423
Inslee	Latino	Map 1	2016	Governor	0.577
Vance	White	Map 1	2016	US Senate	0.383
Murray	Latino	Map 1	2016	US Senate	0.617
Trump	White	Map 2	2016	President	0.406

Candidate	Preferred_Candidate	Map	Year	Contest	Vote
Clinton	Latino	Map 2	2016	President	0.538
Bryant	White	Map 2	2016	Governor	0.423
Inslee	Latino	Map 2	2016	Governor	0.577
Vance	White	Map 2	2016	US Senate	0.383
Murray	Latino	Map 2	2016	US Senate	0.617
Trump	White	Map 3	2016	President	0.410
Clinton	Latino	Map 3	2016	President	0.532
Bryant	White	Map 3	2016	Governor	0.427
Inslee	Latino	Map 3	2016	Governor	0.573
Vance	White	Map 3	2016	US Senate	0.386
Murray	Latino	Map 3	2016	US Senate	0.614
Trump	White	Map 4	2016	President	0.410
Clinton	Latino	Map 4	2016	President	0.532
Bryant	White	Map 4	2016	Governor	0.427
Inslee	Latino	Map 4	2016	Governor	0.573
Vance	White	Map 4	2016	US Senate	0.386
Murray	Latino	Map 4	2016	US Senate	0.614
Trump	White	Map 5	2016	President	0.410
Clinton	Latino	Map 5	2016	President	0.528
Bryant	White	Map 5	2016	Governor	0.428
Inslee	Latino	Map 5	2016	Governor	0.572
Vance	White	Map 5	2016	US Senate	0.393
Murray	Latino	Map 5	2016	US Senate	0.607

EXHIBIT 1

January 5, 2024 Rebuttal Expert Report
of Dr. Oskooii



Rebuttal Expert Report Submitted on Behalf of Plaintiffs

in Soto Palmer, et al. v. Hobbs, et al.

Kassra AR Oskooii, Ph.D.

University of Delaware

January 5, 2024

I. Background and Qualifications

1. I, Kassra AR Oskooii, am over 18 years of age and am competent to testify.
2. My background and qualifications are set forth in my expert report dated and submitted on December 1, 2023.
3. I have reviewed the report of Dr. Sean Trende and now offer this rebuttal.

II. Executive Summary

4. There are fundamental problems with Dr. Trende's report and analysis.
5. First, Dr. Trende draws incorrect conclusions about the Remedial Maps, including the remedial district Legislative District 14 ("LD 14"), because he does not consider Washington's redistricting criteria. In fact, at no point throughout his lengthy report does he discuss what principles mapmakers must follow in the State of Washington.
6. Second, Dr. Trende's claims about the nature and magnitude of changes to surrounding districts are misleading and, at times, wholly inaccurate. His characterization of changes to surrounding districts, which were necessary to draw a remedial district while respecting Washington's and traditional redistricting criteria, disregards the realities of redistricting, especially in sparsely populated areas.
7. Third, Dr. Trende's own visuals and data belie his suggestion that LD 14 across the remedial plans was drawn to achieve a particular racial target. In fact, I did not consider any racial demographic or political data in drawing the Remedial Maps. Instead, I drew a district that unites the communities in East Yakima, the Lower Yakima Valley, and Pasco that the court identified as forming a community of interest, while respecting other redistricting criteria.

8. Fourth, Dr. Trende's suggestion that the Remedial Maps make changes to surrounding districts that favor Republicans more than Democrats is simply incorrect. Again, I did not consider any partisan or electoral data in drawing these maps. And, Dr. Trende's own data points show that the incidental changes in partisan composition of the districts surrounding LDs 14 and 15 were very slight and not substantial enough to change the partisan performance of those districts. Prevailing measures of partisan bias (the efficiency gap and declination scores) further confirm that the Remedial Maps do not meaningfully shift the partisan balance as compared to the Enacted Plan. The fact that the boundaries of more Republican performing districts were impacted than Democratic performing districts in the Remedial Maps is simply a function of geography: the region where the VRA violation occurred happens to have many more Republican districts than Democratic districts. Naturally, then, the boundaries of Republican districts will be impacted as a consequence of remedying the violation in that region. However, any alterations to the surrounding districts did not substantively diminish Republican performance in those districts.
9. Fifth, I have provided five new Remedial Maps 1A-5A that address, to the extent possible, the incumbent displacements in Remedial Maps 1-5 identified by Dr. Trende and Mr. Pharris at the Secretary of State's office.
10. Finally, Intervenors claim that LD 14 in Remedial Maps 3 and 4 exclude some Yakama Nation off-Reservation trust land but provide no data or boundary files to support their claim. I have verified that based on tribal land boundaries provided by the U.S. Census

and available on Dave's Redistricting App,¹ LD 14 in Maps 3 and 4 include the Yakama Nation's off-Reservation trust land.

III. Dr. Trende's Analysis Lacks a Serious Consideration of Washington's Redistricting Criteria

11. In evaluating the Remedial Maps, Dr. Trende's report does not address the extent to which districts follow the boundaries of political subdivisions and communities of interest, avoid splitting counties, municipalities, and precincts, and are comprised of traversable territory in light of natural boundaries, waterways, and islands in Washington State.
12. As I emphasized in my report, and which Dr. Trende's report overlooks, my decisions were guided by Washington State's redistricting criteria, including that districts shall have a population as nearly equal as is practicable and should, insofar as practical: follow boundaries of political subdivisions and communities of interest; minimize the number of county, municipality, and precinct splits; and be drawn with convenient, contiguous, and compact territory.
13. In accordance with Washington's requirement that no district be drawn purposely to favor or discriminate against any political party or group, I did **not** consider, view, or otherwise consult any racial/ethnic demographic data, election results, or any partisan metrics while drawing districts. To the extent practicable and based solely on publicly available data, I also considered limiting the pairing of incumbents.
14. In general, I also tried to minimize changes to other districts in the Enacted Plan, but with a recognition that altering other districts is an unavoidable byproduct of remedying

¹ For more details, see here: <https://medium.com/dra-2020/tribal-lands-on-daves-redistricting-d3dbbc7ed840>.

the violation of federal law. Thus, while some comparison to the Enacted Plan can provide context, overly focusing on it as Dr. Trende does is misplaced.

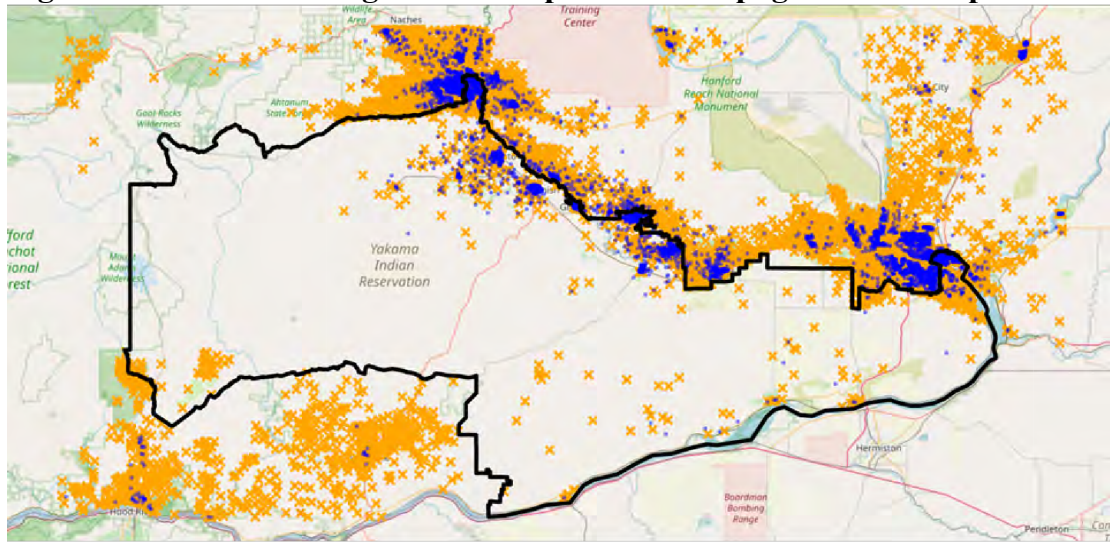
IV. The Remedial Maps Minimize Changes to Surrounding Districts and Such Changes Are a Natural Consequence of Complying with Redistricting Criteria

15. Dr. Trende makes false claims about the extent of changes to district boundaries across the state. For example, on page 9 of his report he writes: “Finally, the changes take place over much of the state, with blocks being shifted in 28 of the state’s 39 counties, including several in western Washington.” Similar unsubstantiated claims are made on pages 14, 45, and 49. First, *precincts* are the building blocks of the changes I implemented, with blocks only being selected in rare cases of having to split precincts. Second, various maps in Dr. Trende’s report, such as Figures 3, 6, 21, 24, and 31, which aim to highlight affected areas of the state, directly contradict his assertions regarding the number of counties impacted. Third, as Mr. Nicholas Pharris of the Secretary of State’s office correctly points out, the Remedial Maps affected anywhere between 3 to 13 (nowhere near 28) counties depending on the map in question (see paragraph 7, page 2 of Nicholas Pharris Declaration), which were the byproduct of abiding by and balancing traditional redistricting criteria.
16. Furthermore, Dr. Trende describes the changes made to the districts surrounding the remedial district (LD 14) as if they are somehow unexpected or inconsistent with the realities of redistricting.
17. It is well understood that altering the boundary of one district will inevitably impact surrounding districts due to the necessity of maintaining equal population distribution. This is particularly true in regions, like Central and Eastern Washington, which contain wide swathes of sparsely populated land. Even counties that have a population size that

exceeds the ideal population of a legislative district (157,251), have large unpopulated areas.

18. This principle is perhaps best illustrated by Dr. Trende's own visuals, such as his Figure 12 on page 32, pasted below. As can be seen, many areas within Yakima County, which has an adjusted population of 257,518, are, as Dr. Trende put it, "largely uninhabited."

Figure 1: Dr. Trende's Figure 12 as represented on page 32 of his report



19. Furthermore, many counties in Central and Eastern Washington have an adjusted population (2020 U.S. Census) that is far below the target population of a single legislative district, while others are vastly overpopulated, as illustrated in Table 1.

Table 1: 2020 US Census Adjusted Population of Counties (compared to ideal legislative district population of 157,251)

County	Adjusted Population
Garfield	2,288
Columbia	3,964
Skamania	12,050
Adams	20,638
Asotin	22,357
Klickitat	22,789
Douglas	43,002
Kittitas	44,393
Whitman	47,991
Walla Walla	60,706
Chelan	79,229
Lewis	82,337
Franklin	94,918
Grant	99,342
Cowlitz	111,152
Benton	207,278
Yakima	257,518
Clark	503,829
Spokane	538,615
Pierce	922,415
King	2,272,501

20. As such, redrawing legislative maps to equalize district populations is not a simple process. When one district boundary is altered, that district either gains or loses population, which directly impacts adjacent districts, which will also either gain or lose population. This in turn will cause ripple effects throughout the map, which naturally lowers the overall core retention of the comparison plan.
21. None of this is acknowledged or considered by Dr. Trende. However, mapmakers and political scientists with expertise in this subject matter know very well that even small changes to existing district boundaries can cause many changes throughout the map. Political scientist and redistricting expert Dr. Kenneth Mayer described it elegantly:

Redrawing a statewide legislative map to equalize populations is not a straightforward process. When an existing district is underpopulated, map drawers must add populations from surrounding districts. Unless adjacent districts are overpopulated by the same amount, the process requires surrounding districts to expand outward as well. If the surrounding districts are also underpopulated, they become even more so after part of their populations are moved to the first district, and they must be modified to bring in population from other districts, and so on. As a rule, these changes propagate outward (analogous to a ripple spreading out when a rock is tossed into a lake) until an underpopulated region can be balanced with an overpopulated region or the effects dampen as population effects are spread out among more and more districts.

These changes can have large effects that propagate throughout a map, particularly if map drawers are taking other factors into account, such as keeping municipalities together or drawing compact districts.

“Ripple” effects from changes can be severe. Even a small shift in one district can result in the need for dramatic changes in other districts if there are strict population constraints (as there are for congressional districting) or if other constraints are in place such as preserving municipal and county boundaries, or avoiding vote dilution issues (Miller and Grofman 2018, 29).

- *Johnson, et al., v. WEC, et al.*, No. 2021AP1450-OA (Wis. Dec. 15, 2021), Appendix to Merits Brief of Intervenor-Petitioners at 121 (Expert Report of Dr. Kenneth R. Mayer).

22. A mapmaker not only needs to pay critical attention to population disparities across the districts, but, where feasible, also avoid splitting municipalities, communities of interest, and precincts, and address issues of road connectivity to ensure that constituents and representatives can traverse from one side of the district to the other. This process becomes particularly challenging in areas where municipalities are irregularly shaped or when precincts are large and oddly shaped, as is often the case in areas near the Cascades and throughout Central and Eastern Washington. These factors will expectedly require boundary changes that extend beyond the borders of LD 14.
23. Additionally, Dr. Trende’s tables showing the number of people “moved” between districts (on pages 9, 14, 45, and 49) are misleading, inaccurate, and use inappropriate metrics to assess core population retention.

24. Dr. Trende’s method is flawed in part because he reports absolute numbers, which fail to account for the magnitude of population shifts as a percent of the total population of each district (approx. 157,251). While some of the districts surrounding LD 14 must, of course, be reworked to accommodate drawing a new LD 14 that remedies the VRA violation, the core retention metrics I present below show that the Remedial Maps, as a whole, retained the population of districts in the Enacted Plan at very high rates.
25. In addition, Dr. Trende’s account of people “moved” between districts misunderstands the purpose of assessing core retention, which is to see the extent to which populations in a district in the Enacted Plan were kept together in *a* district, regardless of whether that district’s label number has changed. Dr. Trende’s reported “movements” of people between LD 14 and 15 misses this point and fails to account for the fact that LD 14 and 15 were relabeled in the Remedial Maps. For example, he reports that in Remedial Map 1, 97,346 people from Enacted LD 15 (who comprised 60% of that district) were “moved” to Remedial LD 14 (in which they still comprise 62% of the district). This means that Remedial LD 14 in Map 1 largely *retains* the core of Enacted District 15, and the reported “movement” of population was simply the result of renumbering the district.
26. Table 2 presents core population retention scores for each Remedial Map, which is reported as the percentage of a pre-existing (e.g., enacted) district’s population that is kept intact in a new district (e.g. remedial).

Table 2: Core Population Retention Percentages, Remedial Maps 1-5

District	Remedial Map 1	Remedial Map 2	Remedial Map 3	Remedial Map 4	Remedial Map 5
1	100.0%	100.0%	100.0%	100.0%	100.0%
2	86.6%	86.6%	90.1%	90.1%	100.0%
3	100.0%	100.0%	100.0%	100.0%	100.0%
4	100.0%	100.0%	100.0%	100.0%	100.0%
5	86.7%	100.0%	90.1%	100.0%	100.0%
6	100.0%	100.0%	100.0%	100.0%	100.0%
7	86.7%	100.0%	90.1%	100.0%	100.0%
8	61.9%	61.9%	59.3%	59.3%	100.0%
9	95.2%	98.0%	95.2%	98.0%	100.0%
10	100.0%	100.0%	100.0%	100.0%	100.0%
11	100.0%	100.0%	100.0%	100.0%	100.0%
12	86.8%	100.0%	90.1%	100.0%	100.0%
13	80.5%	86.5%	80.4%	85.1%	90.0%
14	62.2%	62.2%	60.5%	60.5%	51.3%
15	56.5%	56.6%	55.8%	55.9%	51.3%
16	46.5%	39.3%	46.8%	43.4%	86.0%
17	86.5%	86.5%	90.0%	90.0%	100.0%
18	100.0%	100.0%	100.0%	100.0%	100.0%
19	100.0%	100.0%	100.0%	100.0%	100.0%
20	86.5%	86.5%	90.0%	90.0%	100.0%
21	100.0%	100.0%	100.0%	100.0%	100.0%
22	100.0%	100.0%	100.0%	100.0%	100.0%
23	100.0%	100.0%	100.0%	100.0%	100.0%
24	100.0%	100.0%	100.0%	100.0%	100.0%
25	100.0%	100.0%	100.0%	100.0%	100.0%
26	100.0%	100.0%	100.0%	100.0%	100.0%
27	100.0%	100.0%	100.0%	100.0%	100.0%
28	100.0%	100.0%	100.0%	100.0%	100.0%
29	100.0%	100.0%	100.0%	100.0%	100.0%
30	100.0%	100.0%	100.0%	100.0%	100.0%
31	86.6%	86.6%	90.1%	90.1%	100.0%
32	100.0%	100.0%	100.0%	100.0%	100.0%
33	100.0%	100.0%	100.0%	100.0%	100.0%
34	100.0%	100.0%	100.0%	100.0%	100.0%
35	100.0%	100.0%	100.0%	100.0%	100.0%
36	100.0%	100.0%	100.0%	100.0%	100.0%
37	100.0%	100.0%	100.0%	100.0%	100.0%
38	100.0%	100.0%	100.0%	100.0%	100.0%
39	100.0%	100.0%	100.0%	100.0%	100.0%
40	100.0%	100.0%	100.0%	100.0%	100.0%
41	100.0%	100.0%	100.0%	100.0%	100.0%
42	100.0%	100.0%	100.0%	100.0%	100.0%
43	100.0%	100.0%	100.0%	100.0%	100.0%
44	100.0%	100.0%	100.0%	100.0%	100.0%
45	100.0%	100.0%	100.0%	100.0%	100.0%
46	100.0%	100.0%	100.0%	100.0%	100.0%
47	100.0%	100.0%	100.0%	100.0%	100.0%
48	100.0%	100.0%	100.0%	100.0%	100.0%
49	100.0%	100.0%	100.0%	100.0%	100.0%
Plan Average	94.10%	94.9%	94.5%	95.2%	97.5%

27. Looking first at plan-wide averages, Remedial Maps 1-3 retain more than 94% of the population intact within the Enacted Plan's district boundaries. Stated differently, only up to 6% of the population is impacted by changes that the Remedial Maps necessitated. For Remedial Map 4, the plan-wide core retention score is 95.2%, and for Remedial Map 5, it is 97.5%.
28. As previously described, the creation of a remedial district will naturally have a greater impact on the immediately adjacent districts. This is particularly the case in the subject jurisdiction since the surrounding areas include many sparsely populated regions and geographic features. Not surprisingly, then, LDs 14, 15, 8, and 16 generally retain less people than other impacted districts farther away from remedial LD 14, such as LDs 5, 7, 9, 12, 17, 20, and 31. This "ripple" effect is because changes to pre-existing district boundaries generally decrease as one moves farther away and outward from the remedial LD 14, thereby increasing the core retention of the aforementioned districts.
29. Thus, the ultimately necessary boundary changes beyond the remedial district itself are simply a natural consequence of balancing Washington's redistricting criteria and other traditional redistricting criteria.
30. Also, because balancing redistricting criteria presents inherent tradeoffs, I offered the Court multiple configurations of remedial LD 14 and surrounding districts, each reflecting a different and reasonable way of balancing redistricting criteria. As a result, some proposed Remedial Maps required different changes to surrounding districts than others. For example, in Remedial Maps 2 and 4, LD 13 crosses the Cascades, but in Remedial Maps 1, 3, and 5, it does not.

V. Districts in the Remedial Maps are Reasonably Compact

31. Dr. Trende does not dispute that the compactness of every Remedial Map is nearly identical to the compactness of the Enacted Plan. And he does not dispute my conclusion that the Remedial Maps are reasonably compact, especially in light of the often irregular physical and political subdivision boundaries in Washington State.
32. Dr. Trende instead focuses on individual district compactness scores. He notes that some districts that were altered in the Remedial Maps perform worse on compactness scores while others perform better. He does not dispute that, with the exception of LD 16 in Remedial Map 5,² districts in the Remedial Maps are all within the range of individual-district compactness scores in the Enacted Plan
33. Individual district compactness scores can be misleading because a single district's compactness score depends on the shape of whatever underlying features the district's boundaries follow. In Washington, district boundaries must account for irregular geographic features like mountains, roads, and waterways and must follow irregular boundaries of counties, municipalities, and precincts to the extent possible. Precincts are often large and strangely shaped, especially in sparsely populated areas. Following these subdivision boundaries, as I took great care to do, will reduce an individual district's compactness score in some areas.
34. As indicated by his discussion of LD 49 on page 18, Dr. Trende seems to agree that when a district's "shape is largely dictated by" the irregular shape of other political subdivision

² Although LD 16 has a new shape in Remedial Map 5, it still retains 86% of the population in Enacted Plan's LD 16, as shown in Table 2 above.

boundaries (a county in the case of LD 49), it is “unsurprising” that the district will have numerically lower compactness scores.

35. Dr. Trende’s report does contain one notable inaccuracy with respect to individual compactness scores. He states on pages 18-19 of his report that Remedial Maps 1 and 2 make LD 49 less compact but this is incorrect as LD 49 was not changed in any Remedial Map.

VI. The Proposed Remedial Districts Do Not “Stitch Together Far-Flung Hispanic Populations”

36. Dr. Trende incorrectly claims that the Remedial districts in Remedial Maps 1-4 “stitch[] together district clusters of minority groups to achieve [a] 50% + 1 threshold.”
37. As I have stated, I did not view any racial demographic data while drawing the Remedial Maps and did not draw any district to achieve any particular numerical target with respect to race. The various HCVAP figures Dr. Trende reports for each remedial district (LD 14) confirm this.
38. What appears to Dr. Trende as the “stich[ing] together [of] far-flung Hispanic populations” is simply the unification of population centers from East Yakima to Pasco that form a community of interest identified by the Court, including cities in the Lower Yakima Valley that I kept whole in the Remedial Maps.
39. Likewise, what appear to Dr. Trende as “appendages” that apparently “wrap into heavily Hispanic and Democratic areas,” are in reality the natural effect of keeping municipalities along the Yakima Valley region whole, while also meeting all the other applicable redistricting criteria such as the equal population requirement and ensuring that districts are contiguous and can be traversed by road.

40. For instance, the boundary lines of LD 14 that connect Yakima and Pasco largely follow highways I-82 and I-182 to connect the two communities and other municipalities in between. These considerations—which Dr. Trende’s analysis does not account for—dictate, to a large degree, where lines can be drawn.
41. In addition, Figures 2-4 show that LD 14 lines were drawn to connect communities of interest while following city boundaries (shown in red). The so-called appendages in this area are just oddly shaped city boundaries (e.g., see Sunnyside). These visuals also demonstrate that Wapato, Toppenish, Granger, Sunnyside, Mabton, and Grandview along the Yakima Valley were consistently kept whole across all five Remedial Maps. Only Yakima and Pasco were split, as is also the case in the Enacted Map.³

³ I updated all the interactive, html maps submitted with my initial report and included city limit boundaries downloaded from the Washington State’s Geospatial Open Data Portal (<https://geo.wa.gov/datasets/WSDOT::wsdot-city-limits/explore>). These updated interactive maps are submitted along with my response report.

Figure 2: Remedial Map 1 & 2 LD14 Boundaries Respecting COI City Boundaries Along Yakima Valley

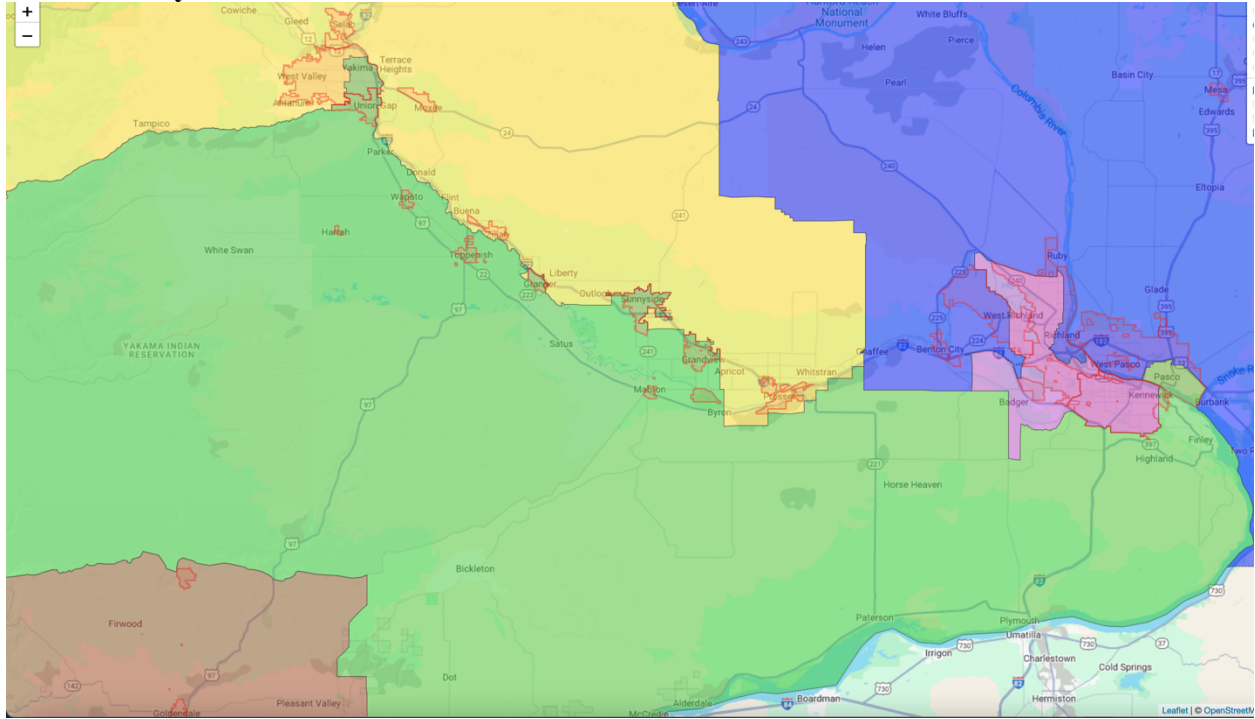


Figure 3: Remedial Map 3 & 4 LD14 Boundaries Respecting COI City Boundaries Along Yakima Valley

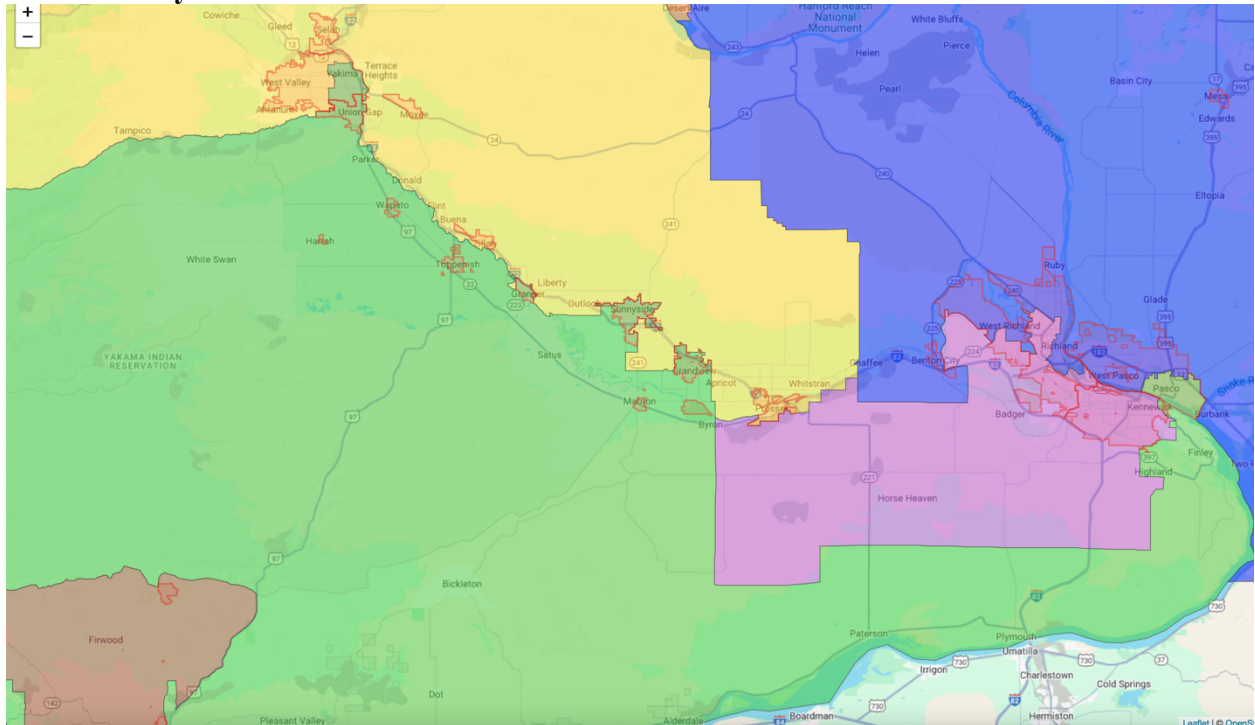
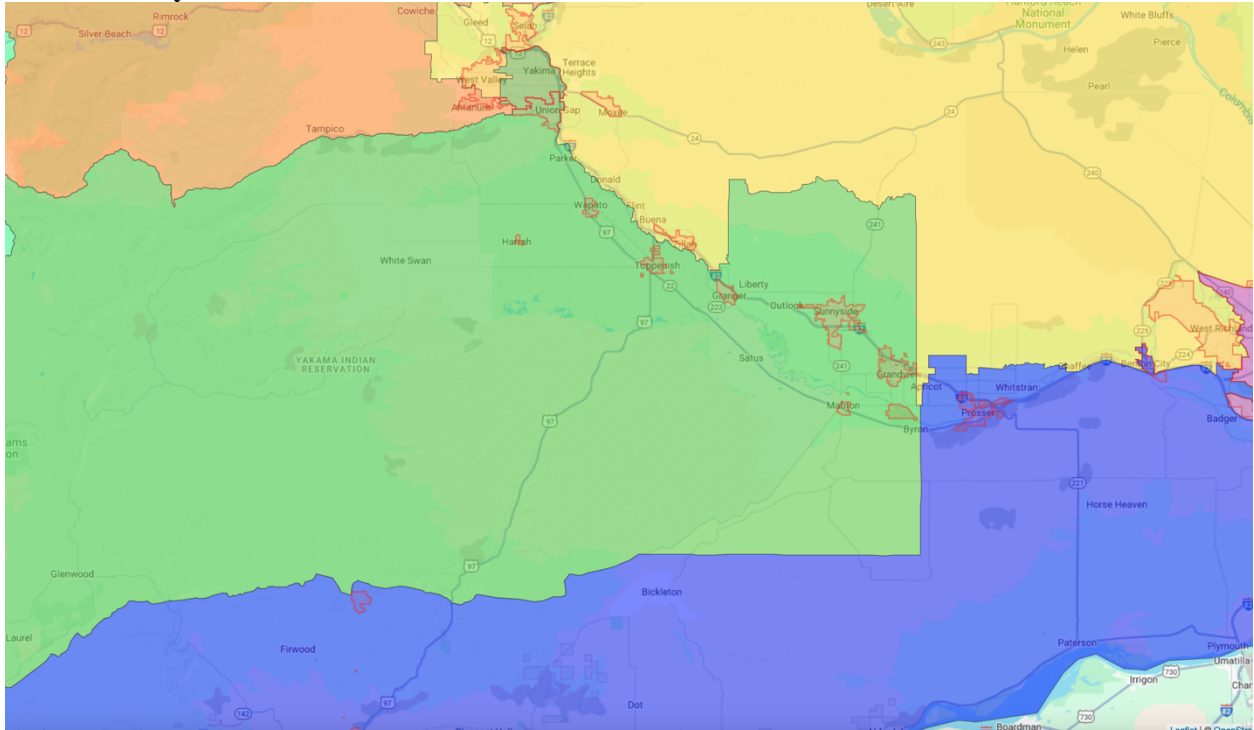


Figure 4: Remedial Map 5 LD14 Boundaries Respecting COI City Boundaries Along Yakima Valley



42. Finally, Dr. Trende's own visuals undermine the claim that Hispanic areas were carved out while white areas were excluded. For illustrative purposes, I have pasted his first two dot plots below and added red arrows in all the areas in which Hispanic areas (blue dots) were *not* included in LD14 and white areas (orange Xs) were included in LD 14. There are over a dozen examples of Hispanic areas being excluded, while white areas were included as a byproduct of uniting communities of interest and respecting other applicable redistricting criteria.

Figure 5: Dr. Trende's Figure 12, Page 32

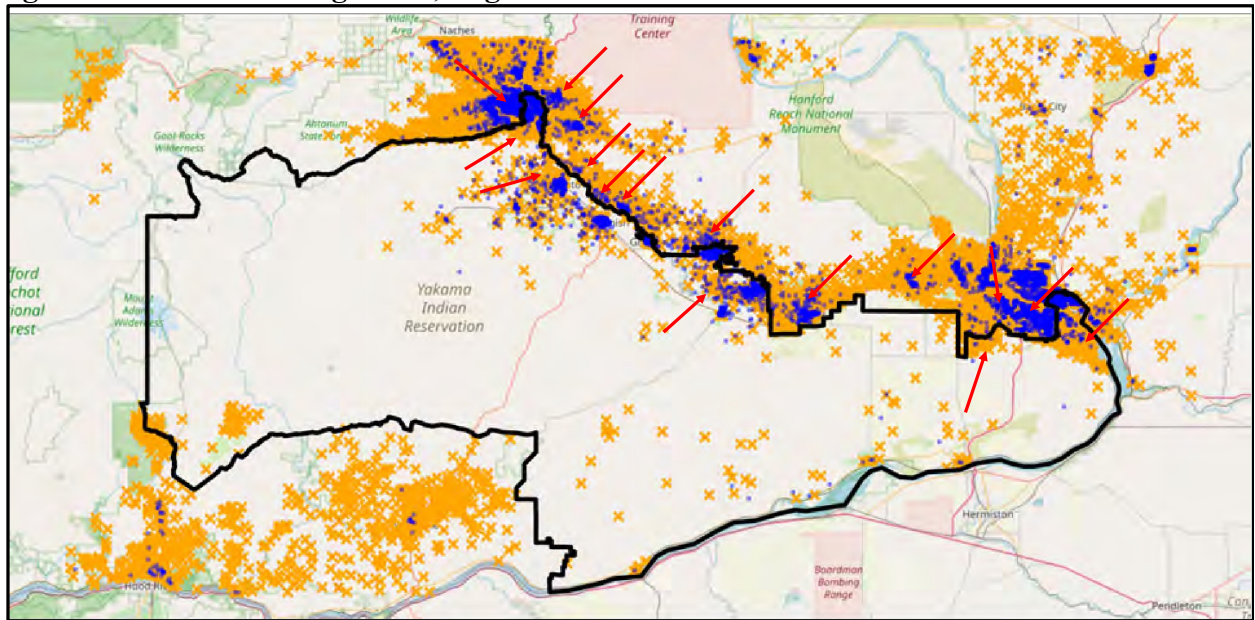
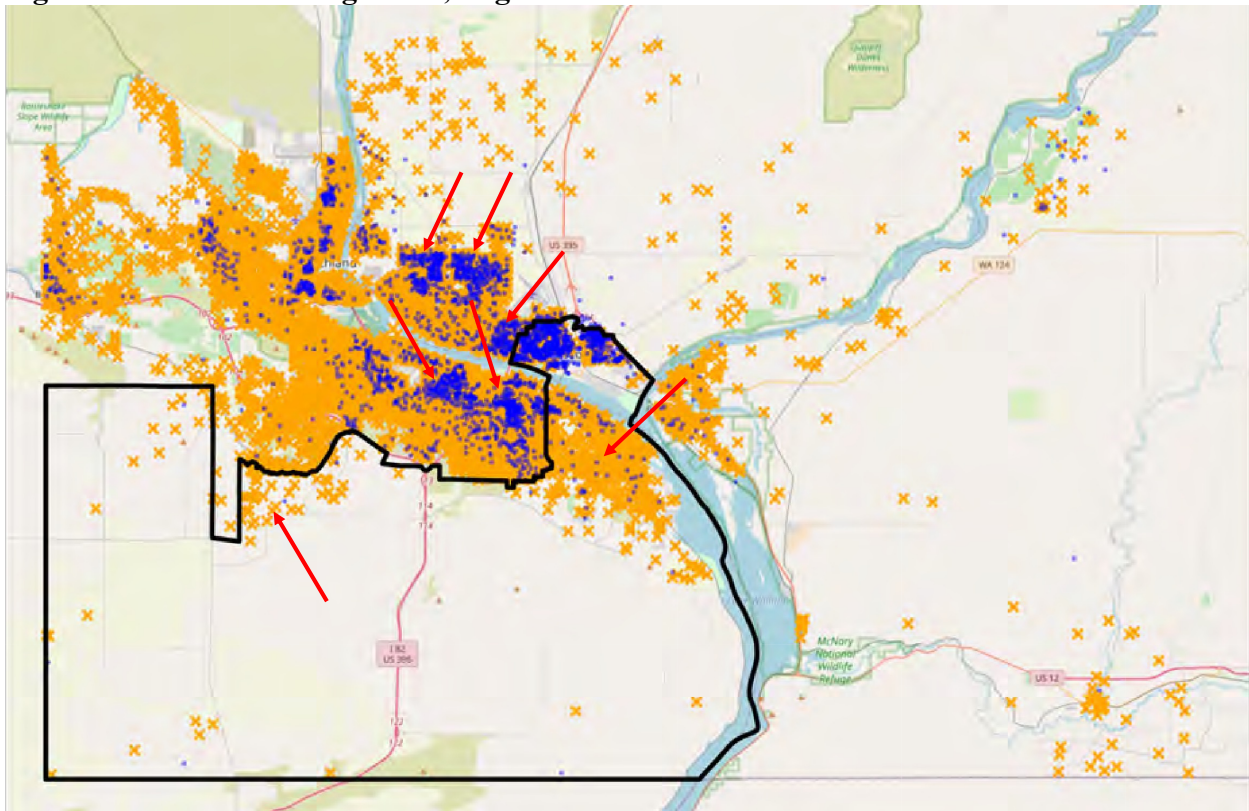


Figure 6: Dr. Trende's Figure 13, Page 33



VII. The Proposed Remedial Plans Were Not Drawn to Favor or Disfavor Any Political Party and Do Not Have That Effect

43. Dr. Trende suggests that changes made to districts beyond LDs 14 and 15 in Remedial Maps 1-4 have “meaningful” political impact. However, the metrics Dr. Trende references show no substantive partisan swing of districts in any district beyond LDs 14 and 15. Common metrics of partisan bias, which Dr. Trende does not consider, also confirm that Remedial Maps do not meaningfully shift the partisan balance as compared to the Enacted Plan.
44. First, it is important to note that Washington law forbids drawing redistricting plans “purposely to favor or discriminate against any political party.” RCW 44.05.090. For this reason, I did not consider any partisan or election data while drawing the proposed Remedial Maps. Any changes to the partisan makeup of districts are incidental to following the redistricting criteria set out in Washington law and traditional redistricting criteria.
45. Second, upon reviewing the metrics used by Dr. Trende, I find that none of the districts in the Remedial Maps, aside from LD 14 and 15, exhibit any meaningful change in partisan performance, and the changes to the district boundaries do not substantively advantage or disadvantage either party.
46. This is apparent, for example, from the composite election results and individual election results Dr. Trende references in his tables on pages 33, 37, 55, and 58.

47. In Table 3, I present the 2016-2020 DRA composite vote share⁴ for Republicans and Democrats for the districts other than LDs 14 and 15 in each Remedial Map and the Enacted Plan to evaluate Dr. Trende’s claim that the changes to these districts meaningfully changed their partisan performance. I exclude District 49 from the table because it is unclear why Dr. Trende used this district in his analysis when none of the Remedial Maps introduced any changes to its boundaries.

Table 3: Partisan Performance by District and Plan

District	Enacted Map		Remedial Map 1		Remedial Map 2		Remedial Map 3		Remedial Map 4		Remedial Map 5	
	Dem	Rep	Dem	Rep	Dem	Rep	Dem	Rep	Dem	Rep	Dem	Rep
2	40.62%	57.43%	40.28%	57.76%	40.28%	57.76%	40.79%	57.24%	40.79%	57.24%	40.62%	57.43%
5	56.73%	41.48%	55.71%	42.52%	56.73%	41.48%	55.90%	42.31%	56.73%	41.48%	56.73%	41.48%
7	33.65%	65.30%	34.65%	64.25%	33.65%	65.30%	34.33%	64.57%	33.65%	65.30%	33.65%	65.30%
8	39.79%	58.39%	37.99%	60.16%	37.99%	60.16%	37.31%	60.88%	37.31%	60.88%	39.79%	58.39%
9	40.35%	58.10%	40.94%	57.51%	40.57%	57.88%	40.94%	57.51%	40.57%	57.88%	40.35%	58.10%
12	45.61%	52.82%	47.87%	50.48%	45.61%	52.82%	47.55%	50.83%	45.61%	52.82%	45.61%	52.82%
13	34.96%	63.85%	35.54%	63.32%	35.68%	63.07%	35.67%	63.21%	36.35%	62.42%	34.25%	64.57%
16	38.49%	59.92%	40.10%	58.34%	41.33%	57.15%	40.39%	58.03%	41.22%	57.20%	40.64%	57.95%
17	49.36%	49.08%	50.52%	47.96%	50.52%	47.96%	50.83%	47.63%	50.83%	47.63%	49.36%	49.08%
20	35.17%	63.44%	35.46%	63.22%	35.46%	63.22%	35.12%	63.55%	35.12%	63.55%	35.17%	63.44%
31	44.13%	54.16%	42.57%	55.70%	43.98%	54.24%	42.74%	55.54%	43.43%	54.82%	44.13%	54.16%
# R/D Performing Districts	1	8	1	8	1	8	1	8	1	8	1	8

48. For ease of comparison across the plans, I report all affected districts across the maps even though some districts were not altered in certain Remedial Maps (e.g., Remedial Maps 2, 4, and 5 do not make any changes to the boundaries of the Enacted District 7).

⁴ Dr. Trende appears to have made errors in his report in describing which specific elections the 2016-2020 DRA composite score includes. On Page 33 of his report, Dr. Trende claims that the DRA composite includes: “the 2020 and 2016 presidential elections, the 2018 and 2020 senate elections, the 2016 gubernatorial election, and the 2020 attorney general election.” That is factually inaccurate because Washington State did not hold a Senatorial election in 2020. The actual 2016-2020 DRA composite score includes the following contests: the 2016 and 2020 Presidential elections, the 2016 and 2018 Senatorial elections, the 2020 Gubernatorial election, and the 2020 election for Attorney General.

49. The colors in the table correspond to how the districts performed using the 2016-2020 DRA composite. A district is considered to perform (also referred to as “lean” or “reliable” in political science) in favor of one party over the other when the difference between the party vote shares of that district is 10% or higher (e.g., 45%-55%). Democratic performing districts are color-coded in blue and Republican performing districts are color-coded in red. Conversely, a district is considered “competitive” or “toss-up” if the difference between the party votes shares of that district is less than 10%, which suggests that the district is more likely than a reliable district to swing back and forth depending on the political currents of the year. This competitive threshold is routinely considered and is also utilized by DRA.
50. Table 3 shows that in the Enacted Plan, one district (LD 5) reliably elects Democratic candidates while eight districts (LDs 2, 7, 8, 9, 13, 16, 20, and 31) reliably elect Republican candidates. The outcome in every one of the Remedial Maps is the same. The slight reduction in Republican vote share across the Remedial Maps has no substantive impact on whether a Republican is likely to carry LDs 2, 7, 8, 9, 13, 16, 20, and 31—Republicans maintain reliable margins in those districts.⁵ In fact, the Republican vote shares also marginally increase in some districts, such as LD 8 Remedial Maps 1-4 and LD 31 in Remedial Maps 1 and 3.

⁵ On page 33, Dr. Trende writes: “Determining whether a change is electorally meaningful is a tricky endeavor, but in general if a district sees movement in a result within the +/- 10% mark, it is potentially noteworthy.” I suspect Dr. Trende made another error in his report because “within” +/-10% suggests that if a district sees a movement of one tenth of a percentage point it would be considered as “potentially noteworthy” per his analysis and interpretation of the results. Political scientists do not consider such minor changes as politically meaningful when determining the partisan makeup of a district.

51. Similarly, the slight reduction in Democratic vote share in LD 5 in Remedial Maps 1 and 3 has no substantive impact on whether a Democrat is likely to prevail by a comfortable margin in that district. On page 36, Dr. Trende appears to suggest, incorrectly, that LD 5 in Remedial Map 1 was “shifted leftward.” But as shown in Table 3, the changes made to LD 5 resulted in a slight *decrease* in Democratic performance in both Remedial Maps 1 and 3.
52. LDs 12 and 17 are toss-up districts in the Enacted Plan and both remain so in Remedial Plans 1 and 3, the only plans in which those districts were altered. Dr. Trende’s suggestion that these districts should be further altered to restore their precise vote shares in the Enacted Plan has two problems. First, his suggestion to place parts of southeastern Vancouver into LD 49 rather than LD 17 would require altering an additional district that is otherwise untouched in every Remedial Map. More fundamentally, the alterations Dr. Trende suggests amount to partisan gerrymandering, which is expressly prohibited in Washington State, and which I avoided by not utilizing any political data when drawing district lines.
53. Substantively, then, the changes to districts other than LDs 14 and 15 in the Remedial Maps neither advantage nor disadvantage Democrats or Republicans as neither party gains or loses reliable seats in these districts relative to the Enacted Map. And the notion that Republicans are meaningfully affected by changes to these districts compared to the Enacted Plan is plainly incorrect.
54. Third, prevailing measures of partisan bias in redistricting plans confirm that the Remedial Maps do not meaningfully shift the partisan balance as compared to the Enacted Plan.

55. I examine two popular metrics that measure partisan skew to compare the Enacted Plan to the Remedial Maps.
56. The first metric I consider is called the “Efficiency Gap” (EG), which considers inefficient or “wasted” votes to evaluate the extent to which a party’s voters are cracked or packed across districts to produce an advantage for one party over another.⁶
57. A positive efficiency gap indicates more Democratic wasted votes (i.e., a pro-Republican bias), while a negative efficiency gap indicates more Republican wasted votes (i.e., a pro-Democratic bias). As a general rule, an EG score closer to zero indicates a fairer map.
58. The second metric I rely on is called “Declination,” which considers threshold-related asymmetry in the distribution of votes across districts to evaluate possible partisan gerrymandering. A declination value near 0 is indicative of a fair map, and the greater the declination value, the greater likelihood that the map is a partisan gerrymander. Once again, positive values indicate a pro-Republican tilt, while negative values indicate a pro-Democratic tilt.⁷
59. Table 4 shows the results of EG and Declination scores using the most up-to-date methodology outlined by the publicly available tool PlanScore.⁸

⁶ PlanScore, “Efficiency Gap,” <https://planscore.org/metrics/efficiencygap/>.

⁷ PlanScore, “Declination,” <https://planscore.org/metrics/declination/>.

⁸ PlanScore, “Unified District Model,” <https://planscore.org/models/data/2022F/>.

Table 4: Comparison of Partisan Bias Metrics Across Plans

Plans	<i>Efficiency Gap</i>	<i>Declination</i>
Enacted Map	3.2% R	0.07 R
Remedial Map 1	2.0% R	0.01 R
Remedial Map 2	2.2% R	0.02 R
Remedial Map 3	2.0% R	0.01 R
Remedial Map 4	2.2% R	0.02 R
Remedial Map 5	2.2% R	0.02 R

60. The EG and Declination scores in Table 4 for the Remedial Maps are slightly closer to 0 but do not meaningfully diverge from the scores for the Enacted Plan. They show that the Remedial Maps are, like the Enacted Plan, close to fair and maintain the very slight Republican bias found in the Enacted Plan. The same is true for the adjusted Remedial Maps 1A-5A (see Part VIII and Appendix Table 4).

VIII. Incumbent Displacement and Adjusted Remedial Maps

61. It is important to note that Washington’s redistricting criteria do not include protecting incumbents. For this reason, I attempted to address incumbent-pairing, where possible, only after ensuring the Remedial Maps abided by Washington’s redistricting criteria and minimally impacted surrounding districts.
62. As I stated in my initial report, I did this based on the publicly accessible data available to me at that time. It has since become clear, based on the filings from the Secretary of State and the declaration of Mr. Pharris, that some of the addresses I had for incumbents were out of date or inaccurate. Based upon updated address data provided by the Secretary of State, I have made small adjustments that resolve many of the incumbent pairings identified by Mr. Pharris and Dr. Trende while still adhering to Washington’s redistricting criteria.

63. Using the updated data provided by the Secretary of State's office, I have drawn five new Remedial Maps (Remedial Maps 1A-5A), each a slight variation on Remedial Maps 1-5, to address, to the extent possible, the incumbent displacements in those maps.
64. Because LDs 14 and 15 must be redrawn substantially to comply with the Court's order, federal law, and Washington redistricting criteria, displacement of incumbents from these districts is to be expected.
65. The displaced incumbents outside LDs 14 and 15 were largely a product of incorrect or out-of-date address data, and I have adjusted the maps to correct for these changes. Any additional incumbent displacements outside of LDs 14 and 15 are the result of very specific mapping considerations, which I explain below.
66. In Map 5A, I was able to make a very minor adjustment to the boundary between LD 13 and LD 15 to resolve Intervenor LD 13 Representative Alex Ybarra's particular concern about being paired with another House incumbent in LD 13.
67. As also indicated in further detail below, I conclude that all five additional Remedial Maps abide by Washington's redistricting criteria and other traditional redistricting criteria. Furthermore, I did not rely on any political, partisan, or racial demographic data while making changes to any district boundaries.

A. Plaintiffs' Remedial Map 1A

68. Figure 7 provides a visual depiction of Remedial Map 1A.

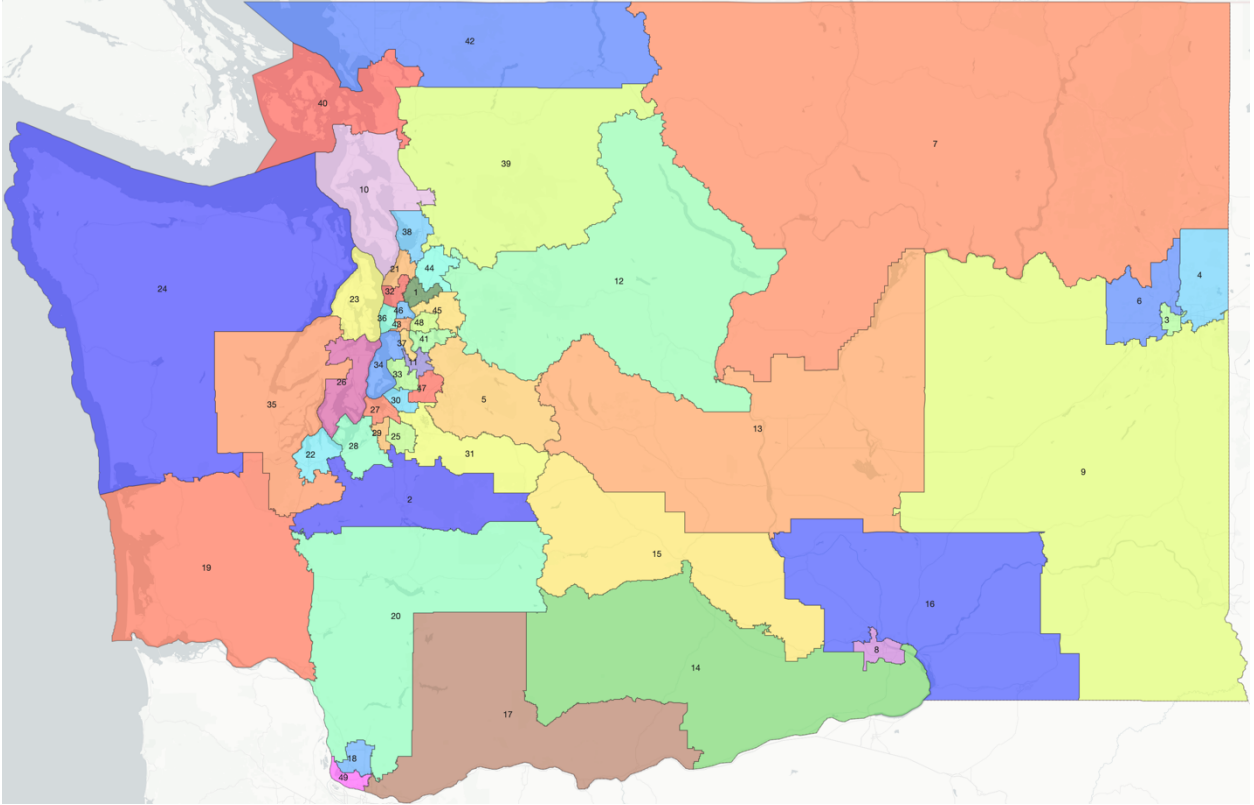


Figure 7: Remedial Map 1A

69. Remedial Map 1A is a variation on Remedial Map 1 that displaces fewer incumbents.
70. Aside from the legislators in enacted LDs 14 and 15, Mr. Pharris and Dr. Trende identified four incumbents displaced in Remedial Map 1: the LD 8 Representative, Position 1, the LD 31 Senator, the LD 31 Representative, Position 1, and the LD 12 Senator.
71. I have adjusted the boundary lines so that the LD 8 Representative, Position 1 now resides in LD 8, and the LD 31 Senator and the LD 31 Representative, Position 1 now reside in LD 31.
72. To accomplish this change, boundary changes were made to LDs 8, 16, 5, and 31. Remedial Map 1A is otherwise identical to Map 1.

73. Remedial Map 1A still keeps the LD 12 Senator in LD 7. The changes necessary for the LD 12 Senator to be in LD 12 are reflected in Remedial Maps 2A and 4A, and in Remedial Map 5A.⁹
74. As noted above, the displacement of any LD 14 and 15 Senators and Representatives were a byproduct of relying on the applicable redistricting criteria to draw Remedial LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation whole, along with some off-reservation trust lands and fishing villages.
75. **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 1A has a negligible total population deviation¹⁰ of 0.23%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.
76. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 1A, which are largely on par with the compactness scores for the Enacted Plan.
77. Remedial Map 1A's districts are comprised of convenient, contiguous territory and are traversable.

⁹ Upon inspection, it appears that the Redistricting Commission drew part of the boundary between LD 12 and LD 7 in the Enacted Plan solely to protect LD 12's incumbent senator. Indeed, a small part of LD 12 crosses the Columbia River from Chelan County into Douglas County and a small part of East Wenatchee, for no apparent purpose other than keeping the LD 12 senator in that district.

¹⁰ Total population deviation for a redistricting plan is calculated by taking the difference between the population deviation in the least and most populous districts.

78. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 1A, including county-district splits and district-county splits.¹¹ Remedial Map 1A performs about the same on county split metrics as compared to the Enacted Plan.
79. **Appendix Table 4** provides the district and plan partisan performance composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 1A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.
80. **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 1A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.
81. **Appendix Table 6** provides the core retention metrics for Remedial Map 1A.
82. In summary, Remedial Map 1A is compliant with all relevant redistricting criteria and does not introduce any other boundary changes outside of the boundaries of LD 8, 16, 5, and 31.

B. Plaintiffs' Remedial Map 2A

83. Figure 8 provides a visual depiction of Remedial Map 2A.

¹¹ The county-district split metric measures the extent to which the plan splits counties across districts. The district-county split metric measures the extent to which districts are split across counties.

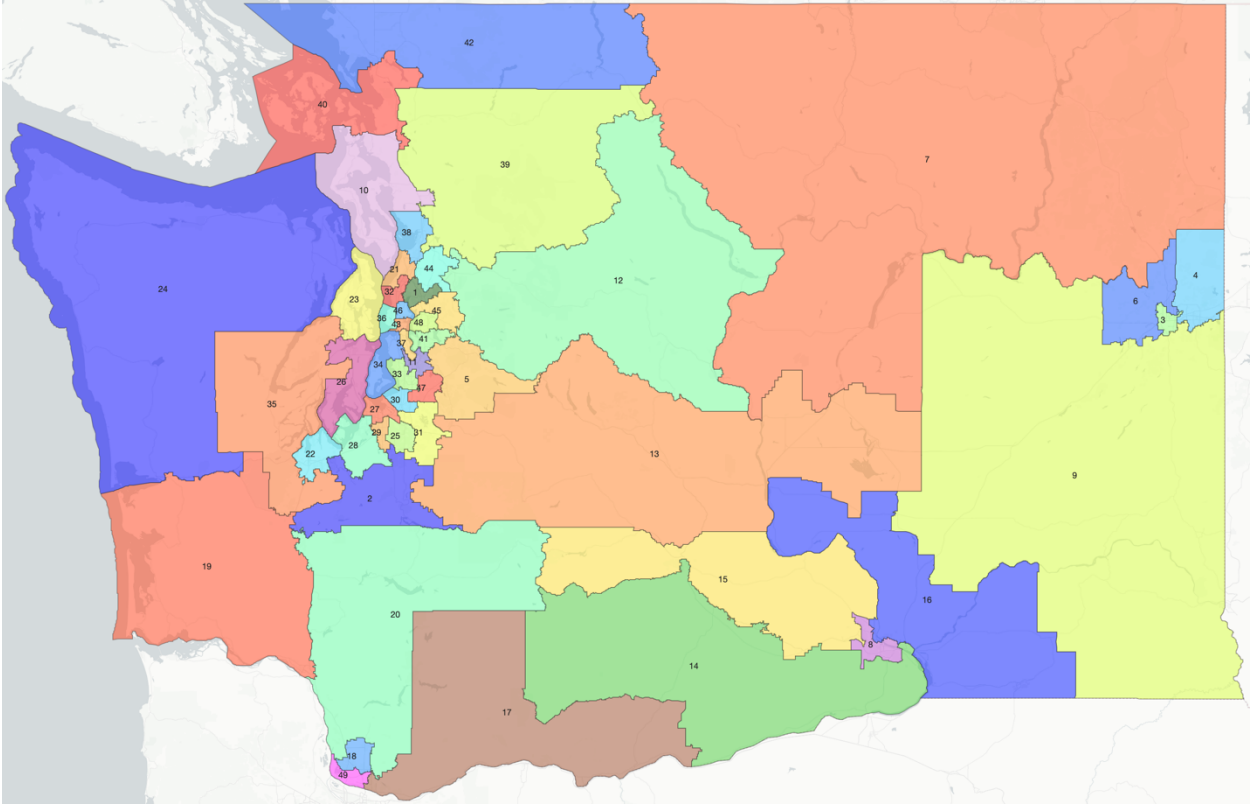


Figure 8: Remedial Map 2A

84. Remedial Map 2A is a variation on Remedial Map 2 that displaces fewer incumbents.
85. Aside from the legislators in enacted LDs 14 and 15, Mr. Pharris and Dr. Trende identified only one incumbent displaced in Remedial Map 2: the LD 8 Representative, Position 1.
86. Boundary changes were made to LDs 8 and 16 so that the current LD 8 Representative, Position 1 now resides in LD 8. Remedial Map 2A is otherwise identical to Map 2.
87. As noted above, the displacement of any LD 14 and 15 Senators and Representatives were a byproduct of relying on the applicable redistricting criteria to draw Remedial LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation whole, along with some off-reservation trust lands and fishing villages.

88. **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 2A has a negligible total population deviation of 0.22%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.
89. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 2A, which are largely on par with the compactness scores for the Enacted Plan.
90. Remedial Map 2A's districts are comprised of convenient, contiguous territory and are traversable.
91. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 2A, including county-district splits and district-county splits. Remedial Map 2A performs about the same on county split metrics as compared to the Enacted Plan.
92. **Appendix Table 4** provides the district and plan partisan performance composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 2A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.
93. **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 2A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.
94. **Appendix Table 6** provides the core retention metrics for Remedial Map 2A.

95. In summary, Remedial Map 2A is compliant with all relevant redistricting criteria and does not introduce any other boundary changes outside of the boundaries of LD 8 and 16.

C. Plaintiffs' Remedial Map 3A

96. Figure 9 provides a visual depiction of Remedial Map 3A.

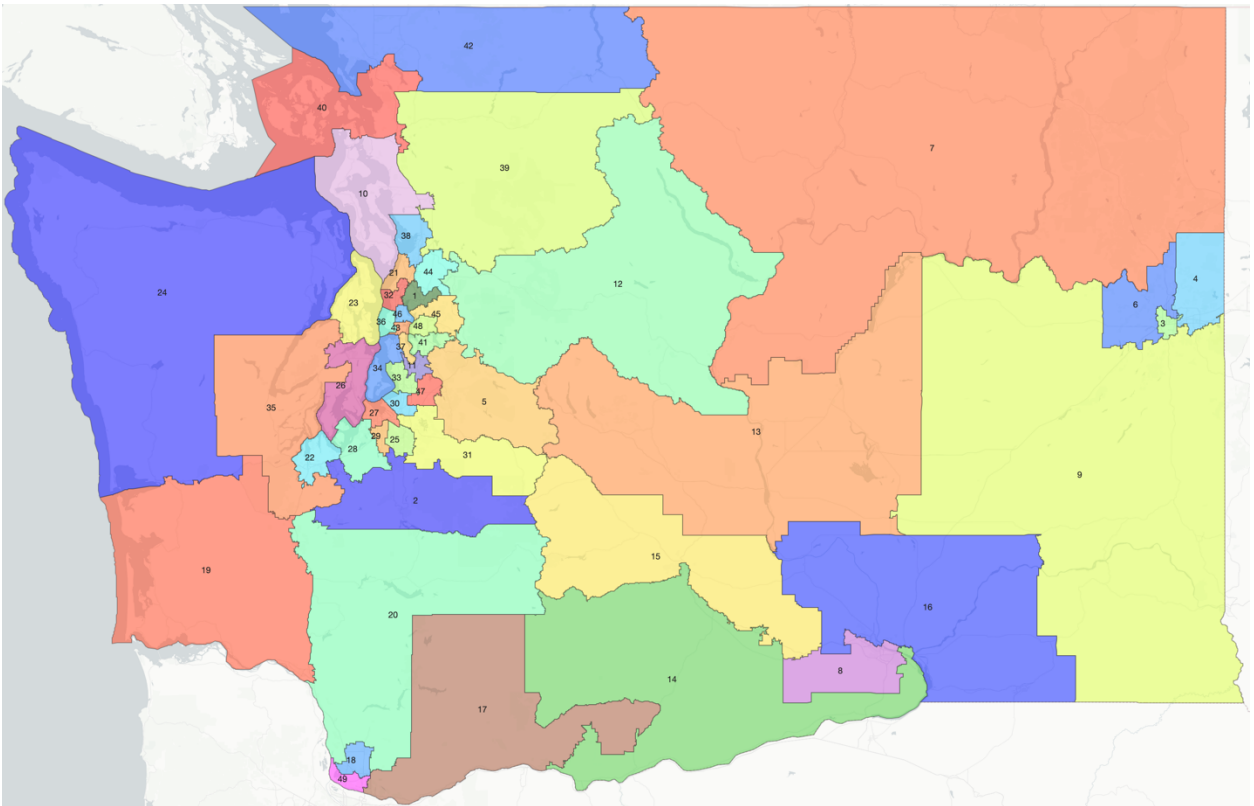


Figure 9: Remedial Map 3A

97. Remedial Map 3A is a variation on Remedial Map 3 that displaces fewer incumbents.

98. Aside from the legislators in enacted LDs 14 and 15, Mr. Pharris and Dr. Trende identified three incumbents displaced in Remedial Map 3: the LD 8 Representative, Position 1, the LD 31 Senator, and the LD 12 Senator.

99. I have adjusted the boundary lines so that the LD 8 Representative, Position 1 now resides in LD 8, and the LD 31 Senator now resides in LD 31.

100. To accomplish this change, boundary changes were made to LDs 8, 16, 5, and 31. Remedial Map 3A is otherwise identical to Map 3.
101. Remedial Map 3A still keeps the LD 12 Senator in LD 7. The changes necessary for the LD 12 Senator to be in LD 12 are reflected in Remedial Maps 2A and 4A, and in Remedial Map 5A.
102. As noted above, the displacement of any LD 14 and 15 Senators and Representatives were a byproduct of relying on the applicable redistricting criteria to draw Remedial LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation and all off-reservation trust lands and fishing villages within LD 14.
103. **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 3A has a negligible total population deviation of 0.24%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.
104. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 3A, which are largely on par with the compactness scores for the Enacted Plan.
105. Remedial Map 3A's districts are comprised of convenient, contiguous territory and are traversable.
106. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 3A, including county-district splits and district-county splits. Remedial Map 3A performs about the same on county split metrics as compared to the Enacted Plan.

107. **Appendix Table 4** provides the district and plan partisan lean composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 3A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.
108. **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 3A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.
109. **Appendix Table 6** provides the core retention metrics for Remedial Map 3A.
110. In summary, Remedial Map 3A is compliant with all relevant redistricting criteria and does not introduce any other boundary changes outside of the boundaries of LD 8, 16, 5, and 31.

D. Plaintiffs' Remedial Map 4A

111. Figure 10 provides a visual depiction of Remedial Map 4A.

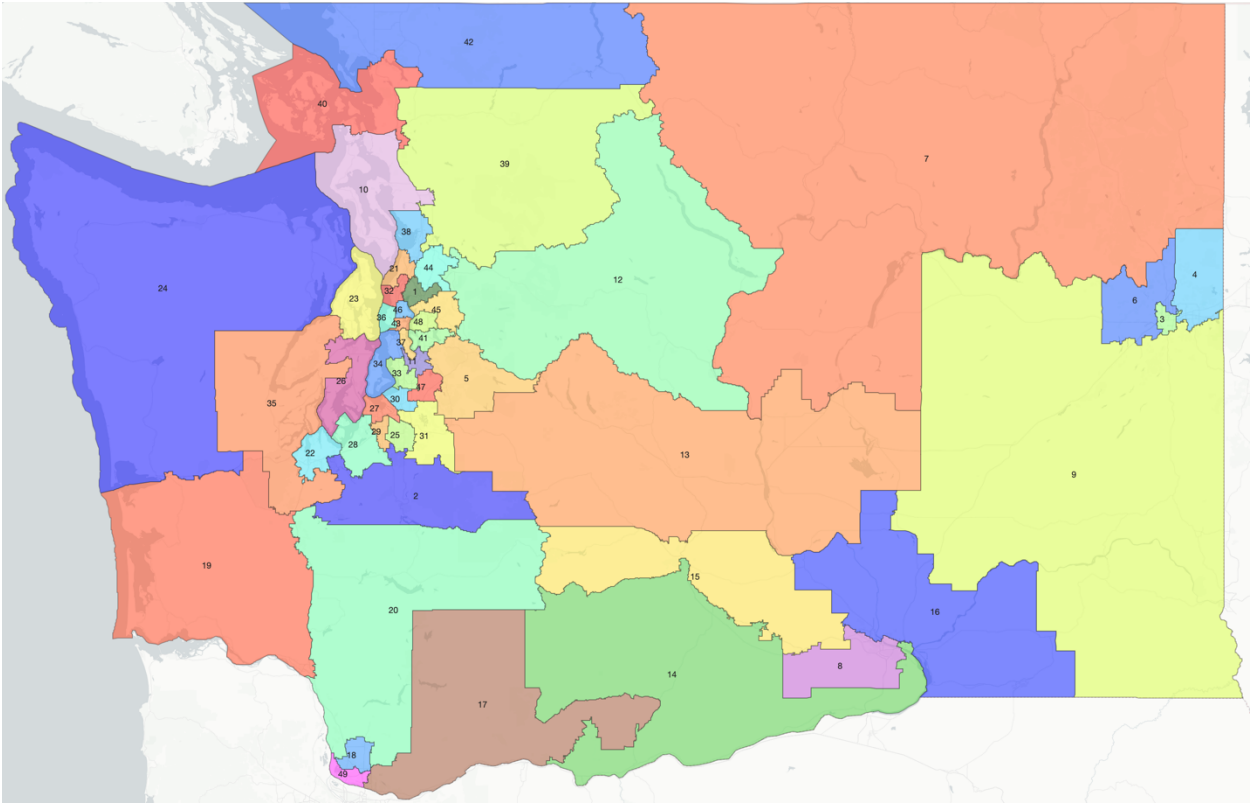


Figure 10: Remedial Map 4A

112. Remedial Map 4A is a variation on Remedial Map 4 that displaces fewer incumbents.
113. Aside from the legislators in enacted LDs 14 and 15, Mr. Pharris and Dr. Trende identified only one incumbent displaced in Remedial Map 4: the LD 8 Representative, Position 1.
114. Boundary changes were made to LDs 8 and 16 so that the current LD 8 Representative, Position 1 now resides in LD 8. Remedial Map 4A is otherwise identical to Map 4.
115. As noted above, the displacement of any LD 14 and 15 Senators and Representatives were a byproduct of relying on the applicable redistricting criteria to draw Remedial LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation whole, along with some off-reservation trust lands and fishing villages.

116. **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 4A has a negligible total population deviation of 0.24%, which is less than the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.
117. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 4A, which are largely on par with the compactness scores for the Enacted Plan.
118. Remedial Map 4A's districts are comprised of convenient, contiguous territory and are traversable.
119. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 4A, including county-district splits and district-county splits. Remedial Map 4A performs about the same on county split metrics as compared to the Enacted Plan.
120. **Appendix Table 4** provides the district and plan partisan lean composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 4A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.
121. **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 4A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.
122. **Appendix Table 6** provides the core retention metrics for Remedial Map 4A.

123. In summary, Remedial Map 4A is compliant with all relevant redistricting criteria and does not introduce any other boundary changes outside of the boundaries of LD 8 and 16.

E. Plaintiffs' Remedial Map 5A

124. Figure 11 provides a visual depiction of Remedial Map 5A.

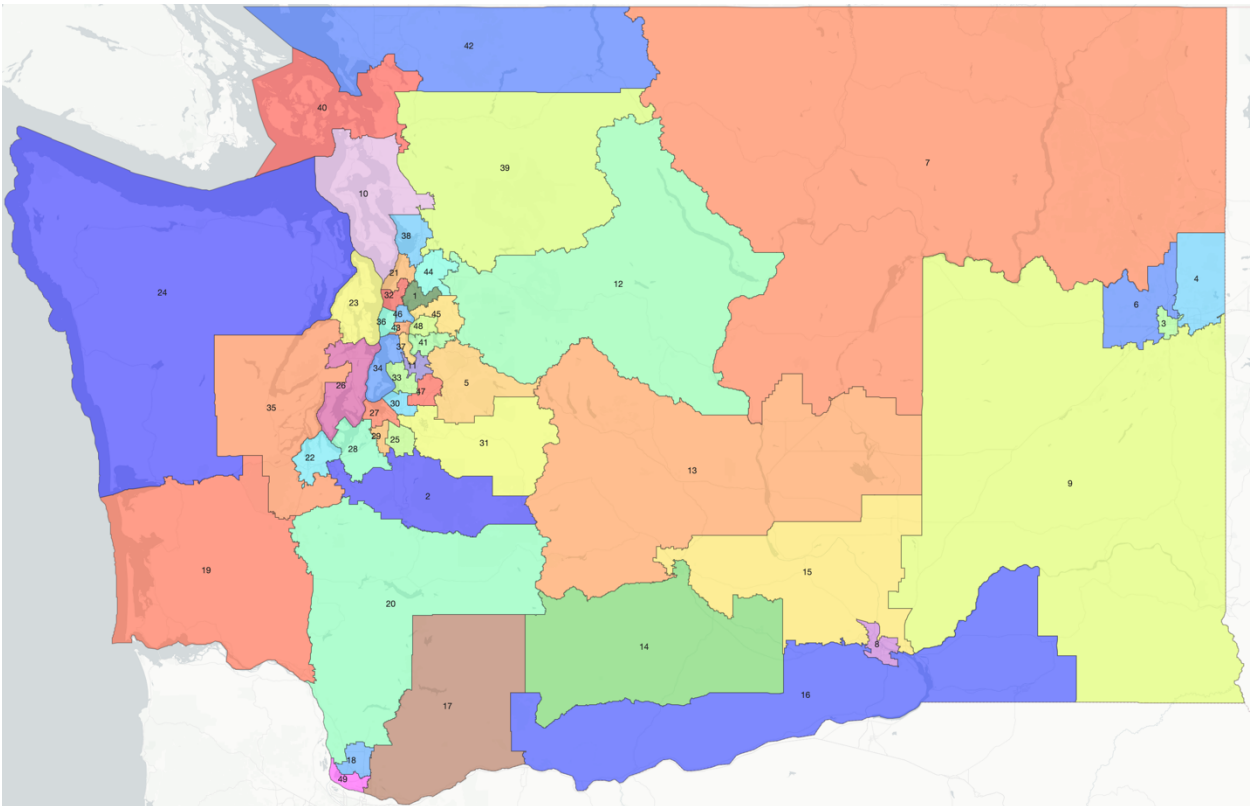


Figure 11: Remedial Map 5A

125. Remedial Map 5A is a variation on Remedial Map 5 that addresses Intervenor Alex Ybarra's concern about being paired with another house incumbent in LD 13 (only in Map 5). Very limited boundary changes, involving no more than a few precincts, were made to LDs 13 and 15 to address his concern. Remedial Map 5A is otherwise identical to Map 5. With this fix, no remedial proposal pairs Rep. Ybarra.

126. **Appendix Table 1**, located at the end of this document provides total population based on Washington's adjusted 2020 U.S. Census data and the population deviation from the target population (157,251). According to Table 1, Remedial Map 5A has a negligible total population deviation of 0.25%, which is the same as the Enacted Plan and well below the 10% population deviation threshold for state legislative plans accepted by courts.
127. **Appendix Table 2** provides the Reock and Polsby-Popper compactness scores for Remedial Map 5A, which are largely on par with the compactness scores for the Enacted Plan.
128. Remedial Map 5A's districts are comprised of convenient, contiguous territory and are traversable.
129. **Appendix Table 3** provides statistics regarding county splits for Remedial Map 5A, including county-district splits and district-county splits. Remedial Map 5A performs about the same on county split metrics as compared to the Enacted Plan.
130. **Appendix Table 4** provides the district and plan partisan lean composite scores (2016-2020), which were compiled and calculated only after the drawing of Remedial Map 5A was finalized. The results show that neither Democrats nor Republicans were substantively advantaged or disadvantaged by any boundary changes.
131. **Appendix Table 5** provides EG and Declination scores, which show that Remedial Map 5A, like the Enacted Plan, is close to fair and maintains the very slight Republican bias found in the Enacted Plan.
132. **Appendix Table 6** provides the core retention metrics for Remedial Map 5A.

133. In summary, Remedial Map 5A is compliant with all relevant redistricting criteria and does not introduce any other boundary changes outside of the boundaries of LD 13 and 15.

IX. Yakama Nation Off-Reservation Trust Lands

134. As I stated in my December 1, 2023 declaration, I drew LD 14 in Remedial Maps 3 and 4 to include the Yakama Nation Reservation and the off-reservation trust lands and fishing villages. To do so, I inspected the U.S. Census boundary file “Yakama Nation and Off-Reservation Trust Land” available on Dave’s Redistricting App and made sure every parcel of off-Reservation trust land was included in LD 14.

135. On page 12 of their response brief, Intervenors claim, without support, that LD 14 in Remedial Maps 3 and 4 excludes “several off-Reservation trust parcels and traditional family homesteads in a separate legislative district from the Yakama Reservation.”

136. They have provided no data showing the geographic locations of the off-Reservation trust parcels and traditional family homesteads supposedly excluded from the remedial district in Remedial Maps 3 and 4. Dr. Trende similarly offers no data to support this claim, nor does he opine on this issue. I am therefore unable to evaluate their claims.

X. Conclusion

137. I reserve the right to modify, update, or supplement my report as additional information is made available to me.

138. Pursuant to 28 U.S.C. § 1746, I, Kassra AR Oskooii, declare under penalty of perjury that the foregoing is true and correct.

Executed by:

A handwritten signature in black ink, appearing to read "Dr. Oskooii", written in a cursive style.

Dr. Kassra AR Oskooii

Dated: January 5, 2024

Table 2 – Compactness Scores, Remedial Maps 1A-5A

	Enacted Map	Remedial Map 1A	Remedial Map 2A	Remedial Map 3A	Remedial Map 4A	Remedial Map 5A
Reock	0.44	0.42	0.42	0.43	0.42	0.43
Polsby-Popper	0.33	0.32	0.31	0.32	0.32	0.32

Table 3 – County Split Metrics, Remedial Maps 1A-5A

	Enacted Map	Remedial Map 1A	Remedial Map 2A	Remedial Map 3A	Remedial Map 4A	Remedial Map 5A
Number of Counties Split	18	20	19	20	19	19
County-District Splitting	1.61	1.61	1.65	1.61	1.64	1.62
District-County Splitting	1.25	1.25	1.27	1.25	1.26	1.26

Table 4 – Partisan Performance by District and Plan, Remedial Maps 1A-5A

District	Enacted Map		Remedial Map 1A		Remedial Map 2A		Remedial Map 3A		Remedial Map 4A		Remedial Map 5A	
	Dem	Rep	Dem	Rep	Dem	Rep	Dem	Rep	Dem	Rep	Dem	Rep
2	40.62%	57.43%	40.28%	57.76%	40.28%	57.76%	40.79%	57.24%	40.79%	57.24%	40.62%	57.43%
5	56.73%	41.48%	54.58%	43.67%	56.73%	41.48%	54.98%	43.26%	56.73%	41.48%	56.73%	41.48%
7	33.65%	65.30%	34.65%	64.25%	33.65%	65.30%	34.33%	64.57%	33.65%	65.30%	33.65%	65.30%
8	39.79%	58.39%	38.10%	60.19%	37.32%	60.96%	36.87%	61.49%	36.87%	61.49%	39.79%	58.39%
9	40.35%	58.10%	40.94%	57.51%	40.57%	57.88%	40.94%	57.51%	40.57%	57.88%	40.35%	58.10%
12	45.61%	52.82%	47.87%	50.48%	45.61%	52.82%	47.55%	50.83%	45.61%	52.82%	45.61%	52.82%
13	34.96%	63.85%	35.54%	63.32%	35.68%	63.07%	35.67%	63.21%	36.35%	62.42%	34.25%	64.66%
16	38.49%	59.92%	39.92%	58.37%	42.15%	56.18%	40.76%	57.47%	41.59%	56.64%	40.64%	57.95%
17	49.36%	49.08%	50.52%	47.96%	50.52%	47.96%	50.83%	47.63%	50.83%	47.63%	49.36%	49.08%
20	35.17%	63.44%	35.46%	63.22%	35.46%	63.22%	35.12%	63.55%	35.12%	63.55%	35.17%	63.44%
31	44.13%	54.16%	43.59%	54.66%	43.98%	54.24%	43.49%	54.76%	43.43%	54.82%	44.13%	54.16%
# R/D Performing Districts	1	8	1	8	1	8	1	8	1	8	1	8

Table 5 – Comparison of Partisan Bias Metrics Across Plans, Remedial Maps 1A-5A

Plans	<i>Efficiency Gap</i>	<i>Declination</i>
Enacted Map	3.2% R	0.07 R
Remedial Map 1A	2.1% R	0.02 R
Remedial Map 2A	2.2% R	0.02 R
Remedial Map 3A	2.0% R	0.02 R
Remedial Map 4A	2.2% R	0.01 R
Remedial Map 5A	2.2% R	0.02 R

Table 6 – Core Population Retention Percentages, Remedial Maps 1A-5A

District	Remedial Map 1A	Remedial Map 2A	Remedial Map 3A	Remedial Map 4A	Remedial Map 5A
1	100.0%	100.0%	100.0%	100.0%	100.0%
2	86.6%	86.6%	90.1%	90.1%	100.0%
3	100.0%	100.0%	100.0%	100.0%	100.0%
4	100.0%	100.0%	100.0%	100.0%	100.0%
5	86.7%	100.0%	90.0%	100.0%	100.0%
6	100.0%	100.0%	100.0%	100.0%	100.0%
7	86.7%	100.0%	90.1%	100.0%	100.0%
8	71.0%	62.0%	60.3%	60.3%	100.0%
9	95.2%	98.0%	95.2%	98.0%	100.0%
10	100.0%	100.0%	100.0%	100.0%	100.0%
11	100.0%	100.0%	100.0%	100.0%	100.0%
12	86.8%	100.0%	90.1%	100.0%	100.0%
13	80.5%	86.5%	80.4%	85.1%	90.0%
14	62.2%	62.2%	60.5%	60.5%	51.3%
15	56.5%	56.6%	55.8%	55.9%	51.3%
16	55.3%	39.4%	47.8%	44.4%	86.0%
17	86.5%	86.5%	90.0%	90.0%	100.0%
18	100.0%	100.0%	100.0%	100.0%	100.0%
19	100.0%	100.0%	100.0%	100.0%	100.0%
20	86.5%	86.5%	90.0%	90.0%	100.0%
21	100.0%	100.0%	100.0%	100.0%	100.0%
22	100.0%	100.0%	100.0%	100.0%	100.0%
23	100.0%	100.0%	100.0%	100.0%	100.0%
24	100.0%	100.0%	100.0%	100.0%	100.0%
25	100.0%	100.0%	100.0%	100.0%	100.0%
26	100.0%	100.0%	100.0%	100.0%	100.0%
27	100.0%	100.0%	100.0%	100.0%	100.0%
28	100.0%	100.0%	100.0%	100.0%	100.0%
29	100.0%	100.0%	100.0%	100.0%	100.0%
30	100.0%	100.0%	100.0%	100.0%	100.0%
31	86.6%	86.6%	90.1%	90.1%	100.0%
32	100.0%	100.0%	100.0%	100.0%	100.0%
33	100.0%	100.0%	100.0%	100.0%	100.0%
34	100.0%	100.0%	100.0%	100.0%	100.0%
35	100.0%	100.0%	100.0%	100.0%	100.0%
36	100.0%	100.0%	100.0%	100.0%	100.0%
37	100.0%	100.0%	100.0%	100.0%	100.0%
38	100.0%	100.0%	100.0%	100.0%	100.0%
39	100.0%	100.0%	100.0%	100.0%	100.0%
40	100.0%	100.0%	100.0%	100.0%	100.0%
41	100.0%	100.0%	100.0%	100.0%	100.0%
42	100.0%	100.0%	100.0%	100.0%	100.0%
43	100.0%	100.0%	100.0%	100.0%	100.0%
44	100.0%	100.0%	100.0%	100.0%	100.0%
45	100.0%	100.0%	100.0%	100.0%	100.0%
46	100.0%	100.0%	100.0%	100.0%	100.0%
47	100.0%	100.0%	100.0%	100.0%	100.0%
48	100.0%	100.0%	100.0%	100.0%	100.0%
49	100.0%	100.0%	100.0%	100.0%	100.0%
Plan Average	94.10%	94.9%	94.5%	95.2%	97.5%

Expert Report of Dr. Loren Collingwood

Loren Collingwood

2024-02-23

Executive Summary

I have been retained by plaintiffs as an expert, and have been asked to examine the citizen voting age population (CVAP) of different racial/ethnic categories of the enacted LD-15 as well as several proposed LD-14 districts in 10 remedial maps (1-5, 1A-5A).

To estimate CVAP demographics for each map, I used the recently released 2022 CVAP block group data taken from the U.S. Census.¹ I filter the block groups to those appearing in each respective map (i.e., LD-15 in the enacted plan, or LD-14 in the alternative plans), then sum the total counts for total population, non-Hispanic white alone, Hispanic, and several other minority groups.

Based on my analysis, I conclude the following:

- The enacted plan has a Hispanic CVAP (HCVAP) population of 52.18%
- Maps 1, 1A, 2, 2A have an estimated HCVAP of 52.48%
- Maps 3, 3A, 4, 4A have an estimated HCVAP of 51.04%
- Maps 5, 5A have an estimated HCVAP of 47.96%.
- LD14 is the same in each "A" remedial proposal as the corresponding original proposal. As a result, the performance analysis for LD14 in each "A" map is the same as its corresponding original proposal.

My opinions are based on the following data sources: 2020 US Census block data, 2022 American Community Survey (ACS) block group data, and enacted and alternative Block Assignment files provided to me by counsel.

I am being compensated at a rate of \$400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

Background and Qualifications

I am an associate professor of political science at the University of New Mexico. Previously, I was an associate professor of political science and co-director of civic engagement at the

¹The 2022 CVAP estimates were not available prior to January 23, 2024:
<https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html>



Center for Social Innovation at the University of California, Riverside. I have published two books with *Oxford University Press*, 42 peer-reviewed journal articles, and nearly a dozen book chapters focusing on sanctuary cities, race/ethnic politics, election administration, and RPV. I received a Ph.D. in political science with a concentration in political methodology and applied statistics from the University of Washington in 2012 and a B.A. in psychology from the California State University, Chico, in 2002. I have attached my curriculum vitae, which includes an up-to-date list of publications, as Exhibit 1 to this report.

In between my B.A. and Ph.D., I spent 3-4 years working in private consulting for the survey research firm Greenberg Quinlan Rosner Research in Washington, D.C. I also founded the research firm Collingwood Research, which focuses primarily on the statistical and demographic analysis of political data for a wide array of clients, and lead redistricting and map-drawing and demographic analysis for the Inland Empire Funding Alliance in Southern California. I was the redistricting consultant for the West Contra Costa Unified School District, CA, independent redistricting commission in which I was charged with drawing court-ordered single member districts. I was the redistricting consulting with Roswell, NM, Independent School District to draw single member districts.

I served as a testifying expert for the plaintiff in the Voting Rights Act Section 2 case *NAACP v. East Ramapo Central School District*, No. 17 Civ. 8943 (S.D.N.Y.). I am the quantitative expert in *LULAC vs. Pate (Iowa)*, 2021, and have filed an expert report in that case. I am the BISG expert in *LULAC Texas et al. v. John Scott et al. (1:21-cv-0786-XR)*, 2022. I filed two reports and have been deposed in that case. I was the RPV expert for the plaintiff in *East St. Louis Branch NAACP, et al. vs. Illinois State Board of Elections, et al.*, having filed two reports in that case. I was the Senate Factors expert for plaintiff in *Pendergrass v. Raffensperger (N.D. Ga. 2021)*, where I filed two reports, was deposed, and testified at trial. I was the RPV expert for plaintiff in *Johnson, et al., v. WEC, et al., No. 2021AP1450-OA*, having filed three reports in that case. I was the RPV expert for plaintiff in *Faith Rivera, et al. v. Scott Schwab and Michael Abbott*. I filed a report, was deposed, and testified at trial. I served as the RPV expert for the intervenor in *Walen and Henderson v. Burgum and Jaeger No 1:22-cv-00031-PDW-CRH*, where I filed a report and testified at trial. I was the RPV expert in *Lower Brule Sioux Tribe v. Lyman County* where I filed a report. I was the RPV expert for plaintiff in *Soto Palmer et al. vs. Hobbs et al.*, where I filed two reports, was deposed, and testified at trial. I was the RPV expert for plaintiff in *IE United et al. v. Riverside County, CVRI2202423*, where I filed a report and was deposed. I was the RPV expert for plaintiff in *Paige Dixon v. Lewisville Independent School District, et al., Civil Action No. 4:22-cv-00304*, where I filed two expert reports. I was the RPV expert for plaintiff in *Turtle Mountain Band of Chippewa Indians v. Jaeger No. 3:22-cv-00022-PDW-ARS*, where I filed two reports, was deposed, and testified at trial.

Proposed Maps

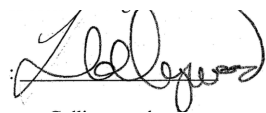
Plaintiffs have proposed 10 maps, and in several LD-14 is the same. Each map's 2022 ACS Citizen Voting Age Population (CVAP) demographics are presented in Table 1 below.² I also include estimates for the enacted LD-15.³

Table 1. Demographics 2022 CVAP.

Map	HCVAP	WCVAP	BCVAP	NCVAP	ACVAP
Enacted D15	52.18	42.73	1	0.96	1.18
Map 1 D14	52.48	36.83	1.07	5.33	1.57
Map 1A D14	52.48	36.83	1.07	5.33	1.57
Map 2 D14	52.48	36.83	1.07	5.33	1.57
Map 2A D14	52.48	36.83	1.07	5.33	1.57
Map 3 D14	51.04	38.36	1.01	5.25	1.6
Map 3A D14	51.04	38.36	1.01	5.25	1.6
Map 4 D14	51.04	38.36	1.01	5.25	1.6
Map 4A D14	51.04	38.36	1.01	5.25	1.6
Map 5 D14	47.96	41.86	1.07	5.04	1.46
Map 5A D14	47.96	41.86	1.07	5.04	1.46

LD14 in each "A" remedial proposal is the same as in the corresponding original proposal. For example, LD14 is the same in Maps 1 and 1A, 2 and 2A, 3 and 3A, 4 and 4A, and 5 and 5A. Thus, the performance of LD14 in each "A" remedial proposal is also the same as in the corresponding original proposal, as reported in my December 1, 2023, report.

Pursuant to 28 U.S.C. § 1746, I, Loren Collingwood, declare the foregoing is true and correct.



Dr. Loren Collingwood

Dated: February 23, 2024

² Estimates for white, Black, Asian/Pacific Islander, and Native American are non-Hispanic single race.

³ HCVAP = Hispanic CVAP, WCVAP = White CVAP, BCVAP = Black CVAP, NCVAP = Native American CVAP, ACVAP = Asian/Pacific Islander CVAP.

Supplemental Expert Report Submitted on Behalf of Plaintiffs

in *Soto Palmer, et al. v. Hobbs, et al.*

Kassra AR Oskooii, Ph.D.

University of Delaware

March 1, 2024



I. Background and Qualifications

1. I, Kassra AR Oskooii, am over 18 years of age and am competent to testify.
2. My background and qualifications are set forth in my expert report dated and submitted on December 1, 2023. I also attach here my latest curriculum vitae as Exhibit 1.
3. I have reviewed the declaration of Nicholas Pharris from the Secretary of State's office, Document 270. I appreciate Mr. Pharris's standard review for trapped polygons in Map 3A.¹ The tweaks he proposes are valid, and I am happy to assist in incorporating these and any other necessary changes in a new version of Map 3A if the court wishes.
4. I have also reviewed Dr. Trende's supplemental report and map, Document 273. My understanding is that remedial proposals were due on December 1, but I did not receive Dr. Trende's map until late in the evening of Friday, February 23.
5. I have also reviewed the Intervenors' supplemental filing regarding Yakama Nation lands, Document 267; the Yakama Nation's own filed statement on February 23, Document 272; and the email and letter from counsel for the Yakama Nation to the Attorney General's office, which is attached to this report as Exhibit 2.
6. I offer the following responses.

II. Dr. Trende's Map Cracks Communities of Interest in the Yakima Valley

7. Dr. Trende claims that his proposed map addresses the concerns of the Yakama Nation while creating a district (in his map, LD 15) that provides Hispanic voters an opportunity to elect candidates of their choice.

¹ As Mr. Pharris explains, trapped polygons refer to small areas of land caught between county boundaries, congressional districts, legislative districts, county council or commissioner districts, and city or town limits. Trapped polygons also arise in part from the fact that Washington's 2022 precinct shapefiles do not always precisely line up with census block lines, which are the smallest geographic unit that can be used for drawing district lines.

8. With respect to the latter claim, it is unclear how Dr. Trende's Map could remedy the VRA violation with respect to Latinos in the Yakima Valley because the map still cracks the population along the Yakima-Pasco highway corridor that the court identified as a community of interest—the very same community the Enacted Plan cracked and diluted in violation of Section 2.
9. Like LD 15 in the Enacted Map, LD 15 in Dr. Trende's Map continues to segregate communities like Wapato and Toppenish from other similar communities in the Lower Yakima Valley along the route from East Yakima to Pasco.
10. Consequently, Dr. Trende's LD 15 also excludes two of the plaintiffs. I was provided the plaintiffs' addresses, which were stipulated to by all parties.² Plaintiff Faviola Lopez lives in Wapato, and Plaintiff Caty Padilla lives in Toppenish. Both are excluded from Dr. Trende's LD 15.
11. Map 3A, on the other hand, unites Wapato and Toppenish with alike communities in Lower Yakima Valley, as well as East Yakima and Pasco, and includes all five Plaintiffs in the remedial district.
12. Beyond cracking this community of interest in the Yakima Valley, Dr. Trende's LD 15 also disregards other redistricting criteria. For example, LD 15 straddles the Columbia River without providing a bridge or ferry crossing, violating Washington's contiguity requirement.
13. Dr. Trende's Map also places the Hanford Nuclear Site in the middle of LD 15, creating another barrier between the eastern and western ends of the district, and separating the site from voters in the City of Richland. Map 3A unifies the Hanford Nuclear Site with

² Joint Pretrial Statement and [Proposed] Order, Document 191 at 3-4.

the City of Richland. I understand that Intervenor-Defendants have previously objected to map proposals that separated the nuclear site from Richland, the community most affected by it, but now propose a map that does just that.³

III. Dr. Trende's Map Splits the Yakama Nation Reservation and Reduces Native American Voting Strength in LD 14

14. Dr. Trende's Map displays a lack of care and attention to the boundaries of the Yakama Nation Reservation and Native American voters.
15. By my count, his LD 14 appears to split the Yakama Nation Reservation at least 14 times along the boundary between LDs 14 and 15 in the Lower Yakima Valley, based on the Census designated Reservation boundary. These splits are not limited to zero-population polygons. As shown in Figure 1, one part of the Reservation that is excluded from Dr. Trende's LD 14 has 117 residents, according to the 2020 Decennial Census. Presumably, this land was excised from the Reservation to avoid splitting the city of Union Gap, but as my Map 3A shows, it is possible to keep Union Gap whole while unifying all residents of the Reservation.

³ Intervenor-Defendants' Proposed Opposition to Plaintiffs' Motion for Preliminary Injunction, Document 61 at 7-8.

Figure 1 – Illustrative Reservation Land Excluded from Dr. Trende’s LD 14 (Yakama Reservation Boundary in Pink)



16. This same LD 14-LD 15 boundary line in Dr. Trende’s Map also disregards the voting rights violation by splitting the Latino community in the Yakima Valley.
17. Map 3A, on the other hand, balances the need to remedy the cracking of communities of interest in the Enacted Plan with the interests of the Yakama Nation and Native American voters in the region. As I stated above, Map 3A unifies Toppenish and Wapato with other similar communities in the Lower Yakima Valley, as well as East Yakima and Pasco, all of which comprise a community of interest identified by the court.
18. Because Toppenish and Wapato also exist within the boundaries of the Yakama Nation Reservation, I drew LD 14 in Map 3A (and in all other remedial proposals) to include the Yakama Nation Reservation.

19. I also included in LD 14 the Off-Reservation Trust Lands designated by the U.S. Census, which Dr. Trende does not dispute.
20. LD 14 in Map 3A also includes 96% of the Public Domain Trust Land parcels identified by the Yakama Nation in its latest February 23 statement.⁴ This is unsurprising because the Public Domain Trust Lands largely overlap with the Off-Reservation Trust Lands designated by the U.S. Census, except for a small handful of additional parcels. Indeed, only 9 of the 235 parcels identified by the Yakama Nation on February 23 are not included in LD 14.⁵
21. Moreover, LD 14 in Map 3A includes 13 (93%) of the Yakama Nation's 14 Treaty Fishing Access Sites identified in its February 23 statement.⁶ The single exception is the White Salmon site, which was not included to ensure that LD 14's population deviation remains within the most and least populous legislative districts in the Enacted Map.
22. Dr. Trende mentions three other areas in the "region south of the Yakama Reservation" that he claims were "all ... excluded from Remedial Map 3A, District 14" (p. 4). First, the part of Klickitat County containing Husum, like the White Salmon fishing access site, was not incorporated for population parity purposes. Second, while a portion of the Klickitat River watershed is located in LD 17, the majority of that watershed basin is

⁴ The Nation identified a total of 235 Public Domain Trust Land parcels, which are listed in a table in Exhibit A of its February 23 statement, Document 272 at 5-12. For each parcel (except for one), the Yakama Nation provided latitude-longitude coordinates and acreage, among other information. I used this information, alongside the Yakama Nation's map, to determine which parcels were and were not included in Map 3A's LD 14. There was only one parcel, identified as MV-171, that lacked latitude and longitude coordinates, so I cannot confirm whether this parcel was included in LD 14.

⁵ Three of these parcels are located near the boundary of Map 3A's LD 14 and could easily be added to LD 14. These parcels are identified by the Yakama Nation as MV-72, 1026, and 1025.

⁶ Document 272 at 13.

included in LD 14 in Map 3A.⁷ Third, the Yakima River watershed, which Dr. Trende also mentions, does not extend south of the Reservation, and Map 3A includes all of the Yakima River basin in LD 14 that intersects with the Reservation, as well as areas of the basin that are excluded from Dr. Trende’s LD 14.⁸

- 23. In short, Map 3A includes as much Yakama Nation territory and historical land in LD 14 as is practical while ensuring that the remedial district does not perpetuate the harm of cracking other communities of interest in the Yakima Valley.
- 24. Importantly, Map 3A also best addresses the Yakama Nation’s wish to avoid “dilut[ion] of the Yakama voting population within the 14th Legislative District.”⁹ Table 1 below compares the Native American voting age population in LD 14 across the Enacted Map, Plaintiffs’ Map 3A, and Dr. Trende’s Map.

Table 1 – Native American Voting Age Population (VAP), 2020 Decennial Census

	Enacted Map	Pls. Map 3A	Dr. Trende’s Map
Native American VAP	9,907	9,950	9,636
% of LD 14 VAP	8.5%	9.3%	8.1%

- 25. Table 1 shows that Plaintiffs’ Proposed LD 14 includes *more* Native American voters and a *higher proportion* of Native American voters than both the Enacted Map and Dr. Trende’s Map, best according with the request of the Yakama Nation that the legislative

⁷ Yakima Klickitat Fisheries Project, Map of Klickitat River Subbasin, http://www.ykfp.org/klickitat/klicksb_map.htm.

⁸ Washington State Department of Ecology, The Yakima Basin Integrated Water Resource Management Plan, <https://storymaps.arcgis.com/stories/d78e5021c3554fb8a1af1c5020b8d741>.

⁹ Dec. 22 Letter of Gerald Lewis, Document 267-1 at 2.

map not splinter Native American communities of interest. Meanwhile, Dr. Trende's Map *reduces* the Native American voting age population and voting strength in LD 14 as compared to the Enacted Plan.

26. Finally, Dr. Trende's Figure 1 (p. 5) highlights in red the area of Klickitat County he claims should have been included in LD 14 in Map 3A. In his February 15th disclosure, he reported the total population of this red-shaded area as 15,760, but he neglected to disclose other relevant demographic figures. The total Native American population of the area is 662 (4.2% of the total population), and the Native American voting age population is 498 (3.9% of the voting age population). Meanwhile, the white population of the area is 12,207 (77.5%), and the white voting age population is 10,054 (79.4%). As I have noted previously, I did not review or consider any racial demographic data before or while drawing any of Plaintiffs' Remedial Maps. I checked the demographic information here only after receiving Dr. Trende's supplemental report and map proposal.

IV. Map 3A Has Minimal Impact on Surrounding Districts

25. Dr. Trende repeats his claim that Map 3A disrupts too many districts around LDs 14 and 15 by pointing to the existence of his new proposal and my other remedial proposals that affect fewer districts. As I explain above, his proposal looks much like the Enacted Plan that the court struck down and continues to crack the community of interest in the Yakima Valley. With respect to my remedial proposals, as explained in my prior reports, I provided the Court with multiple options, all of which had core retention rates between 94.1% and 97.5%. Map 3A has a core retention rate of 94.5% and balances Washington

and traditional redistricting criteria, including unification of Yakama lands and voters, with the need to remedy the VRA violation.

26. Dr. Trende concedes that core retention percentages are a “valid way to describe a map’s shifts.”¹⁰ He goes on to state that there is some need to “place these percentages in context,” but then simply restates the percentages as ratios. No matter how one chooses to describe a core retention rate of 94.5%, it still indicates minimal changes to the Enacted Plan.
27. Core retention percentages also inherently provide the context Dr. Trende’s own measures of “movement” cannot provide. This is for the simple fact that core retention rates, unlike population totals, account for the magnitude of population shifts compared to the total population of each district.
28. As I explained in my January 5 report, Dr. Trende’s method of totaling the people “moved” between districts is inaccurate. He states that 94,742 people from LD 15 in the Enacted Plan (where they comprised 60% of that district) were moved to LD 14 in Map 3A (where they still comprise 60% of the district). The use of the word “move” is misleading because these voters remain, as a group, the supermajority of their legislative district. The only difference is the number assigned to their district. Although that alters the election cycle in which they vote for state senate, it does not separate this group of voters into different districts from one another. This is why redistricting experts use the concept of “core retention”—which Dr. Trende resists—because it focuses on the relevant question of how many voters remain together in a district, whatever the district is labeled.

¹⁰ Supplemental Report of Dr. Trende, at 12, n.4.

V. Map 3A is Reasonably Compact

29. With respect to compactness, Dr. Trende quibbles with my use of planwide compactness measures but does not dispute my conclusion that Map 3A has reasonably compact districts, largely on par with the Enacted Plan.
30. Table 2 provides the Reock and Polsby-Popper compactness scores for Map 3A, Dr. Trende’s Map, and the Enacted Map. Remedial Map 3A is slightly more compact than Dr. Trende’s Map as measured by the Reock score.

Table 2 – Compactness Scores

	Enacted Map	Remedial Map 3A	Dr. Trende’s Map
Reock	0.44	0.43	0.40
Polsby-Popper	0.33	0.32	0.32

VI. Map 3A Has No Meaningful Political Impact on Surrounding Districts

31. As demonstrated in Appendix Table 4 of my January 5th report (p. 42), Map 3A has no substantive impact on partisan outcomes in districts beyond LDs 14 and 15. Republican districts remain Republican, Democratic districts remain Democratic, and toss-ups remain toss-ups.¹¹
32. Dr. Trende also effectively concedes that the shifts in political makeup are minor. In his discussion of statewide partisan bias metrics, he states: “These metrics will generally not

¹¹ Dr. Trende’s quibble with my use of terms misses the point. He cannot identify any surrounding districts in Map 3A that would definitively flip in partisan control. And to the extent his complaint is that Map 3A incidentally makes some districts slightly more competitive, my understanding is that Washington’s redistricting criteria require plans to “encourage electoral competition.” RCW 44.05.090. It also bears mention that, unlike Dr. Trende, I did not view political data when drawing remedial maps, given that Washington law forbids drawing redistricting plans “purposely to favor or discriminate against any political party.” RCW 44.05.090.

change much unless a district is outright flipped from Democrat to Republican or vice-versa.” He also notes that making an already competitive district, like LD 12, marginally more competitive will not change partisan statewide metrics. This is all true and only serves to confirm that Map 3A does not meaningfully change partisan outcomes in surrounding districts.

VII. Map 3A Has Minimal Impact on Incumbents

27. As I explained in my January 5 Report, the displacement of the incumbents in LD 14 and the Senator from LD 15¹² is a byproduct of relying on the applicable redistricting criteria to draw an LD 14 that unites the population centers forming a community of interest between East Yakima and Pasco, while keeping the Yakama Nation Reservation and Off-Reservation Trust Lands within LD 14.
28. To reiterate, I avoided displacing incumbents wherever possible and remedied most incumbent displacements in the “A” Maps filed with the January 5 Report. Aside from the incumbents in LDs 14 and 15, the only other incumbent displaced in Map 3A is Senator Hawkins, the current LD 12 incumbent who is in LD 7 in Map 3A. As I explained in my January 5 Report, the changes necessary for Senator Hawkins to reside in LD 12 are reflected in Maps 2A, 4A, and 5A but not in 3A, which prioritizes other considerations such as limiting the number of trans-cascade districts. Document 254-1, ¶ 101.

VIII. Conclusion

33. I reserve the right to modify, update, or supplement my report as additional information is made available to me.

¹² Neither of the two incumbent LD 15 House members are displaced in Map 3A.

34. Pursuant to 28 U.S.C. § 1746, I, Kassra AR Oskooii, declare under penalty of perjury that the foregoing is true and correct.

Executed by:





A handwritten signature in black ink, appearing to read "Dr. Oskooii", written in a cursive style.

Dr. Kassra AR Oskooii

Dated: March 1, 2024

Exhibit 1

Kassra A.R. Oskooii

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Academic Appointments	University of Delaware Political Science & International Relations Associate Professor 2021-Present Assistant Professor 2016-2021 Provost Teaching Fellow 2022-Present <i>Current Faculty Affiliations:</i> Data Science Institute (DSI) 2023-Present Master of Science in Data Science (MSDS) 2023-Present Center for Political Communication (CPC) 2016-Present Center for the Study of Diversity (CSD) 2016-Present <i>Former Faculty Affiliations:</i> Race, Justice, Policy Research Initiative (RJPRI) 2017-2023
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Education	University of Washington Ph.D., 2016 Department of Political Science General Fields: American Politics & Political Methodology Specialized Field: Minority and Race Politics University of Washington M.A., 2013 Department of Political Science Center for Statistics & the Social Sciences (CSSS) Political Methodology Field Certificate (2013) University of Washington B.A., 2008 Major: Political Science Minors: Human Rights and Law, Societies, & Justice
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Peer-Reviewed Journal Publications	“Anti-Muslim Policy Preferences and Boundaries of American Identity Across Partisanship.” Journal of Public Policy . w/ Lajevardi, N. (Forthcoming) “In the Shadow of September 11: The Roots and Ramifications of Anti-Muslim Attitudes in the United States.” Advances in Political Psychology . w/ Lajevardi, N., Saleem, M., and Docherty, M. (Forthcoming)
------------------------------------	--

- “Social Mobility Through Immigrant Resentment: Explaining Latinx Support for Restrictive Immigration Policies and Anti-Immigrant Candidates.” *Public Opinion Quarterly*. w/ Hickel, F., and Collingwood, L. (Forthcoming)
- “The Participatory Implications of Racialized Policy Feedback.” 2023. *Perspectives on Politics*, 21(3): 932-950. w/ Garcia-Rios, S., Lajevardi, N. and Walker, H.
- “Undermining Sanctuary? When Local and National Partisan Cues Diverge.” 2023. *Urban Affairs Review*, 59(1): 133-169. w/ Collingwood, L. & Martinez, G.
- “Fight Not Flight: The Effects of Explicit Racism on Minority Political Engagement.” 2022. *Electoral Studies*, 80: 102515. w/ Besco, R., Garcia-Rios, S., Lagodny, J., Lajevardi, N., Tolley, E.
- “Hate, Amplified? Social Media News Consumption and Anti-Muslim Policy Support.” 2022. *Journal of Public Policy*, 42: 656-683. w/ Lajevardi, N. and Walker, H. (FirstView)
- “Estimating Candidate Support in Voting Rights Act Cases: Comparing Iterative EI and EI-RxC Methods.” 2022. *Sociological Methods and Research*, 51(1): 271-304. w/ Barreto, M., Collingwood & Garcia-Rios, S.
- “Beyond Generalized Ethnocentrism: Islam-Specific Beliefs and Prejudice toward Muslim Americans.” 2021. *Politics, Groups, and Identities*, 9(3): 538-565. w/ Dana, K. & Barreto, M.
- “Opinion Shift and Stability: The Information Environment and Long-Lasting Opposition to Trump’s Muslim Ban.” 2021. *Political Behavior*, 43: 301–337. w/Lajevardi, N. & Collingwood, L.
Covered in: *The Washington Post (Monkey Cage)*
- “The Role of Identity Prioritization: Why Some Latinx Support Restrictionist Immigration Policies and Candidates.” 2020. *Public Opinion Quarterly*, 84: 860–891. w/ Hickel, F., Alamillo, R. & Collingwood, L.
- “Perceived Discrimination and Political Behavior.” 2020. *British Journal of Political Science*, 50(3): 867-892.
- “The Paradox Between Integration and Perceived Discrimination Among American Muslims.” 2020. *Political Psychology*, 41(3): 587-606. w/ Lajevardi, N., Walker, H. & Westfall, A.
Winner of the 2019 American Political Science Association Race, Ethnicity, and Politics Section Best Paper Award.

- “Veiled Politics: Experiences with Discrimination among Muslim Americans.” 2019. *Politics and Religion*, 12(2): 629-677. w/ Dana, K., Lajevardi, N., & Walker, H.
- “Partisan Attitudes toward Sanctuary Cities: The Asymmetrical Effects of Political Knowledge.” 2018. *Politics and Policy*, 46 (6): 951-984. w/ Dreier, S. & Collingwood, L.
- “A Change of Heart? Why Individual-Level Public Opinion Shifted against Trump’s Muslim Ban.” 2018. *Political Behavior*, 40: 1035-1072. w/ Collingwood, L. & Lajevardi, N.
Covered in: *The Washington Post (Monkey Cage)*, *Vox*, *ThinkProgress*, *NPR*, *Al Jazeera*, *Middle East Eye*, *Psychology Today*, & *Social Psych Online*
- “Old-Fashioned Racism, Contemporary Islamophobia, and the Political Isolation of Muslim Americans in the Age of Trump.” 2018. *Journal of Race, Ethnicity, and Politics*, 3(1): 112-152. w/ Lajevardi, N.
- “The Politics of Choice Reconsidered: Partisanship, Ideology, and Minority Politics in Washington’s Charter School Initiative.” 2018. *State Politics and Policy Quarterly*, 18(1): 61-92. w/ Collingwood, L. & Jochim, A.
- “Muslims in Great Britain: The Impact of Mosque Attendance on Political Behaviour and Civic Engagement.” 2018. *Journal of Ethnic and Migration Studies*, 44(9): 1479-1505. w/ Dana, K.
- “eiCompare: Comparing Ecological Inference Estimates across EI and EI: RxC.” 2016. *R Journal*, 8(2): 92-101. w/ Collingwood, L., Barreto, M. & Garcia-Rios, S.
- “How Discrimination Impacts Sociopolitical Behavior: A Multidimensional Perspective.” 2016. *Political Psychology*, 37(5): 613-640.
- “Mosques as American Institutions: Mosque Attendance, Religiosity and Integration into the Political System among American Muslims.” 2011. *Religions*, 2(4): 504-524. w/ Dana, K. & Barreto, M.
- “Discrimination.” In *Edward Elgar Encyclopedia of Political Sociology* edited by Maria Grasso and Marco Giugni. (Forthcoming)
- “Race and Racism in U.S. Campaigns.” 2020. In *Oxford Handbook on Electoral Persuasion* edited by Liz Suhay, Bernie Grofman, and Alex Trechsel, 15:278–295. w/ Christopher Parker, Christopher Towler, and Loren Collingwood.

Book Chapters/
Encyclopedic
Entries

Book Reviews	<p>“Understanding Muslim Political Life in America: Contested Citizenship in the Twenty-First Century.” Edited by Brian R. Calvano and Nazita Lajevardi. Philadelphia: Temple University Press, 2019. 248p. <i>Perspectives on Politics</i>.</p>	
Public Writing	<p>“Biden reverses Trump’s ‘Muslim Ban.’ Americans support the decision.” <i>The Washington Post (Monkey Cage)</i> (27 January, 2021). w/ Lajevardi, N. and Collingwood, L.</p> <p>“Targeted: Veiled Women Experience Significantly More Discrimination in the U.S.” <i>Religion in Public</i> (21 January, 2020). w/ Dana, K., Lajevardi, N., and Walker, H.</p> <p>“Here’s what the Democrats need to do to get the DREAM Act through Congress.” <i>LSE American Politics and Policy Blog</i> (29 January, 2018). Also covered by Newsweek U.S. Edition. w/ Walker, H. and Garcia-Rios, S.</p> <p>“Why Individual-Level Opinion Rapidly Shifted Against Trump’s ‘Muslim Ban’ Executive Order.” <i>Religion in Public</i> (17 January, 2018). w/ Collingwood, L. and Lajevardi, N.</p> <p>“Allies in name only? Latino-only leadership on DACA may trigger implicit racial biases among White liberals.” <i>LSE American Politics and Policy Blog</i> (28 September, 2017). w/ Garcia-Rios, S. and Walker, H.</p> <p>“Protests against Trump’s immigration executive order may have helped shift public opinion against it” <i>LSE American Politics and Policy Blog</i> (12 February, 2017). w/ Collingwood, L. and Lajevardi, N.</p>	
Grants, Fellowships, & Awards	<p>Nominee of UD’s Excellence in Teaching Award</p> <p>UD Provost Teaching Fellow</p> <p>APSA Race, Ethnicity, and Politics Best Paper Award w/ N. Lajevardi, H. Walker and A. Westfall</p> <p>AAPOR Student-Faculty Diversity Pipeline Award</p> <p>CTAL Instructional Improvement Grant: Engaging Diversity in Political Science w/ Kara Ellerby (\$11,000)</p> <p>POSCIR Seed Research Grant (\$1,500)</p> <p>DEL General University Research Grant (\$7,500)</p> <p>UW Political Science Research Fellowship (est. \$13,000)</p> <p>Dissertation Improvement Research Grant, UCLA (\$3000)</p> <p>Dean Recognition for Exceptional Pedagogical Contribution, UW</p> <p>Best Graduate Paper in PoliSci (w/Hannah Walker), UW</p> <p>UW Center for Democracy & VRA Research Fellowship (\$5,000)</p> <p>UW Center for Democracy & VRA Research Fellowship (\$5,000)</p> <p>Center for Statistics and the Social Sciences Grant (\$1,000)</p> <p>UW WISER Research Grant (\$2500)</p> <p>UW WISER Survey Research Fellowship (\$20,000)</p> <p>Grad. Opportunities & Minority Achievement Fellowship (\$4,000)</p>	<p>(2023)</p> <p>(2022-)</p> <p>(2019)</p> <p>(2019)</p> <p>(2018)</p> <p>(2018)</p> <p>(2017)</p> <p>(2016)</p> <p>(2015)</p> <p>(2014)</p> <p>(2014)</p> <p>(2014)</p> <p>(2013)</p> <p>(2013)</p> <p>(2011-14)</p> <p>(2011-14)</p> <p>(2010-11)</p>

Donald R. Matthews Graduate Fellowship (\$40,000) (2010-11)
 Jody Deering Nyquist Award for Excellence in Public Speaking (2008)

Research Center Affiliations Race, Justice, Policy Research Initiative, UD (2017 -)
 Center for Political Communication, UD (2016 -)
 Center for the Study of Diversity, UD (2016 -)
 UW Center for Democracy and Voting Rights Research (2013-14)
 Washington Institute for the Study of Race & Ethnicity (WISER) (2010-16)
 Center for Social Science and Statistics (CSSS) (2010-16)
 Washington Survey Research Center (WASRC) (2010-15)

Teaching Experience **University of Delaware** (2016 -)
 POSC 150: Intro to American Politics (x10)
 POSC 230: Intro to Politics and Social Justice (x2)
 POSC 413: Minority Politics, Representation, and Voting Rights (x4)
 POSC 867: Race, Ethnicity, and Politics (Graduate Seminar) (x3)
 POSC 807: American Political Behavior (Graduate Seminar) (x1)

University of Washington (2011-2016)
 POLS 202: Intro to American Politics (x2)
 POLS 357: Minority Representation and the Voting Rights Act (x1)
 POLS 205: Political Science as a Social Science (TA)
 POLS 317: US Race and Ethnic Politics (TA)
 POLS 353: US Congress (TA)
 POLS 503: Advanced Research Design and Analysis (TA)
 LAW E 558: Voting Rights Research and the Law (TA)

External Invited Talks/Panels “Diversity and the State of Democratic Citizenship.” Featured invited roundtable sponsored by the **Center for the Study of Democratic Citizenship**. April 23, 2021.

“Shocks to the System: Capturing Opinion Shift and Stability Toward Trump’s Muslim Ban.” Keynote Speaker at the Democracy and Diversity Triannual Conference at the **Center for the Study of Democratic Citizenship** in Montreal, Canada. April 24-25, 2020. [Cancelled Due to COVID-19]

“The New American Electorate.” Panelist. **Princeton University**. Event sponsored by the Center for the Study of Democratic Politics. April 3, 2020. [Cancelled Due to COVID-19]

“Neighboring Identities: Psychological and Political Reactions to Generalized and Particularized Anti-Immigrant Appeals.” w/Sergio Garcia-Rios. **University of Toronto**. Talk Sponsored by the Department of Political Science. March

6, 2020.

“History, Institutions, and Theory Research Coordination Network on Racial and Ethnic Politics.” Panelist. **University of Pennsylvania**. Event sponsored by the American Political Science Association’s Special Projects Fund and the Center for the Study of Ethnicity, Race and Immigration at Penn. February 28-29, 2020.

“Using Observational and Experimental Data to Examine the Sociopolitical Consequences of Perceived Discrimination.” **Rutgers University**. Talk sponsored by the Emerging Trends Lecture Series & the Center for the Experimental Study of Politics and Psychology. April 27, 2018.

“A Change of Heart? Using Panel Designs to Establish Causality with Real Events.” w/Loren Collingwood. **Princeton University**. Talk sponsored by the Center for the Study of Democratic Politics. April 26, 2018.

“Using Observational and Experimental Data to Examine the Sociopolitical Consequences of Perceived Discrimination.” **University of California Los Angeles**. Talk sponsored by the Race, Ethnicity and Politics Workshop. March 5, 2018.

“Muslim-American Attitudes, Sociopolitical Behavior, and Identity.” Panelist/Section Presenter. **University of California Los Angeles**. Event sponsored by the Luskin School of Public Affairs & the National Science Foundation. December 15, 2017.

“Muslim-American Political Behavior.” Panelist/Section Presenter. **Menlo College**. Event sponsored by Menlo College & the National Science Foundation. December 16, 2016.

Internal or
Public
Invited
Talks/Panels

“How Democratic is the U.S. Constitution, and to What Extent did the Founding Fathers Oppose Majority Rule?” Speaker. University Day Public Lecture. March 18, 2023.

“Race, Ethnicity, and Gender in the 2020 Election.” Speaker. Panel sponsored by the the University of Delaware POSCIR. December 14, 2020.

“Building Community: Scholarship and Connection among Faculty of Color.” Speaker. Panel sponsored by the Center for the Study of Diversity (CSD) at the University of Delaware. February 24, 2020.

“Executive Power and the U.S. Democracy.” Talk sponsored by the 2019 YALI Mandela Washington Fellows Program at the University of Delaware. July 2, 2019.

“Opinion Shift and Stability: Long-Lasting Opposition toward Trump’s Muslim Ban.” Talk sponsored by the Department of Sociology and Criminal Justice Colloquium Speaker Series at the University of Delaware. April 24, 2019.

“Old-Fashioned Racism and the Roots of Contemporary Islamophobia.” Talk sponsored by the Center for the Study of Diversity (CSD) Colloquium Speaker Series at the University of Delaware. December 6, 2018.

“Understanding Executive Power in the United States.” Talk sponsored by the 2018 YALI Mandela Washington Fellows Program at the University of Delaware. July 2, 2018.

“The Inclusion and Exclusion of Minority Groups in the United States.” Talk sponsored by the 2017 YALI Mandela Washington Fellows Program at the University of Delaware. July 11, 2017.

“Inclusion and Exclusion: Perceptions of Discrimination in the Workplace.” Diversity Summit Presenter. Talk sponsored by the Office of Equity and Inclusion at the University of Delaware. June 20, 2017.

“What Happens Now Part II? A Forum to Discuss Bigotry & Closed Borders in the Trump Era.” Speaker. Panel sponsored by the Department of Women and Gender Studies, Sociology and Criminal Justice, Political Science and International Relations, & the College of Arts and Sciences at the University of Delaware. February 13, 2017.

“Forum on the Travel Ban Executive Order.” Speaker. Panel sponsored by the University of Delaware Provost Office. February 7, 2017.

“What Happens Now Part I? Fear, Diversity, and Inclusion in Post-U.S. Election.” Speaker. Panel sponsored by Women and Gender Studies, Sociology and Criminal Justice, Political Science and International Relations, History, & the College of Arts and Sciences at the University of Delaware. November 30, 2016.

“Race, Religion, and Gender.” Election Central Panelist. Event sponsored by the Center for Political Communication at the University of Delaware. November 8, 2016.

Select
Conference
Presentations

2021

“Partisan Winners and Losers: Testing Alternative Frames of Congressional Election Results Among White and Latino Voters.” Online Paper Presentation at the Annual American Political Science Association Conference (APSA).

“Kissing Up and Kicking Down: How Immigrant Resentment Impacts Latinx

Support for Donald Trump and Restrictive Immigration Policies.” Online Paper Presentation at the Annual American Political Science Association Conference (APSA).

“How do Political Attacks Affect Racial and Ethnic Self-Identities?” Online Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA).

“Kissing Up and Kicking Down: How Immigrant Resentment Impacts Latinx Support for Donald Trump and Restrictive Immigration Policies.” Online Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA).

2019

“The Significance of Politicized Group Identities: Re-examining the Relationship between Contact with Punitive Political Institutions and Political Participation.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

“Threat or Reassurance? Framing Midterm results among Latinos and Whites.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

“When American Identity Trumps Latinx Identity: Explaining Support for Restrictive Immigration Policies.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

“Anti-Minority Politics and Political Participation: Evidence from Four Countries.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Washington DC.

2018

“Assessing the Link between Interactions with Punitive Political Institutions and Political Behavior.” Paper Presentation at the 2018 Symposium on the Politics of Immigration, Race, and Ethnicity (SPIRE) Meeting in Philadelphia, PA (University of Pennsylvania).

“Are Integrated Muslim Americans More Likely to Perceive Discrimination?” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Boston, MA.

“Opinion Shift and Stability: Enduring Individual-Level Opposition to Trump’s Muslim Ban.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Boston, MA.

“Assessing the Link between Interactions with Punitive Political Institutions

and Political Behavior.” Paper Presentation at the 2018 Collaborative Multiracial Post-Election Study (CMPS) Meeting in Los Angeles, CA (UCLA).

2017

“A Change of Heart? Why Individual-Level Public Opinion Shifted against Trump’s Muslim Ban.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in San Francisco, CA.

“Veiled Politics: Experiences with Discrimination among American Muslims.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in San Francisco, CA.

“The Racial Shield as Racism Exoneration: Explaining White Racist Support for Conservative Minority Candidates.” Paper Presentation at the Annual Western Political Science Association Conference (WPSA) in Vancouver BC, Canada.

2016

“Assessing the Mechanism Linking Discrimination to Democratic Engagement.” Paper Presentation at the Annual American Political Science Association Conference (APSA) in Philadelphia, PA.

“Estimating Candidate Support: Comparing EI and EI-RxC.” Paper Presentation at the Annual Midwest Political Science Association Conference (MPSA) in Chicago, Illinois.

Student
Supervision

Sadie Ellington, Dissertation Committee Member (POSC)
Enes Aksu, Dissertation Committee Member (POSC)
Enes Tuzgen, Dissertation Committee Member (POSC)
Olga Gerasimenko, Dissertation Committee Member (POSC)
Furkan Karakayan, Dissertation Committee Member (POSC)
Richard Takyi Amoah, Dissertation Committee Member (ECON)
Sheila Afrakomah, Dissertation Committee Member (ECON)
Ahmet Ates, Dissertation Committee Member (POSC)
Charles Mays, Long Paper and Dissertation Chair (POSC)
Ian Mumma, Long Paper Committee Member (POSC)
Clark Shanahan, Long Paper Committee Member (POSC)

Rachel Spruill, Undergraduate Honors Thesis Chair
Jessica Sack, Undergraduate Honors Thesis Chair
Jordan Spencer, Undergraduate Faculty Mentor for the McNair Program
Lauren Trenchalk, Undergraduate Research Supervisor

Professional
Service

Editorial Board Member

Politics and Religion (6/2018 - 12/2021)

Discipline Service

American Political Science Association (APSA) REP Section Chair (2021-2022)

Western Political Science Association (WPSA) Task Force on Equity, Inclusion, and Access in the Discipline (2020-2021)

APSA Race, Ethnicity, and Politics Best Paper Award Committee Member (2020)

University Service

2019 Summer Educational and Cultural Experience Program (SECEP)
Lecturer of Politics and Justice in the United States. (July 27 - August 20, 2019)

Manuscript Reviewer/Referee

American Journal of Political Science, American Political Science Review, American Politics Research, British Journal of Political Science, Belgian Federal office for Science Policy, Behavioral Sciences of Terrorism and Political Aggression, Cambridge University Press, Electoral Studies, European Political Science Review, International Journal of Public Opinion, Journal of Elections, Public Opinion & Parties, Journal of Ethnic and Migration Studies, Journal of Public Policy, Journal of Politics, Journal of Race, Ethnicity and Politics, Migration Studies, Perspectives on Politics, Political Behavior, Politics, Groups, and Identities, Political Psychology, Political Research Quarterly, Politics and Religion, Public Opinion Quarterly, Social Science Quarterly, Time-Sharing Experiments for the Social Sciences

Conference Coordination

Politics of Race, Immigration, and Ethnicity Consortium (PRIEC) at the University of Delaware. (2020)

Politics of Race, Immigration, and Ethnicity Consortium (PRIEC) at the University of Washington. (2013)

Latinos and the Voting Rights Act. Center for Democracy and Voting Rights Research at the University of Washington Law School. (2013)

Islam in the Public Sphere Conference. Washington Institute for the Study of Race & Ethnicity (WISER). (2011)

Select Expert
Consulting
Experience

State of Maryland Attorney General's Office; 2021 MD Redistricting

Baltimore County Branch of the NAACP v. Baltimore County, Maryland, No. 1:21-cv-03232-LKG (D. Md. 2022)

Common Cause Florida v. Lee, 4:22-cv-109-AW-MAF (N.D. Fla.)

Common Cause Florida v. Byrd, No. 4:22-cv-00109-AW-MAF (N.D. Fla. 2022) [Deposed]

Dickinson Bay Area NAACP Branch v. Galveston County, Texas, No. 3:22-cv-117-JVB (S.D. Tex. 2023) [Deposed & Testified]

Reyes v. Chilton, 4:21-cv-05075-MKD (E.D. Wash. 2021) [Deposed]

Roswell Independent School District (RISD); 2022 Redistricting

Caroline County Branch of the NAACP v. Town of Federalsburg, Civ. Action No. 23-SAG-00484 (D.Md. 2023)

Cobb County Board of Elections and Registration, No. 1:22-cv-02300-ELR (N.D. Ga. 2022)

Coca v. City of Dodge City, et al. Case no. 6:22-cv-01274 (D Kan. 2022) [Deposed & Testified]

Soto Palmer v. Hobbs, No. 3:22-cv-05035-RSL (W. D. Wash. 2021)

Previous
Research
Positions

Senior Researcher, Washington Poll 2010-2014
Public Opinion Survey Design, Programming, and Analysis.

Researcher, Center for Democracy & Voting Rights Research 2013-2014
Racially Polarized Voting (RPV) Analysis of jurisdictions in states such as: California, Florida, Texas, and Washington.

Investigator, Washington State Charter School Initiative 2013
Precinct and school district level data collection and analysis of the I-1240 Vote for S360 Polling Firm and Melinda & Gates Foundation.

Skills &
Additional
Information

Software: R, STATA, \LaTeX , ESRI, DRA

Languages: Farsi (Persian)–Native Speaker

R Packages: eiCompare (contributor), eiExpand (contributor)

Exhibit 2

From: [Anthony Aronica](#)
To: [Washines, Asa K. \(ATG\)](#)
Cc: [Jeremy Takala](#); [Deland Olney](#); [Ruth Jim](#); [Terry Goudy-Rambler](#); [Gerald Lewis](#); [George Meninick](#); [Ethan Jones](#); [Dawn Vyvyan](#); [Willow Howard](#)
Subject: Re: Soto Palmer - proposed remedial redistricting maps
Date: Friday, December 29, 2023 12:15:31 PM
Attachments: [Letter_YN_AGO_Redistricting_\(12.29.23\).pdf](#)
[WA_Map4.pdf](#)
[WA_Map3.pdf](#)

[EXTERNAL]

Dear Asa,

Attached is the Chairman's response to the AG's Office regarding your request for comment on the proposed remedial maps. Out of those proposed, maps 3 and 4 most closely resemble the current 14th Legislative District that the Yakama Nation consulted in advocacy for and include the most off-Reservation trust allotments.

Regards,
Tony

On Mon, Dec 18, 2023 at 3:23 PM Anthony Aronica <anthony@yakamanation-olc.org> wrote:

Dear Asa,

The referenced legal brief and 5 maps did not stay attached in the forward to me. Are you able to resend those?

Thank you,
Tony

On Mon, Dec 11, 2023 at 3:53 PM Ethan Jones <Ethan@yakamanation-olc.org> wrote:

Dear Mr. Washines,

Thank you for reaching out on this important issue, and I understand from your email that the deadline is December 22nd. We will discuss this and get back to you.

Thanks,

Ethan

On Mon, Dec 11, 2023 at 3:49 PM Washines, Asa K. (ATG) <asa.washines@atg.wa.gov> wrote:

Chairman Lewis & Councilman Takala,

Below is the legal brief and 5 redistricting maps proposals from the plaintiffs in the Voting Rights Act case challenging the Legislative District 15.

The plaintiffs say that their proposals 1 and 2 "keep[] the Yakama Nation Reservation intact in

one legislative district,” now renamed LD 14, and contain “some of the Yakama Nation trust lands.” They say that their proposals 3 and 4 “combine[] the Yakama Nation Reservation and all of the Yakama Nation trust lands and fishing villages in LD 14.” Finally, they say that their proposal 5 “includes all of the Yakama Nation Reservation in LD 14 but not the off-reservation trust lands or fishing villages.”

Our expert has not yet independently verified what the Plaintiffs say about inclusion of the Yakama reservation and trust lands. The deadline for the parties to comment on these proposals is December 22. In theory, the Yakama Nation could file an amicus brief before then, or they may be able to file a comment later after the Court appoints a special master to review the proposed maps (but we don’t know yet what that process will look like)

Our office would like to get your thoughts on the proposals.

Let me know if you have any questions.

Asa K. Washines (Yakama)

Tribal Liaison

Office of the Washington State Attorney General

asa.washines@atg.wa.gov

360.878.0664

--



Ethan Jones, Lead Attorney

Yakama Nation Office of Legal Counsel
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--

Anthony S. Aronica, Staff Attorney II
Yakama Nation Office of Legal Counsel

401 Fort Road/P.O. Box 150, Toppenish, WA 98948
Cell: (509) 833-9350 | anthony@yakamanation-olc.org

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Expert Report of Dr. Loren Collingwood

Loren Collingwood

2024-03-01

Executive Summary

I have been retained by plaintiffs as an expert, and have been asked to examine Dr. Sean Trende's expert report dated 2/23/2024. In particular, I was asked to compare demographic and political features of the plaintiffs' Map 3A against the intervenors' newly proposed map. Specifically, for both plaintiffs' Map 3A, as well as the intervenors' map, I examine 2022 CVAP demographic counts and electoral performance analysis.

Based on my analysis, I conclude the following:

- Map 3A has an estimated HCVAP of 51.04%, and a non-Hispanic white CVAP of 38.36%.
- Intervenors' map has an estimated HCVAP of 51.29%, and a non-Hispanic white CVAP of 42.95%.
- Based on contests between 2016-2020, the performance results for plaintiffs' map 3A are sufficient to provide Latino voters with an equal opportunity to elect candidates of their choice to the state legislature. The intervenors' proposed map shows that the Latino-preferred candidate does win in all the analyzed contests, but in several contests the Latino-preferred candidate nearly loses the election. Thus, there is a significantly greater risk that the Latino voters are unable to elect their preferred candidate in the intervenors' map relative to the plaintiffs' Map 3A.
- Further, voter turnout is often lower in legislative contests relative to top of the ticket (i.e., governor) contests. Given that turnout gaps tend to benefit whites over Latinos, this suggests that exogenous elections used for electoral performance likely slightly overstate Latino-preferred voters' ability to elect candidates of choice. Therefore, there is more doubt whether intervenors' map will perform for Latino-preferred legislative candidates in comparison to plaintiffs' Map 3A.

My opinions are based on the following data sources: 2020 US Census block data, 2022 American Community Survey (ACS) block group data, plaintiff 3A block assignment files, intervenor alternative map block assignment files, and precinct election results.

I am being compensated at a rate of \$400/hour. My compensation is not contingent on the opinions expressed in this report, on my testimony, or on the outcome of this case.

Background and Qualifications

My qualifications were set forth in my last report dated 2/23/2024.



CVAP Comparisons Across Maps

To estimate CVAP demographics for each map, I used the recently released 2022 CVAP block group data taken from the U.S. Census.¹ I filter the block groups to those appearing in each respective map (i.e., LD-15 in the intervenors' map, or LD-14 in plaintiffs' map 3A), then sum the total counts for total population, non-Hispanic white alone, Hispanic, and several other minority groups. For block groups that split legislative district boundaries, I weight them by Voting Age Population (VAP) to estimate the share of the block group that is in vs. out of the district for just that split block group.

Table 1. Demographics 2022 CVAP. Intervenor and Plaintiff 3A maps.

Map	HCVAP	WCVAP	BCVAP	NCVAP	ACVAP
Intervenor D15	51.29	42.95	1.24	0.96	1.33
Map 3A D14	51.04	38.36	1.01	5.25	1.6

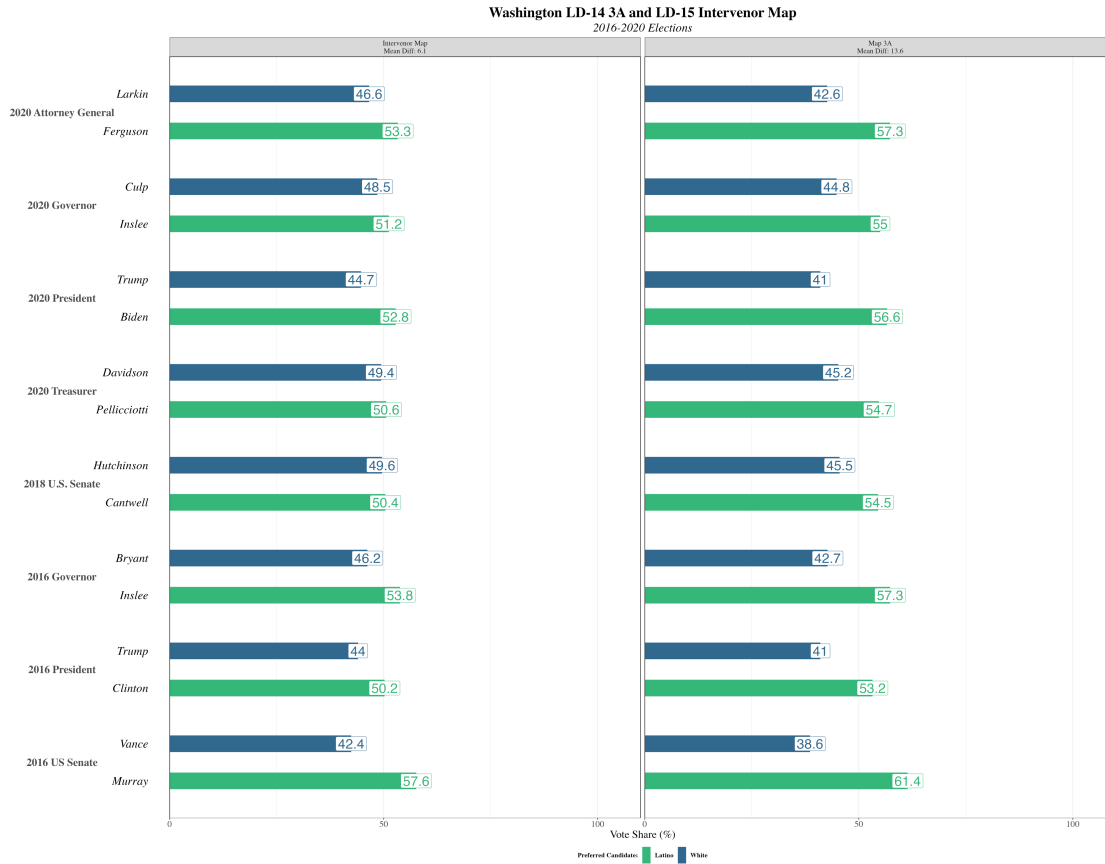
Electoral Performance

Figure 1 compares electoral performance across eight exogenous contests with precincts subset to the respective district maps. For precincts split across district lines, the vote is weighted by the proportion of the population of that precinct/VTD that is in vs. out of the district. Across every contest, the plaintiffs' map 3A outperforms the intervenors' map.

In all analyzed statewide elections, the Latino-preferred candidate wins by a sizeable margin in plaintiffs' Map 3A. In intervenors' late-proposed map, in many contests the Latino-preferred candidate nearly loses the election. As I noted in my initial remedial report, given that Latino-preferred state legislative candidates may receive a lower percentage than statewide candidates, there is some doubt whether intervenors' map would perform for legislative candidates. 12/1/23 Report, p. 3. On the other hand, the larger margin in plaintiffs' map 3A is sufficient to provide Latino voters with an equal opportunity to elect candidates to a state legislative district.

Figure 1. Electoral Performance analysis, Intervenors' Map District 15, Plaintiff Map 3A, 2016-2020 statewide general elections, paneled by map alternative.

¹ <https://www.census.gov/programs-surveys/decennial-census/about/voting-rights/cvap.html>



Pursuant to 28 U.S.C. § 1746, I, Loren Collingwood, declare the foregoing is true and correct.

Dr. Loren Collingwood

Dated: March 1, 2024

The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER, et. al.,

Plaintiffs,

v.

STEVEN HOBBS, et. al.,

Defendants,

and

JOSE TREVINO, ISMAEL CAMPOS,
and ALEX YBARRA,

Intervenor-Defendants.

Case No.: 3:22-cv-05035-RSL

Judge: Robert S. Lasnik

**PLAINTIFFS’ NOTICE OF
FILING REMEDIAL MAP 3B
AND PROPOSED ORDER**

At the March 8, 2024 hearing, the Court requested that Plaintiffs make alterations to their proposed Remedial Map 3A to address “trapped polygon”¹ issues identified in two declarations of Nicholas Pharris—the Support Lead for the VoteWA/TotalAddress election management system in the Elections Division of the Office of the Secretary of State—see Docs. 270 & 286, as well as to incorporate three public domain land parcels identified by the Yakama Nation that were on the border of the original version of proposed Map 3A, see Docs. 272 at 5-12; Doc. 277 at 6 n.5.

¹ A “trapped polygon” in this instance refers to a small area of land that would be in a different legislative district than the balance of its corresponding city council or county commissioner district and thus, without modifications to the legislative map, may necessitate the creation of and additional precinct.

1 Plaintiffs have addressed these issues as follows and submit Map 3B (renamed to avoid confusion)
2 reflecting these changes by email to the Court, the special master, and the parties. As Mr. Pharris’s
3 declarations note, most changes affect zero or very few people and thus the map’s characteristics—
4 and remedial performance—are unaffected.

5 **Public Domain Land Parcels.** Plaintiffs have adjusted Map 3A to include within
6 Legislative District (“LD”) 14 the three parcels identified in the Yakama Nation’s filing, Doc. 272,
7 that Dr. Oskooii identified to be resolved, Doc. 277 at 6 n.5.

8 **“Trapped Polygons” Remedied by Shifting Full Census Blocks.** Most of the “trapped
9 polygons” identified in Mr. Pharris’s declaration can be remedied by shifting entire Census Blocks
10 between districts, as Mr. Pharris suggested. Plaintiffs have adjusted Map 3A to make all of Mr.
11 Pharris’s recommended adjustments—remedying the issues described in paragraph 9-17 and 19-
12 22 of his initial declaration, Doc. 270, and the sole issue raised in his second declaration, Doc. 286.

13 **“Trapped Polygons” Requiring Census Block Splits.** Four of the “trapped polygons”
14 identified by Mr. Pharris are the result of cities annexing *portions* of Census Blocks in the time
15 since the 2020 Census was completed, such that the city boundaries do not align with Census Block
16 boundaries. It is advisable that these polygons be addressed in the remedial map as they contain a
17 handful of voters, and voter privacy is best maintained by avoiding the need to create new precincts
18 containing 1-2 voters each. Plaintiffs and the Secretary have conferred in the time since the March
19 8 hearing and have concluded that the best way to address this category² is for the Court to describe

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² The redistricting software available to Plaintiffs cannot readily split Census Blocks, but the
24 Secretary has confirmed he can implement a map the Court orders with split Census Blocks. As
25 Mr. Pharris’s declaration notes, only seven voters are affected so there is no effect on the
26 population deviation of the districts. Doc. 270, ¶¶ 23-26. Several other states have some split
Census Blocks in their legislative districts. *See* United States Census Bureau, State Legislative

1 the required adjustments in its remedial order, which the Secretary can then implement. Plaintiffs
2 have attached to this Notice a Proposed Order that includes suggested language—which has been
3 reviewed by the Secretary and confirmed to resolve the identified issues—that would adopt Map
4 3B with this category of “trapped polygons” remedied as suggested by Mr. Pharris’s declaration.

5 **Klickitat County/Yakama Nation Border.** Klickitat County’s Commissioner District
6 boundaries do not adhere to the Yakama Nation Reservation boundary. As a result, there are five
7 small, unpopulated areas of land where the “trapped polygon” issue arises, as noted in paragraph
8 18 of Mr. Pharris’s initial declaration, Doc. 270. There are two ways to address this issue.

9
10 First, the legislative boundary can remain as it is in Plaintiffs’ proposal. This approach will
11 respect the boundary of the Yakama Nation Reservation in the legislative map but will require
12 Klickitat County to do one of two things: (1) it can adjust the boundary between County
13 Commissioner Districts 1 and 2 to match the Yakama Nation Reservation boundary in the area
14 identified in paragraph 18 of Mr. Pharris’s declaration or (2) it can create one or more new, zero-
15 population precinct(s) to include the “trapped polygon” territory.

16
17 Second, the legislative boundary in Map 3A can be adjusted to match the boundary of
18 Klickitat County Commissioner Districts 1 and 2 in the area identified in paragraph 18 of Mr.
19 Pharris’s declaration. This would leave a small, unpopulated portion of the Yakama Nation
20 Reservation outside of LD14, but would eliminate the “trapped polygon” issue.

21
22 Plaintiffs believe the most appropriate choice is the first option, *i.e.*, to respect the Yakama
23 Nation Reservation boundary in the legislative map. Plaintiff would encourage the Klickitat
24 County Commission to make a minor adjustment to the boundaries of its county commissioner

25 _____
26 Districts, <https://www.census.gov/programs-surveys/decennial-census/about/rdo/state-legislative-district.html>.

1 district to conform to the Yakama Nation’s Reservation boundary in this region. Regardless of
2 how Klickitat County addresses the issue, however, the Secretary built time into the schedule for
3 these types of adjustments when he requested a remedial map be determined by March 2024. *See*
4 Doc. 179. And zero people are affected regardless of how the county chooses to respond.³

5 The attached Proposed Order adopts Map 3B, which makes all the corrections noted above,
6 and orders the implementation of that map with the minor adjustments necessary to remedy the
7 partial Census Block trapped polygons. Adopting this proposed order will ensure that zero people
8 are affected by any of the issues raised in Mr. Pharris’s declarations and minimize the need for
9 county-level changes to implement the map.
10

11
12 Dated: March 14, 2024

13 By: /s/ Mark P. Gaber

14 Chad W. Dunn*
15 Sonni Waknin*
16 UCLA Voting Rights Project
17 3250 Public Affairs Building
18 Los Angeles, CA 90095
19 Telephone: 310-400-6019
20 Chad@uclavrp.org
21 Sonni@uclavrp.org

Edwardo Morfin
WSBA No. 47831
Morfin Law Firm, PLLC
2602 N. Proctor Street, Suite 205
Tacoma, WA 98407
Telephone: 509-380-9999

22 Mark P. Gaber*
23 Simone Leeper*
24 Aseem Mulji*
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26 Campaign Legal Center
1101 14th St. NW, Ste. 400

Annabelle E. Harless*
Campaign Legal Center
55 W. Monroe St., Ste. 1925
Chicago, IL 60603
aharless@campaignlegal.org

Thomas A. Saenz*
Ernest Herrera*

³ If the Court disagrees and concludes that it is better to ensure that zero “trapped polygons” remain to be addressed by the county, it can add the following sentence to the list of adjustments in Plaintiffs’ Proposed Order: “Reassign Klickitat County Census Blocks 530399501012106, 530399501012105, 530399501012112, and 530399501012114 from LD14 to LD17; reassign Klickitat County Census Block 530399503022058 from LD17 to LD14.”

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*Admitted pro hac vice

Counsel for Plaintiffs

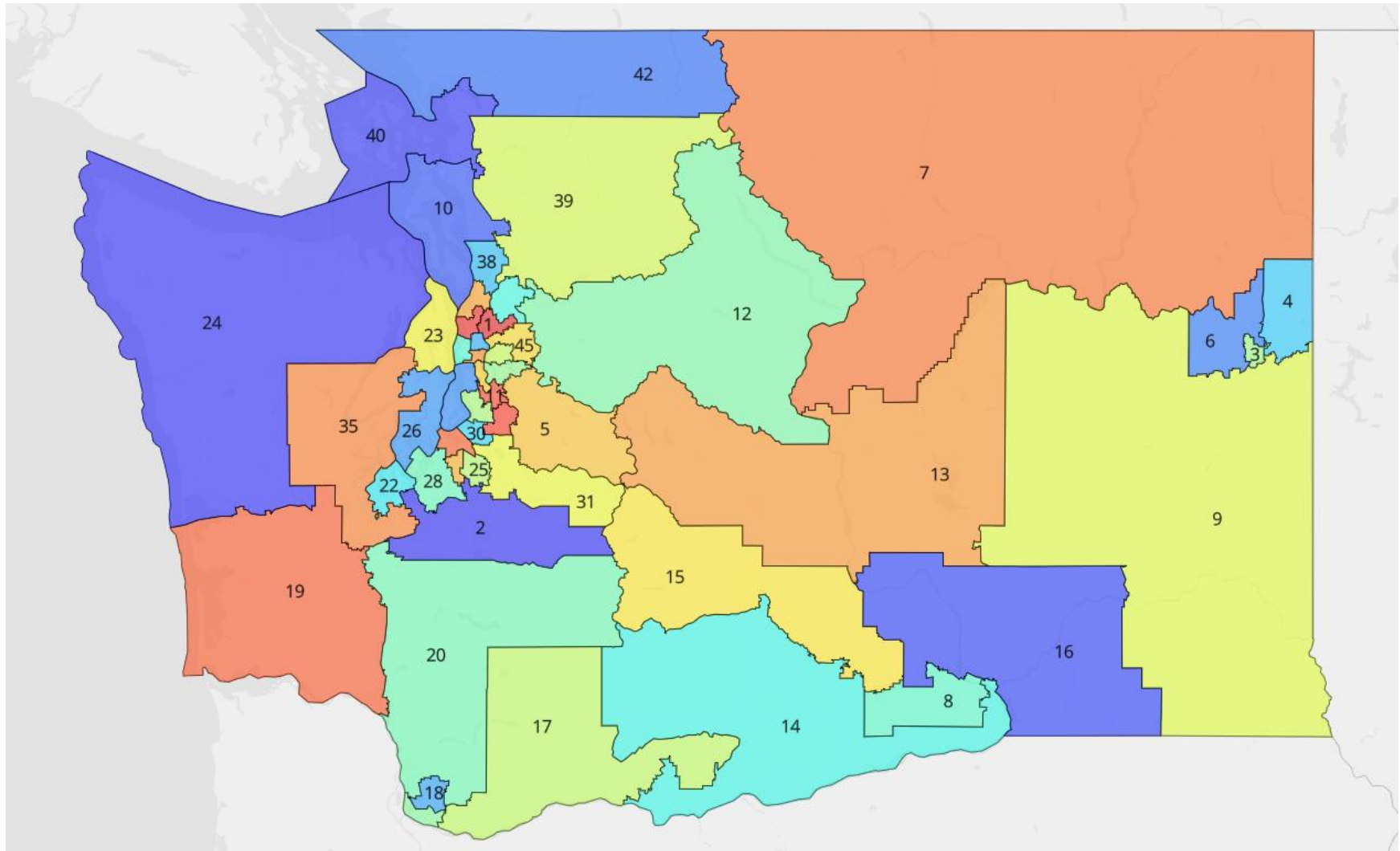
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CERTIFICATE OF SERVICE

I certify that all counsel of record were served a copy of the foregoing this 13th day of March, 2024 via the Court’s CM/ECF system.

/s/ Mark P. Gaber
Mark P. Gaber
Counsel for Plaintiffs



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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SUSAN SOTO PALMER, *et al.*,
Plaintiffs,
v.
STEVEN HOBBS, *et al.*,
Defendants.

Cause No. C22-5035RSL

ORDER GRANTING MOTION TO
INTERVENE

This matter comes before the Court on a “Motion to Intervene” filed by Jose Trevino (a resident of Granger, Washington), Ismael Campos (a resident of Kennewick, Washington), and Alex Ybarra (a State Representative and resident of Quincy, Washington). Dkt. # 57. Plaintiffs filed this lawsuit to challenge the redistricting plan for Washington’s state legislative districts, alleging that the Washington State Redistricting Commission (“the Commission”) intentionally configured District 15 in a way that cracks apart politically cohesive Latino/Hispanic¹ populations and placed the district on a non-presidential election year cycle in order to dilute Latino voters’ ability to elect candidates of their choice. Plaintiffs assert a claim under Section 2

¹ The Complaint and this Order use the terms “Hispanic” and “Latino” interchangeably to refer to individuals who self-identify as Hispanic or Latino and to persons of Hispanic Origin as defined by the United States Census Bureau and United States Office of Management and Budget.

1 of the Voting Rights Act (“VRA”), 52 U.S.C. § 10301(a), and request that the Court enjoin
2 defendants from utilizing the existing legislative map and order the implementation and use of a
3 valid state legislative plan that does not dilute, cancel out, or minimize the voting strength of
4 Latino voters in the Yakima Valley.

5 Plaintiffs named as defendants Steven Hobbs (Washington’s Secretary of State), Laurie
6 Jinkins (the Speaker of the Washington State House of Representatives), and Andy Billig (the
7 Majority Leader of the Washington State Senate). The claims against Representative Jinkins and
8 Senator Billig were dismissed on the ground that plaintiffs failed to plausibly allege an
9 entitlement to relief from either of them. Dkt. # 66 at 4-5. Secretary Hobbs does not have an
10 interest in defending the existing districting plan and has taken no position regarding the merits
11 of plaintiffs’ Section 2 claim. The intervenors assert that they are registered voters who intend to
12 vote in future elections and that they have a stake in this litigation. Mr. Trevino falls within
13 District 15 as drawn by the Commission, Mr. Campos falls within District 8 and could find
14 himself in District 15 if new boundaries are drawn, and Representative Ybarra represents
15 District 13, the boundaries of which may shift if plaintiffs’ prevail in this case.

16 **A. Intervention as of Right**

17 Rule 24 of the Federal Rules of Civil Procedure establishes the circumstances in which
18 intervention as a matter of right is appropriate:

19 (a) Intervention of Right. On timely motion, the court must permit anyone to
20 intervene who:

21 (1) is given an unconditional right to intervene by a federal statute; or

1 (2) claims an interest relating to the property or transaction that is the subject of
2 the action, and is so situated that disposing of the action may as a practical matter
3 impair or impede the movant’s ability to protect its interest, unless existing parties
adequately represent that interest.

4 The Ninth Circuit has distilled four elements from Rule 24(a): intervention of right applies when
5 an applicant “(i) timely moves to intervene; (ii) has a significantly protectable interest related to
6 the subject of the action; (iii) may have that interest impaired by the disposition of the action;
7 and (iv) will not be adequately represented by existing parties.” *Oakland Bulk & Oversized*
8 *Terminal, LLC v. City of Oakland*, 960 F.3d 603, 620 (9th Cir. 2020) (citation omitted).
9 Plaintiffs argue that intervenors cannot satisfy the first, second, or fourth criteria. “While an
10 applicant seeking to intervene has the burden to show that these four elements are met, the
11 requirements are broadly interpreted in favor of intervention.” *Citizens for Balanced Use v.*
12 *Montana Wilderness Ass’n*, 647 F.3d 893, 897 (9th Cir. 2011) (citation omitted).

13 (1) Timeliness

14 Intervenor’s motion to intervene was timely filed. The motion was filed a week after it
15 became apparent that none of the named defendants were interested in defending the existing
16 redistricting map, and it had had no adverse impact on the resolution of the then-pending motion
17 for preliminary injunction.

18 (2) Significant Protectable Interest

19 A proposed intervenor “has a significant protectable interest in an action if (1) it asserts
20 an interest that is protected under some law, and (2) there is a relationship between its legally
21

1 protected interest and the plaintiff’s claims.” *Kalbers v. United States Dep’t of Justice*, 22 F.4th
2 816, 827 (9th Cir. 2021) (citation omitted). “The interest test is not a clear-cut or bright-line rule,
3 because no specific legal or equitable interest need be established. . . . Instead, the ‘interest’ test
4 directs courts to make a practical, threshold inquiry and is primarily a practical guide to
5 disposing of lawsuits by involving as many apparently concerned persons as is compatible with
6 efficiency and due process.” *United States v. City of Los Angeles*, 288 F.3d 391, 398 (9th Cir.
7 2002) (internal quotation marks, citations, and alterations omitted). “The relationship
8 requirement is met if the resolution of the plaintiff’s claims actually will affect the applicant.”
9 *Id.*

10 Intervenor Trevino and Campos claim “an interest in ensuring that any changes to the
11 boundaries of [their] districts do not violate their rights to ‘the equal protection of the laws’
12 under the Fourteenth Amendment” Dkt. # 57 at 6. Representative Ybarra claims “a
13 heightened interest in not only the orderly administration of elections, but also in knowing
14 which voters will be included in his district.” *Id.* All three intervenors claim an interest in the
15 boundaries of the legislative districts in which they find themselves and “in ensuring that
16 Legislative District 15 and its adjoining districts are drawn in a manner that complies with state
17 and federal law.” *Id.* at 6-7.

18 As an initial matter, under Washington law, intervenors have no right or protectable
19 interest in any particular redistricting plan or boundary lines. The legislative district map must
20 be redrawn after each decennial census: change is part of the process. Intervenor, in keeping
21

1 with all other registered voters in the State of Washington, may file a petition with the state
2 Supreme Court to challenge a redistricting plan (RCW 44.05.130), but they have no role to play
3 in the redistricting process. Nor is there any indication that a general preference for a particular
4 boundary or configuration is a legally cognizable interest.

5 Interveners do not allege that their right to vote or to be on the ballot will be impacted by
6 this litigation. Nor have they identified any direct and concrete injury that has befallen or is
7 likely to befall them if plaintiffs' Section 2 claim is successful. Rather, they broadly allege that
8 they have an interest in ensuring that any plan that comes out of this litigation complies with the
9 Equal Protection Clause, state law, and federal law. But a generic interest in the government's
10 "proper application of the Constitution and laws, and seeking relief that no more directly and
11 tangibly benefits [the intervenors] than it does the public at large[,] does not state an Article III
12 case or controversy" (*Lujan v. Defenders of Wildlife*, 504 U.S. 555, 573-74 (1992)), and it would
13 be premature to litigate a hypothetical constitutional violation (*i.e.*, being subjected to a racial
14 gerrymander through a remedial map established in this action) when no such violative conduct
15 has occurred. With the possible exception of Representative Ybarra (discussed below),
16 intervenors have not identified a significant protectable interest for purposes of intervention
17 under Rule 24(a).

18 (3) Adequacy of Representation

19 In addition to the uncognizable interest in legislative district boundaries and the generic
20 interest in ensuring that any new redistricting map complies with the law, Representative Ybarra
21

1 claims an interest in avoiding delays in the election cycle and in knowing ahead of time which
2 voters will be included in his district. The Court assumes, for purposes of this motion, that these
3 interests are significant enough to give Representative Ybarra standing to pursue relief in this
4 litigation. He cannot, however, show that the existing parties will not adequately represent these
5 interests.

6 “The most important factor to determine whether a proposed intervenor is adequately
7 represented by a present party to the action is how the intervenor’s interest compares with the
8 interests of existing parties. . . . Where the party and the proposed intervenor share the same
9 ultimate objective, a presumption of adequacy of representation applies, and the intervenor can
10 rebut that presumption only with a compelling showing to the contrary. . . .” *Perry v.*
11 *Proposition 8 Off. Proponents*, 587 F.3d 947, 950-51 (9th Cir. 2009) (internal quotation marks,
12 citations, and alterations omitted). The arguably protectable interests asserted by Representative
13 Ybarra were ably and successfully urged by Secretary Hobbs in opposition to plaintiffs’ motion
14 for a preliminary injunction. Concerns regarding delays in the election cycle that might arise if
15 district boundaries were redrawn this spring and the disruption to candidates who were
16 considering a run for office were identified by Secretary Hobbs and played a part in the Court’s
17 decision.

18 Because Representative Ybarra’s arguably protectable interests are essentially identical to
19 the arguments that were actually asserted by Secretary Hobbs, Representative Ybarra may defeat
20 the presumption (and evidence) of adequate representation only by making a compelling
21

1 showing that Secretary Hobbs will abandon or fail to adequately make these arguments in the
2 future. *See Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003) (assessing the proposed
3 intervenor’s efforts to rebut the presumption in terms of three factors: “(1) whether the interest
4 of a present party is such that it will undoubtedly make all of a proposed intervenor’s arguments;
5 (2) whether the present party is capable and willing to make such arguments; and (3) whether a
6 proposed intervenor would offer any necessary elements to the proceeding that other parties
7 would neglect”). Representative Ybarra has not attempted to show that Secretary Hobbs will fail
8 to pursue arguments regarding election schedules and the need for certainty as this case
9 progresses. The intervenors have therefore failed to show that the protectable interests they have
10 identified will not be adequately represented in this litigation.²

11 **B. Permissive Intervention**

12 Pursuant to Rule 24(b), “[o]n timely motion, the court may permit anyone to intervene
13 who . . . has a claim or defense that shares with the main action a common question of law or
14 fact. . . . In exercising its discretion, the court must consider whether the intervention will
15 unduly delay or prejudice the adjudication of the original parties’ rights.” In the Ninth Circuit,
16 “a court may grant permissive intervention where the applicant for intervention shows

17
18 ² Representative Ybarra also argues that he will be able to add to the litigation by providing a
19 “valuable perspective on the close interaction between race and partisanship” in opposition to plaintiffs
20 Section 2 claim, and that none of the existing parties is prepared to make such arguments. Dkt. # 57 at 9.
21 That a proposed intervenor has testimony or other evidence that is relevant to a claim or defense does
22 not mean that they have a significant protectable interest for purposes of Rule 24(a), however. It is only
protectable interests that must be adequately represented in the litigation when considering intervention
as a matter of right.

1 (1) independent grounds for jurisdiction; (2) the motion is timely; and (3) the applicant's claim
2 or defense, and the main action, have a question of law or a question of fact in common." *City of*
3 *Los Angeles*, 288 F.3d at 403 (citation omitted). If the initial conditions for permissive
4 intervention are met, the court is then required to consider other factors in making its
5 discretionary decision on whether to allow permissive intervention.

6 These relevant factors include the nature and extent of the intervenors' interest,
7 their standing to raise relevant legal issues, the legal position they seek to advance,
8 and its probable relation to the merits of the case. The court may also consider
9 whether changes have occurred in the litigation so that intervention that was once
10 denied should be reexamined, whether the intervenors' interests are adequately
11 represented by other parties, whether intervention will prolong or unduly delay the
12 litigation, and whether parties seeking intervention will significantly contribute to
13 full development of the underlying factual issues in the suit and to the just and
14 equitable adjudication of the legal questions presented.

15 *Spangler v. Pasadena City Bd. of Ed.*, 552 F.2d 1326, 1329 (9th Cir. 1977) (internal footnotes
16 omitted). Plaintiffs argue that intervenors' motion is untimely, intervention would risk undue
17 delay and would unfairly prejudice plaintiffs, and intervenors' chosen counsel is likely to be a
18 witness in this matter and has already filed a lawsuit challenging Legislative District 15 that is
19 inconsistent with his representation here. Plaintiffs request that, if intervenors are permitted to
20 participate in this litigation at all, it should be in the role of *amicus curiae*, not as parties.

21 (1) Timeliness

22 For the reasons stated above, intervenors' motion to intervene was timely filed.

23 //

1 **(2) Undue Delay and Unfair Prejudice**

2 Plaintiffs argue that the resolution of their Section 2 claim will be unduly delayed and
3 they will be unfairly prejudiced if they are forced to expend resources responding to intervenors'
4 arguments. Plaintiffs acknowledge, however, that intervenors – unlike the defendants they chose
5 to name – intend to oppose plaintiffs' request for relief under Section 2. It is unclear how forcing
6 a litigant to prove its claims through the adversarial process could be considered unfairly
7 prejudicial or how the resulting delay could be characterized as undue. "That [intervenors] might
8 raise new, legitimate arguments is a reason to grant intervention, not deny it. *W. Watersheds*
9 *Project v. Haaland*, 22 F.4th 828, 839 (9th Cir. 2022). The presence of an opposing party is the
10 standard in federal practice: intervenors' insertion into that role would restore the normal
11 adversarial nature of litigation rather than create undue delay or unfair prejudice. To the extent
12 plaintiffs' opposition to intervention is based on their assessment that intervenors' arguments are
13 meritless or irrelevant, the Court declines to prejudge the merits of intervenors' defenses in the
14 context of this procedural motion.

15 **(3) Complications Arising From Counsel's Participation**

16 Plaintiffs do not cite, and the Court is unaware of, any authority supporting the denial of a
17 motion to intervene because of objections to the intervenors' counsel. At present, the Court does
18 not perceive an insurmountable conflict between the claims set forth in *Garcia v. Hobbs*, C22-
19 5152RSL, and intervenors' opposition to plaintiffs' Section 2 claim. If it turns out that counsel's
20 representation gives rise to a conflict under the Rules of Professional Conduct or if he is a
21


1 percipient witness from whom discovery is necessary, those issues can be heard and determined
2 through motions practice as the case proceeds.

3 **(4) Other Relevant Factors**

4 After considering the various factors set forth in *Spangler*, 552 F.3d at 1329, the Court
5 finds that, although intervenors lack a significant protectable interest in this litigation, the legal
6 positions they seek to advance in opposition to plaintiffs' Section 2 claim are relevant and, in the
7 absence of other truly adverse parties, are likely to significantly contribute to the full
8 development of the record and to the just and equitable adjudication of the legal questions
9 presented.

10
11 For all of the foregoing reasons, the motion to intervene (Dkt. # 57) is GRANTED.
12 Intervenor shall file their proposed answer (Dkt. # 57-1) within seven days of the date of this
13 Order. The case management deadlines established at Dkt. # 46 remain unchanged.

14
15 Dated this 6th day of May, 2022.

16 
17 Robert S. Lasnik
18 United States District Judge
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1 **UNITED STATES DISTRICT COURT**
2 **WESTERN DISTRICT OF WASHINGTON**

Hon. Robert S. Lasnik

3 SUSAN SOTO PALMER, et al.,

4 Plaintiffs,

5 v.

6 STEVEN HOBBS, in his official capacity
7 as Secretary of State of Washington, and
8 the STATE OF WASHINGTON,

9 Defendants,

10 and

11 JOSE TREVINO, ISMAEL G. CAMPOS,
12 and State Representative, ALEX YBARRA,

13 Intervenor-Defendants.

Case No. 3:22-cv-05035-RSL

JOINT PRETRIAL STATEMENT
AND [PROPOSED] ORDER

14 **I. JURISDICTION**

15 1. The Court has federal jurisdiction over Plaintiffs' claims pursuant to 28 U.S.C. §§
16 1331; 1343(a)(3) and (4); 1357, 42 U.S.C. § 1983, and 52 U.S.C. § 10301. The Court has
17 jurisdiction to grant relief pursuant to 28 U.S.C. §§ 2201 and 2202; the Declaratory Judgments
18 Act, and Federal Rules of Civil Procedure 57 and 65.

19 2. The Court has jurisdiction over Plaintiffs' claim for costs and attorneys' fees under
20 Federal Rule of Civil Procedure 54, 42 U.S.C. § 1988, and 52 U.S.C. § 10310(e).

21 **II. CLAIMS AND DEFENSES**

22 **Plaintiffs will pursue the following claims at trial:**

23 1. Race and language minority discrimination with discriminatory results in violation
24 of Section 2 of the Voting Rights Act, 52 U.S.C. § 10301.

1 84. When HCR 4407 was brought up for a vote in the Washington State Senate, the
2 Senate Majority Leader, the first senator to speak about the measure, began his speech by stating
3 that “I want to start by talking about what this resolution is not. It is not an approval of the
4 redistricting map and the redistricting plans; it’s not an endorsement of that plan. The Legislature
5 does not have the power to approve or endorse the redistricting plan that the Redistricting
6 Commission approved. What we do have the power to do is to make minor changes. And that
7 brings us to what this resolution does. This resolution makes over 70 small changes to the
8 redistricting plan. They’re minor, mostly technical changes. Almost all of them were
9 recommended by the county auditors, who are the local elections officials. And they help to make
10 the maps work better.”

11 85. LD 15 in the Enacted Plan has a Hispanic or Latino CVAP of 50.02% and a white
12 CVAP of 44.9% according to 2019 5-Year ACS estimates. LD 15 in the Enacted Plan has a
13 Hispanic or Latino CVAP of 51.5% and a white CVAP of 43.2% according to 2020 5-year ACS
14 estimates.

15 **Map Proposals**

16 86. The Census Bureau publicly released the 2020 5-Year ACS estimates in March
17 2022.

18 87. None of the four legislative maps proposed by the Commissioners on September
19 21, 2021 included a district with majority-Hispanic or Latino CVAP.

20 88. Plaintiffs use the term “southcentral Washington” to refer to the area encompassed
21 in Yakima, Adams, Benton, Grant, and Franklin Counties.

22 89. The southcentral Washington (as defined by Plaintiffs) district with the highest
23 Hispanic or Latino CVAP percentage in Commissioner Graves’s September 21, 2021 proposal,
24

1 2014). The court reviewed evidence regarding the three *Gingles* factors and concluded that each
2 was satisfied with respect to Latino voters in the City of Yakima. *Id.* At 1390-1407. The Court
3 also found that the totality of the circumstances demonstrated that the City’s electoral process was
4 not equally open to participation by Latino voters after analyzing the Senate Factors. *Id.* At 1408-
5 1414.

6 121. In *Glatt v. City of Pasco*, a challenge to Pasco’s at-large voting system, the court
7 entered a consent decree in which the parties stipulated to each *Gingles* factor as well as a finding
8 that the totality of the circumstances shows an exclusion of Latinos from meaningfully
9 participating in the political process. *See* Partial Consent Decree, *Glatt v. City of Pasco*, No. 4:16-
10 CV-05108-LRS, ECF No. 16 ¶¶ 15-22 (E.D. Wash. Sep. 2, 2016); *see also* Mem. Op. and Order,
11 *Glatt v. City of Pasco*, No. 4:16-CV-05108-LRS, ECF No. 40 at 29 (E.D. Wash. Jan. 27, 2017).

12 122. In *Aguilar v. Yakima County*, No. 20-2-0018019 (Kittitas Cnty. Super. Ct.), a
13 challenge against the at-large voting system used in Yakima County, the parties entered and the
14 court approved a settlement agreement finding that the conditions for a violation of the Washington
15 Voting Rights Act, including a showing of racially polarized voting, had been met in Yakima
16 County.

17 **2024 Elections**

18 123. Under recently enacted legislation, statutory deadlines for the 2024 election cycle
19 include RCW 29A.16.040, which will require precinct boundaries be drawn no later than 7 days
20 before the first day for candidates to file for the primary election, and RCW 29A.24.050, which
21 sets the first Monday in May as the first day for candidates to declare their candidacy.

1 124. Should the Court determine a new legislative district map must be drawn as a
2 remedy, March 25, 2024 is the latest date a finalized legislative district map must be transmitted
3 to counties without significantly disrupting the 2024 election cycle.

4 **IV. ISSUES OF LAW**

5 **The following are the issues of law to be determined by the court:**

6 1. Whether Plaintiffs have established the three *Gingles* preconditions to establish a
7 discriminatory results claim under Section 2 VRA including:

- 8 a. Whether the Latino community in the Yakima Valley region is sufficiently large
9 and geographically compact to constitute a majority in a single-member district;
10 b. Whether the Latino community in the Yakima Valley region is politically cohesive;
11 c. Whether the white majority in the Yakima Valley region votes sufficiently as a bloc
12 to enable it, absent special circumstances, usually to defeat the Latino community's
13 preferred candidates.

14 2. Whether the totality of the circumstances shows that LD15 has the effect of denying
15 Latino voters in the Yakima Valley region an equal opportunity to participate in the political
16 processes and to elect their candidates of choice.

17 3. Whether Plaintiffs are prevailing parties entitled to attorneys' fees under 42 U.S.C.
18 § 1988 and 52 U.S.C. § 10310(e).

19 4. Plaintiffs contend that Intervenor-Defendants did not raise Nos. 11 and 12 below
20 as affirmative defenses in their Answer, and have thus waived these arguments.

21 5. Secretary Hobbs does not have any objections, additions, or changes to Plaintiffs'
22 statement of issues of law.

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER, et al.

 Plaintiffs,

 v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, and
the STATE OF WASHINGTON,

 Defendants,

 and

JOSE TREVINO, ISMAEL G. CAMPOS,
and State Representative ALEX YBARRA,

 Intervenor-Defendants.

NO. 3:22-cv-5035-RSL

STATE OF WASHINGTON’S
TRIAL BRIEF

1 Order at 29, *Glatt*, No. 4:16-CV-05108-LRS, Dkt. # 40) (“It has been stipulated and this court
 2 has found that voting in Pasco evidences racial polarization.”). Lastly, in *Aguilar*, a challenge
 3 against the at-large voting system used in Yakima County, the parties entered and the court
 4 approved a settlement agreement finding that the conditions for a violation of the Washington
 5 Voting Rights Act (WVRA), including a showing of racially polarized voting, had been met in
 6 Yakima County. Exs. ## 605, 606. While *Montes*, *Glatt*, and *Aguilar* addressed slightly different
 7 geographic areas than the area encompassed by LD 15, the findings of racial polarization in those
 8 three cases lend support to Dr. Alford’s conclusions of racially polarized voting in the Yakima
 9 Valley area under the second and third *Gingles* factors.

10 **3. The State does not dispute that the evidence will establish that many of the**
 11 **Senate Factors are satisfied**

12 As *Gingles* makes clear, “the most important Senate . . . [F]actors bearing on § 2
 13 challenges . . . are the extent to which minority group members have been elected to public office
 14 in the jurisdiction and the extent to which voting in the elections of the state or political
 15 subdivision is racially polarized,” factors that are largely incorporated into the precondition
 16 analysis. *Gingles*, 478 U.S. at 51 n.15 (quotation omitted).⁶ Thus, “it will be only the very
 17 unusual case in which the plaintiffs can establish the existence of the three *Gingles* factors but
 18 still have failed to establish a violation of § 2 under the totality of circumstances.” *Jenkins v. Red*
 19 *Clay Consol. Sch. Dist. Bd. of Educ.*, 4 F.3d 1103, 1135 (3d Cir.1993).

20 Here, the State does not dispute that the expert testimony and other evidence will
 21 demonstrate that Hispanic voters in the Yakima Valley area are less able than white voters to
 22 elect representatives of their choice. Dr. Alford’s performance analysis underscores this
 23 differential, indicating that while LD 15 is highly competitive, “[t]he preferred candidate of

24
 25 ⁶ The *Gingles* Court went on: “If present, the other [Senate F]actors, such as the lingering effects of past
 26 discrimination, the use of appeals to racial bias in election campaigns, and the use of electoral devices which enhance
 the dilutive effects of multimember districts when substantial white bloc voting exists . . . are supportive of, but *not*
essential to, a minority voter’s claim.” *Gingles*, 478 U.S. at 51 n.15 (emphasis in original).

1 Spanish-surnamed voters prevails in three of the ten contests.” Ex. # 601 at p. 16. Publicly
 2 available data from Dave’s Redistricting—the software Commissioners used to draft and share
 3 maps—confirms this conclusion, suggesting that LD 15 would have voted fairly consistently
 4 against Hispanic-preferred candidates in statewide races from 2016 to 2020, albeit by relatively
 5 narrow margins. WA 2022 State Legislatures, Dave’s Redistricting LLC, available at
 6 <https://davesredistricting.org/maps#viewmap::3e3c5f5c-3a83-4847-b1d8-5328fb3b9e31> (last
 7 accessed May 31, 2023).

8 Furthermore, successful Section 2 and WVRA lawsuits in Yakima, Yakima County, and
 9 Pasco provide compelling evidence that, historically, Hispanic voters in and around the Yakima
 10 Valley have been prevented from electing the candidates of their choice. *Montes*, 40 F. Supp. 3d
 11 at 1409–1415; Partial Consent Decree, *Glatt*, No. 4:16-CV-05108-LRS, Dkt. # 16; *Aguilar*,
 12 No. 20-2-0018019. A recent history of Section 2 violations is itself highly significant. But
 13 *Montes* also includes detailed findings under the Senate Factors. The Court there pointed to
 14 historical voting-related discrimination (most notably a 2004 lawsuit against Yakima County for
 15 failing to provide Spanish-language voting materials), evidence of racially polarized voting,
 16 significant statistical evidence of socio-economic disparities between whites and Hispanics in
 17 Yakima, and the lack of electoral success of Hispanic candidates in Yakima to conclude that the
 18 Senate Factors “weigh firmly” in favor of Section 2 liability. *Montes*, 40 F. Supp. 3d at 1414.
 19 The State cannot dispute that these factors point in the same direction here. *See* Ex. # 004 (Expert
 20 Report of Dr. Josué Estrada).⁷

21 In summary, the State has no basis to dispute that the evidence at trial will demonstrate
 22 that the *Soto Palmer* Plaintiffs have satisfied the three *Gingles* preconditions for a Section 2 vote
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 25
 26 ⁷ This is not to say that the State agrees with or adopts the conclusions of *Soto Palmer* Plaintiffs’ Senate
 Factors Expert, Dr. Josué Estrada, but merely that many of the facts that were dispositive in *Montes* are essentially
 undisputed here.

1 dilution claim and that, under the totality of the circumstances, Hispanic voters in LD 15 are less
2 able to participate in the political process and elect candidates of their choice than white voters.

3 **B. *Soto Palmer* Plaintiffs Cannot Carry Their Burden to Prove That the Redistricting**
4 **Commission Intentionally Discriminated Against Latino Voters**

5 While the State does not dispute that the *Soto Palmer* Plaintiffs can establish a
6 discriminatory result, *Soto Palmer* Plaintiffs will fall far short of proving discriminatory intent
7 within the meaning of Section 2.

8 *Soto Palmer* Plaintiffs face a daunting burden of proof. To prevail on this claim, they
9 must overcome “the presumption of good faith that must be accorded legislative enactments.”
10 *Miller v. Johnson*, 515 U.S. 900, 916 (1995). This requires them to prove that “a discriminatory
11 purpose has been a motivating factor in the decision” to adopt LD 15. *Village of Arlington*
12 *Heights v. Metro. Hous. Dev. Corp.*, 429 U.S. 252, 265–66 (1977); see *Brnovich v. Democratic*
13 *Nat’l Comm.*, 141 S. Ct. 2321, 2349 (2021) (applying *Arlington Heights* framework to
14 discriminatory intent claim under Section 2 of the VRA). “‘Discriminatory purpose’ . . . implies
15 more than intent as volition or intent as awareness of consequences ***It implies that the***
16 ***decision maker . . . selected or reaffirmed a particular course of action at least or in part***
17 ***‘because of,’ not merely ‘in spite of,’ its adverse effects upon an identifiable [minority] group.***”
18 *Pers. Adm’r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979) (emphasis added) (internal citation
19 omitted); accord *Veasey v. Abbott*, 830 F.3d 216, 231 (5th Cir. 2016) (relying on *Feeney* in
20 considering a discriminatory intent claim under Section 2 and recognizing that “[l]egislators’
21 awareness of a disparate impact on a protected group is not enough: the law must be passed
22 *because of* that disparate impact”); *N.C. State Conf. of NAACP v. McCrory*, 831 F.3d 204, 220
23 (4th Cir. 2016) (similar); see also *Hunter v. Underwood*, 471 U.S. 222, 228 (1985) (“Proving the
24 motivation behind official action is often a problematic undertaking.”). *Soto Palmer* Plaintiffs
25 cannot meet their burden to prove discriminatory purpose under this demanding standard.
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6 UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 SUSAN SOTO PALMER, *et al.*,

9 Plaintiffs,

10 v.

11 STEVEN HOBBS, *et al.*,

12 Defendants,

13 And

14 JOSE TREVINO, *et al.*,

15 Intervenor-Defendants.

CASE NO. 3:22-cv-05035-RSL

ORDER

16
17 On August 10, 2023, the Court found that the boundaries of Washington Legislative
18 District 15, in combination with the social, economic, and historical conditions in the
19 Yakima Valley region, results in an inequality in the electoral opportunities enjoyed by
20 white and Latino voters in the area. Judgment was entered in plaintiffs' favor on their
21 Section 2 Voting Rights Act claim, and the State of Washington was given an opportunity
22 to adopt revised legislative district maps for the Yakima Valley region pursuant to the
23 process set forth in the Washington State Constitution and state statutes. When news
24 reports indicated that the Majority Caucus Leaders of both houses of the Washington State
25
26

ORDER - 1

1 Legislature had declined to reconvene the bipartisan redistricting commission, the State
2 was directed to file a status report notifying the Court of the Legislature’s position. Having
3 reviewed the State’s submission and the responses of plaintiffs and the Minority Caucus
4 Leaders, the Court finds as follows:
5

6 Given the practical realities of the situation as revealed by the submissions of the
7 interested parties, the Court will not wait until the last minute to begin its own redistricting
8 efforts. If, as the Minority Caucus Leaders hope, the Legislature is able to adopt revised
9 legislative maps for the Yakima Valley region in a timely manner, the Court’s parallel
10 process, set forth below, will have been unnecessary. The likelihood that that will happen
11 has lessened significantly since the Court issued its Memorandum of Decision, however.
12 Establishing earlier deadlines for the presentation of alternative remedial proposals will
13 allow a more deliberate and informed evaluation of those proposals.
14
15

16 The parties shall meet and confer with the goal of reaching a consensus on a
17 legislative district map that will provide equal electoral opportunities for both white and
18 Latino voters in the Yakima Valley regions, keeping in mind the social, economic, and
19 historical conditions discussed in the Memorandum of Decision. If the parties are unable to
20 reach agreement, they shall (a) further confer regarding nominees to act as Special Master
21 to assist the Court in the assessment of proposed remedial plans and to make modifications
22 to those plans as necessary and (b) file alternative remedial proposals and nominations on
23 the following schedule:
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1 December 1, 2023 -- Deadline for the parties¹ to submit remedial proposals,²
2 supporting memoranda, and exhibits (including expert reports).

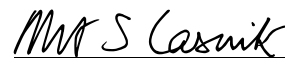
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4 December 1, 2023 – Deadline for the parties to jointly identify three candidates for
5 the Special Master position (including their resumes/CVs, a statement of interest,
6 availability, and capacity) and to provide their respective positions on each candidate.

7 December 22, 2023 – Deadline for the parties to submit memoranda and exhibits
8 (including rebuttal expert reports) in response to the remedial proposals.

9
10 January 5, 2024 – Deadline for the parties to submit memoranda and exhibits
11 (including sur-rebuttal expert reports) in reply.

12
13 IT IS SO ORDERED.

14
15
16 Dated this 4th day of October, 2023.

17
18 
19 Robert S. Lasnik
United States District Judge

20
21
22 _____
23 ¹ No party has identified an individual or entity that has unique information or perspective that could help the Court
beyond the assistance that the parties and their lawyers are able to provide, nor have they shown any other justification
for the allowance of amicus briefs.

24 ² The parties shall discuss the format and functionality of the remedial proposals, but the Court generally favors
25 plaintiffs' suggestions that the maps include important roadways, important geographical markers, and voting precinct
26 boundaries, that the maps be in a zoomable pdf format, and that the proposals include demographic data (e.g., total
population per district and race by district of total population and citizen voting age population). Contemporaneous
with the filing, all counsel of record shall be provided shapefiles, a comma separated value file, or an equivalent file
that is sufficient to load the proposed plan into commonly available mapping software.

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

SUSAN SOTO PALMER, et. al.,
Plaintiffs,
v.
STEVEN HOBBS, et. al.,
Defendants,
and
JOSE TREVINO, ISMAEL CAMPOS, and
ALEX YBARRA,
Intervenor-Defendants.

Case No.: 3:22-cv-05035-RSL
Judge: Robert S. Lasnik
**PLAINTIFFS’ BRIEF IN
SUPPORT OF REMEDIAL
PROPOSALS**

I. INTRODUCTION

On October 4, 2023, this Court ordered the parties to “meet and confer with the goal of reaching a consensus on a legislative district map” that would remedy the dilution of Latino voting strength under Section 2 of the Voting Rights Act (VRA) arising from the configuration of LD 15. Order at 2, Dkt. #230. The parties met on November 16, 2023, but failed to reach a consensus on a remedial map. Plaintiffs now respectfully submit five proposed maps that remedy the VRA violation for Latino voters in the Yakima Valley region and provide all voters in the region equal

1 electoral opportunity. Each proposal is a complete and comprehensive remedy to Plaintiffs’
2 Section 2 harms that aligns with both traditional redistricting principles and federal law.

3 II. LEGAL STANDARD

4 To remedy the Section 2 violation in the Yakima Valley region, the Court must order the
5 adoption of a remedial plan in which Latino voters possess “real electoral opportunity.” *See, e.g.,*
6 *League of United Latin Am. Citizens v. Perry*, 548 U.S. 399, 428 (2006). The Court should
7 “exercise its traditional equitable powers to fashion the relief so that it *completely* remedies the
8 prior dilution of minority voting strength and *fully* provides equal opportunity for minority citizens
9 to participate and to elect candidates of their choice.” *Ketchum v. Byrne*, 740 F.2d 1398, 1412 (7th
10 Cir. 1984) (quoting S. Rep. No. 97-417, at 31) (emphasis added); *see also Gomez v. City of*
11 *Watsonville*, 863 F.2d 1407, 1419 (9th Cir. 1988) (“the district court has broad equitable powers
12 to fashion relief which will remedy the Section 2 violation completely”); *McGhee v. Granville*
13 *Cnty., N.C.*, 860 F.2d 110, 118 (4th Cir. 1988) (“If a vote dilution violation is established, the
14 appropriate remedy is to restructure the districting system to eradicate, to the maximum extent
15 possible *by that means*, the dilution proximately caused by that system.”) (emphasis in original);
16 *U.S. v. Dallas Cnty. Comm’n*, 850 F.2d 1433, 1438 (11th Cir. 1988).

17
18
19 The Court ought to conduct a fact-based analysis of the district’s demographics, racial
20 polarization, and past electoral performance to ensure the remedial district configuration will, in
21 fact, provide the minority community with an equal opportunity to elect candidates of its choice.
22 *See League of United Latin Am. Citizens*, 548 U.S. at 428–29 (considering whether a district was
23 “an effective opportunity district” by assessing a district’s Latino citizen voting age population
24 and past electoral performance); *Milligan v. Merrill*, 582 F. Supp. 3d 924, 936 (N.D. Ala. 2022),
25 *aff’d sub nom. Allen v. Milligan*, 599 U.S. 1 (2023) (ordering that a remedial plan create “either an
26

1 additional majority-Black congressional district, or an additional district in which Black voters
2 otherwise have an opportunity to elect a representative of their choice.”). Plaintiffs demonstrated
3 that it is possible to draw a district with over 50% Latino Citizen Voting Age Population (“CVAP”)
4 to prove *liability*, but once a violation has been shown, a remedial map imposed by a Court need
5 not include “majority-minority” districts to achieve Section 2 compliance. Instead, as noted above,
6 the remedial inquiry turns on a functional analysis of a district’s electoral performance for Latino
7 voters, not an arbitrary demographic threshold. *See Bartlett v. Strickland*, 556 U.S. 1, 23 (2009)
8 (stating that “§ 2 allows States to choose their own method of complying with the Voting Rights
9 Act, and we have said that may include drawing crossover districts”) (internal citations omitted);
10 *Cooper v. Harris*, 137 S. Ct. 1455, 1472 (2017).

12 When adopting a remedial district, this Court must consider traditional redistricting
13 principles as well as the policies underlying the current redistricting plan, but those considerations
14 ultimately must subordinate to compliance with the Constitution and the Voting Rights Act. *See*
15 *Arizona v. Inter Tribal Council of Ariz. Inc.*, 133 S. Ct. 2247, 2256 (2013) (“[Federal legislation]
16 so far as it extends and conflicts with the regulations of the State, necessarily supersedes them.”
17 (citation omitted)); *Large v. Fremont County*, 670 F.3d 1133, 1145 (10th Cir. 2012) (“In remedial
18 situations under Section 2 where state laws are necessarily abrogated, the Supremacy Clause
19 appropriately works to suspend those laws because they are an unavoidable obstacle to the
20 vindication of the federal right.” (emphasis in original)).

23 **III. PLAINTIFFS’ REMEDIAL PROPOSALS**

24 Plaintiffs present five proposed remedial plans, each of which comply with traditional
25 redistricting principles including population equality, compactness, contiguity, respect for political
26 subdivisions, and preservation of communities of interest. Ex. 1, Oskooii Decl. at 4-11; RCW

1 29A.76.010(4). Each of the remedial proposals was drafted by Plaintiffs’ remedial mapping expert,
2 Dr. Kassra Oskooii, without consideration of the racial or partisan composition of the districts. *Id.*
3 at 4. Each plan would remedy the dilution of Latino voting strength in the Yakima Valley region
4 by creating a district in which Latino voters have an equal opportunity to elect candidates of their
5 choice to the state legislature despite high degrees of racially polarized voting. Ex. 2, Collingwood
6 Decl. at 1. Consistent with the Court’s instruction to “keep[] in mind the social, economic, and
7 historical conditions discussed in the Memorandum of Decision,” Order at 2, Dkt. #230, Plaintiffs’
8 proposed remedial districts are each labeled as LD 14 wherein elections for state senate align with
9 the higher turnout gubernatorial and presidential elections. In doing so, none of Plaintiffs’ proposed
10 plans pair any Senators who would be up for election in the off-year of 2026. Because Latino voter
11 turnout is less depressed in presidential elections than in off-year elections, Mem. of Decision at
12 17, Dkt. #218, the creation of the remedial district as LD 14 will significantly contribute to
13 ensuring the region’s Latinos will have “real electoral opportunity” as required by Section 2.
14 *League of United Latin Am. Citizens*, 548 U.S. at 428.
15

16
17 While any of Plaintiffs’ proposed plans would remedy the VRA violation, Plaintiffs’
18 preference is for the Court to adopt a proposed remedial district configuration which unites
19 populations in Yakima, Pasco, and various smaller population centers bridging them, which “form
20 a community of interest based on more than just race.” Mem. of Decision at 10, Dkt. #218.
21

22 ***Plaintiffs’ Remedial Proposal 1***

23 As Dr. Oskooii explains in his attached declaration, Remedial Proposal 1 contains a
24 configuration of LD 14 that unites the community of interest in the Yakima Valley region,
25 including both the East Yakima and Pasco community centers and smaller communities in the
26 Lower Yakima Valley like Wapato, Toppenish, Sunnyside, and Grandview. Plaintiffs’ Remedial

1 Proposal 1, like all of Plaintiffs' remedial proposals, keeps the Yakama Nation Reservation intact
2 in one legislative district. LD 14 in Plaintiffs' Remedial Proposal 1 also contains some of the
3 Yakama Nation trust lands.

4 Dr. Collingwood separately assessed whether Plaintiffs' Remedial Proposal 1 would
5 perform to allow Latino voters an equal opportunity to elect their candidates of choice. LD 14 in
6 Remedial Proposal 1 has a Latino CVAP of 51.65%. Ex. 2, Collingwood Decl. at 3. Importantly,
7 Remedial Proposal 1 provides Latino voters in the Yakima Valley region with an equal opportunity
8 to elect candidates of choice to the state legislature across a range of electoral conditions. The
9 performance analysis conducted by Dr. Collingwood shows that in nine of the nine elections
10 considered, the Latino-preferred candidate would win in LD14 in Remedial Proposal 1. Ex. 2,
11 Collingwood Decl. at 4.
12

13 *Plaintiffs' Remedial Proposal 2*

14 LD 14 in Remedial Proposal 2 has an identical configuration to LD 14 in Plaintiffs'
15 Remedial Proposal 1 but offers an alternative configuration of the legislative districts *surrounding*
16 LD 14.
17

18 *Plaintiffs' Remedial Proposal 3*

19 Plaintiffs' Remedial Proposal 3, like 1 and 2, contains a configuration of LD 14 which joins
20 communities of interest in the Yakima Valley region, including both East Yakima and Pasco
21 community centers as well as communities in the Lower Yakima Valley like Wapato, Toppenish,
22 Sunnyside, and Grandview. Plaintiffs' Remedial Proposal 3 also combines the Yakama Nation
23 Reservation and all of the Yakama Nation trust lands and fishing villages in LD 14.
24

25 Dr. Collingwood separately assessed whether Plaintiffs' Remedial Proposal 3 would
26 perform to allow Latino voters an equal opportunity to elect their candidates of choice. LD 14 in

1 Remedial Proposal 3 has a Latino CVAP of 50.14%. Ex. 2, Collingwood Decl. at 3. Remedial
2 Proposal 3 provides Latino voters in the Yakima Valley region with an equal opportunity to elect
3 candidates of their choice to the state legislature across a range of electoral conditions. The
4 performance analysis conducted by Dr. Collingwood shows that in nine of the nine elections
5 considered, the Latino-preferred candidate would win in LD 14 in Remedial Proposal 3. Ex. 2,
6 Collingwood Decl. at 4.
7

8 *Plaintiffs' Remedial Proposal 4*

9 LD 14 in Remedial Proposal 4 has an identical configuration to LD 14 in Plaintiffs'
10 Remedial Proposal 3 but offers an alternative configuration of the legislative districts *surrounding*
11 LD 14.

12 *Plaintiffs' Remedial Proposal 5*

13 Remedial Proposal 5 contains a configuration of LD 14 which does not include Pasco in
14 LD 14. Remedial Proposal 5 includes all of the Yakama Nation Reservation in LD 14 but not the
15 off-reservation trust lands or fishing villages. While Remedial Proposal 5 is not preferred by
16 Plaintiffs, it would nonetheless remedy the Section 2 violation by creating an effective opportunity
17 district for Latino voters, should this Court choose to do so without uniting the full Yakima Valley
18 region community of interest, including both Yakima and Pasco Latinos, in one legislative district.
19

20 Dr. Collingwood separately assessed whether Plaintiffs' Remedial Proposal 5 would
21 perform to allow Latino voters an equal opportunity to elect their candidates of choice. LD 14 in
22 Remedial Proposal 5 has a Latino CVAP of 47%. Ex. 2, Collingwood Decl. at 3. Remedial
23 Proposal 5 provides Latino voters in the Yakima Valley region with an equal opportunity to elect
24 candidates of their choice to the state legislature across a range of electoral conditions. The
25 performance analysis conducted by Dr. Collingwood shows that in nine of the nine elections
26

1 considered, the Latino-preferred candidate would win in LD 14 in Remedial Proposal 5. Ex. 2,
2 Collingwood Decl. at 4.

3 **IV. CONCLUSION**

4 Plaintiffs respectfully urge this Court to adopt one of Plaintiffs’ five proposed remedial
5 plans, which fully and effectively remedy the Section 2 violation in the region, with a preference
6 for Remedial Plans 1-4.
7

8
9 Dated: December 1, 2023

Respectfully submitted,

10
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CERTIFICATE OF SERVICE

I certify that all counsel of record were served a copy of the foregoing this 1st day of December 2023, via the Court’s CM/ECF system.

/s/ Annabelle E. Harless
Annabelle E. Harless
Counsel for Plaintiffs

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

SUSAN SOTO PALMER, et al.,

 Plaintiffs,

 v.

STEVEN HOBBS, et al.,

 Defendants.

JOSE TREVINO, et al.

 Intervenor-Defendants.

NO. 3:22-cv-05035-RSL

DEFENDANT SECRETARY OF STATE
STEVEN HOBBS’S RESPONSE TO
PLAINTIFFS’ BRIEF IN SUPPORT OF
REMEDIAL PROPOSALS

Secretary Hobbs takes no position on whether to adopt any of Plaintiffs’ proposed remedial maps. Secretary Hobbs submits this brief for the purpose of providing information about the proposals and defers to the Court regarding whether and how the information should be utilized by the Court in selecting a remedial map. Specifically, this brief provides two pieces of information regarding each remedial map: (1) the counties affected; and (2) the districts in which incumbents would be displaced. This information was identified through an analysis performed by the Office of the Secretary of State. Decl. of Nick Pharris.

Plaintiffs' Remedial Proposal 1

1
2 Plaintiffs' first remedial proposal would affect 13 counties: Adams, Benton, Chelan,
3 Clark, Douglas, Franklin, Grant, King, Klickitat, Lewis, Pierce, Thurston, and Yakima. Pharris
4 Decl., ¶ 5.

5 Plaintiffs' first remedial proposal would displace 8 incumbents in the following
6 positions, Pharris Decl., ¶ 7:

- 7 LD 8 Representative, Position 1
- 8 LD 12 Senator
- 9 LD 14 Representative, Position 1
- 10 LD 14 Representative, Position 2
- 11 LD 14 Senator
- 12 LD 15 Senator
- 13 LD 31 Representative, Position 1
- 14 LD 31 Senator

Plaintiffs' Remedial Proposal 2

15
16
17 Plaintiffs' second remedial proposal would affect 11 counties: Adams, Benton, Clark,
18 Franklin, Grant, King, Klickitat, Lewis, Pierce, Thurston, and Yakima. Pharris Decl., ¶ 5.

19 Plaintiffs' second remedial proposal would displace 5 incumbents in the following
20 positions, Pharris Decl., ¶ 8:

- 21 LD 8 Representative, Position 1
- 22 LD 14 Representative, Position 1
- 23 LD 14 Representative, Position 2
- 24 LD 14 Senator
- 25 LD 15 Senator

Plaintiffs' Remedial Proposal 3

1
2 Plaintiffs' third remedial proposal would affect 12 counties: Adams, Benton, Chelan,
3 Clark, Douglas, Franklin, Grant, King, Klickitat, Pierce, Thurston, and Yakima. Pharris
4 Decl., ¶ 5.

5 Plaintiffs' third remedial proposal would displace 7 incumbents in the following
6 positions, Pharris Decl., ¶ 9:

- 7 LD 8 Representative, Position 1
- 8 LD 12 Senator
- 9 LD 14 Representative, Position 1
- 10 LD 14 Representative, Position 2
- 11 LD 14 Senator
- 12 LD 15 Senator
- 13 LD 31 Senator

14
15 ***Plaintiffs' Remedial Proposal 4***

16 Plaintiffs' fourth remedial proposal would affect 10 counties: Adams, Benton, Clark,
17 Franklin, Grant, King, Klickitat, Pierce, Thurston, and Yakima. Pharris Decl., ¶ 5.

18 Plaintiffs' fourth remedial proposal would displace 5 incumbents in the following
19 positions, Pharris Decl., ¶ 10:

- 20 LD 8 Representative, Position 1
- 21 LD 14 Representative, Position 1
- 22 LD 14 Representative, Position 2
- 23 LD 14 Senator
- 24 LD 15 Senator

Plaintiffs’ Remedial Proposal 5

Plaintiffs’ fifth remedial proposal would affect 3 counties: Benton, Klickitat, and Yakima. Pharris Decl., ¶ 5.

Plaintiffs’ fifth remedial proposal would displace 4 incumbents in the following positions, Pharris Decl., ¶ 11:

LD 14 Representative, Position 1

LD 14 Representative, Position 2

LD 15 Representative, Position 1

LD 15 Representative, Position 2

RESPECTFULLY SUBMITTED this 22nd day of December, 2023.

ROBERT W. FERGUSON
Attorney General

s/ Karl D. Smith
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Attorneys for Defendant Steven Hobbs

DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 22nd day of December 2023, at Olympia, Washington.

s/ Leena Vanderwood
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The Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

SUSAN SOTO PALMER, et al.,
Plaintiffs,
v.
STEVEN HOBBS, et al.,
Defendants.
JOSE TREVINO, et al.
Intervenor-Defendants.

NO. 3:22-cv-05035-RSL

DECLARATION OF NICHOLAS PHARRIS IN SUPPORT OF DEFENDANT SECRETARY OF STATE STEVEN HOBBS'S RESPONSE TO PLAINTIFFS' BRIEF IN SUPPORT OF REMEDIAL PROPOSALS

I, Nicholas Pharris, declare as follows:

1. I am over the age of 18, competent to testify as to the matters herein, and make this declaration based on my personal knowledge. I am currently employed as the Support Lead for the VoteWA/TotalAddress election management system in the Elections Division of the Office of the Secretary of State, a position I have held since 2019.
2. In 2011 and 2012, I worked for the Washington State Redistricting Commission as a GIS and data analyst.
3. I served as Washington's designated Redistricting Data Liaison for the 2020 Census.

1 5. Following the adoption of the 2021 Redistricting Commission’s final plan, I
2 worked with county election administrators to review the proposed redistricting changes and
3 identify technical fixes to district lines necessary for effective election administration.

4 6. I have reviewed and analyzed the block assignment and geojson files of Plaintiffs’
5 remedial proposals, which Plaintiffs made available on December 1, 2023.

6 7. As part of my review of Plaintiffs’ remedial maps, I identified the counties
7 affected by each proposal. Plaintiffs’ Remedial Proposal 1 affects the following counties:
8 Adams, Benton, Chelan, Clark, Douglas, Franklin, Grant, King, Klickitat, Lewis, Pierce,
9 Thurston, and Yakima. Plaintiffs’ Remedial Proposal 2 affects the following counties: Adams,
10 Benton, Clark, Franklin, Grant, King, Klickitat, Lewis, Pierce, Thurston, and Yakima. Plaintiffs’
11 Remedial Proposal 3 affects the following counties: Adams, Benton, Chelan, Clark, Douglas,
12 Franklin, Grant, King, Klickitat, Pierce, Thurston, and Yakima. Plaintiffs’ Remedial Proposal 4
13 affects the following counties: Adams, Benton, Clark, Franklin, Grant, King, Klickitat, Pierce,
14 Thurston, and Yakima. Plaintiffs’ Remedial Proposal 5 affects the following counties: Benton,
15 Klickitat, and Yakima.

16 8. As part of my review of Plaintiffs’ proposed remedial maps, I also identified
17 positions for which incumbents would be displaced (i.e., under which the incumbent would no
18 longer live in the district that the incumbent currently represents). I made this determination
19 using the same method that the Office of the Secretary of State uses to determine a candidate’s
20 eligibility to hold office, which relies on the candidate or officeholder’s residential address in
21 the voter registration database.

22 9. Plaintiffs’ Remedial Proposal 1 would have the following impacts on incumbent
23 officeholders: The current LD 8 Representative, Position 1 would reside in LD 16; the current
24 LD 12 Senator would reside in LD 7; the current LD 14 Senator and Representative, Position 1
25 would reside in LD 15; the current LD 14 Representative, Position 2 would reside in LD 17; the
26

1 current LD 15 Senator would reside in LD 16; and the current LD 31 Senator and Representative,
2 Position 1 would reside in LD 5.

3 10. Plaintiffs' Remedial Proposal 2 would have the following impacts on incumbent
4 officeholders: The current LD 8 Representative, Position 1 would reside in LD 16; the current
5 LD 14 Senator and Representative, Position 1 would reside in LD 15; the current LD 14
6 Representative, Position 2 would reside in LD 17; and the current LD 15 Senator would reside
7 in LD 16.

8 11. Plaintiffs' Remedial Proposal 3 would have the following impacts on incumbent
9 officeholders: The current LD 8 Representative, Position 1 would reside in LD 16; the current
10 LD 12 Senator would reside in LD 7; the current LD 14 Senator and Representative, Position 1
11 would reside in LD 15; the current LD 14 Representative, Position 2 would reside in LD 17; the
12 current LD 15 Senator would reside in LD 16; and the current LD 31 Senator would reside in
13 LD 5.

14 12. Plaintiffs' Remedial Proposal 4 would have the following impacts on incumbent
15 officeholders: The current LD 8 Representative, Position 1 would reside in LD 16; the current
16 LD 14 Senator and Representative, Position 1 would reside in LD 15; the current LD 14
17 Representative, Position 2 would reside in LD 17; and the current LD 15 Senator would reside
18 in LD 16.

19 13. Plaintiffs' Remedial Proposal 5 would have the following impacts on incumbent
20 officeholders: The current LD 14 Representative, Position 1 would reside in LD 13; the current
21 LD 14 Representative, Position 2 would reside in LD 16; and the current LD 15 Representatives,
22 Positions 1 and 2, would reside in LD 14.

1 I declare under penalty of perjury under the laws of the State of Washington and the
2 United States that the foregoing is true and correct.

3 SIGNED this 21st day of December 2023, at Olympia, Washington.

4 

5 _____
6 NICHOLAS PHARRIS
7 VoteWA Support Lead

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 22nd day of December 2023, at Olympia, Washington.

s/ Leena Vanderwood
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The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER, et al.,

 Plaintiffs,

 v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, and
the STATE OF WASHINGTON,

 Defendants,

 and

JOSE TREVINO, et al.,

 Intervenor-Defendants.

NO. 3:22-cv-5035-RSL

STATE OF WASHINGTON’S
RESPONSE TO PLAINTIFFS’
REMEDIAL PROPOSALS

Pursuant to this Court’s October 4, 2023 Order (Dkt. # 230), the State of Washington submits the following response to the proposed remedial maps submitted by Plaintiffs.

The State does not dispute Plaintiffs’ assertion that each map “is a complete and comprehensive remedy to Plaintiffs’ Section 2 harms” Dkt. # 245 at p. 2. The State defers to the Court on which remedial map best provides Latino voters with an equal opportunity to elect candidates of their choice while also balancing traditional redistricting criteria and federal law.

1 Additionally, as the Court is well aware, one key consideration in creating LD 15 was
2 respecting the sovereign interests of the Yakama Nation. These interests should likewise be
3 respected in any court-ordered remedial map. To the extent the Yakama Nation wishes to be
4 heard on the matter, the State defers to them to express their own sovereign interests.

5 DATED this 22nd day of December 2023.

6
7 ROBERT W. FERGUSON
Attorney General

8 /s/ Andrew R.W. Hughes
9 ANDREW R.W. HUGHES, WSBA #49515
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16 *Attorneys for Defendant State of Washington*

17 I certify that this memorandum contains 149 words,
18 in compliance with the Local Civil Rules.

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DECLARATION OF SERVICE

I hereby declare that on this day I caused the foregoing document to be electronically filed with the Clerk of the Court using the Court’s CM/ECF System which will serve a copy of this document upon all counsel of record.

DATED this 22nd day of December 2023, at Seattle, Washington.

/s/ Andrew R.W. Hughes
ANDREW R.W. HUGHES, WSBA #49515
Assistant Attorney General

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER et al.,
Plaintiffs,

v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, et al.,
Defendants,

and

JOSE TREVINO et al.,
Intervenor-Defendants.

Case No.: 3:22-cv-5035-RSL

**INTERVENOR-DEFENDANTS’
RESPONSE IN OPPOSITION TO
PLAINTIFFS’ REMEDIAL PROPOSALS**

INTRODUCTION

The Court should reject all five of Plaintiffs’ proposed remedial maps. In an attempt to circumvent the constitutional requirement that *any* map enacted by Washington’s independent Redistricting Commission contain bipartisan compromise, *see* Wash. Const. art. II, § 43, Plaintiffs and their politically-aligned State/Defendant counterparts attempt to obtain through this Court what the Washington Constitution affirmatively denied them—an overtly partisan legislative map, *cf. Cooper v. Harris*, 137 S. Ct. 1455, 1490 (2017) (Alito, J., concurring in the judgment in part and dissenting in part) (warning that “federal courts will be transformed into weapons of political warfare” that “invite the losers in the redistricting process to seek to obtain in court what they could not achieve in the political arena.”). In what can only generously be called a mockery of the

1 Voting Rights Act (“VRA”) and a condescending insult to Hispanic voters in Washington, in *all*
 2 of their five proposed remedial maps, Plaintiffs purport to cure an allegedly unlawful *dilution* of
 3 Hispanic voting strength by *further diluting* Hispanic voting strength—lowering the percentage of
 4 Hispanic citizens of voting age (“HCVAP”) in the Yakima Valley VRA “opportunity” district in
 5 each and every one of their five proposals. If there were any doubt that Plaintiffs’ objectives were
 6 to serve partisan aims rather than the VRA’s anti-dilutive purposes, their proposed remedial maps
 7 dispel them.

8 Using the latest 2021 American Community Survey (“ACS”) numbers from the U.S.
 9 Census Bureau, the enacted Legislative District 15 (“LD-15”) contains an HCVAP of at least
 10 52.4%. (*See* Expert Report of Sean P. Trende, Ph.D. (Trende Report), Dkt. # 251 at 16.) This
 11 majority-HCVAP district elected a Latina state senator, Nikki Torres, by a 35-point margin over
 12 her White opponent in the 2022 general election for this open seat, in the only contested legislative
 13 election hitherto held in the enacted LD-15. In a first-of-its-kind holding, the Court found that,
 14 despite containing a majority HCVAP and electing a Latina by 35 points, the enacted LD-15 did
 15 not afford an equal opportunity for Hispanic voters to elect a candidate of their choice. Because,
 16 evidently for Plaintiffs, the phrase “Hispanic Candidate of Choice” must be a synonym for
 17 “Democratic Candidate.”

18 To those that espouse the same beliefs of Plaintiffs, the election of Nikki Torres by 35
 19 points over a White Democratic candidate can only be explained by alleging the Hispanic voters
 20 were unlawfully denied the ability to elect their preferred candidate—either by racially
 21 discriminatory voting procedures or boundary lines. The Court’s holding in this matter necessarily
 22 implies that the explanation *could not be* because Hispanic voters in Yakima knowingly
 23 participated in the franchise and elected Nikki Torres because they *actually preferred* her, or
 24 because she is a child of immigrant parents and worked in the fields and grew up in Yakima.¹ It

25 ¹ *See* Ex. A, Email from Senator Nikki Torres to Washington Legislators, *A Request Regarding Redistricting* (Oct. 12,
 26 2023, 1:03:27 PM PST). Senator Torres sent an email to all members of both Republican and Democratic Caucuses
 27 of the Washington House of Representatives and Senate. Intervenor-Defendant Representative Alex Ybarra is a
 member of the House Republican Caucus; as such, he received this email. It is attached hereto as Exhibit A and
 incorporated herein by reference.

1 could not be explained by her giving birth to her first child as a teen and dropping out of high
 2 school, then fighting to get her GED, undergraduate and graduate degrees, and becoming a
 3 community leader. Her election cannot be explained by—despite all odds against her—her picking
 4 herself up by the bootstraps as a single mother and providing for her family. Her election could
 5 not be explained by the Hispanic voters in Yakima seeing themselves in her—the hopes and
 6 dreams of what their children could accomplish through dedication and hard work. No, based on
 7 Plaintiffs’ legal arguments, Nikki Torres was only elected because the system was rigged through
 8 unlawful vote dilution.

9 Despite Plaintiffs’ best efforts arguing otherwise, the VRA does not mandate the creation
 10 of Democratic districts wherever there is concentration of minority population. *See, e.g., Baird v.*
 11 *Consol. City of Indianapolis*, 976 F.2d 357, 361 (7th Cir. 1992) (“The Voting Rights Act does not
 12 guarantee that nominees of the Democratic Party will be elected, even if [minority] voters are
 13 likely to favor that party’s candidates.”). Plaintiffs’ proposed maps remove Hispanic voters from
 14 the Yakima “remedial” district and acceptance of any of Plaintiffs’ five remedial proposals would
 15 compound that error by replacing them with Native American and White Democrats. The Court
 16 should reject Plaintiffs’ five remedial proposals and call them what they are: a backdoor to elect
 17 more Democratic candidates regardless of demographics through exploiting and inverting the
 18 VRA—by challenging putative dilution of the Hispanic vote and then “remedying” that alleged
 19 dilution with *additional dilution*.

20 ARGUMENT

21 A. Plaintiffs’ Remedial Proposals Fail for Legal Reasons.

22 The purpose of this Response is not to re-hash all of the reasons Plaintiffs’ remedial maps
 23 are unnecessary. Intervenor-Defendants’ legal position is simple—this Court should reject
 24 Plaintiffs’ remedial maps because Plaintiffs failed to meet the required legal burden that is a
 25 prerequisite to a court requiring a minority “opportunity” district. *See generally Thornburg v.*
 26 *Gingles*, 478 U.S. 30 (1986). Intervenor-Defendants have discussed the myriad of reasons
 27 Plaintiffs’ claims fall short—both in pre-and-post trial briefing—and incorporate those arguments

1 by reference herein. (*See* Intervenor-Defs.’ Tr. Br., Dkt. # 197; Intervenor-Defs.’ Written Closing
2 Argument, Dkt. # 215.)

3 However, it is worth noting that Plaintiffs still fail to show that the Court adopting any of
4 their remedial maps would actually remedy their alleged injury—that enacted LD-15 does not
5 provide Hispanic voters an equal opportunity to elect their candidate of choice. Said differently,
6 Plaintiffs have failed to show that Nikki Torres would *not* be reelected to the state senate if she
7 moved into one of their proposed remedial districts.

8 At trial, Plaintiffs contended that Nikki Torres’s victory in the only contested endogenous
9 election in enacted LD-15 was more evidence of racially-polarized voting. *See, e.g.*, Trial Tr. 76:1-
10 76:20. Yet now at the remedial phase, Plaintiffs’ experts fail to show that Nikki Torres would not
11 still be elected in any of their remedial districts, even if her share of the Hispanic vote was as small
12 as their experts contended at trial. *See, e.g.*, Trial Ex. 2 at 4.

13 The Redistricting Commission reached a compromise that LD-15 would be a majority
14 HCVAP district, but would lean Republican. *See, e.g.*, Trial Tr. 476:17-477:1, 747:16-23, 279:6-
15 23. Despite drawing a district that all head-to-head partisan metrics showing that Republicans
16 enjoyed only a 2-point advantage (*see, e.g.*, Trende Report, Dkt. # 251 at 33), Senator Torres
17 defeated the Democratic candidate by a whopping 35 points. This margin of victory would be more
18 than sufficient to overcome the roughly 12- to 15-point Democratic advantage in Plaintiffs’
19 proposed remedial districts. (*See* Trende Report, Dkt. # 251 at 33, 55.) Yet Plaintiffs’ remedial
20 experts fail to explain or account for this “Nikki Torres Effect,” much less show if it is even
21 possible to draw a district in the Yakima region that would not again elect Republican Nikki
22 Torres. Thus, their claim should be dismissed for lack of standing. *See, e.g., Lujan v. Defs. of*
23 *Wildlife*, 504 U.S. 555, 561 (1992) (explaining that “the Plaintiff bears the burden” to establish
24 redressability at all “successive stages of the litigation”); *see also* Trial Tr. 89:11-17 (Plaintiffs’
25 expert Dr. Collingwood explained that he had no idea if it was even possible to draw a majority-
26 Hispanic district that both performs for Democratic candidates and keeps the Yakama Nation
27 intact).

1 **B. Plaintiffs’ Remedial Proposals Fail for Practical Reasons.**

2 The Court’s Memorandum of Decision in this case addresses Hispanic Voting strength in
 3 the Yakima Valley. (*See* Dkt. # 218.) Notwithstanding the limited geographical scope of the
 4 Court’s ruling, Plaintiffs decided to swing for the fences to see just how far they can exploit the
 5 Court’s ruling to benefit State Democrats. While one cannot fault Plaintiffs for lack of ambition,
 6 their fealty to geography and traditional redistricting principles is another matter. Although it
 7 would be impossible to detail every instance in Plaintiffs’ proposed remedial maps where they try
 8 to gain a partisan advantage outside of the Court’s decision regarding a Yakima Valley district,
 9 what follows are some illustrative examples that shows their recommendations cannot be trusted.

10 **1. “Curing” Hispanic Vote Dilution by Further Diluting the Hispanic Population.**

11 Plaintiffs’ proposed remedial districts rest on something of a paradox: while purporting to
 12 remedy dilution of Hispanic voting strength, every single one of the proposals actually dilutes
 13 Hispanic voting strength *further*. The table below compares the HCVAP proportion of enacted
 14 LD-15 to the estimated HCVAP proportion of each of the remedial districts in Plaintiffs’ Proposals
 15 1 through 5:

Map	District	HCVAP (2021 ACS)
Enacted Plan	LD-15	52.6%
Plaintiffs’ Proposal 1 and 2	LD-14	51.7%
Plaintiffs’ Proposal 3 and 4	LD-14	50.2%
Plaintiffs’ Proposal 5	LD-14	46.9%

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 21 (*See* Trende Report, Dkt. # 251 at 67.) By claiming that their five proposals—each of which *lowers*
 22 the HCVAP in the relevant district—will “remedy the VRA violation for Latino voters in the
 23 Yakima Valley region and provide all voters in the region equal electoral opportunity” (Dkt. # 245
 24 at 1-2), Plaintiffs are proposing to replace Hispanic Republican voters with White Democratic
 25 voters, impliedly insisting that Hispanic voters can only elect their candidates of choice with the
 26 help of more White Democrats.
 27

1 As independent-minded Latino voters, Intervenor Trevino, Ybarra and Campos
 2 categorically reject this approach by Plaintiffs, which makes a mockery of the VRA. The VRA
 3 cannot possibly demand further dilution to remedy the alleged dilution, and Plaintiffs have not
 4 cited a single case in which a court has *ever* accepted such a remedy-dilution-with-more-dilution
 5 proposal.

6 **2. Cascading Changes to Districts Outside the Scope of the Court's Order.**

7 Although Plaintiffs only alleged the Enacted Plan violated the VRA with respect to *one*
 8 legislative district in South Central Washington, Plaintiffs' Remedial Proposals 1 through 4 would
 9 adjust the boundaries for 20 percent or more of the state's legislative districts, across not just South
 10 Central Washington but Western Washington, North Central Washington and Eastern Washington
 11 too, affecting the *majority* of Washington counties and moving upwards of half a million
 12 Washingtonians into new legislative districts. (*See* Trende Report, Dkt. # 251 at 6-15, 41-50.)

13 The following table shows how many legislative districts would be altered, how many
 14 counties affected and how many Washington residents moved to new districts in each of Plaintiffs'
 15 Remedial Proposals 1 through 4:

Plaintiffs' Proposal	Districts Changed	Counties Affected	Population Moved
Proposal 1	14	28	574,251
Proposal 2	11	21	506,922
Proposal 3	13	28	531,551
Proposal 4	10	21	476,440

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 21 (*See id.*)

22 Many of the redrawn districts in Plaintiffs' proposed remedial maps bely even a cursory
 23 understanding of Washington geography. As anyone flying into Washington can readily observe,
 24 the state is bisected by a rugged mountain range. While one district must transverse the Cascade
 25 Mountains in order to obtain an equal population across legislative districts as required by law, *see*
 26 Wash. Const. art. II, § 43(5), since statehood there has only ever been one such district, and always
 27 the district containing Skamania and Klickitat Counties, *see* Ex. B, Trial Ex. 1061 at 180-97. The

1 Enacted Plan represents the first-ever legislative map with a trans-Cascade district outside
 2 Southwest Washington. There are practical realities for this—most of the Cascade Mountains lie
 3 within federally-protected National Parks or National Forests, which would create a “population
 4 desert” between the western and eastern portions of a trans-Cascade district, needlessly expanding
 5 the geographic size of such a district. And as any Washingtonian knows, there are only a few
 6 highway passes that connect Western and Eastern Washington, which are often challenging and
 7 time-consuming to cross in winter months (and in some cases, like Chinook Pass through Highway
 8 410, closed entirely²), making such a district difficult to represent effectively. Despite this reality,
 9 Plaintiffs’ Proposals 1 through 4 needlessly create multiple trans-Cascade districts. In addition to
 10 maintaining most of the Enacted Plan’s boundaries for Legislative District 12 (stretching from
 11 Wenatchee to Monroe), Proposals 1 through 4 extend Legislative District 17 from Vancouver all
 12 the way east to Goldendale, creating a second trans-Cascade district. (*See* Dkt. # 245-1 at 5-9.)
 13 And Proposals 2 and 4 extend Legislative District 13 from Moses Lake and Ephrata all the way to
 14 Enumclaw (over Chinook Pass, which is typically closed for six months per year), creating a three
 15 trans-Cascade districts in those maps. (*See id.* at 7, 9.)

16 **3. Hispanic Populations That Are Far-Flung and Distant From One Another.**

17 Dr. Trende’s expert report points out that the Hispanic population in Plaintiffs’ proposed
 18 remedial districts are far-flung and distant from one another, thereby violating *Gingles*’s mandate
 19 that the minority populations must be compact. *See LULAC v. Perry*, 548 U.S. 399, 433 (quoting
 20 *Bush v. Vera*, 517 U.S. 952, 997 (1996) (“The first *Gingles* condition refers to the compactness of
 21 the minority population, not to the compactness of the contested district.”)).

22 Dr. Trende shows that, in their Proposals 1 and 2, Plaintiffs’ remedial district is drawn in
 23 a way that captures nearly all the high-HCVAP neighborhoods in both Yakima and Pasco (two
 24 cities that are themselves 85 miles apart) while avoiding nearly all the White neighborhoods in
 25

26 ² *See, e.g.*, Press Release, Washington State Department of Transportation, SR 410/Chinook Pass and SR 123 Cayuse
 27 Pass Close for the Season (Nov. 14, 2023), <https://wsdot.wa.gov/about/news/2023/sr-410-chinook-pass-and-sr-123-cayuse-pass-close-season> (“Typically, SR 410 Chinook Pass and SR 123 Cayuse Pass reopen in late May . . .”).

1 those cities. (*See* Trende Report, Dkt. # 251 at 26-27.) Likewise, the boundaries of District 14 in
 2 these two maps encompass nearly all the majority-Hispanic voting districts along the Yakima
 3 River while avoiding nearly all the majority-White voting districts. (*See id.* at 28.) Dr. Trende’s
 4 dot density maps also graphically show how the Hispanic population of District 14 in Proposals 1
 5 and 2 is dispersed throughout Yakima, Pasco and the Yakima River Valley connecting the two
 6 (*see id.* at 29-32), leading him to conclude that “the district stitched together discrete clusters of
 7 minority groups to achieve the 50% + 1 threshold,” rather than there being “a compact minority
 8 population at the core of the district.” (*Id.* at 21-22.)

9 Given the minimal differences between Plaintiffs’ remedial district in Proposals 3 and 4
 10 (compared to their remedial district in Proposals 1 and 2) with respect to precincts in the Yakima,
 11 Pasco and the Yakima River Valley areas, Dr. Trende also concludes that “the same analysis from
 12 Maps 1 and 2 applies” with respect to the remedial district in Proposals 3 and 4. (*Id.* at 54.)

13 **4. Playing Political Games with Political Performance of Legislative Districts.**

14 “The Voting Rights Act does not guarantee that nominees of the Democratic Party will be
 15 elected, even if [minority] voters are likely to favor that party’s candidates.” *Baird*, 976 F.2d at
 16 361. Intervenor-Defendants have continually argued that Plaintiffs’ VRA claims were an attempt
 17 “to obtain in court what they could not achieve in the political arena”—or in this case, through
 18 Washington’s bipartisan redistricting process. *Cooper*, 137 S. Ct. at 1490 (Alito, J., concurring in
 19 the judgment in part and dissenting in part) (*see also, e.g.*, Dkt. # 215 at 51). Plaintiffs’ proposed
 20 remedial maps show that Intervenor-Defendants’ fears were well founded.

21 In addition to shifting the partisan tilt of the challenged district (enacted LD-15) from an
 22 average of -1.8% Democratic to +12.5% Democratic (using “Total Vote, 2016-2020” metric) in
 23 the remedial districts of their Proposals 1 and 2, and +12.0% Democratic in Proposals 3 and 4 (*see*
 24 Trende Report at 33, 55), Plaintiffs’ proposals make several other partisan changes that are both
 25 unnecessary and one-sided. For example, under Plaintiffs’ Proposals 1 and 2, “District 12, which
 26 always voted for the Republican candidate under the Enacted Map, is transformed into a district
 27 where the Republican candidate sometimes loses, and frequently has close calls.” (*Id.* at 33.) Under

1 Proposals 3 and 4, “District 12 is made more Democratic, and is turned from a district carried by
 2 former President Donald Trump into one carried by President Joe Biden.” (*Id.* at 55.) “More
 3 dramatically, District 17 moves from a district where . . . the Republican has won by 0.9% on
 4 average to one where the Democrat has won by 1.4% on average” using the “DRA elections”
 5 metric. (*Id.* at 34.) Likewise, under Proposals 3 and 4, District 17 “is made even more Democratic.”
 6 (*Id.* at 55.) Both Districts 12 and 17 “are presently represented by Republicans” in the state senate
 7 and both state house seats in each district. (*Id.* at 34.) But, as Dr. Trende points out, such partisan
 8 changes to districts beyond the remedial district “could have been avoided rather easily,” through
 9 slightly different adjustments by the map-drawer. (*Id.* at 34-35.)

10 Even more troubling, Dr. Trende’s analysis concludes that there are no countervailing
 11 partisan shifts in Plaintiffs’ proposed maps that might “make a Democratic incumbent appreciably
 12 more vulnerable.” (*Id.* at 34.) In other words, not only are Plaintiffs seeking “to obtain in court”
 13 an additional Democratic legislative district in the Yakima area that their political allies “could not
 14 achieve” at the Redistricting Commission, *Cooper*, 137 S. Ct. at 1490 (Alito, J., concurring in the
 15 judgment in part and dissenting in part), but they are now using the remedial process to seek to
 16 turn two other legislative districts—one in North Central Washington and one in Southwest
 17 Washington—into majority-Democratic districts. If successful, this would result in six additional
 18 Democratic state representatives and three additional Democratic state senators (in addition to the
 19 two additional Democratic state representatives and additional Democratic state senator elected
 20 from the remedial district in each of Plaintiffs’ remedial proposals).

21 **5. Playing More Political Games with Incumbent Legislators.**

22 The Supreme Court has acknowledged that traditional redistricting principles include
 23 “preserving the cores of prior districts and avoiding contests between incumbent[s].” *Karcher v.*
 24 *Daggett*, 462 U.S. 725, 740 (1983). Yet Plaintiffs’ five remedial proposals would wreak havoc on
 25 incumbents far removed from enacted LD-15. According to Dr. Trende’s analysis, each of
 26 Plaintiffs’ map proposals would imperil numerous current Republican legislators by moving them
 27 into Democratic districts or pitting them against other Republican incumbents. (*See* Trende Report,

1 Dkt. # 251 at 38-40, 59-60, 66; *see also* Dkt. # 248 at 2-4.) In contrast, not a single incumbent
 2 Democratic legislator is moved into a new district, placed in a safely Republican district or paired
 3 against an incumbent Democrat. (*See id.*) The table below summarizes these effects:

Legislator	LD	Party	Chamber	Proposal	Change(s)
Stephanie Barnard	8	R	House	1, 2, 3, 4	Moved to LD-16 with Reps. Klicker & Rude
Brad Hawkins	12	R	Senate	1, 3	Moved to LD-7 with Sen. Short
Curtis King	14	R	Senate	1, 2, 3, 4	Moved to LD-5 which is not on ballot until 2026
Chris Corry	14	R	House	1, 2, 3, 4, 5	Moved to LD-15 with Reps. Chandler & Sandlin (Maps 1-4); moved to LD-13 with Reps. Dent & Ybarra (Map 5)
Gina Mosbrucker	14	R	House	1, 2, 3, 4, 5	Moved to LD-17 with Reps. Harris & Waters (Maps 1-4); moved to LD-16 with Reps. Klicker & Rude (Map 5)
Nikki Torres	15	R	Senate	1, 2, 3, 4	Moved to LD-16 with Sen. Dozier
Bruce Chandler	15	R	House	5	Moved to safely Dem. LD-14
Bryan Sandlin	15	R	House	5	Moved to safely Dem. LD-14
Phil Fortunato	31	R	Senate	1, 3	Moved to safely Dem. LD-5
Drew Stokesbary	31	R	House	1	Moved to safely Dem. LD-5

17 (*See id.*)

18 Many of these shifts appear gratuitous and intentional. In Plaintiffs' Proposals 1 through
 19 4, Senator Curtis King is drawn out of his current district by less than one mile, as is Representative
 20 Gina Mosbrucker in Proposals 3 and 4. Representative Chris Corry is left 1.5 miles outside of his
 21 current district in Proposals 1 through 4, and just *one-third* of a mile away in Proposals 5. Even
 22 more egregiously in Proposal 5, LD-15 Representative Bruce Chandler is moved into a
 23 neighboring district by a mere *500 feet*. His seatmate, Representative Bryan Sandlin, is treated
 24 similarly, ending up only one-half of a mile outside his current district, despite living in an
 25 extremely sparsely populated area on the north slope of the Yakima River Valley. Lastly, in
 26 Plaintiffs' Proposal 1, House Minority Leader Drew Stokesbary (who is also, as Plaintiffs have
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1 pointed out, undersigned counsel, *see* Dkt. # 64 at 3) sees his *neighborhood* in South Auburn split
 2 in half, with his residence ending up one-half mile outside his current district. (*See also* Trende
 3 Report, Dkt. # 251 at 39-40.)

4 **6. Ignoring the Commission’s First-Ever Tribal Consultation Policy.**

5 For the first time in the history of the Redistricting Commission, it adopted a formal tribal
 6 consultation policy. *See* Ex. C, Trial Ex. 1060; *see also* Washington State Redistricting
 7 Commission, 2021 Redistricting Commission Tribal Consultation Policy (Apr. 12, 2021),
 8 *available at* [https://rdcext.blob.core.windows.net/public/Communications_and_Outreach/Tribal](https://rdcext.blob.core.windows.net/public/Communications_and_Outreach/Tribal_Consultation/Tribal_Consultation_Policy_-_Adopted.pdf)
 9 [Consultation/Tribal Consultation Policy - Adopted.pdf](https://rdcext.blob.core.windows.net/public/Communications_and_Outreach/Tribal_Consultation/Tribal_Consultation_Policy_-_Adopted.pdf). Pursuant to this policy, the Commission
 10 engaged in formal, government-to-government discussions with the Yakama Nation. *See, e.g.*, Ex.
 11 E at 2, Email from Lisa McLean, Executive Director, Washing State Redistricting Commission, to
 12 Redistricting Commissioners (Aug. 6, 2021, 11:21:49 AM PDT). In the course of these
 13 discussions, the Yakama Nation “urge[d] the Redistricting Commission to reject any legislative
 14 map that divides the Yakama Reservation into separate representative districts[,]” and to “reject
 15 any legislative mapping that demonstrably ‘cracks’ the indigenous voting population located south
 16 of the Yakama Reservation in Klickitat and Skamania Counties[,]” where “many enrolled
 17 members reside on off-Reservation trust parcels, at traditional family homesteads, or in
 18 communities near the usual and accustom[ed] fishing sites along the Columbia River.” Ex. D at 5,
 19 Letter from Delano Saluskin, Chairman, Yakama Nation Tribal Council, to Sarah Augustine,
 20 Chair, Washington State 2021 Redistricting Commission (Jun. 3, 2021). At a tribal consultation
 21 meeting with the Redistricting Commission on August 4, 2021, the Yakama Nation presented a
 22 slide deck which included a request that the “2021 Redistricting Maps Should Provide For Single
 23 Representation Between The Yakima & Columbia R[ivers].” Ex. E at 22, Presentation by Yakama
 24 Nation Tribal Council to Washington State Redistricting Commission (Aug. 4, 2021). In a letter
 25 to the Commission during their final negotiations, the Yakama Nation indicated they “specifically
 26 favor[ed] elements of Commissioner Graves’ proposed Legislative District 14,” including those
 27 that “incorporate[d] Yakama members living in established tribal communities off-Reservation

1 and on federal trust property along the Columbia River” and “include[d] critical natural resource
 2 management areas for the protection of adjacent forests and rivers.” Ex. F at 7-8, Letter from
 3 Delano Saluskin, Chairman, Yakama Nation Tribal Council, to Sarah Augustine, Chair,
 4 Washington State 2021 Redistricting Commission (Nov. 4, 2021). Notably, consistent with the
 5 Yakama Nation’s formal request, Commissioner Graves’ proposed map of District 14 extended
 6 from the Yakima to Columbia River. *See* Ex. G.

7 None of Plaintiffs’ maps extend the same government-to-government courtesy to the
 8 Yakama Nation as Commissioner Graves, and eventually the Commission. District 14 in Plaintiffs’
 9 Proposals 1, 2 and 5 only extend to the southern border of the Yakama Reservation, not all the way
 10 to the Columbia River at White Salmon as in the Enacted Plan (and LD-14 does not reach any part
 11 of the Columbia River in their Proposal 5). (*See* Dkt. # 245-1.) In Proposals 3 and 4, District 14
 12 extends further down the Columbia River (though still not all the way to White Salmon like the
 13 Enacted Plan), but District 17 protrudes from Clark County east to Goldendale, bisecting much of
 14 the Yakama Nation’s usual and accustomed hunting and fishing grounds and placing several off-
 15 Reservation trust parcels and traditional family homesteads in a separate legislative district from
 16 the Yakama Reservation. (*See id.*)

17 **7. Ignoring the Commission’s Extensive Public Comments.**

18 While Plaintiffs’ map-making misadventures are too numerous to catalogue
 19 comprehensively, Intervenor-Defendant Alex Ybarra is uniquely impacted by one such example.
 20 In Plaintiffs’ Proposals 2 and 4, Legislative District 13, which Rep. Ybarra represents in the State
 21 House, is extended westward across the Cascade Mountains all the way to Enumclaw. (*See* Dkt. #
 22 245-1.) In addition to the obvious logistical challenges of representing a district crossing Chinook
 23 Pass, *see supra* note 2, this configuration is somewhat similar to the configure by Commissioner
 24 Paul Graves, *see* Ex. G, which received swift and severely negative feedback. Not only does this
 25 configuration of District 13 exemplify Plaintiffs’ ignorance of Washington’s geography and other
 26 traditional redistricting principles, it also illustrates their disregard for the Commission’s
 27

1 bipartisan, good-faith negotiating process that included tremendous efforts to incorporate public
2 feedback and produce maps receptive to the needs of Washington.

3 **CONCLUSION**

4 For the foregoing reasons, the Court should reject *all* of Plaintiffs’ remedial proposals,
5 which purport to “remedy” voter dilution through additional dilution. Here, the proposed cure is
6 not merely worse than the disease—it is, quite literally, more of the alleged disease itself. And
7 despite the narrow holding of the Court regarding LD-15, Plaintiffs are now attempting to use the
8 remedial process to further trample the constitutionally-mandated work of the Redistricting
9 Commission and score political wins (outside the scope of the Court’s holding) through this Court
10 and distortions of the VRA, as opposed to engaging in the required bipartisan process so clearly
11 outlined in the Washington Constitution.

12
13 * * *

1 DATED this 22nd day of December, 2023.

2 Respectfully submitted,

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I certify that this memorandum contains 4,193 words, in compliance with the Local Civil Rules.

CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing document with the Clerk of the Court of the United States District Court for the Western District of Washington through the Court's CM/ECF System, which will serve a copy of this document upon all counsel of record.

DATED this 22nd day of December, 2023.

Respectfully submitted,

s/ Andrew R. Stokesbary
Andrew R. Stokesbary, WSBA No. 46097

Counsel for Intervenor-Defendants

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The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER et al.,

Plaintiffs,

v.

STEVEN HOBBS, in his official capacity
as Secretary of State of Washington, et al.,

Defendants,

and

JOSE TREVINO et al.,

Intervenor-Defendants.

Case No.: 3:22-cv-5035-RSL

**INTERVENOR-DEFENDANTS’
SUPPLEMENTAL FILING IDENTIFYING
YAKAMA NATION LANDS FILED AT
THE COURT’S REQUEST**

On February 9, 2024, the Parties participated in a hearing related to the Court’s ongoing process of determining a remedial State Legislative map to address its prior finding of Hispanic vote dilution in the Yakima Valley. At this hearing, the Court stated that the Parties should operate under the presumption that it will adopt Plaintiffs’ proposed Remedial Map 3A. Following the hearing, the Court issued an Order scheduling an evidentiary hearing for the remedial process to be held on March 8, 2024. *See* Dtk. # 266. The Court also ordered that the “Intervenor-Defendants shall identify the usual and accustomed hunting and fishing grounds of the Yakama Nation, off-reservation trust parcels, and/or traditional family homestead that they maintain are not included in LD-14 in Remedial Map 3A.” *Id.* The Court further ordered the Intervenor-Defendants to disclose “the data set from which the information is gleaned, screenshots of a map showing the excluded areas, and

1 the number of people impacted.” *Id.* What follows is Intervenor’s response to the Court’s order
 2 discussed above.

3 REQUESTED INFORMATION

4 **A. Introduction**

5 After having retained a Special Master for the purpose of crafting a remedial map, and after
 6 the Plaintiffs created and submitted the proposed remedial maps, the Court now orders Intervenor’s
 7 to show the remedial map drawers where the lines should be placed to incorporate the Yakama
 8 Nation in the manner they have repeatedly and publicly requested. As disclosed by the State
 9 following the remedial oral argument, the Yakama Nation opposes all of the maps proposed by
 10 Plaintiffs as “[n]one of [Plaintiffs’ proposed] remedial maps represent the Yakama Nation’s
 11 interests to the same degree as the current 14th Legislative District that was a product of the
 12 Yakama Nation’s active participation as a sovereign government in Consultative posture with the
 13 Washington State Redistricting Commission.” Letter from Gerald Lewis, Chairman, Yakama
 14 Nation Tribal Council, to Bob Ferguson, Attorney General of Washington (Dec. 22, 2023) (Ex.
 15 A). In responding to the State’s blind support of Plaintiffs’ proposed remedial maps, the Yakama
 16 Nation added: “it is improper for Washington State’s preferred solution to swap the injury through
 17 revisions that dilute the Yakama voting population with the 14th Legislative District.” *Id.*

18 During the original map-drawing process, and during discovery and trial in this matter, the
 19 members of the Commission all stated that one of their priorities was a map that gave the Yakama
 20 Nation a single district that encompassed all of the land they felt should be included therein. *See,*
 21 *e.g.*, Trial Tr. 486:5-23 (Fain: explaining why he prioritized tribal government interests, including
 22 Yakama Nation’s “desire . . . to be consolidated” in a single legislative district); Trial Tr. 714:25-
 23 715:16 (Graves: explaining that Commission’s final “framework” agreement reflected the Yakama
 24 Nation’s “prefer[ence] to have both their reservation and their traditional hunting and fishing
 25 lands[] be contained within one Legislative District”). The Yakama Nation had been very clear
 26 with the Commission about what their tribe wanted. Under the Commission’s first-ever formal
 27 tribal consultation process, the Yakama Nation made it abundantly clear—through numerous

1 letters, meetings, and presentations, all of which included maps and geographical descriptions—
 2 how they viewed the legislative district boundaries should be drawn around their lands. *See* Dkt.
 3 ## 252-4, 252-5, 252-6. All of these maps and presentations were produce to Plaintiffs during
 4 discovery and are part of the record before the Court (organized and attached as exhibits in a recent
 5 filing by Intervenors). *See id.* Despite the ample evidence on the record that shows *exactly* what
 6 the Yakama Nation wanted, Plaintiffs are still unable to produce a remedial map that “represent[s]
 7 the Yakama Nation’s interests to the same degree as the current 14th Legislative District,” Ex. A
 8 at 2—one that “is consistent with the Yakama Reservation boundary; incorporates Yakama
 9 members living in established tribal communities off-Reservation¹ and on federal trust property
 10 along the Columbia River; includes the Yakama Nation’s significant human service areas and
 11 public safety districts adjacent to the Reservation; and includes critical natural resource
 12 management areas for the protection of adjacent forests and rivers,” Letter from Delano Saluskin,
 13 Chairman, Yakama Nation Tribal Council, to Sarah Augustine, Chair, Washington State
 14 Redistricting Commission (Nov. 4, 2021) (Dkt. # 252-6 at 7-8). The Commission had little trouble
 15 understanding the Yakama’s political and cultural priorities and incorporating those priorities into
 16 the Enacted Plan, so it is troubling that Plaintiffs and the State have been unable to do the same,
 17 or to survey public records to answer the questions the Court now places before Intervenors.

18 **B. Reservation Lands**

19 This data is publicly available via the U.S. Census Bureau and is provided in the files
 20 transmitted to the Court.

21 **C. Usual and Accustomed Hunting and Fishing Grounds, Off-Reservation Trust Parcels, 22 and Traditional Family Homestead Lands**

23 As stated above, the Yakama Nation, throughout the map drawing process, provided
 24 numerous resources to assist the map drawers in crafting an appropriate district that encompassed

25
 26 ¹ In an earlier letter to the Commission, the Yakama Nation wrote that “many enrolled members reside on off-
 27 Reservation trust parcels at traditional family homesteads, or in communities near the usual and accustom[ed] fishing
 sites along the Columbia River.” Letter from Delano Saluskin, Chairman, Yakama Nation Tribal Council, to Sarah
 Augustine, Chair, Washington State Redistricting Commission (Jun. 3, 2021) (Dkt. # 252-4 at 5).

1 all of the lands that the tribe hoped to be contained in a single legislative district. *See* Dkt. ##
2 252-4, 252-5, 252-6.

3 Except for off-reservation trust lands (which are relatively easy to track, because they are
4 held in trust by the United States), there are not always clearly delineated maps or lists of exact
5 parcels that contain all culturally-important off-reservation lands. *See supra* note 1 (identifying the
6 kinds of off-reservation areas important to the Yakama Nation). “To determine the existence of
7 original Indian title to land, and the right to hunt and fish following from that title, courts have
8 generally required a showing of actual use and occupancy over an extended period of time.”
9 *Washington v. Buchanan*, 978 P.2d 1070, 1079 (Wash. 1999). In fact, courts have not “provide[d]
10 a formal mechanism to evaluate and determine traditional hunting areas.” Washington State
11 Department of Fish & Wildlife, Treaty History With the Northwest Tribes,
12 <https://wdfw.wa.gov/hunting/management/tribal/history> (last visited Feb. 15, 2024). As such, the
13 best source to begin looking for an understanding of these off-reservation lands is to defer to the
14 Yakama Nation itself.

15 In fact, the Supreme Court has considered the 1855 treaty between the United States and
16 the Yakama Nation five times, “and each time it has stressed that the language of the treaty should
17 be understood as bearing the meaning that the Yakamas understood it to have in 1855.” *Wash.*
18 *State Dep’t of Licensing v. Cougar Den, Inc.*, 139 S. Ct. 1000, 1011 (2019) (citing *United States*
19 *v. Winans*, 198 U.S. 371, 380-81 (1905), *Seufert Brothers Co. v. United States*, 249 U.S. 194,
20 196-98 (1919), *Tulee v. Washington*, 315 U.S. 681, 683-85 (1942), *Washington v. Wash. State*
21 *Commercial Passenger Fishing Vessel Ass’n*, 443 U.S. 658, 677-78 (1979); *see also Choctaw*
22 *Nation v. Oklahoma*, 397 U.S. 620, 630-31 (“The Indian Nations did not seek out the United States
23 and agree upon an exchange of lands in an arm’s-length transaction. Rather, treaties were imposed
24 upon them and they had no choice but to consent. As a consequence, this Court has often held that
25 treaties with the Indians must be interpreted as they would have understood them.”).

26 The Yakama’s 1855 treaty ceded land extending westward “down the Columbia River to
27 midway between the mouths of White Salmon and Wind Rivers.” Treaty of 1855 With the

1 Yakama, Art. 1. Under the Enacted Plan, LD-14 extends down the Columbia to the White Salmon
2 River (which serves as the Klickitat-Skamania county line). Yet under Plaintiffs’ proposal 3A,
3 LD-14 only extends downriver just past Lyle, well short of White Salmon.

4 In another example of the shortcomings of map 3A “Husum was a historic Yakama Nation
5 fishing village, and the Yakama Nation is highly involved in the protection and restoration of the
6 river.” Wash. Dep’t of Ecology, Quality Assurance Project Plan: White Salmon River Watershed
7 Bacteria Assessment, at 7 (<https://apps.ecology.wa.gov/publications/documents/2303103.pdf>).
8 The community of Husum is located in LD-14 under the Enacted Plan, but would be shifted to
9 LD-17, separate from the rest of the Yakama Nation, under Plaintiffs’ proposal 3A.

10 In its various letters and presentations to the Commission, the Secretary of State and the
11 Attorney General of Washington, the Yakama Nation:

- 12 • Wrote that “many enrolled members reside on off-Reservation trust parcels, at
13 traditional family homesteads, or in communities near the usual and accustomed fishing
14 sites *along the Columbia River* . . . [there is also] indigenous voting population located
15 *south of the Yakama Reservation in Klickitat and Skamania Counties.*” Dkt. # 252-4 at
16 5.
- 17 • Presented historical and proposed legislative district maps to the Commission on
18 August 4, 2021. *See* Dkt. # 252-5 at 5, 7, 21.
- 19 • Supported Commissioner Graves’s proposed legislative map because it “incorporates
20 Yakama members living in established tribal communities off-Reservation and on
21 federal trust property along the Columbia River; includes the Yakama Nation’s
22 significant human service areas and public safety districts adjacent to the Reservation;
23 and includes critical natural resource management areas for the protection of adjacent
24 forests and rivers.” Dkt. # 252-6 at 7-8.

25 Using the descriptions, comments, and maps provided by the Yakama Nation, Intervenors
26 have attempted to provide the information requested by the Court. The information will be
27 included in data files transmitted to the Court via email concurrent with this filing.

CONCLUSION

1
2 Based on recent comments from the Yakama Nation, it is clear that the tribe’s preference
3 is to simply maintain the current LD-14 District. None of Plaintiffs’ proposed remedial maps
4 provide the Yakama Nation with what it has requested (which is what it negotiated with the
5 Commission as sovereigns, pursuant to the Commission’s tribal consultation policy), including
6 Map 3A. Now that Intervenor’s are aware of the Yakama Nation’s position on the proposed
7 remedial maps through the letter recently provided by the State, *see* Ex. A, Intervenor’s intend to
8 put forth a proposed map that will maintain Yakama Nation’s position in the enacted LD-14 and
9 provide a majority-minority district for Latinos in the Yakama Valley that provides the opportunity
10 to regularly elect Democratic candidates. This map will be forthcoming with the remedial expert
11 filings and disclosures pursuant to the Order of the Court of February 9, 2024. *See* Dkt. # 266.

12 Here, there are few ways to create a map that contains a majority-minority Latino CVAP
13 that performs for Democratic-aligned candidates and gives the Yakama Nation everything they
14 requested. The Commission already dedicated several months’ worth of work to creating such a
15 map—to completely disregard the Commission’s work would be a travesty.

1 DATED this 15th day of February, 2024.

2 Respectfully submitted,

3 s/ Andrew R. Stokesbary

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Counsel for Intervenor-Defendants

I certify that this memorandum contains 1,775 words, in compliance with the Local Civil Rules.

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing document with the Clerk of the Court of the United States District Court for the Western District of Washington through the Court’s CM/ECF System, which will serve a copy of this document upon all counsel of record.

DATED this 15th day of February, 2024.

Respectfully submitted,

s/ Andrew R. Stokesbary _____
Andrew R. Stokesbary, WSBA No. 46097

Counsel for Intervenor-Defendants

The Honorable Robert S. Lasnik

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

SUSAN SOTO PALMER, et al.,

 Plaintiffs,

 v.

STEVEN HOBBS, et al.,

 Defendants,

 and

JOSE TREVINO, et al.,

 Intervenor-Defendants.

NO. 3:22-cv-5035-RSL

STATEMENT BY INTERESTED
PARTY YAKAMA NATION

Interested Party, the Confederated Tribes and Bands of the Yakama Nation (“Yakama Nation”), appreciates the opportunity to provide this statement in response to the Court’s request for information relating to the remedial legislative district mapping. All proposed maps include the Yakama Reservation within a single district, so this response is narrowly tailored to address the Yakama Nation’s Public Domain Allotments, Treaty Fishing Access Sites (“TFAS”), and TFAS shared-use sites in Klickitat County, Washington. These identified areas are displayed on the Exhibit A map, dated February 23, 2024, including tables with accompanying coordinates, section, township, range, description, and acreage. The Yakama Nation’s usual and accustomed

STATEMENT BY INTERESTED
PARTY YAKAMA NATION
3:22-CV-5035-RSL - 1

**YAKAMA NATION
OFFICE OF LEGAL COUNSEL
P.O. Box 150 / 401 Fort Road
Toppenish, WA 98948
Phone (509) 865-7268**

1 areas to exercise the rights reserved under the Treaty with the Yakamas of June 9, 1855 are
2 ubiquitous in Klickitat County along the Columbia River and its tributary streams.¹ Enrolled
3 members of the Yakama Nation reside on or within a proximal distance of many of the identified
4 parcels and sites on a year-round basis or during fishing seasons from March – October.

5 Klickitat County contains the Yakama Nation’s communities of interest located in the
6 14th Legislative District as adopted by the Washington State Legislature on February 8, 2022
7 that is subject to remedial Legislative District mapping.

8
9 DATED this 23rd day of February, 2024.

10 Respectfully submitted,

11 /s/ Ethan Jones
12 Ethan Jones, WSBA #46911
13 Anthony S. Aronica, WSBA #54725
14 YAKAMA NATION
15 OFFICE OF LEGAL COUNSEL
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19 ethan@yakamanation-olc.org
20 anthony@yakamanation-olc.org

21 *Attorneys for the Confederated Tribes and*
22 *Bands of the Yakama Nation*

23
24 _____
25 ¹ See Treaty with the Yakamas, U.S. – Yakama Nation, June 9, 1855, 12 Stat. 951, art. III, cl. 2.

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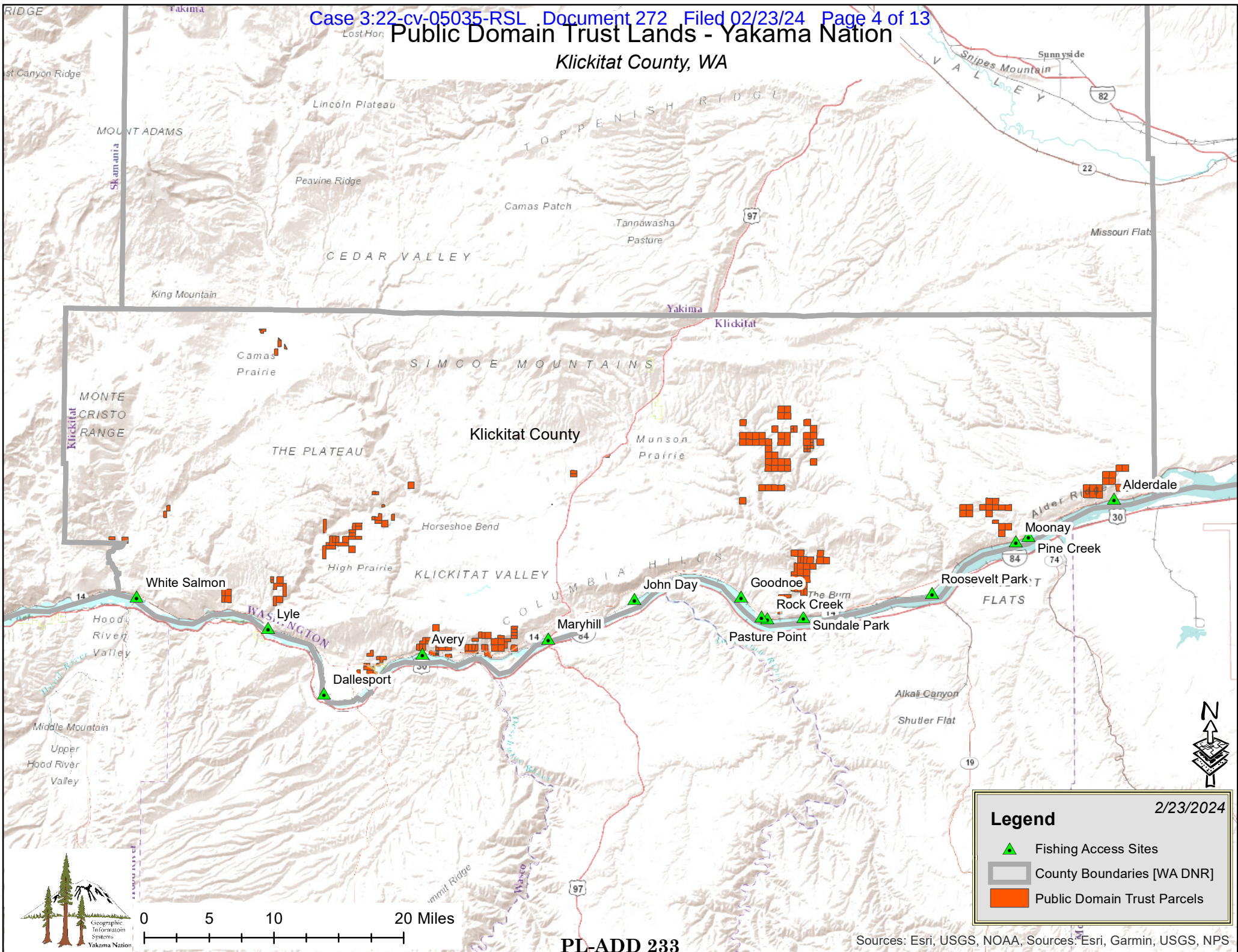
EXHIBIT A
YAKAMA NATION PUBLIC DOMAIN TRUST LANDS
IN KLICKITAT COUNTY
(PAGINATED SEPERATELY)

STATEMENT BY INTERESTED
PARTY YAKAMA NATION
3:22-CV-5035-RSL - 3

YAKAMA NATION
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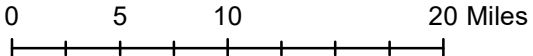
Public Domain Trust Lands - Yakama Nation

Klickitat County, WA



Legend 2/23/2024

- ▲ Fishing Access Sites
- County Boundaries [WA DNR]
- Public Domain Trust Parcels



PL-ADD 233

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

LST	Acres	PubDomainN	Lat	Long_	TwngRngSec	SEC	TWP	RGE
V-1009	0	Vancouver Allotments	45.66331961	-120.9759512	2-15.18	18	2	15
V-105	160	Vancouver Allotments	45.90684063	-120.505602	5-18.24	24	5	18
VH-0544	81	Vancouver Allotments	45.84159607	-121.1108222	4-14.7	7	4	14
V-121	160	Vancouver Allotments	45.93608353	-120.4545651	5-19.8	8	5	19
V-114	160	Vancouver Allotments	45.89951156	-120.515815	5-18.23	23	5	18
VH-4728	160	Vancouver Allotments	45.85059602	-121.0563451	4-14.9	9	4	14
V-136	160	Vancouver Allotments	45.87784535	-120.4548792	5-19.32	32	5	19
V-84	160	Vancouver Allotments	45.74616901	-120.4240618	3-19.15	15	3	19
V-87	160	Vancouver Allotments	45.76767798	-120.3928615	3-19.2	2	3	19
V-51	80	Vancouver Allotments	45.79095202	-121.139481	4-13.35	35	4	13
V-115	160	Vancouver Allotments	45.89966413	-120.5261642	5-18.23	23	5	18
V-113	160	Vancouver Allotments	45.90703121	-120.5260731	5-18.23	23	5	18
V-1015	0	Vancouver Allotments	45.83033884	-120.8310375	4-16.17	17	4	16
WW-14	0	Walla Walla Allotments	45.82643297	-120.1429487	4-21.14	14	4	21
VH-02070	80	Vancouver Allotments	45.7891901	-121.1732985	4-13.34	34	4	13
VH-5519	0	Vancouver Allotments	45.72838253	-121.3468905	3-12.19	19	3	12
MTV-182	160	Vancouver Allotments Mineral Rights	45.7180581	-120.4645311	3-19.29	29	3	19
V-179 & V179 A-F	0	Vancouver Allotments	45.66466999	-121.0111184	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66444599	-121.01068	2-14.14	14	2	14
V-204	160	Vancouver Allotments	45.92141549	-120.5259668	5-18.14	14	5	18
V-112	160	Vancouver Allotments	45.90681218	-120.5157905	5-18.23	23	5	18
V-95	160	Vancouver Allotments	45.92158952	-120.4232988	5-19.15	15	5	19
V-119	160	Vancouver Allotments	45.91436519	-120.4749048	5-19.18	18	5	19
MV-120	0	Vancouver Allotments Mineral Rights	45.91623535	-120.4471321	5-19.16 NW1/4 SW1/4 Lot 3	16	5	19
V-122	160	Vancouver Allotments	45.92881268	-120.4545932	5-19.8	8	5	19
V-123	160	Vancouver Allotments	45.92886878	-120.4651933	5-19.8	8	5	19
MV-120	0	Vancouver Allotments Mineral Rights	45.91259445	-120.4471108	5-19.16 SW1/4 SW1/4 Lot 4	16	5	19
MV-120	0	Vancouver Allotments Mineral Rights	45.91445611	-120.4419455	5-19.16 E1/2 SW14	16	5	19
V-111	160	Vancouver Allotments	45.90711346	-120.4953033	5-18.24	24	5	18

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

V-118	80	Vancouver Allotments	45.89988548	-120.4851003	5-19.30	30	5	19
V-116	160	Vancouver Allotments	45.89953584	-120.5055192	5-18.24	24	5	18
V-110	160	Vancouver Allotments	45.89978407	-120.4953048	5-18.25	25	5	18
MV-120	160	Vancouver Allotments Mineral Rights	45.93615435	-120.4650086	5-19.8 NW 1/4	8	5	19
TV-100	160	Vancouver Allotments	45.89961949	-120.4023224	5-19.23	23	5	19
V-102	160	Vancouver Allotments	45.90704831	-120.4236951	5-19.22	22	5	19
V-141	160	Vancouver Allotments	45.89970163	-120.4237124	5-19.22	22	5	19
V-96	160	Vancouver Allotments	45.91444417	-120.4128868	5-19.15	15	5	19
MV-103	0	Vancouver Allotments Mineral Rights	45.89416164	-120.4259416	5-19.27 NW1/4 NW 1/4 Lot 3	27	5	19
MVH-243	0	Vancouver Allotments Mineral Rights	45.90144109	-120.4156327	5-19.22 NW1/4 SE1/4 Lot 5	22	0	0
MVH-243	0	Vancouver Allotments Mineral Rights	45.89775622	-120.4156519	5-19.22 NW1/4 SE1/4 Lot 5	22	0	0
1018 A-N & T-1018	0	Vancouver Allotments	45.88377	-120.7432532	5-16.25	25	5	16
VH-05684	0	Vancouver Allotments	45.90342822	-120.4549042	5-19.20	20	5	19
VH-5733 old VH-1014	0	Vancouver Allotments	45.89973425	-120.4650735	5-19.20	20	5	19
V-99	160	Vancouver Allotments	45.90695626	-120.4129582	5-19.22	22	5	19
V-101	160	Vancouver Allotments	45.87776718	-120.4129623	5-19.34	34	5	19
V-1020	0	Vancouver Allotments	45.88621436	-120.7387426	5-17.30	30	5	17
MV-103	0	Vancouver Allotments Mineral Rights	45.8905253	-120.4207963	5-19.27 SE1/4 NW1/4 Lot 5	27	5	19
VH-1013	160	Vancouver Allotments	45.90701623	-120.4647862	5-19.20	20	5	19
V-125	160	Vancouver Allotments	45.88518599	-120.4751054	5-19.30	30	5	19
V-128	160	Vancouver Allotments	45.87789865	-120.4751252	5-19.31	31	5	19
V-131	160	Vancouver Allotments	45.87788215	-120.4649092	5-19.32	32	5	19
TV-132	160	Vancouver Allotments Trust	45.87795894	-120.4853247	5-19.31	31	5	19
TWW-30	160	Walla Walla Allotments	45.84761432	-119.9142712	4-23.10	10	4	23
WW-32	160	Walla Walla Allotments	45.84768371	-119.9248848	4-23.10	10	4	23
V-109	160	Vancouver Allotments	45.89253293	-120.4851562	5-19.30	30	5	19
V-130	160	Vancouver Allotments	45.87064849	-120.46489	5-19.32	32	5	19
V-124	80	Vancouver Allotments	45.88522953	-120.4851801	5-19.30	30	5	19
WW-12	0	Walla Walla Allotments	45.82635658	-120.1326588	4-21.13	13	4	21
MWW-7	160	Walla Walla Allotments Mineral Rights	45.86938193	-119.924692	5-23.34	34	5	23

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

V-199	80	Vancouver Allotments	45.86245237	-120.7966334	4-16.13	13	4	16
VH-0576	0	Vancouver Allotments	45.84920977	-120.4956653	4-18.12	12	4	18
V-133	160	Vancouver Allotments	45.8706682	-120.4752939	5-19.31	31	5	19
V-82	0	Vancouver Allotments Mineral Rights	45.7616277	-120.4417722	3-19.9	9	3	19
V-142	160	Vancouver Allotments	45.74643378	-120.4341179	3-19.16	16	3	19
V-104	160	Vancouver Allotments	45.84897353	-120.4646473	4-19.8	8	4	19
TV-146-A	0	Vancouver Allotments	45.74098035	-120.4339097	3-19.16	16	3	19
V-202	160	Vancouver Allotments	45.83486891	-120.5264185	4-18.14	14	4	18
TV-1019	3	Vancouver Allotments	45.88549059	-120.7388083	5-17.30	30	5	17
TWW-21	80	Walla Walla Allotments	45.86220299	-119.9353371	4-23.4	4	4	23
WW-28	0	Walla Walla Allotments	45.86937896	-119.9143997	5-23.34	34	5	23
TWW-33	0	Walla Walla Allotments	45.85502749	-119.9357792	4-23.4	4	4	23
V-126	160	Vancouver Allotments	45.87061771	-120.4547713	5-19.32	32	5	19
TV-127	80	Vancouver Allotments	45.87072857	-120.4856098	5-19.31	31	5	19
TV-1022	0	Vancouver Allotments	45.86605748	-120.7966469	4-16.3	3	4	16
MWW-22	160	Walla Walla Allotments Mineral Rights	45.86219373	-119.9457835	4-23.4	4	4	23
WW-29	0	Walla Walla Allotments	45.84761585	-119.9767913	4-23.7	7	4	23
WW-15	0	Walla Walla Allotments	45.81908882	-120.1327129	4-21.24	24	4	21
WW-3	0	Walla Walla Allotments	45.80439575	-120.1125436	4-22.30	30	4	22
MV-47-A	0	Vancouver Allotments Mineral Rights	45.82210595	-121.4437554	4-11.21 S1/2 NW1/4	21	4	11
V-140	160	Vancouver Allotments	45.84902866	-120.4750712	4-19.7	7	4	19
TWW-24	0	Walla Walla Allotments	45.85498896	-119.9460562	4-23.4	4	4	23
VH-0544	81	Vancouver Allotments	45.84163768	-121.1159021	4-13.12	12	4	13
V-139	80	Vancouver Allotments	45.84919903	-120.485317	4-19.7	7	4	19
TWW-25	0	Walla Walla Allotments	45.84758822	-119.9665421	4-23.8	8	4	23
TWW-23	0	Walla Walla Allotments	45.84758959	-119.956362	4-23.8	8	4	23
V-21	80	Vancouver Allotments	45.82698152	-121.100324	4-14.18	18	4	14
WW-10	0	Walla Walla Allotments	45.83357088	-120.1325748	4-21.13	13	4	21
WW-9	0	Walla Walla Allotments	45.83334648	-120.122363	4-21.13	13	4	21
WW-5	0	Walla Walla Allotments	45.81912867	-120.1743344	4-21.22	22	4	21

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

V-20	0	Vancouver Allotments	45.81416921	-121.0848791	2-14.11	20	4	14
MVH-303	0	Vancouver Allotments Mineral Rights	45.805547	-121.1394431	4-13.26 NE1/4 S1/2	26	0	0
MVH-303	0	Vancouver Allotments Mineral Rights	45.80188243	-121.1394701	4-13.26 SE1/4 N1/2	26	0	0
TWW-26	0	Walla Walla Allotments	45.84028465	-119.9665472	4-23.8	8	4	23
V-67	221	Vancouver Allotments	45.81377332	-121.1074443	4-14.19	19	4	14
MWW-31	160	Walla Walla Allotments Mineral Rights	45.84046856	-119.976893	4-23.7	7	4	23
WW-19	160	Walla Walla Allotments	45.8260781	-120.1019428	4-22.18	18	4	22
TWW20	160	Walla Walla Allotments	45.84010359	-119.9563579	4-23.8	8	4	23
VT-28	160	Vancouver Allotments	45.79825967	-121.1498315	4-13.26	26	4	13
TWW-7	0	Walla Walla Allotments	45.82643382	-120.1638594	4-21.15	15	4	21
TWW-8	0	Walla Walla Allotments	45.8264272	-120.174307	4-21.15	15	4	21
1003	0	Vancouver Allotments	45.65667167	-121.1067496	2-14.18	18	2	14
MVH-832	0	Vancouver Allotments Mineral Rights	45.78570385	-121.512481	3-10.35 SE1/4	35	3	10
V-160	80	Vancouver Allotments	45.66900119	-120.9395609	2-15.9	9	2	15
V-148	0	Vancouver Allotments	45.72562055	-120.4650324	3-19.20	20	3	19
MV-158	40	Vancouver Allotments Mineral Rights	45.67100541	-121.0129107	2-14.11	11	2	14
MV-158	40	Vancouver Allotments Mineral Rights	45.6675293	-121.012848	2-14.11	11	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66534146	-121.0124611	2-14.14	14	2	14
V-38	0	Vancouver Allotments	45.64536253	-121.1133979	2-14.19	19	2	14
WW-11	0	Walla Walla Allotments	45.82621799	-120.1224943	4-21.13	13	4	21
WW-17	0	Walla Walla Allotments	45.82611566	-120.1122264	4-22.18	18	4	22
WW-4	0	Walla Walla Allotments	45.79699067	-120.1125574	4-22.30	30	4	22
VH-02070	80	Vancouver Allotments	45.78919972	-121.1784467	4-13.33	33	4	13
MV-47-A	0	Vancouver Allotments Mineral Rights	45.81487861	-121.4488819	4-11.20 E1/2 SE1/4	20	4	11
WW-16	80	Walla Walla Allotments	45.81005143	-120.1226713	4-21.24	24	4	21
WW-6	0	Walla Walla Allotments	45.8191356	-120.1639111	4-21.22	22	4	21
WW--1	160	Walla Walla Allotments	45.80427985	-120.1022065	4-22.30	30	4	22
V-67	221	Vancouver Allotments	45.81273383	-121.1161597	4-13.24	24	4	13
V-187	160	Vancouver Allotments	45.80386906	-121.1936349	4-13.28	28	4	13
V-70	160	Vancouver Allotments	45.80699145	-121.0977658	4-14.30	30	4	14

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

VH-572	160	Vancouver Allotments	45.77824508	-121.1498566	3-13.2	2	3	13
VH-3959	80	Vancouver Allotments	45.76856138	-120.4364587	3-19.4	4	3	19
V-195	160	Vancouver Allotments	45.73657442	-121.2683026	3-12.23	23	3	12
VH-954	0	Vancouver Allotments	45.78757909	-121.5333003	4-10.34	34	4	10
T-63	160	Vancouver Allotments	45.78912904	-121.1602196	4-13.34	34	4	13
V-68	80	Vancouver Allotments	45.80890404	-121.1083578	4-14.30	30	4	14
VT-62	160	Vancouver Allotments	45.78378652	-121.1654549	4-13.34	34	4	13
VH-1523	80	Vancouver Allotments	45.80369956	-121.1471484	4-13.26	26	4	13
VT-28	160	Vancouver Allotments	45.79457687	-121.1498313	4-13.35	35	4	13
TVH-6009	0	Vancouver Allotments	45.79094074	-121.1498552	4-13.35	35	4	13
V-69	0	Vancouver Allotments	45.78649428	-121.182309	4-13.33	33	4	13
V-80	160	Vancouver Allotments	45.75378473	-120.4433968	3-19.9	9	3	19
VH-0574	0	Vancouver Allotments	45.77598811	-120.4436349	3-19.4	4	3	19
V-77	160	Vancouver Allotments	45.7612429	-120.4344498	3-19.9	9	3	19
TV-66	160	Vancouver Allotments	45.78395188	-121.1888551	4-13.33	33	4	13
TV-66	160	Vancouver Allotments	45.78021207	-121.1837076	3-13.4	4	3	13
VH-498	160	Vancouver Allotments	45.7747765	-121.1940699	3-13.4	4	3	13
V-78	0	Vancouver Allotments	45.77546837	-120.4023834	3-19.2	2	3	19
MV-72	160	Vancouver Allotments Mineral Rights	45.74277216	-121.2643337	3-12.14	14	3	12
V-86	160	Vancouver Allotments	45.76792156	-120.4032003	3-19.2	2	3	19
VH-3960	0	Vancouver Allotments	45.77580759	-120.4333103	3-19.4	4	3	19
V-97	160	Vancouver Allotments	45.76839957	-120.4316389	3-19.4	4	3	19
V-147	80	Vancouver Allotments	45.73749897	-120.4338055	3-19.16	16	3	19
V-149	80	Vancouver Allotments	45.72737001	-120.4542668	3-19.20	20	3	19
V-98	0	Vancouver Allotments	45.76819457	-120.4187706	3-19.3	3	3	19
V-79	160	Vancouver Allotments	45.76093279	-120.4244485	3-19.10	10	3	19
V-83	160	Vancouver Allotments	45.76076509	-120.4141488	3-19.10	10	3	19
V-85	160	Vancouver Allotments	45.75360914	-120.424369	3-19.10	10	3	19
V-97	160	Vancouver Allotments	45.76831817	-120.4266859	3-19.3	3	3	19
V-81	160	Vancouver Allotments	45.75393855	-120.4344531	3-19.9	9	3	19

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

VH-976	80	Vancouver Allotments	45.72112456	-121.3545458	3-12.30	30	3	12
V-50	160	Vancouver Allotments	45.72111758	-121.2646138	3-12.26	26	3	12
TH-402	160	Vancouver Allotments	45.73185493	-121.25674	3-12.24	24	3	12
V-91	0	Vancouver Allotments	45.73433307	-120.4413907	3-19.21	21	3	19
V-91	0	Vancouver Allotments	45.73406801	-120.436287	3-19.21	21	3	19
1026	40	Vancouver Allotments	45.7446768	-121.277043	3-12.14	14	3	12
V-91	0	Vancouver Allotments	45.73460633	-120.4465118	3-19.21	21	3	19
V-90	0	Vancouver Allotments	45.73178047	-120.426193	3-19.22	22	3	19
VH-976	0	Vancouver Allotments	45.72843373	-121.3544977	3-12.19	19	3	12
VH-403	120	Vancouver Allotments	45.71934078	-121.2722515	3-12.26	26	3	12
V-143	160	Vancouver Allotments	45.74707875	-120.4441033	3-19.16	16	3	19
V-145	80	Vancouver Allotments	45.74169224	-120.4440808	3-19.16	16	3	19
V-89	0	Vancouver Allotments	45.73887752	-120.4260496	3-19.15	15	3	19
V-88	80	Vancouver Allotments	45.73198488	-120.4313794	3-19.21	21	3	19
V-144	78	Vancouver Allotments	45.73807859	-120.4440038	3-19.16	16	3	19
V-179 & V179 A-F	0	Vancouver Allotments	45.66284671	-121.0128866	2-14.14	14	2	14
V-38	0	Vancouver Allotments	45.6497161	-121.1067634	2-14.19	19	2	14
V-1006	0	Vancouver Allotments	45.71248282	-121.4585922	3-11.23	23	3	11
MV-170	80	Vancouver Allotments Mineral Rights	45.68477929	-120.8903141	2-15.2	2	2	15
MV-172	80	Vancouver Allotments Mineral Rights	45.68132539	-120.8903393	2-15.2	2	2	15
V-8	0	Vancouver Allotments	45.69117946	-121.015368	2-14.2	2	2	14
MTV-181	80	Vancouver Allotments Mineral Rights	45.7111595	-120.4670328	3-19.29	29	3	19
V-34	160	Vancouver Allotments	45.66882272	-120.8904506	2-15.11	11	2	15
V-192	80	Vancouver Allotments	45.66928708	-121.0436379	2-14.10	10	2	14
V-157	80	Vancouver Allotments	45.66928147	-121.0384597	2-14.10	10	2	14
V-155	80	Vancouver Allotments	45.68318625	-120.9393737	2-15.4	4	2	15
T9001 (TR1)	84	Vancouver Allotments	45.63933186	-121.1116395	2-14.19	19	2	14
TV-64	40	Vancouver Allotments	45.63441855	-121.117181	2-13.25	25	2	13
V-30	120	Vancouver Allotments	45.66155078	-121.1191033	2-13.13	13	2	13
V-166	80	Vancouver Allotments	45.69196435	-120.890258	2-15.2	2	2	15

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

MV-151	160	Vancouver Allotments Mineral Rights	45.68317207	-120.9318312	2-15.4	4	2	15
MV-171	80				2-15.3	3	2	15
V-167	80	Vancouver Allotments	45.68830224	-120.8902877	2-15.2	2	2	15
V-191	80	Vancouver Allotments	45.67588864	-121.0352264	2-14.10	10	2	14
MV-169	0	Vancouver Allotments Mineral Rights	45.67783602	-120.9009428	2-15.11	11	2	15
V-32	0	Vancouver Allotments	45.67795892	-120.9526449	2-15.8	8	2	15
V-162	80	Vancouver Allotments	45.66909063	-120.9500776	2-15.8	8	2	15
V-159	80	Vancouver Allotments	45.66010177	-120.9948551	2-14.13	13	2	14
V-161	80	Vancouver Allotments	45.68321799	-120.9446249	2-15.4	4	2	15
V-190	80	Vancouver Allotments	45.66762371	-120.9949429	2-14.12	12	2	14
V-200	80	Vancouver Allotments	45.67836938	-121.0257303	2-14.11	11	2	14
MVH-5523	80	Vancouver Allotments Mineral Rights	45.66759298	-121.0050902	2-14.12	12	2	14
V-164	0	Vancouver Allotments	45.66929754	-121.0334194	2-14.10	10	2	14
TV-193	80	Vancouver Allotments	45.67467226	-121.0256858	2-14.11	11	2	14
V-154	80	Vancouver Allotments	45.66916888	-120.9604751	2-15.8	8	2	15
MV-186	160	Vancouver Allotments Mineral Rights	45.66890501	-120.9213254	2-15.10	10	2	15
V-174	160	Vancouver Allotments	45.67612266	-120.9214856	2-15.10	10	2	15
MVH-5534	140	Vancouver Allotments Mineral Rights	45.66179993	-120.9317848	2-15.16	16	2	15
V-153	80	Vancouver Allotments	45.66923855	-120.9659428	2-15.8	8	2	15
V-175	160	Vancouver Allotments	45.67606874	-120.9112577	2-15.10	10	2	15
MV-165	80	Vancouver Allotments	45.66895217	-120.9344041	2-15.9	9	2	15
MV-168	80	Vancouver Allotments Mineral Rights	45.67253653	-120.9036655	2-15.11	11	2	15
MV-163	80	Vancouver Allotments Mineral Rights	45.66915301	-120.9551753	2-15.8	8	2	15
V-179 & V179 A-F	0	Vancouver Allotments	45.66414671	-121.0117915	2-14.14	14	2	14
V-35	160	Vancouver Allotments	45.66396444	-120.958408	2-15.17	17	2	15
V-179 & V179 A-F	0	Vancouver Allotments	45.66437809	-121.0127457	2-14.14	14	2	14
MVH-5530	160	Vancouver Allotments Mineral Rights	45.66899343	-120.911125	2-15.10	10	2	15
MV-29	125	Vancouver Allotments Mineral Rights	45.65556008	-121.0997832	2-14.18	18	2	14
VH-852	160	Vancouver Homestead Allotments	45.64630567	-121.1223575	2-13.24	24	2	13
T-1010	0	Vancouver Allotments	45.66399614	-120.975698	2-15.18	18	2	15

Public Domain Trust Lands – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

V-179 & V179 A-F	0	Vancouver Allotments	45.66316357	-121.0110236	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66501137	-121.0140557	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66470499	-121.0135588	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66128518	-121.0112186	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.6639684	-121.012729	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66407431	-121.0108021	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66392796	-121.0143156	2-14.14	14	2	14
MV-61	80	Vancouver Allotments Mineral Rights	45.63992675	-121.1380502	2-13.23	23	2	13
MV-185	160	Vancouver Allotments Mineral Rights	45.63984595	-121.1199236	2-13.24	24	2	13
MV-45	40	Vancouver Allotments Mineral Rights	45.63444904	-121.122318	2-13.25	25	2	13
V-179 & V179 A-F	0	Vancouver Allotments	45.66339863	-121.0125756	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66439225	-121.0147783	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66245521	-121.014371	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.6604507	-121.0105019	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66124378	-121.0137333	2-14.14	14	2	14
V-179 & V179 A-F	0	Vancouver Allotments	45.66209586	-121.0140187	2-14.14	14	2	14
TV-194	121	Vancouver Allotments	45.66269613	-121.0202642	2-14.14	14	2	14
T-1011	160	Vancouver Allotments	45.64910653	-121.1274632	2-13.24	24	2	13
V- 1005	0	Vancouver Allotments	45.61603819	-121.1826913	2-13.33	33	2	33
MV-43	40	Vancouver Allotments Mineral Rights	45.63081097	-121.1222883	2-13.25	25	2	13
V-179 & V179 A-F	0	Vancouver Allotments	45.65999751	-121.0129392	2-14.14	14	2	14
VH-400	160	Vancouver Allotments	45.72103256	-121.3468671	3-12.30	30	3	12
MVH-243	0	Vancouver Allotments Mineral Rights	45.89415843	-120.4156403	5-19.27 NW1/4 NE1/4 Lot 1	27	0	0
MV-103	0	Vancouver Allotments Mineral Rights	45.89052976	-120.4259043	5-19.27 SW1/4 NW 1/4 Lot4	27	5	19
MVH-243	0	Vancouver Allotments Mineral Rights	45.8941657	-120.4208393	5-19.27 NE1/4 NW1/4 Lot 2	27	0	0
1025	38	Vancouver Allotments	45.74114746	-121.2769134	3-12.14	14	3	12

Fishing Access Sites – Yakama Nation, Klickitat County, WA (Feb. 23, 2024)

Name	County	X_Coord	Y_Coord
Alderdale	Klickitat	1785068.917	183553.501
Pine Creek	Klickitat	1750318.06	168288.1123
Moonay	Klickitat	1745047.945	166194.6872
Roosevelt Park	Klickitat	1710984.208	145137.912
Sundale Park	Klickitat	1658549.024	135306.0252
Rock Creek	Klickitat	1643850.159	134807.4169
Pasture Point	Klickitat	1641401.135	135597.9745
Goodnoe	Klickitat	1633214.876	143704.2192
John Day	Klickitat	1589717.364	142739.9263
Maryhill	Klickitat	1554649.726	126645.9937
Avery	Klickitat	1503344.649	120530.7679
Dallesport	Klickitat	1463206.266	104213.9736
Lyle	Klickitat	1440409.125	130895.3218
White Salmon	Klickitat	1386879.115	143807.8443

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SUSAN SOTO PALMER, et al.,	)	C22-5035-RSL
)	
Plaintiffs,)	
)	
v.	)	Seattle, WA
)	
STEVEN HOBBS, in his	)	June 2, 2023
official capacity as)	
Secretary of State of	)	9:00 a.m.
Washington, et al.,)	
	)	TRIAL - Day 1
Defendants,)	
)	
and)	
)	
JOSE TREVINO, et al.,)	
)	
Intervenor-Defendants,)	
)	

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF WASHINGTON

APPEARANCES:

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	Simone Leeper
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1 And then we'll put that on the arrow bar. So that's what we
2 do here in this case.

3 Q And which voters do you present point estimates for in
4 your report?

5 A Latino or Hispanic voters, and then white, non-Hispanic
6 voters.

7 Q Pages 7 through 8 of Plaintiffs' Exhibit 1 lists the
8 elections that you examined for your racially polarized
9 voting analysis. Can you briefly describe the elections you
10 looked at?

11 A I looked at statewide, a lot of statewide partisan
12 contests from 2016 to 2020, and then various legislative
13 district analyses in the jurisdiction, 15, 14, 13, with a bit
14 more of a focus on 15. And then I looked at some local
15 contests that are nonpartisan. And those contests featured a
16 Spanish surname candidate. I think one of the candidates is
17 non-Hispanic, white, but they have a Spanish surname. And so
18 I looked at those, as well. So I think overall, I looked at
19 25 elections, over something like a ten-year time period, or
20 so.

21 Q And what impact does considering 25 elections, over a
22 ten-year time period, have on your analysis?

23 A You have a lot of breadth. It often happens in these
24 studies where there's a certain unique election dynamic that
25 occurs, that is different. And you can see that in my own

1 results. And if you just happen to look at one contest or
2 two, you could draw an inference that's wrong, like a global
3 inference, not a statistical inference, but an analytical
4 global inference. So by looking at more contests with
5 variation, we have partisan, nonpartisan, primary, general,
6 different units, different parts of different areas. And for
7 the most part, it's all saying the same thing. I find that
8 compelling, for myself.

9 Q On Pages 13 through 20 of Plaintiffs' Exhibit 1, you
10 report the results of your racially polarized voting analysis
11 for the Yakima Valley area. At a high level, what did you
12 find?

13 A Pretty clear racially polarized voting. All of the
14 different analyses, more or less, correspond with one
15 another. And we're seeing polarization at the 70- to
16 80-percent level, on either side of the racial or ethnic
17 divide, most times. And so it's just hard to say that
18 there's not racially polarized voting in Yakima, as a general
19 situation.

20 Q And how would you characterize this level of cohesion
21 among Latino voters?

22 A It's high. It's high. It's occurring every single time
23 pretty much, with the exception of maybe two contests, you
24 see this cohesion going on.

25 Q Let's pull up Figure 3, on Page 14 of Plaintiffs'

1 polarized voting analysis. So we're kind of in agreement, at
2 least as a principle.

3 So his findings pretty much strengthen my conclusion,
4 because -- basically finding the same thing.

5 Q All right. Let's go back to Plaintiffs' Exhibit 1, and
6 we're going to turn to Page 28, Table 5.

7 At a high level, can you explain what analysis you
8 conducted here?

9 A This is a decision timeline, with many different maps that
10 were proposed, you know, over several months.

11 And what it shows, or a couple things, just as a broad
12 picture, that the Commission did consider making this
13 District 14, but ultimately settled on 15. The Commission
14 also was aware of *Gingles* 1, here. As you can see, the
15 Latino CVAP for both 2019 and 2020 goes up, and then down,
16 over the 50 percent threshold, and then down at times.

17 Then also the Commission had available to them, at least
18 it's my understanding, of how the different statewide
19 candidates are doing in the different district
20 configurations. And so the Commission could have drawn a
21 district, they had it -- right? -- that would very likely
22 perform for Latino candidates. And they settled on one that
23 is quite a bit less likely to perform for Latino candidates,
24 based upon what they could have done.

25 Q Let's turn to Page 31 of your expert report. Here you

1 conduct an additional analysis of the precincts included and
2 excluded in Legislative District 15, in the enacted plan.

3 Can you generally describe this analysis?

4 A So there were some Latino precincts that could have been
5 in this district, that weren't. And so using my voter file
6 data that I had already coded up and had that ready to go, I
7 was able to compare the precincts that were included in the
8 ultimate enacted map, versus those that were excluded. The
9 population size. But also the voter turnout rate of whites
10 and Hispanics in those very specific areas. Right?

11 I think the method that I'm using is maybe the only way
12 you could do that, at that fine-grain level.

13 And what you basically see is that the -- even though
14 they're all Latino-heavy precincts, the white advantage of
15 voters who ultimately vote in the excluded precincts, is
16 quite a bit lower than the white advantage, in terms of
17 registration and turnout, and voting and voting power, than
18 the included precincts; which is to say white voting power
19 was higher in the included precincts, even though they're
20 high-density Latino, relative to the excluded precincts.

21 Q Where were the included precincts that you analyzed
22 located?

23 A This is Adams County. And I list out the precincts, 413,
24 415, 511, 512, and then Grant, 26.

25 Q Where were the excluded precincts that you analyzed

1 located?

2 A Those are in Yakima County. Wapato, Toppenish, and
3 Mabton. Excuse my pronunciation. The report lists them.
4 901, 2101, 2102, 2103, 2501, and then 2502.

5 Q Are the results of this analysis reported in Table 9, on
6 Page 32 of Plaintiffs' Exhibit 1?

7 A Yes.

8 Q What conclusion did you reach, from this analysis of
9 included and excluded precincts in the Yakima Valley?

10 A It effectively -- the excluded precincts relatively limit
11 Latino influence, relative to the included precincts,
12 relative to the possible precincts, but that were excluded.

13 MS. HARLESS: Your Honor, I pass the witness for
14 cross examination.

15 THE COURT: Thank you very much. And the first cross
16 will be by Mr. Holt.

17 MR. HOLT: Your Honor, I've conferred with counsel
18 for the AG. We think they might be able to complete their
19 examination before lunch.

20 THE COURT: Okay. Mr. Hughes?

21 CROSS EXAMINATION

22 BY MR. HUGHES:

23 Q Mr. Collingwood --

24 THE COURT: Could you move that microphone a little
25 closer to you?

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SUSAN SOTO PALMER, et al.,
Plaintiffs,

v.

STEVEN HOBBS, in his
official capacity as
Secretary of State of
Washington, et al.,

Defendants,

and

JOSE TREVINO, et al.,

Intervenor-Defendants,

BENANCIO GARCIA III,

Plaintiff,

v.

STEVEN HOBBS, in his
official capacity as
Secretary of State of
Washington, et al.,

Defendants.

) C22-5035-RSL

) Seattle, WA

) June 6, 2023

) 8:30 a.m.

) TRIAL - Day 3

) C22-5152-RSL-DGE-
) LJCVC

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT S. LASNIK
HONORABLE DAVID G. ESTUDILLO
UNITED STATES DISTRICT JUDGES
WESTERN DISTRICT OF WASHINGTON
HONORABLE LAWRENCE J.C. VANDYKE
UNITED STATES NINTH CIRCUIT JUDGE

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1 MR. HERRERA: I pass the witness.

2 THE COURT: Thank you. All right. Attorney General
3 Erica Franklin.

4 CROSS EXAMINATION

5 BY MS. FRANKLIN:

6 Q Good afternoon, Dr. Owens. My name is Erica Franklin, and
7 I represent the State of Washington in both matters. And I
8 believe I met you virtually during your deposition.

9 A Good to see you again.

10 Q Good to see you, too.

11 Dr. Owens, is it your opinion that LD 15, as enacted,
12 is non-compact?

13 A As a district? I think I did not identify an opinion
14 about that. I think it's that the Hispanic communities
15 within LD 15 are not compact.

16 Q In reaching that conclusion, did you compare the shape of
17 enacted LD 15 to the shape of other comparable districts in
18 the state?

19 A No, I didn't make those comparisons. Again, not about the
20 district.

21 Q In your deposition, you said that you believed that vote
22 dilution, under Section 2 of the VRA, only occurs when voters
23 select candidates on the basis of the candidate's race or
24 ethnicity. Is that still your understanding?

25 A I think that's one of the ways that we're able to look at

1 we said, most elections, the Hispanic candidates, when it's a
2 white Republican and a white Democrat, are selecting the
3 white Democrat.

4 Q Generally speaking, when non-Hispanic white voters vote,
5 did their votes overwhelm the preferences of Hispanic voters,
6 generally speaking?

7 A I didn't use that as part of my analysis, in the first
8 report.

9 Q But do you have any reason to believe that that's not the
10 case?

11 A No.

12 Q Okay. Now, let's turn to the last page of your original
13 report. We were just looking at it, admitted Exhibit 1001,
14 and we're on Page 19 of the PDF.

15 So I have a couple other questions about the sentence
16 we were just looking at a few minutes ago. The last sentence
17 you wrote, "To the extent possible, we can also say that SD
18 15 was created to intentionally include as many Hispanic
19 Democratic voters from Benton County as possible."

20 So in reaching that conclusion, did you speak to any of
21 the commissioners?

22 A No.

23 Q Did you speak to anyone else involved in the redistricting
24 process?

25 A No. I was separate.

1 has only token opposition against it, this shoestring
2 campaign, that election might not tell you too much about
3 what voters would prefer in a fair fight. Would you agree?

4 A It is contextually different. But what we still have
5 ahead of us is knowing the partisanship of the candidates.

6 Q Sure. So at the time of this supplemental, when you
7 drafted the supplemental reports, were you aware that Senator
8 Torres had previous experience in an elected office, before
9 she ran for that position?

10 A I would think; at the time, I can't recall. I do know
11 that she has had that.

12 Q At the time, did you know that Lindsay Keesling did not
13 have any prior experience in elective office?

14 A We discussed that. She had not.

15 Q And at the time you submitted your first supplemental
16 report, were you aware that Lindsay Keesling was a write-in
17 candidate during the August 2022 primary election?

18 A Of the primary? No. When I wrote the report, yeah, we
19 talked about that.

20 Q So you didn't take her write-in status into account, in
21 preparing that report, right?

22 A No, because she qualified for the election.

23 Q And at the time you submitted your supplemental reports,
24 were you aware of how much -- or let's take your first
25 supplemental report. Were you aware of how much Lindsay

1 Keesling and Nikki Torres had spent in that race?

2 A No.

3 Q Okay. Let's take a look. Can you please pull up the
4 information about these candidates from the website? This is
5 not an exhibit, but information that appears publicly on the
6 website for the Washington Public Disclosure Commission.

7 If we scroll down to the bar graph to campaign
8 expenditures. Let's take a moment to do that.

9 Can you tell me what Nikki Torres's total expenditures
10 were. I think if you keep scrolling, there's a table.

11 A \$94,000.

12 Q What about Lindsay Keesling's?

13 A Over \$4,000.

14 Q So Senator Torres outspent Ms. Keesling by over 20 to 1,
15 right?

16 A She spent more.

17 Q So would you agree that Lindsay Keesling was at a
18 significant disadvantage in the November 2022 race?

19 A In this factor of measure, yes.

20 Q How did that factor into your analysis?

21 A It did not.

22 Q So when an experienced, well-funded candidate trounces a
23 write-in candidate, by outspending them more than 20 to 1, do
24 you really think that really tells you much about what
25 certain classes of voters prefer, more broadly?

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

3
4 SUSAN SOTO PALMER, et al.,) C22-5035-RSL

5 Plaintiffs,)

6 v.) Seattle, WA

7 STEVEN HOBBS, in his) June 7, 2023

8 official capacity as)
9 Secretary of State of) 8:30 a.m.

10 Washington, et al.,) TRIAL - Day 4

11 Defendants,)

12 and)

13 JOSE TREVINO, et al.,)

14 Intervenor-Defendants,)

15 BENANCIO GARCIA III,) C22-5152-RSL-DGE-
16 LJCJV

17 Plaintiff,)

18 v.)

19 STEVEN HOBBS, in his)
20 official capacity as)
21 Secretary of State of)
22 Washington, et al.,)

23 Defendants.)

24 VERBATIM REPORT OF PROCEEDINGS
25 BEFORE THE HONORABLE ROBERT S. LASNIK
HONORABLE DAVID G. ESTUDILLO
UNITED STATES DISTRICT JUDGES
WESTERN DISTRICT OF WASHINGTON
HONORABLE LAWRENCE J.C. VANDYKE
UNITED STATES NINTH CIRCUIT JUDGE

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1 to mispronounce any of the cities. But if I do mispronounce
2 them, it's going to be because I'm nervous.

3 So as you drive down 82 and you go from Yakima, to then
4 Wapato, then you go to Toppenish, and then you go -- you pass
5 Zillah. Then you go on to Granger. And what comes after
6 Granger? I think it's Grandview, then Sunnyside, and
7 Process. And as you go up to Pasco, and then you go up
8 Taylor Flats Road, and up 395, what is going to tie those
9 areas all together? Do you find that those areas are similar
10 enough?

11 A Yes, I do. Like I said, the labor that we provide, the
12 Latino communities provide to all the farms, it's what keeps
13 us -- it's what connects us.

14 Q Did I miss Sunnyside? I apologize.

15 JUDGE ESTUDILLO: You reversed it. You went from
16 Granger to Grandview.

17 MR. MORFIN: I apologize, Your Honors.

18 Q I do want to ask you very directly, then. Do you think
19 that Yakima and Pasco should be in a Legislative District
20 together?

21 A I think that would be good. That would be great. With
22 all respect to the Redistricting Commission, if they would
23 have done a better job to make sure that we're not split in
24 the community, that we bring it -- maybe over here. But in
25 the future, if we look at the two big areas, which is Yakima

1 and the Tri-Cities, that would be ideal for representation.

2 We do have lots of folks that work in the farms, but we
3 also want somebody to represent us in Olympia.

4 Q So considering the history that you're familiar with, and
5 you actually lived it, so I appreciate -- let me take a
6 second, I appreciate you for all of the work that you've done
7 in the community.

8 But considering the history that you're familiar with
9 in the Yakima Valley and Central and Eastern Washington, when
10 considering the size of the Latino population, and
11 considering the amount of Latino representation there, in
12 terms of Latino-preferred candidates, do you think that
13 there's a fair amount of Latino representation in Central and
14 Eastern Washington?

15 A Not in that area. That's exactly what we need. And
16 that's why we keep asking for ways to promote folks to get
17 involved, and inform themselves, and run for office.

18 Q How does it make you feel -- and we're going to get back
19 to that in a second -- but how does it make you feel to know
20 that we are fighting so hard here in court, on either side,
21 for there to be a district in Central and Eastern Washington,
22 where Latinos are able to choose a candidate?

23 A Well, it makes me feel that we have a long ways to go.

24 Q So does representation matter?

25 A Yes, it does.

1 about in this case, are more compact and contiguous than most
2 of the demonstration districts you've seen in the VRA cases
3 you've done?

4 A Yes. Certainly more than most demonstration districts.

5 Q For the *Gingles* second and third factors, did you
6 replicate Dr. Collingwood's ecological inference analysis?

7 A I replicated, in the sense of running the same analysis,
8 with the same data, and then I did what I would consider a
9 different form of replication, using an alternative set of
10 voter data, reproduced those results again.

11 Q And based on that analysis, did you find that Hispanic
12 voters have voted cohesively in the Yakima area?

13 A Yes. In these elections, you see moderate cohesion in the
14 70 to 80 percent range.

15 Q On *Gingles* 3, did you find the white voters vote
16 cohesively to block Latino-preferred candidates, at least in
17 the -- at least in partisan elections?

18 A Yes. In partisan elections, again, moderately cohesive,
19 around 80 percent level, Anglo voters vote Republican, which
20 are not the candidates preferred by Hispanic voters.

21 Q And did you find that white opposition to Latino-preferred
22 candidates was actually elevated when the Latino-preferred
23 candidate was Hispanic?

24 A Yes. So I think it's important to look at the role of a
25 candidate's party. I think it's also important to look at

1 the role of a candidate's race or ethnicity. Here, there is
2 a significant effect for both.

3 Q And why does that matter to you?

4 A Where the pattern of voting difference can be -- cannot be
5 demonstrated to be anything beyond partisanship, my own view
6 is that's important information for the court to take into
7 account. I think, for example, with regard to totality of
8 the circumstance, that that's a very important issue. So I
9 think that's a useful analysis here. There is a significant
10 increase in the cohesion of Hispanic voters, when the
11 Democratic candidate is Hispanic; there's a significant drop
12 in the willingness to cross over among Anglo voters, when the
13 Democratic candidate is Hispanic. That's an unusual pattern,
14 in my experience, and shows that there is a real ethnic
15 effect on voting in this area.

16 Q Now, Dr. Alford, we've been talking about partisan
17 elections. In nonpartisan elections, did you find the same
18 pattern of racially polarized voting held true?

19 A No.

20 Q What did you find?

21 A With regard to *Gingles* 2, Hispanic voters -- it's a
22 limited set of --

23 Q Two elections?

24 A Four elections.

25 Q My apologies. Four elections.

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SUSAN SOTO PALMER, et al.,)	
	)	CASE NO. C22-5035-RSL
Plaintiffs,)	
v.	)	Seattle, Washington
)	
STEVEN HOBBS, et al.,	)	February 9, 2024
	)	9:30 a.m.
Defendants.)	
and	)	ORAL ARGUMENT ON
	)	REMEDIAL ISSUES
JOSE TREVINO, et al.,)	
)	
Intervenor-Defendants.)	
)	

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE

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1 PROCEEDINGS
2

3 THE CLERK: We are here in the matter of Soto Palmer,
4 et al. versus Hobbs, et al. versus Trevino, et al.,
5 Cause No. C22-5035, assigned to this court.

6 Counsel, please make your appearances for the record.

7 MS. WAKNIN: Sonni Waknin on behalf of plaintiff, Your
8 Honor. With me is Chad Dunn, Aseem Mulji, Ernest Herrera, and
9 Edwardo Morfin on behalf of plaintiff.

10 THE COURT: Thank you. Usually when it's "et al.," it
11 means other people. This really means "all."

12 MR. HUGHES: Good morning, Your Honor. Andrew Hughes
13 on behalf of the State of Washington. With me, as always, is
14 Cristina Sepe.

15 MR. STOKESBARY: Andrew Stokesbary on behalf of
16 Intervenor-Defendants, and with me is Dallin Holt.

17 THE COURT: Great. Thank you very much.

18 And listening on the telephone is the court-appointed
19 expert, Karen McDonald. You can hear us okay, Dr. McDonald?

20 THE CLERK: She's muted, Your Honor.

21 THE COURT: Just nod your head. Yeah, we're doing
22 fine.

23 So we're here on the motion to stay proceedings from
24 intervenor, talk about that and the possible next steps. So I
25 think I'll start with Mr. Stokesbary and have some oral

1 argument, some response from the plaintiffs and the State on
2 where we go from here.

3 MR. STOKESBARY: Thanks, Your Honor. May it please
4 the court. I'm Andrew Stokesbary on behalf of
5 Intervenor-Defendants, Alex Ybarra, Ismael Campos, and Jose
6 Trevino.

7 Your Honor, throughout this litigation, plaintiffs have
8 continually alleged that the enacted plan unlawfully dilutes
9 Hispanic voting strength in the Yakima Valley. But by their own
10 expert testimony, the five proposed remedial maps that they've
11 submitted to the court would all reduce the Hispanic citizen
12 voting age population in the challenged district and, in turn,
13 increase the amount -- the percentage of non-Hispanic voters.

14 Plaintiffs say that this is, sort of, acceptable, because
15 the remedial maps would now, quote/unquote, perform for Latino
16 voters. But intervenors, again, all of whom are Latino voters
17 themselves, Your Honor, categorically disagree that the only way
18 to give Latino voters a voice in the Yakima Valley is to reduce
19 the number of Latino voters in the district and replace them
20 with non-Latino voters.

21 This underscores one of intervenors' main arguments: That
22 this court has a continuous duty to affirm Article III standing,
23 and if a remedy is not possible, if there's no redressability,
24 the plaintiffs have no standing.

25 I'll also point out, Your Honor, that, in its memorandum of

1 decision, the court found that LD 15, as enacted, quote, results
2 in an inequality in the electoral opportunities enjoyed by the
3 white and Latino voters in the area, and directed the clerk to
4 enter judgment in favor of plaintiffs -- in plaintiffs' favor on
5 their Section 2 claim.

6 We assume this was their Section 2 results claim, and in
7 their amended complaint, plaintiffs have asked for the order and
8 implementation -- order the implementation and use of a valid
9 state legislative plan that includes a majority Latino state
10 legislative district in the Yakima Valley.

11 But by plaintiffs' own expert -- expert witness expert
12 report, Map 5 doesn't actually contain a majority-Hispanic CVAP
13 population.

14 Now, plaintiffs, in their reply brief, have, sort of, said
15 that intervenors' concern about reduction of Hispanic CVAP is
16 misplaced. I think the phrase they used was "wrong, as a matter
17 of law." But they only cite to cases that hold that a district
18 without a majority-minority CVAP may be a remedy in some cases.
19 There is no authority, to intervenors' counsels' knowledge, that
20 a single district that's been challenged and found to have a
21 minority vote dilution can be remedied by further vote dilution.

22 Plaintiffs failed to cite any Section 2 cases where that
23 was the case. One of the cases they cited was *Bartlett v.*
24 *Strickland*. That case challenged the district that started out
25 at 39 percent African American, and the question was by how much

1 to raise the African American percentage.

2 Another one of the cases cited was one of the Alabama
3 redistricting cases that just went through the U.S. Supreme
4 Court, and the challenge there was whether to add a second
5 African American-majority district. So that remedy resulted in
6 the creation of a second district, where the African American
7 voting percentage is increased.

8 Again, intervenors aren't aware of an instance where there
9 was already a majority-minority CVAP district, and the remedy is
10 to dilute the minority vote, even after there's been found to be
11 vote dilution.

12 I would also like to point out that plaintiffs have not,
13 actually, shown that any of their maps would perform for
14 Latino-preferred candidates in actual legislative elections,
15 which is the whole point of this exercise.

16 Dr. Trende, intervenors' expert, his report, in Appendix
17 II, measures the partisanship of the different districts. In
18 the last two columns for each map, he shows, sort of, the
19 average partisan tilt of the districts, and he shows that,
20 depending on which, sort of, metric you use, which elections you
21 average out, there's a between 1.8- and 2.2-point Republican
22 advantage in the current enacted 15th District.

23 This mirrors what we heard at trial, where the
24 commissioners thought that it would have a modest one- or
25 two-point Republican advantage, but Senator Nikki Torres won

1 that election by 35 points, which shows that she outperformed
2 that index by 33 points.

3 Now, Dr. Trende's analysis shows that the remedial
4 districts that are being proposed would have a Democratic
5 advantage of, perhaps, 12 to 14 points, dependent on which
6 configuration is used. If Nikki Torres outperformed that by 33
7 points, she would still win by 20 points, but plaintiffs insist
8 that Nikki Torres is not the Latinos' preferred candidate of
9 choice.

10 Plaintiffs have, sort of, countered that you can fully
11 reconstruct legislative elections, because there's some areas
12 that are out of the district, some areas that remain in the
13 district. And while that's true, we think that plaintiffs
14 could, sort of, show redressability by doing a partial
15 reconstruction and augmenting the missing areas through some
16 sort of statistical or simulative model that would, kind of,
17 extrapolate results, but they haven't even attempted to do so,
18 they haven't even attempted to explain how the Latino-preferred
19 candidate of choice would be able to win in this district after
20 the only endogenous election that has been contested in the 15th
21 District resulted in a Republican, who is, according to
22 plaintiffs, not the Latino candidate of choice, beating the
23 partisan index by 33 points.

24 Sorry, Your Honor. I'm getting a little Marco Rubio dry
25 mouth.

1 THE COURT: Okay. Do you have a cup of water there?
2 I haven't heard reference to that one in a while.

3 MR. STOKESBARY: I apologize, Your Honor.

4 THE COURT: No problem.

5 MR. STOKESBARY: And thank you for your indulgence.

6 THE COURT: Sure.

7 MR. STOKESBARY: If intervenors are wrong about this,
8 if plaintiffs don't have to show that the district would perform
9 for Nikki Torres, then intervenors would suggest that the
10 district doesn't need to be a 12- to 14-point Democrat
11 advantage.

12 As I noted a minute ago, Your Honor found that the
13 district, as enacted, resulted in unequal opportunities, not
14 unequal guarantees but unequal opportunities. We don't think
15 that a 12- to 14-point advantage is necessary to provide an
16 opportunity. We think that, perhaps, a three- or five-point
17 advantage would be more than sufficient to provide an
18 opportunity to elect candidates of choice.

19 And I'll also point out that this is one of several reasons
20 why an evidentiary hearing is still required, where our experts,
21 plaintiffs' experts, can testify and be subject to both direct
22 and cross-examination to, sort of, understand how they view
23 competitiveness, what margin they believe is necessary to ensure
24 opportunity versus certainty, and allow the court and Your Honor
25 to weigh the competing expert testimony.

1 And, again, while it's, obviously, no secret that
2 intervenors have disagreed with the court's decisions on the
3 merits, we still have significant problems with the proposed
4 remedies, even if they exist outside of the district that has
5 been challenged and the remedial district itself that has been
6 proposed by plaintiffs in their five maps.

7 The court has a duty to minimize changes beyond what's
8 strictly necessary to remedy the affected district. I want to
9 point to two cases, Your Honor. In *Upham v. Seamon*, which can
10 be found at 456 U.S. 37, the Supreme Court said that
11 court-ordered reapportionment plans are subject, in some
12 respects, to stricter standards than plans developed by state
13 legislature. In *Perry v. Perez*, which can be found at 565 U.S.
14 388, the Supreme Court said that a federal district court, in
15 the context of legislative reapportionment, should follow the
16 policies and preferences of the State as expressed in statutory
17 and constitutional provisions or in the reapportionment plans
18 provided by the state legislature, whenever adherence to state
19 policy does not detract from the requirements of the federal
20 Constitution.

21 So, Your Honor, we think that plaintiffs' maps as they
22 exist beyond the remedial district fail on this count for
23 several reasons.

24 The maps produce unnecessary shifts in partisan
25 performance. In Maps 1 and 3, Legislative District 12 goes from

1 a Republican advantage of about eight points to about four to
2 five points. In Maps 1 through 4, Legislative District 17 goes
3 from a district with about a one-point Republican advantage, on
4 average, to one-and-a-half- to two-point Democratic advantage,
5 on average.

6 And, again, this is another example of why we think that we
7 need an evidentiary hearing with expert testimony, so both
8 experts can explain the meaning of the shifts.

9 Intervenors contend that a two-point shift that takes the
10 district from plus one Republican to plus one Democrat, or vice
11 versa, is significantly more meaningful than a two-point shift
12 that takes a Democrat from plus 20 Republican to plus 18
13 Republican.

14 Our second concern is that the maps move far more voters
15 than are necessary. In their Maps 1 through 4, plaintiffs would
16 move about 500,000 Washingtonians into different districts. For
17 context, the average size of a legislative district is about
18 157,000 people. So in order to remedy one district, plaintiffs
19 would have less than -- in their first four maps, move three
20 districts' worth of people just to fix one district.

21 For further context, as I noted a second ago, the remedial
22 district, the partisan advantage would go from about plus two
23 Republican to about plus 12 or plus 14 Democratic. So if you,
24 sort of, run the numbers, looking at about how many people are
25 registered to vote, what average turnout is, you're talking

1 about a net shift of about 15,000 votes. So these maps would
2 move 500,000 voters just to achieve a net change in 15,000 or so
3 votes.

4 That's an enormous change that we think is unnecessary, and
5 plaintiffs' fifth map, sort of, shows that it is unnecessary.
6 We think that Map 5 still has too many changes, but, you know,
7 at least, has far fewer changes than Maps 1 through 4. Map 5
8 only moves about 190,000 people around the state.

9 Our third complaint is that the plaintiffs' maps wantonly
10 move Republican incumbents into either Democratic districts or
11 into districts with other Republican incumbents. Some of these
12 seemed a little gratuitous.

13 All three of the incumbents in the 14th Legislative
14 District were moved in, at least, one of the maps by between a
15 third of a mile and a mile and a half. The two House incumbents
16 in the 15th District in Map 5 were moved out of their district
17 by between 500 feet and half a mile.

18 And as plaintiffs state -- even Your Honor had noted -- I
19 have another job outside of the courtroom, representing
20 intervenors, and in one of the maps, they, actually, cut my
21 neighborhood in South Auburn in half and put me a half a mile
22 outside my district. They put me into a district that is
23 centered on Enumclaw, Snoqualmie, and North Bend.

24 So while plaintiffs proposed a set of five new alternative
25 maps, and we appreciate that, a few points on those:

1 First, they weren't timely. They weren't submitted by the
2 court's December 1st deadline, so intervenors' expert hadn't had
3 a chance to fully review them, we haven't had a chance to fully
4 brief them, and the maps still don't fix every issue.

5 The senator in the 12th District still remains about a half
6 mile outside of his district in two of the maps, and in Map 5,
7 the two Legislative District 15 incumbents still remain between
8 500 feet and half a mile outside of the 15th District.

9 Last point, Your Honor, and then I'll wrap up.

10 It's, sort of, clear, from all these geographical miscues,
11 that plaintiffs and their expert don't really understand
12 Washington geography. I think the most illustrative example is
13 the number of trans-Cascades districts included in their plan.
14 It's just simple math that there's always going to have to be
15 one district that is divided between Eastern and Western
16 Washington. Historically, that has always been done in Skamania
17 County, down along the Columbia Gorge.

18 In the enacted plan, for the first time, I think, in the
19 state's history, the trans-Cascade district was placed further
20 north, along Highway 2 at Stevens Pass. But plaintiffs' maps
21 would add a second trans-Cascade district in all their maps,
22 adding back in the Skamania County/Columbia Gorge trans-Cascade
23 district, and in two of their maps, which, what I think is
24 particularly egregious, would draw the 13th District -- which
25 already is pretty long, it stretches from Moses Lake to

1 Snoqualmie Pass -- would have it go from Ephrata in the east to
2 Enumclaw in the west. But it wouldn't even traverse I-90. It
3 would traverse Highway 410 at Chinook Pass, which any camper,
4 skier, or hiker knows is closed six months out of the year.

5 So we think that the court should take a little more
6 careful look at this, hopefully with the assistance of the
7 court-appointed expert.

8 Because plaintiffs' maps fall so far short on so many
9 counts, the court shouldn't adopt any of them, even with some
10 modest changes.

11 If the court does proceed with the remedy, it should not
12 order a map that reduces the Hispanic population, nor should it
13 change districts beyond what is absolutely necessary to address
14 the affected area.

15 Consistent with Supreme Court precedence here, the enacted
16 plan and state law regarding competitiveness of districts should
17 be taken into account.

18 And one last point, Your Honor, which I'm happy to address
19 further, if you're interested, but if there are going to be
20 significant changes to other districts besides 14 or 15, and,
21 sort of, by necessity, each of them will likely need to be
22 changed, if the court proceeds, we think that new senate
23 elections should be ordered in 2024 in both of those districts.

24 State law allows holdover senators, after they're
25 districted out, to remain until their next election, but we

1 think it would be wiser for the court to order new elections in
2 both of those affected senate districts in 2024, if the court
3 moves forward.

4 But my last request, Your Honor, is that if the court does
5 move forward with the remedial map, intervenors request that
6 either the court stay implementation until the 2026 elections,
7 or order the maps don't go into effect until the 2026 elections.

8 THE COURT: Okay. Thanks, Mr. Stokesbary.

9 I want you to know, my first legal job, in the summer of
10 1976, was as a deputy prosecuting attorney assigned to Aukeen
11 District Court, which doesn't exist anymore, but it was Auburn,
12 Kent, Enumclaw, A-u-k-e-e-n. We were in a place in Auburn that
13 looked a little bit like a barn. It was the courthouse. And
14 once a month we would -- the judge, the public defender, and
15 I -- would drive out to Enumclaw and hold court out there.

16 It was very interesting for a kid from New York City to go
17 out there and prosecute my very first case, which was 17 cattle
18 trespassing on a neighbor's property.

19 MR. STOKESBARY: We still have some problems with cows
20 out there, Your Honor.

21 THE COURT: I want you to know I have some familiarity
22 with your district.

23 These were the days when the district court was not a court
24 of record, and you could get a complete trial de novo in
25 superior court. So some of the hotshot lawyers, like Tony

1 Savage, would come out to Auburn, sit there, and look totally
2 bored. We would convict the client, and then they'd just appeal
3 and get a new trial in superior court. But it was a great place
4 to learn a little bit about trial courts.

5 Okay. Thanks, Mr. Stokesbary.

6 Does the State want to speak, Mr. Hughes?

7 MR. HUGHES: I'm prepared to speak. I am also
8 prepared to let plaintiffs go first. Whatever Your Honor
9 prefers.

10 THE COURT: Okay. Let's hear from plaintiffs first,
11 and then we'll hear from you, and if Mr. Smith wants to say
12 something, too.

13 Ms. Wakin?

14 MS. WAKNIN: Good morning, Your Honor.

15 THE COURT: Good morning.

16 MS. WAKNIN: Your Honor, I'm also from New York,
17 Queens, and so I talk fast. If I talk a little too fast, let me
18 know.

19 THE COURT: I'm, actually, from Staten Island, which,
20 technically, is part of New York City, but anybody from any of
21 the other boroughs, it may as well be Auburn or somewhere.

22 MS. WAKNIN: Or, God forbid, New Jersey, where I'm
23 also from.

24 Your Honor, plaintiffs have provided this court ten
25 remedial mapping proposals. All of plaintiffs' plans remedy the

1 Section 2 violations, providing Latino voters and white voters
2 in the Yakima Valley region with an opportunity to elect
3 candidates of choice. All of plaintiffs' plans comply with the
4 U.S. Constitution and with Washington's traditional
5 redistricting principles, and all of plaintiffs' plans were
6 drawn without the consideration of racial or political data by
7 our map drawer.

8 Intervenor-Defendants' arguments don't address the central
9 issue here at the remedial stage, and that issue is whether
10 there are remedies before the court that completely remedy the
11 prior dilution of minority voting strength and provide an equal
12 opportunity for voters to elect candidates of choice.

13 There are ten plans before you that do, though. The
14 Intervenor-Defendants have had the opportunity -- multiple
15 opportunities to develop mapping plans that address their
16 concerns, and they have not provided this court with a single
17 plan that does so.

18 Indeed, they could have taken any of plaintiffs' five
19 remedial proposals, or ten remedial proposals. We had suggested
20 changes they've asked for and provided to this court, and they
21 haven't done so.

22 I want to address, first, the argument regarding Hispanic
23 voting population.

24 Under Section 2 jurisprudence, there's, actually, no racial
25 demographic target that this court must hit for a remedial

1 district. What we're looking at at the remedial stage is
2 whether or not there are different proposals for remedial
3 districts that perform or provide an opportunity to elect
4 candidates of choice.

5 Indeed, Intervenor-Defendants' argument regarding CVAP are
6 interesting, considering before the Supreme Court, they told the
7 court that the district court has ordered a super majority
8 Hispanic district. They represent clients that say that the
9 enacted plan is a racial gerrymander, and now come before this
10 court and say that it's not enough Hispanic CVAP.

11 Regardless, there are plans before this court that has had
12 full testimony on the record during the liability stage,
13 Plaintiffs' Demonstrative 1 and 2, that provide higher CVAP in
14 the remedial district.

15 Regardless, there's, actually, no dispute here regarding
16 performance. Only one expert, Dr. Loren Collingwood, has
17 provided this court with evidence of performance of the remedial
18 district, and Dr. Collingwood shows that all ten plans, Remedial
19 District LD 14 provides an equal opportunity to elect candidates
20 of choice for Latino voters.

21 Next, I wanted to discuss Senator Torres.

22 As Intervenor-Defendants have conceded, it's, actually,
23 methodologically impossible to demonstrate that Senator Torres
24 is able to -- to use Senator Torres's race in a performance
25 analysis. Indeed, if there was any way to do such a performance

1 analysis, their expert could have demonstrated such --
2 Dr. Trende could have demonstrated such. He has made no
3 opinions, actually, on whether or not plaintiffs' maps provide
4 an equal opportunity. Again, the only expert that's done so is
5 Dr. Loren Collingwood, and I direct the court to his declaration
6 on December 1st.

7 Further, Senator Torres's election is not probative in this
8 case. As the court has heard testimony from Dr. Collingwood and
9 Dr. Barreto, Senator Torres was not the candidate of choice for
10 Hispanic voters, and in the 2022 election, the retirement of an
11 incumbent, the underfunded, Latino-preferred, white, write-in
12 candidate, and an abysmally low Latino turnout demonstrate that
13 the 2022 election was not probative, and this court found that,
14 actually, in your opinion.

15 I want to move on to the argument about too many changes.
16 That's a central issue here raised by the Intervenor-Defendants.

17 Well, first, it's untrue that there are too many changes to
18 the map. When courts are reviewing remedial proposals for
19 redistricting, the metric is core retention. What core
20 retention means is that the share of voters that were in their
21 district in an enacted or a benchmark plan, how many of those
22 voters actually stay in their district.

23 In all ten of plaintiffs' plans, the core retention rate is
24 anywhere from 94 to 97.5 percent. And I'd like to direct the
25 court to Dr. Oskooii's rebuttal report, which demonstrates that.

1 I believe it's Table 2, but don't quote me on that, Your Honor.
2 It is in there.

3 So as you can see from high core retention rates, it's the
4 case that there aren't too many changes. But even if it's the
5 case that there are some changes to the map, and, Your Honor,
6 there are, we're redistricting here, redistricting is like
7 throwing a rock in a lake. Where the rock lands, there's going
8 to be a lot of ripples, but further out, the ripples get smaller
9 and smaller, until they dissipate.

10 And, here, the affected district is in Eastern Washington,
11 LD 14. All of the surrounding districts are going to
12 necessarily be changed, impacted, and that's not for any
13 nefarious reason; it's because of population equalization. You
14 have to comply with one person, one vote.

15 Indeed, all of plaintiffs' plans either equalize a
16 population on par with the enacted plan and better than the
17 enacted plan, and, again, I direct you to Dr. Oskooii's rebuttal
18 report.

19 But because you're equalizing population, it's almost as if
20 you're going in a clockwise manner, when you're redistricting,
21 around the district, to grab different populations and to ensure
22 there is equalization.

23 But even if there are too many changes, and there are not,
24 again, the question here is whether there are proposals in front
25 of you, Your Honor, that remedy the harm. That is the central

1 question at the remedial stage. It's not whether there are too
2 many changes, it's not whether there is enough Hispanic CVAP,
3 it's not whether there are any partisan changes.

4 And on that point, that is also similarly untrue.
5 Plaintiffs' maps outside of the remedial district, LD 14, do not
6 change the overall partisan makeup of the map.

7 I'd direct the court to Dr. Oskooii's rebuttal that shows
8 that the affected districts that are not -- that are remedial
9 districts, the overall partisan performance doesn't change. So
10 there's no district, Your Honor, that's going from an electing
11 Democrat district to electing Republicans. That's just not the
12 case here, and, again, I'd direct the court to Dr. Oskooii's
13 rebuttal report on the map.

14 But it is a political reality of Eastern Washington, that
15 those districts surrounding the remedial district tend to elect
16 Republican legislators, and if the affected district was in
17 Seattle, it would be the case that all of the districts
18 surrounding the affected district would be Democrats that are
19 affected.

20 So on the point of partisanship, I'd also like to reiterate
21 that Dr. Oskooii did not look at any partisan or political data
22 when drawing their map.

23 There are other issues that are raised by
24 Intervenor-Defendants, including trans-Cascade crossings or
25 similar considerations regarding road passages. To the extent

1 that the court and a special master think that those concerns
2 have merit, we welcome changes to the surrounding districts
3 outside of LDs 14 and 15.

4 If this court would like to engage in its own map drawing,
5 the standard is that the court must apply one person, one vote
6 principles, abide by Washington traditional redistricting
7 principles as delineated in RCW 44.05.090, which instructs this
8 court to consider communities of interest.

9 Also, to look at the policy concerns by the State, which is
10 judged by core retention. You can -- and do all these things
11 while ensuring that there is a functional opportunity to elect
12 candidates of choice, and you would do that through a reviewing
13 performance. And if this court would like guidance, it would be
14 instructive to the court, if it chooses so, to look at the
15 *Singleton* remedial process, which is 2:21-UV-1291-AMM.

16 THE COURT: Counsel, I'm leaning towards Remedial Map
17 3A, and I'll give Mr. Stokesbary a chance to respond to that in
18 his rebuttal. But, you know, consistent -- it seems to me that
19 that one is consistent with traditional redistricting criteria.
20 It seems to remedy the Voting Rights Act violation, even with a
21 relatively low LCVAP. It keeps tribal lands together, although
22 there's one issue there that was raised by Intervenors, and it
23 avoids another cross-Cascade district.

24 Did you have any specific reaction to Remedial Map 3A, and
25 do you understand what it is that the Intervenors think is

1 not -- the part of the Yakima Indian Reservation or Indian lands
2 that didn't end up in it?

3 MS. WAKNIN: Your Honor, plaintiffs would support this
4 map, adopting 3A.

5 With respect to the issue regarding off-reservation trust
6 lands, I believe that the Intervenor-Defendants may be mistaken.
7 The off-reservation trust lands are included in Map 3A, and
8 Dr. Trende has not demonstrated that any off-reservation trust
9 lands are not included in 3A.

10 THE COURT: Have you been using the Dave's
11 Redistricting app to do your analysis?

12 MS. WAKNIN: I would have to consult with our experts,
13 Your Honor.

14 THE COURT: Okay. Because it seems that different
15 redistricting maps, or apps to draw maps, have access to
16 different information, and that the Dave's may miss a little
17 piece of the Indian lands that maybe the intervenors, people who
18 paid for data, had access to. So I'll ask Mr. Stokesbary about
19 that, too, but, okay.

20 MS. WAKNIN: Your Honor, from our understanding,
21 Dr. Trende, their expert, has not demonstrated that there are --
22 there are off-reservation trust lands missing.

23 And to the extent that the special master has found some
24 using a different application, we welcome, at least, input in
25 whatever changes there may be.

1 THE COURT: Okay. Great.

2 MS. WAKNIN: Your Honor, I'm going to wrap up here.

3 I think we understand that plaintiffs' maps address the
4 central issue in the remedial process. Any one of our
5 proposals, Your Honor, would fully remedy the harm here and
6 comply with the U.S. Constitution and traditional redistricting
7 principles.

8 Thank you so much.

9 THE COURT: Thank you, counsel.

10 All right. Mr. Hughes, and then Mr. Smith.

11 MR. HUGHES: Good morning, Your Honor. Andrew Hughes
12 on behalf of the State of Washington.

13 I thought I understood Your Honor to say that you first
14 wanted to hear argument on the jurisdictional point.

15 THE COURT: Plaintiffs, I think, made an unfortunate
16 argument that I didn't have jurisdiction, but I do. So I don't
17 need to hear any more about that.

18 MR. HUGHES: Perfect. I'll save everyone some time,
19 then.

20 So the bottom line here, then, as far as the remedial
21 portion goes, from the State's perspective, is that the maps by
22 plaintiffs and, presumably, any revisions or tweaks that the
23 special master may offer, do appear to remedy the VRA violation,
24 and that's what really matters, from the State's perspective.

25 So that being the case, the State does not take a position

1 on which map this court should adopt or whether any revisions
2 are necessary or appropriate.

3 And there's just two points I want to make here by way of
4 explanation.

5 So the first is, as we said in our briefing, Washington's
6 Constitution and the redistricting statutes provide a single
7 means for the State of Washington to propose a redistricting
8 plan, and that's through the commission.

9 Here, the legislature opted not to reconvene the
10 commission, and so for that reason, the State of Washington, my
11 client, does not have its own plan to offer.

12 The second point I wanted to make, as Your Honor knows, as
13 just came up, one key concern throughout the process has been
14 respecting the wishes and sovereignty of the Yakima Nation,
15 since the district boundaries here have the potential to affect
16 the Nation's ability to exercise political power. And to that
17 end, the State has reached out to the Nation. They've had
18 opportunity, they've had time to weigh in, if they have
19 concerns. They have not raised any, as of this point.

20 So at this point, then, the State defers to the court and
21 the special master regarding the appropriate remedy.

22 THE COURT: Okay. Thanks very much.

23 And you also don't take a position on whether we should
24 defer to 2026, or do it in 2024?

25 MR. HUGHES: As far as I understand, this is a new

1 request. We would oppose any deferring of an election.
2 Plaintiffs have shown on the merits that the current maps dilute
3 Hispanic voting power in the Yakima Valley, and, you know, a
4 remedy deferred is a remedy denied with respect to the 2024
5 election.

6 THE COURT: Okay. Thank you.

7 All right. Mr. Smith?

8 MR. SMITH: Thank you, Your Honor. Carl Smith. Just
9 very briefly.

10 The Secretary recognizes the court's primary focus is in
11 adopting the remedial map that remedies the Voting Rights Act
12 violations, complies with the Constitution, and satisfies
13 relevant redistricting criteria.

14 To the extent the court identifies more than one map that
15 equally satisfy all of those requirements, the Secretary's
16 request would be that this court adopt the map that is least
17 disruptive, in the sense that it affects the fewest counties and
18 the fewest voters. But I do want to emphasize that is just a
19 tie-breaker, where more than one map equally satisfy all
20 criteria.

21 The only other piece I wanted to add was, there was a new
22 request I heard this morning that I had not previously heard
23 about holding a special election for state senate. We haven't
24 had a chance to weigh in on that. I don't know if my client has
25 a position on that. So if the court were inclined to consider

1 it, we'd request the opportunity to address the matter.

2 THE COURT: Okay. And do you have a position about
3 2024 versus delayed implementation?

4 MR. SMITH: The Secretary has no position on that,
5 Your Honor.

6 THE COURT: Thank you.

7 Okay. Mr. Stokesbary, then, you can respond to the court's
8 leaning towards Remedial Map 3A. Tell me about the Yakima
9 Reservation or the trust lands and why you feel an evidentiary
10 hearing is still important.

11 MR. STOKESBARY: Yeah. Thank you, Your Honor.

12 You know, I think the underlying issue the intervenors have
13 throughout all this is that it's not possible to draw a district
14 that both remedies the alleged dilution and also still comports
15 with all the other legal requirements.

16 You ask about having a hearing. I think several arguments
17 that plaintiffs made demonstrates exactly why we do need an
18 evidentiary hearing.

19 The plaintiffs' expert says that there's not too many
20 changes to the population outside the affected area.
21 Intervenors-Defendant says there are too many changes. This is
22 a factual dispute, disagreement between the experts that can be
23 resolved through an evidentiary hearing.

24 Likewise, plaintiffs said that their expert believes that
25 the maps do not change the overall partisan performance.

1 Plaintiffs' counsel even said that there isn't a district where
2 the shift goes from a district that prefers Republicans to
3 Democrats, or vice versa. Intervenors' expert says there is, in
4 the 17th District in two of the maps, and that even outside from
5 that change, there are other changes as well that are
6 significant.

7 So there is a disagreement between the experts for which an
8 evidentiary hearing could help the court determine which expert
9 is most reliable.

10 The plaintiffs also argued that intervenors haven't
11 presented any evidence showing that the new proposals would
12 perform for Latino legislative candidate of choice in the 15th
13 District, but this is not a burden for intervenors to disprove.
14 It is a burden for plaintiffs to prove that there is
15 redressability, and they haven't even attempted to do so.

16 Intervenors do think that it's possible to come up with
17 some sort of model that could, at least, attempt to do that; to
18 model results on factors, like demographics, education, race,
19 partisan votes in other races where there are commonalities,
20 like statewide races, other nonpartisan races; we absolutely do
21 think it's possible to model and predict performance in
22 nonoverlapping areas, and plaintiffs have not done that.

23 When it comes to the Yakima Reservation, Your Honor, the
24 U.S. Census provides extremely detailed maps of tribal
25 reservations that include not just reservation land but

1 off-reservation trust land, fee land owned by the tribe but not
2 held in trust, and, in some cases, depending on the tribe's
3 particular treaty rights, off-reservation usual and accustomed
4 treaty land.

5 In the case of the Yakima Nation, we heard at trial that
6 their request was not just for the reservation, not just for
7 off-reservation trust land, not just their U&A, but also for
8 their traditional hunting and fishing villages, which have
9 significant tribal populations, and for that, Your Honor, I
10 think we do need to hear directly from the Yakima Nation. I
11 appreciate the State has reached out to them, but I'd encourage
12 and request the court to reach out to the Yakima Nation and
13 invite them to submit their position on the record.

14 But looking at the very detailed census map that includes
15 U&A areas and other off-reservation trust land and fee land
16 owned by the tribes, there are some parcels that we've
17 identified that are not included in Legislative District 14,
18 which, again, is another reason why we should have an
19 evidentiary hearing, where we can compare maps and overlay the
20 plaintiffs' map with the census map of where the Yakima parcels
21 are.

22 And, lastly, Your Honor, with respect to Map 3A, I would
23 just repeat the issues that we raised in our response to
24 plaintiffs' maps and the issues I raised a minute ago. I think
25 there remain to be additional problems. It still changes. Too

1 many individuals beyond the 14th District result in too many
2 extraneous parcel changes. And I think, you know, many more
3 changes to Map 3A would be required at that point, if the court
4 wanted that to be the starting point.

5 And, you know, again, we'll reiterate, it gets a little bit
6 simpler to make some of these arguments if the court can, sort
7 of, narrow down what we're looking at.

8 But with respect to Map 3A, the incumbent senator in
9 Legislative District 14 would be drawn into Legislative District
10 15. Legislative 14 has a senate race in 2024. Legislative
11 District 15 doesn't have a senate race until 2026.

12 So if the court were to order Map 3A or some close variant
13 of that for 2024, and I'll repeat our request that we wish the
14 court to either delay implementation until 2026, or stay
15 implementation until 2026.

16 But if the court goes forward and orders implementation of
17 Map 3A or a version of that in 2024, we would request that the
18 court order a new election to fill the remainder of the current
19 LD 15 senate term in 2024 so that the ballot would have both
20 LDs' 14 and 15 senate races on the November ballot. The
21 Legislative District 14 senate race, that would be on a normal
22 schedule, that would be a normal, full election term. The LD 15
23 senate race would be for a partial two-year term. It would be,
24 sort of, what happens if a senator passes away or retires or
25 moves along in the middle of his or her term.

1 I'm happy to answer any other questions, Your Honor.

2 THE COURT: So in terms of how you got the information
3 about the Yakima Indian other lands, was that using a different
4 redistricting application than the Dave's that gave you access
5 to other information?

6 MR. STOKESBARY: Correct, Your Honor. It was using
7 the census map obtained from the U.S. Census Bureau and the
8 shape file provided by plaintiffs --

9 THE COURT: Okay.

10 MR. STOKESBARY: -- that they submitted to the court
11 and provided to other counsel.

12 THE COURT: I mean, I've come to realize that there's
13 Dave's, which is free and available to everyone, but there's
14 others you pay for that incorporate broader government records,
15 land records, et cetera, et cetera. So I thought that might
16 have been where there was disconnect.

17 Okay. Thank you, counsel.

18 MR. STOKESBARY: Thanks, Your Honor.

19 THE COURT: Anyone want to say anything else? I don't
20 want to cut anyone off.

21 Okay. I don't think an evidentiary hearing is absolutely
22 required, but I think I will schedule one for Friday, March 8th,
23 at 1:30. We'll have the afternoon. Each side can present an
24 expert, and we'll have -- but I think we should approach it with
25 a presumption that the court is leaning towards Remedial Map 3A,

1 and so the testimony about the problems or issues with 3A should
2 be a focal point of that evidentiary hearing.

3 I am going to deny the request for a stay. We're going to
4 go forward on the remedial side of things.

5 Is that acceptable, counsel?

6 MS. WAKNIN: Your Honor, yes, except plaintiffs would
7 like to ask if we could present both of our experts.

8 THE COURT: Oh, sure, that's fine. And you can
9 present more than one expert, if you want to, also.

10 MS. WAKNIN: Would you like any prehearing
11 disclosures?

12 THE COURT: Yes.

13 MS. WAKNIN: You would like prehearing disclosures?

14 THE COURT: Yes, please. The more stuff you can get
15 me ahead of time, the fewer surprises at the evidentiary
16 hearing, so much the better.

17 And keep in touch with each other, talk to each other about
18 where is this piece of land on the reservation, and things like
19 that.

20 I'll think about reaching out to the Yakima Nation to see
21 if they want a more formal response.

22 MS. WAKNIN: Your Honor, plaintiffs would request that
23 there is a schedule set for any expert disclosures before the
24 hearing.

25 THE COURT: Yeah, we'll do one.

1 MS. WAKNIN: Okay. Thank you.

2 We just had a technology question. Can we bring technology
3 before the court?

4 THE COURT: Technology? We love technology.

5 MS. WAKNIN: Thank you, Your Honor.

6 THE COURT: Mr. Stokesbary, any questions?

7 MR. STOKESBARY: Thank you for March 8th. That's the
8 date my other job ends for the year.

9 Our request, you know, is that, since the court has,
10 essentially, ruled against plaintiffs on their intent claim,
11 which was the only claim to which the State was adverse, it's
12 now clear the State and plaintiffs are aligned, so we'd request
13 that time be split evenly between intervenors on one hand, and
14 plaintiffs, the State, on the other.

15 THE COURT: That's fine.

16 MR. STOKESBARY: Thank you.

17 THE COURT: The State is not going to need a lot of
18 time.

19 MR. HUGHES: No, we're not going to have any experts.
20 Can I just address two points?

21 THE COURT: Please.

22 MR. HUGHES: First, I don't need to say this, but I
23 am.

24 March 25th is the deadline, so March 8th is fine, but
25 that's the deadline, you know -- I trust the court is going to

1 hold that in mind.

2 The other point I want to make is -- I'll try to put this
3 delicately -- at the end of this, plaintiffs are going to ask
4 someone else to pay their legal fees, and it's not the State
5 that's racking up fees at this point. So I hope Your Honor will
6 consider that, down the road, when it comes time to think about
7 fees and how those ought to be split up.

8 THE COURT: Okay.

9 MR. HUGHES: Thank you, Your Honor.

10 THE COURT: Mr. Smith, anything?

11 MR. SMITH: No.

12 THE COURT: Great. We will issue a scheduling order
13 for the March 8th hearing and a brief order denying the motion
14 for a stay.

15 LB, anything else?

16 THE LAW CLERK: No.

17 THE COURT: Thanks very much. We are adjourned.

18 (Proceedings concluded at 10:36 a.m.)

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C E R T I F I C A T E

I, Nancy L. Bauer, CCR, RPR, Court Reporter for the United States District Court in the Western District of Washington at Seattle, do hereby certify that I was present in court during the foregoing matter and reported said proceedings stenographically.

I further certify that thereafter, I have caused said stenographic notes to be transcribed under my direction and that the foregoing pages are a true and accurate transcription to the best of my ability.

Dated this 29th day of February 2024.

/S/ Nancy L. Bauer
Nancy L. Bauer, CCR, RPR
Official Court Reporter

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SUSAN SOTO PALMER, et al.,	)	C22-5035-RSL
)	
Plaintiffs,)	
v.	)	SEATTLE, WASHINGTON
)	
STEVEN HOBBS, et al.,	)	March 8, 2024 -
	)	1:30 p.m.
Defendants.)	
)	
JOSEPH TREVINO, et al.,	)	EVIDENTIARY HEARING
)	
Intervenor-Defendants.)	
)	

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE ROBERT S. LASNIK
UNITED STATES DISTRICT JUDGE

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Proceedings stenographically reported and transcript produced with computer-aided technology

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1 THE COURT: Good afternoon. Thank you. Please be
2 seated.

3 THE CLERK: We're here in the matter of the Soto Palmer,
4 et al., versus Hobbs, et al., versus Trevino, et al., Cause No.
5 C22-5035, assigned to this court.

6 If counsel could please rise and make your appearances for
7 the record.

8 MS. HARLESS: Hello, Your Honor. Annabelle Harless for
9 the plaintiffs.

10 THE COURT: Great. Thank you.

11 MS. LEEPER: Simone Leeper for the plaintiffs.

12 THE COURT: Hi.

13 MR. MULJI: Aseem Mulji for the plaintiffs.

14 THE COURT: Great.

15 MR. PHILLIPS: Benjamin Phillips for the plaintiffs.

16 MR. HERRERA: Ernest Herrera for the plaintiffs.

17 THE COURT: Thank you, counsel. Welcome.

18 MR. ACKER: Caleb Acker for the intervenor-defendants.

19 MR. HOLT: Dallin Holt for intervenor-defendants.

20 THE COURT: Thank you.

21 MR. STOKESBARY: Andrew Stokesbary for
22 intervenor-defendants.

23 THE COURT: Great.

24 MR. SMITH: Karl Smith for Secretary Hobbs.

25 MS. SEPE: Cristina Sepe, State of Washington, joined by

1 Andrew Hughes as well.

2 THE COURT: Great. Wonderful. Thank you. Welcome,
3 all.

4 You know, L.B., she is going to keep the time, and she said,
5 "How long are you going to tell stories for?" I said, "Today I'm
6 not going to tell any stories; we're going to go right into the
7 arguments."

8 So plaintiffs have half the time, and intervenors -- the
9 State is going to just be responding, I believe, at least the
10 Secretary of State. So, anyway, L.B. is in charge of that.

11 We're ready for presentation of evidence and anything else
12 we're doing.

13 MS. HARLESS: Your Honor, we wanted to raise a point
14 about the order.

15 THE COURT: Okay.

16 MS. HARLESS: So we thought it might make sense, if the
17 Yakima Nation is going to present, for them to go first, and then
18 the intervenors to go second, because they requested the hearing.

19 THE COURT: Are you okay with that?

20 MR. HOLT: I have no objection to the Yakima Nation
21 going, but I typically proceed in the order of the plaintiffs.
22 They have got a -- their experts drew the maps, and I think it
23 just makes sense that we talk about the maps before we respond
24 and critique them first. I think it's just -- that's the orderly
25 flow of things here.

1 THE COURT: Well, I don't really care, so let's just go
2 plaintiffs first and we will take it from there.

3 MS. HARLESS: Thank you.

4 THE COURT: Okay. So do you want to call your witness?

5 MS. HARLESS: Yeah. Plaintiffs call Dr. Collingwood to
6 the stand.

7 THE COURT: Okay.

8 Dr. Collingwood, please raise your right hand. My clerk will
9 swear you in.

10 LOREN COLLINGWOOD,

11 having been sworn under oath, testified as follows:

12 THE COURT: I know you know your way up here, so ...

13 THE CLERK: Could you please state your first and last
14 names and spell your last name for the record?

15 THE WITNESS: Loren Collingwood, C-o-l-l-i-n-g-w-o-o-d.

16 THE COURT: Thanks, Mr. Collingwood.

17 Go ahead, counsel.

18 DIRECT EXAMINATION

19 BY MS. HARLESS:

20 Q Dr. Collingwood, the parties have stipulated to your
21 qualifications, and your reports have been admitted. And for the
22 record, your reports are ECF Nos. 245-2, 274, and 278.

23 Can you give us a brief overview of what you were asked to do
24 in the remedial phase of this case?

25 A I was asked to do two things. The first was an electoral

1 performance analysis of a variety of different map alternatives,
2 and then the second thing was to look at the demographic
3 composition of a variety of map alternatives.

4 Q And we're going to focus on your rebuttal report, ECF
5 No. 278.

6 MS. HARLESS: And can we pull up Table 1 on page 2 of
7 that report?

8 Q (By Ms. Harless:) Can you see that, Dr. Collingwood?

9 A Yes.

10 Q What is the 2022 Hispanic citizen voting age population for
11 Plaintiff's Map 3A?

12 A 51.04.

13 Q And you mentioned you also did a performance analysis of Map
14 3 and the intervenors' map. Did you use the same method for this
15 performance analysis as in your prior reports in this case?

16 A I did.

17 Q What elections did you use to perform your performance
18 analysis?

19 A I looked at eight different elections, statewide elections,
20 from 2016 to 2020, including things like U.S. Senate, Governor,
21 President, Treasurer, Attorney General, those types of elections.

22 Q Why didn't you examine the 2022 Legislative District 15 State
23 Senate race for your performance analysis?

24 A Well, the map alternatives in both 3A and the intervenors'
25 map contained part of the current D15 but also different areas,

1 so I couldn't physically include blocks in precincts that weren't
2 in D15 that are in a potential alternative map. So it doesn't
3 make sense to include that in the performance analysis.

4 Q Would a performance analysis that includes that election be
5 reliable, in your opinion?

6 A Most likely not. I have never seen anyone do that, I have
7 never done that, and there's a reason why people don't do that.

8 Q Let's pull up Figure 1 on page 3 of your rebuttal report.
9 What did your performance analysis show regarding Map 3A?

10 A This map -- the Map 3A results are on the right-most panel,
11 and there's a summary bar at the top that shows the average
12 difference in all these different eight elections I looked at,
13 and I think it's about 13.6 percentage points. So, overall, the
14 Latino-preferred candidate, which is the green bar, wins fairly
15 reasonably well in all of these different contests.

16 Q What did your performance analysis show in regards to the
17 intervenors' map?

18 A The margin, the overall average margin, is cut in half,
19 roughly. It does show the Latino-preferred candidate winning in
20 all eight of the contests, but with several of the contests, it's
21 very close, you know, very much a toss-up.

22 Q And how does voter turnout impact the performance of the
23 intervenors' map?

24 MR. HOLT: Objection, Your Honor. He provided no
25 analysis regarding voter turnout in any of his remedial expert

1 reports. We would object to any discussion regarding turnout.

2 THE COURT: Objection sustained. I understand it.

3 MS. HARLESS: Your Honor, he did --

4 THE COURT: I know he did talk about it, but let's just
5 move it along.

6 MS. HARLESS: Okay.

7 Q (By Ms. Harless:) What is ballot drop-off, Dr. Collingwood?

8 A Ballot drop-off is a pretty basic idea where voters are less
9 likely to vote -- the same individual voter is less likely to
10 vote in election contests that are featured further down the
11 ballot, like a legislative contest relative to, say, a top of the
12 ticket, governor or senate or presidential contest.

13 Q And how does ballot drop-off impact your opinion on the
14 performance of the intervenors' map?

15 A Well, the idea is that people who tend to drop off are
16 disproportionately lower income, lower socioeconomic status, in
17 this broader area that's likely to be Hispanic voters, and so
18 it's probably the case that ballot drop-off, that this analysis
19 here, is a more positive assessment of the overall electoral
20 performance of these different districts than what it would be in
21 the actual legislative contest, because there's not going to be
22 as many voters, and it's likely the case that the voters voting
23 are disproportionately a bit more white than Hispanic.

24 Q And how would you categorize your level of certainty about
25 the performance of intervenors' map?

1 A I have doubts that this map would perform. Obviously, if you
2 look at these election results, you know, there are -- the
3 Latino-preferred candidate is winning, but when you incorporate
4 this possible drop-off with down-ballot races that I can't really
5 look at in this case, it is concerning that this would perform
6 specifically for Latino voters, yeah.

7 Q And what is your opinion about whether Map 3A will perform
8 for Latino voters?

9 A Well, obviously, you can see the margin overall is larger,
10 and so even if we incorporate ballot drop-off into the mix, this
11 map is just much more likely to perform for Latino voters. I
12 think that's indisputable. You can see the margins here.

13 MS. HARLESS: No further questions, Your Honor.

14 THE COURT: Okay.

15 Mr. Holt, questions?

16 MR. HOLT: Yes, Your Honor. Thank you.

17 CROSS-EXAMINATION

18 BY MR. HOLT:

19 Q Good afternoon, Dr. Collingwood. How are you?

20 A Not too bad. It's always good to be in Seattle.

21 Q Nice to see you again. I have seen a lot of you the past
22 months.

23 I'm just going to kind of pick up where you left off.
24 Actually, let's just start back at the beginning where you
25 started.

1 Your analysis here was limited to, you said, performing
2 electoral performance analyses and providing some demographic
3 statistics, particularly the CVAP numbers for the various maps
4 involved, correct?

5 A Correct.

6 Q Did you have any involvement in drawing the proposed remedial
7 maps?

8 A No.

9 Q Could you discuss your communications with Dr. Oskooii during
10 the map-drawing process?

11 A Dr. Oskooii and I are co-authors in academic research, and
12 we're working on a paper on the Central American threat
13 narrative, specifically among Latino voters, so, you know, we
14 discuss that, but we don't discuss -- well, we know you are going
15 to ask us these questions in particular, so we are very careful
16 to not discuss these matters.

17 Q Did you know Dr. Oskooii had been engaged to draw the
18 remedial maps?

19 A One of the attorneys did tell me, but I think after he had
20 already been, you know, brought on.

21 Q Okay. Were you provided more than ten total remedial maps
22 from plaintiffs to analyze and -- scratch that -- ten remedial
23 maps that Dr. Oskooii drew to analyze?

24 A Well, I was initially provided, I think, ten maps -- or, you
25 know, in the initial remedial phase, I believe it was five maps,

1 and then there were ten maps. Many of them for, in our case,
2 District 14 were kind of the same. But, yeah, that was what I
3 was provided.

4 Q Were there any maps that you reviewed that were not submitted
5 to the court, to your knowledge?

6 A No.

7 Q Did you perform an analysis, provide your numbers and data to
8 plaintiffs' counsel, and then receive a revised map to then
9 review again?

10 A Well, I think that's what this second go-round was, but the
11 maps that were sent to me from counsel, I think I reviewed all of
12 them, and those are in the reports.

13 Q So the first five maps you reviewed, did you only review them
14 once and provide your numbers to them, or did they come back to
15 you again to review again, excluding the reply maps? I'm just
16 referring to the first five.

17 A Right. I would have to -- I don't fully recall, but I think
18 that it was just those five. That's my assessment.

19 Q There was not more than one round of back-and-forth with
20 plaintiffs' counsel?

21 A I don't think so. I can't say for sure, but I'm pretty sure
22 not, yeah.

23 Q What about with the reply maps, do you recall having more
24 than one round of back-and-forth?

25 A It was a very similar process, I think. I got a set of maps,

1 I produced some results, and that went into my reports.

2 Q Okay. Now, you had previously said in analyzing what you
3 call the "intervenor's map." That's the illustrative map
4 proposed by Dr. Trende, correct?

5 A Correct.

6 Q And your counsel just reviewed that map with you in your
7 March 1st report?

8 A They reviewed it with me?

9 Q They reviewed your findings surrounding the CVAP numbers and
10 the electoral performance of that illustrative map?

11 A Yes.

12 Q Okay. And the Latino-preferred candidate in this case, i.e.,
13 the Democratic candidate, prevailed in every election that you
14 analyzed under the intervenor map?

15 A Yes.

16 Q Okay. But you mentioned that the margins are closer in the
17 intervenor map than they are in 3A, correct?

18 A Correct.

19 Q Why did you feel it was important to highlight that?

20 A Well, because contests that are very close begin to move more
21 into a toss-up category. There's debates about exactly what
22 "toss-up" means or not. But, for sure, contests that are within
23 a point or two, you could say that could have really gone either
24 way, and so it makes sense to -- it's not just a win or a loss;
25 it's also, basically, the variance in the vote difference. And

1 the intervenors' map shows it's just closer. So that's important
2 to bring to the court's attention.

3 Q Okay. Does creating an electoral opportunity require that
4 you create a district that is risk-free?

5 A Certainly not.

6 Q Okay. And you have analyzed, in your analyses prior,
7 particularly at the merits phase, in performing your electoral
8 performance analyses, where not every single election, for
9 example, performed for a Hispanic candidate, but you nonetheless
10 found, and generally speaking, that the preferred candidate for
11 Hispanics were Democratic candidates, correct?

12 A Yes. I think there were a couple cases in my earlier reports
13 where -- I'm trying to think. There may have been one or two
14 cases where that wasn't the case. But, typically, in the Yakima
15 region, Democratic candidates are the preferred candidates. But,
16 you know, that's the whole point of doing the racially polarized
17 voting is just to make sure that that's the case.

18 Q Let's say you had found, in analyzing the intervenors' map,
19 that it performed in seven out of eight elections. In your
20 opinion, would that still be a district that would have an
21 opportunity for Hispanic candidates to elect a candidate of
22 choice?

23 A Yeah. There's a -- I mean, I would have to look at the very
24 specifics of, you know, that -- you know, that hypothetical, you
25 know, the gap. If the margin is .01 on each one of them, I'd

1 start to get more concerned. As a general rule, probably.

2 Q Okay. Now, I am going to put back up the report that we just
3 had. Forgive me. We're going to use the rudimentary technology
4 here.

5 A I like it. It brings me back to college.

6 Q Yeah, this is how I learned in law school. Now I just need
7 to figure out -- zoom. Here we are.

8 Is it on anyone's screens here?

9 A I can see it.

10 THE COURT: Yep.

11 Q It's not on my screen here, so I don't know.

12 THE COURT: You can look over there if you ...

13 Q Okay.

14 THE CLERK: That's strange.

15 MR. HOLT: That's okay. We're fine.

16 THE CLERK: Okay.

17 Q (By Mr. Holt:) Are you able to see the table that is from
18 your March 1st, 2024, expert report, ECF No. 278, Dr.
19 Collingwood?

20 A Yeah. The bar chart?

21 Q Yes.

22 And this is the electoral performance of Map 3A as compared
23 to the intervenors' illustrative map?

24 A Correct.

25 Q Okay. Now, just in looking at this, it shows the 2020

1 attorney general race was plus seven for Attorney General
2 Ferguson, the Democratic candidate, the Hispanic-preferred
3 candidate, is that correct, approximately plus seven?

4 A Correct.

5 Q The 2020 Trump-Biden race was approximately plus eight for
6 the Democratic candidate, the Hispanic-preferred candidate,
7 President Biden, correct?

8 A About right.

9 Q The 2016 governor's race was plus eight, in favor of the
10 Democratic candidate, correct?

11 A Correct.

12 Q And the 2016 U.S. Senate race was plus 15 in favor of the
13 Democratic candidate, correct?

14 A Yeah. Murray hits the ground with those tennis shoes and
15 people do like her.

16 Q Absolutely. In my prior life, I did direct mail --

17 A Oh, yes.

18 Q -- and we were involved in this race, and we had some fun
19 with some tennis-shoe mail pieces. Anyways -- I digress.

20 And you would agree that based on these numbers, assuming
21 sufficient Hispanic cohesion, Trende's illustrative map creates a
22 minority-majority district in Yakima --

23 THE COURT REPORTER: Sorry, counsel. Can you repeat
24 that again?

25 Q You would agree -- would you agree -- I will rephrase that.

1 Would you agree that based on these numbers, assuming sufficient
2 Hispanic cohesion, Dr. Trende's illustrative map creates a
3 majority-minority district in the Yakima Valley that provides an
4 opportunity for Hispanic voters to elect a candidate of their
5 choice, correct?

6 A Yeah, I think the opportunity is certainly there. You know,
7 like I said, I have some doubts because there's also a lot of
8 close contests here, especially relative to the 3A map. But, I
9 mean, I think anyone can look at this and say there is an
10 opportunity.

11 Q In your mind, where is the number, Dr. Collingwood, when you
12 say okay? Is it a plus six, a plus seven, plus eight, is it an
13 average? What are you looking for to determine, in your
14 electoral performance analysis, if an opportunity is created for
15 a minority population?

16 A I look at -- I typically think about it in three ways. I
17 have the overall gap, here is like plus six, and then, you know,
18 ideally, eight contests is probably sufficient to get a good read
19 here. And then I also see if there's, you know, alternative maps
20 that could be drawn that provide -- that kind of add a bit of a
21 buffer, you know. Because, again, these are statewide contests
22 we're looking at. Probably voter turnout is higher than what it
23 would be in the LD 14 or LD 15 that's created. And so, you know,
24 that's what kind of gives me a little bit of doubt about this
25 intervenor map, especially relative to the 3A, that Latino voters

1 in the legislative district election, while they do have an
2 opportunity, the question is whether they actually -- whether it
3 does perform for them is certainly more -- I think anyone would
4 agree and look at that and say it's a little bit more in the air.

5 Q And in creating these types of maps and performing these
6 types of analyses, is it your understanding that you are required
7 to draw a map that creates the greatest opportunity for the
8 minority group to elect a candidate of choice or just provide an
9 opportunity?

10 A I'm going to steer clear of that question. I feel like
11 that's a little bit more of a legal -- sort of a legal opinion,
12 if you don't mind.

13 Q I kind of do mind.

14 A Okay.

15 Q Otherwise, I wouldn't have asked the question.

16 A Well --

17 Q You provided the opinion here, Doctor, of -- actually, you
18 were going to talk. Go ahead.

19 A Well, I mean, my understanding, as a nonlawyer, is that, you
20 know, an opportunity does need to get created, but it doesn't
21 have to be, you know, a slam-dunk or a guarantee.

22 Q There's no requirement for a super opportunity then, correct?

23 A That would be cool if there was a super-opportunity
24 requirement, just because you could use the word "super." But I
25 think you are right about that, yeah.

1 Q Okay. And, lastly, you had stated with your counsel that you
2 have had insufficient data to perform any type of electoral
3 analysis surrounding, in particular, the Nikki Torres race in LD
4 15 from 2022, correct?

5 A Correct, yes.

6 Q So you are unable to provide any type of opinion regarding
7 whether or not Nikki Torres would perform in any of these
8 remedial districts, based on her performance in 2022?

9 A Yeah, that's a tough call. Because we don't have that
10 additional data, we can't say, specific to her, how specifically
11 she would do in these alternative plans.

12 Q And not just Nikki Torres. You generalized your opinion that
13 you did not provide any opinions or were not -- not that you
14 didn't provide, but were unable to provide any type of
15 legislative race-level analysis, correct?

16 A Yeah, that data is not available to be able to do that
17 specific type of analysis.

18 Q But without any of these numbers, you also said that, in your
19 opinion, the intervenors' illustrative map, based on an analysis
20 that you never performed and have no numbers to support, would
21 perhaps lead to a lesser opportunity because of turnout, correct?

22 A Well, the legislative district elections overall, as a
23 general rule, because they're down ballot, tend to have -- you
24 know, people have voter fatigue, and that voter fatigue tends to
25 occur among people who are lower SES. And so, in that case, it

1 is probably going to translate over into Hispanic relative to
2 Anglo White in this area, and so that's why the intervenors' map
3 is a little bit more questionable in terms of Latino performance.

4 Q You say "probably." But you didn't perform any type of a
5 statistical analysis whatsoever in your reports surrounding this
6 opinion?

7 A Well, I mean, I have worked on this case for a long time, I
8 have done a lot of different analyses in different areas, and so
9 on that very specific point, I agree. But given that I've looked
10 at turnout in other contexts, in other areas here, from a variety
11 of different angles in other reports --

12 Q The agreement here with counsel --

13 A -- that's what guides my opinion on that.

14 Q -- in preadmitting your report and not contesting your
15 qualifications, was that you would only testify and share
16 opinions regarding things that you've talked about in your
17 remedial reports. And you agree you did not talk about this
18 perform -- let me rephrase it.

19 You did not perform any type of analysis in any of your three
20 remedial reports --

21 MS. HARLESS: Objection.

22 Q -- surrounding -- let me finish the question -- surrounding
23 turnout and any type of raw data and how that would affect
24 down-ticket races?

25 THE COURT: The objection is overruled.

1 You are free to answer completely, though. You don't have to
2 say "Yes" or "No."

3 A Yeah, I didn't do that exact turnout.

4 Q Okay. Now, lastly, with the 14-15 dichotomy --

5 THE COURT: You said "finally" five minutes ago. Is
6 "lastly" better than "finally"?

7 MR. HOLT: I'm a lawyer, Your Honor. We have "lastly,"
8 "finally," "concluding." We find lots of ways to wrap up our
9 arguments. I will be quick.

10 A I was thinking the same thing.

11 Q My apologies, Dr. Collingwood.

12 So in your remedial reports, what data can you point to that
13 shows it was necessary to make the majority-minority district in
14 the Yakima Valley LD 14 as opposed to LD 15?

15 A I mean, if you just like focus only on the remedial reports,
16 I mean, I didn't do that very specific analysis, and so I would
17 need to turn to all the other reports I've done to provide an
18 opinion -- a more educated opinion on that.

19 Q And looking at the opinions that you did provide in your
20 three remedial reports, for the purpose of your analysis, let's
21 say that Dr. Oskooii did not swap 14 and 15, meaning the
22 majority-minority district stayed 15, as it was in the Enacted
23 Map. Do you get where I'm going?

24 A I understand.

25 Q Okay. Everything else is the same. How would that change

1 your electoral performance analysis that you provided to the
2 court in your three reports?

3 A You would give greater weight, likely, to the 2018 U.S.
4 Senate race, which I think the Latino-preferred candidate wins by
5 like .8, and that's extremely close. And we only have one of
6 those in this contest because you would be looking at like
7 midterms and stuff. So that would, you know, suggest that the
8 intervenors' map is really, really, really close. And then you
9 consider the down-ballot nature, and, likely, a district like
10 that is not going to perform.

11 Q But you didn't consider the down-ballot nature in your
12 reports, did you?

13 A I did write --

14 THE COURT: He didn't put it in his analysis, but he's
15 testified about it before. It's a fact. So let's move on,
16 counsel.

17 MR. HOLT: But I just want to shore this up real fast,
18 Your Honor.

19 Q Regarding the numbers you provided, the margins of who wins,
20 who doesn't win, you would agree that that would not change at
21 all if 14 and 15 were swapped in your analysis? Perhaps your
22 conclusions regarding those would change, but the numbers and the
23 analysis you provided would not change at all, correct?

24 A That's correct.

25 Q Okay.

1 MR. HOLT: Pass the witness, Your Honor.

2 THE COURT: Thank you.

3 Anything from Ms. Sepe?

4 MS. SEPE: Nothing from the State, Your Honor.

5 THE COURT: And from anyone else on that side?

6 MR. SMITH: No, Your Honor.

7 THE COURT: Any redirect?

8 MS. HARLESS: No, Your Honor.

9 THE COURT: Okay. Thanks very much, Dr. Collingwood.

10 Nice to see you again.

11 THE WITNESS: Likewise.

12 THE COURT: The next witness.

13 MR. MULJI: Your Honor, plaintiffs call Dr. Kassra
14 Oskooii.

15 THE COURT: Okay. I would suggest going this way,
16 Doctor. Yeah.

17 Dr. Collingwood always takes the path less travelled, but ...

18 Please raise your right hand. My clerk will swear you in.

19 KASSRA A.R. OSKOOII,

20 having been sworn under oath, testified as follows:

21 MR. MULJI: Now, Your Honor, because we have actually
22 printed these up, I have provided some binders of Dr. Oskooii's
23 reports and Dr. Trende's reports for the court and the witness.

24 May I approach?

25 THE COURT: Sure, but let my courtroom deputy finish

1 swearing him in first.

2 THE CLERK: If you could please state your first and
3 last names and spell your last name for the record?

4 THE WITNESS: Yes. Kassra A.R. Oskooii. Last name is
5 spelled O-k-s-o-o-i-i.

6 THE COURT: And the first name is spelled?

7 THE WITNESS: K-a-s-s-r-a.

8 THE COURT: Great. Thank you.

9 THE WITNESS: Thank you.

10 THE COURT: Okay, counsel, you can approach now.

11 DIRECT EXAMINATION

12 BY MR. MULJI:

13 Q Dr. Oskooii, welcome.

14 A Welcome. Thank you.

15 Q The parties have stipulated to your qualifications, and as my
16 colleague said for Dr. Collingwood, your reports have been
17 admitted, and those are reports that were on file at 245-1,
18 254-1, and 277.

19 A Okay.

20 THE COURT: And, Mr. Mulji, would you get that
21 microphone even closer to you --

22 MR. MULJI: Yes. I'm sorry. My voice tends to drop.

23 THE COURT: I know. That's why you need to be right
24 here.

25 MR. MULJI: Alrighty.

1 Q Dr. Oskooii, since this is your first time testifying in this
2 court, would you mind introducing yourself to the court?

3 A Yes. I'm an associate professor of political science and
4 international relations at the University of Delaware, Newark,
5 Delaware.

6 Q And are you tenured there?

7 A Yes, since 2021.

8 Q Tell us a little bit about where you grew up.

9 A Well, I was originally born in Iran, and at a young age, fled
10 Iran with my mother and sister as political refugees and found a
11 home eventually in Vancouver, Washington, in Clark County or, as
12 we call it, the "Couv," where I attended part of middle school
13 and high school.

14 THE COURT: Did your family intend to go to Vancouver
15 British Columbia and they just got the wrong Vancouver or --

16 THE WITNESS: And, you know, actually, that was an
17 intent, but we always say "Vancouver, not B.C.; Washington, not
18 D.C."

19 THE COURT: Okay.

20 Q Where did you earn your undergraduate and graduated degrees?

21 A So after I graduated from high school, I decided to become a
22 Husky and attended the University of Washington for bachelor's,
23 master's and Ph.D., all in political science.

24 Q So Washington virtually all the way through?

25 A Throughout -- through -- yes.

1 Q Did you happen to cross paths with a Dr. Matt Baretto during
2 your time at the University of Washington?

3 A Yeah. Dr. Matthew Baretto was my dissertation chair in a
4 five-member committee.

5 Q Have you worked with Dr. Barreto since receiving your
6 graduate degree?

7 A Yes.

8 Q And have you all spoken about this case at all?

9 A No, I do not hold any substantive discussion about the cases
10 that I'm working on.

11 Q Okay. And what are your areas of focus now as a professor?

12 A So, generally speaking, I'm a professor of American politics.
13 Political methodology and race and ethnic politics are the
14 general fields, but within that, there are different areas of
15 focus, one of them being voting rights and redistricting.

16 Q Have you taught courses related to redistricting?

17 A Yes. So I teach both at the undergraduate and graduate
18 level. At the undergraduate level, I teach about redistricting
19 principles to, mostly, first- and second-year students, and then
20 at the -- you know, at a more advanced course, I teach a class on
21 voting rights and redistricting, where students don't just
22 theoretically learn about the redistricting process and
23 principles but actually learn how to draw districts and has an
24 application to it.

25 Q Now, have you yourself been retained as an expert to draw

1 redistricting plans before?

2 A Yes, I have.

3 Q Tell us about that.

4 A So, recently, I submitted illustrative maps in a case for
5 Dodge City in the state of Kansas, and prior to that, not
6 involving a court case, I and actually Dr. Collingwood
7 collaborated on drawing school board or redistricting school
8 board maps in the state of New Mexico for the Roswell Independent
9 School District.

10 Q Have any of the districts you have drawn ever been struck
11 down by a court or otherwise rejected?

12 A No.

13 Q Now, if I recall correctly in your CV, you had also mentioned
14 an engagement with the Attorney General's Office of Maryland
15 related to the redistricting in that state. Did your work in
16 that case involve or in that matter involve any drawing of any
17 maps or evaluating or participating in the drawing of any maps?

18 A No, I did not participate in drawing any of those lines. My
19 engagement was related to conducting racially polarized voting
20 analysis in regions of Maryland.

21 Q And a final question on your qualifications and your
22 experience: Have you ever been retained as an expert to evaluate
23 redistricting plans for compliance with traditional redistricting
24 criteria?

25 A Yes. One example would be the state of Florida, where I

1 evaluated proposed congressional maps, and then, eventually, the
2 enacted or adopted Florida congressional maps.

3 Q Let's turn now to this case. Can you please tell us what you
4 were retained to do here?

5 A Yes. I was asked to rely on Washington's redistricting
6 criteria and traditional redistricting principles to craft a
7 Legislative District 14 that unites population centers from East
8 Yakima to Pasco, along the Yakima Valley, which form a community
9 interest, as identified by the court. And I was very specific as
10 to not rely on any racial and ethnic data or otherwise view it or
11 reference it, and the same goes for any political, electoral, or
12 partisan analytics data.

13 Q And before we delve into any one specific map, would you mind
14 explaining your general approach? How did you sit down to start,
15 when you started this task?

16 A So in a case of remedial scenario, the way it works, I
17 started with an Enacted Map for Washington State, and I attempted
18 to introduce only changes that were necessary to craft the
19 Legislative District 14, remedial Legislative District 14.

20 Q You mentioned a couple of things you did not consider. One
21 of them was political data and election data. How did you shield
22 yourself from that data while drawing maps?

23 A So I relied on Dave's Redistricting Application for drawing
24 these remedial proposals, and it's very simple, actually, when it
25 comes to political or partisan analytics. Before you start

1 drawing the lines, there's a "Settings" tab, where you can click
2 out or remove any political or partisan data, and that's what I
3 did.

4 Q The same question for racial demographic data. How do you
5 shield your eyes from that?

6 A Yeah. You can take out racial and ethnic demographic data
7 breakdowns by county, cities, VTDs, or blocks by removing,
8 essentially, two tabs on each side of the application.

9 Q I would like to turn to page 17 of your January 5th report,
10 which was filed at Docket No. 245-1. And, for the record, that's
11 ECF Page No. 18. And I will wait for us to get there.

12 MR. MULJI: Docket No. 245-1. Apologies, Your Honor,
13 technical difficulties. And I gave away my binder, but
14 actually -- thank you.

15 And my apologies. That's actually Docket No. 277 that I'm
16 asking about, at page 17. Oh. No, I'm sorry. I was correct.
17 254-1. I'm getting my numbers all mixed up.

18 It's up. Wonderful.

19 Q For clarity of the record, I'm pulling up page 17 of 254-1, a
20 filed document, and that's your March or your -- I'm sorry, your
21 January 5th report. Do you see that on your screen now?

22 A Yeah, I see a report. Yes.

23 Q Okay. And do you see a couple of maps there on your screen?

24 A Yes. I see one at least.

25 Q I'm going to actually just use the ELMO here.

1 A Okay.

2 MR. HOLT: Do you need a copy of the report to use?

3 MR. MULJI: I do have a copy here.

4 MR. HOLT: Okay.

5 THE COURT: Okay. There we go.

6 MR. MULJI: 254-1 at page 18, ECF number, ECF page 18.

7 There we go.

8 THE WITNESS: Okay.

9 MR. MULJI: My apologies, Dr. Oskooii; my apologies to
10 the court. I think we are now at the right place.

11 THE COURT: Okay.

12 THE WITNESS: That's good.

13 Q (By Mr. Mulji:) Dr. Oskooii, have you seen these maps
14 before?

15 A Yes, I have.

16 Q Can you identify them for us?

17 A Yeah. So I guess starting with Figure 5, this is a figure
18 from Dr. Trende's report, Figure 12, page 32, of Dr. Trende's
19 report.

20 Q And these are maps that -- you have reproduced Dr. Trende's
21 figures here in your report; is that correct?

22 A Yes.

23 Q Okay.

24 MR. HOLT: Your Honor, I just want to object. These are
25 not the figures from Dr. Trende's report. He has added to them

1 and made them into his own. So I just want to make clear for the
2 record, these are not the figures in Dr. Trende's report.

3 THE COURT: That's fine. Okay.

4 MR. MULJI: And we're getting there.

5 THE COURT: Yeah.

6 MR. MULJI: Thank you, counsel.

7 Q You have added some arrows to these figures, yes, to indicate
8 certain areas?

9 A Yes. That is the only thing that is added to this figure.

10 Q My question for you about these figures is this. You note
11 that Dr. Trende uses these maps to suggest that you perhaps
12 included Hispanic areas and excluded white areas. What did you
13 glean from these dot density maps?

14 A Yeah. So as I explained in my report, you know, this kind of
15 density plot actually undercuts directly such assertion or claim,
16 because if you just look at this map, you can see many different
17 blue areas which Dr. Trende identifies as Hispanic populations
18 that are not within LD 14 and many white areas that are within LD
19 14.

20 And, furthermore, another thing to note is, which is not
21 presented here, but I presented in my report, if you look at the
22 districts that I have, they actually follow municipal boundaries,
23 so they're not cracking municipal boundaries and just selecting
24 certain areas; they're just basically selecting full
25 municipalities along the Yakima Valley coming down.

1 Q Now, perhaps this goes without asking, but for clarity of the
2 record, did race predominate in the drawing of any maps that you
3 submitted in this case?

4 A No. Since I did not have access to race and ethnicity data
5 while drawing, it wasn't even a factor for it to even
6 predominate.

7 Q Let's turn now to Map 3A, and we will try to pull it up on
8 the screen.

9 MR. MULJI: There we go. Thank you.

10 Your Honor, my colleague has pulled up the HTML version of
11 Map 3 that was submitted to the court by e-mail.

12 Q Dr. Oskooii, do you see Map 3A on your scene?

13 A Yes, I do.

14 Q All right. And is the approach that you just described a
15 little earlier the same approach you used to draw up Map 3A?

16 A Yes.

17 Q Now, you also drew a map labeled "Map 3." Can you explain
18 the difference between Map 3A and Map 3?

19 A Yeah. There is a very minor difference between 3 and 3A. 3A
20 is introduced with incumbent pairing based on updated addresses
21 that I received.

22 Q Now, turning specifically to District 14 in this map, is the
23 version of LD 14 in Map 3A the same as the LD 14 in Map 3?

24 A Yes, it is.

25 Q And what's distinctive about this particular configuration of

1 LD 14?

2 A Relative to other maps, this configuration of LD 14
3 simultaneously considers both communities of interest in that
4 region, one of them being the Yakima Nation. So it includes the
5 Yakima Nation Reservation in LD 14, as well as all the
6 census-recognized trust lands.

7 Q Am I correct that the southern border of LD 14 in your map
8 extends beyond the Yakima Reservation down into Klickitat County?

9 A Yes, it does.

10 Q Why does the border of LD 14 in your Map 3A look the way that
11 it does in Klickitat County?

12 A Yeah. The simple answer is that is following the
13 census-designated trust land areas and including them and uniting
14 them with the Reservation boundaries, and it's also following the
15 Reservation boundaries that go into Klickitat County.

16 Q And did you evaluate Map 3A for adherence to the state's and
17 traditional redistricting criteria?

18 A Yes, I have.

19 Q Does Map 3A abide by equal population requirements?

20 A Yes, it does.

21 Q Are the districts contiguous?

22 A Yes, they are contiguous.

23 Q Are they compact?

24 A Yes, they're reasonably compact.

25 Q Do the districts follow political subdivision boundaries?

1 A To the extent practicable, yes, they do.

2 Q What about precinct boundaries?

3 A Yes. They minimize the splitting of precincts.

4 Q How does your LD 14 and Map 3A address some of the concerns
5 of the Yakima Nation?

6 A Well, as you can see here is that the Yakima Reservation is
7 kept whole and is united with all the census-recognized trust
8 land areas. But in addition to that, I received additional
9 information and data on public domain lands, and there are 235
10 public domain lands identified by the Yakima Nation, and Map 3A
11 includes 96 percent of those. It also includes 13 out of 14
12 fishing access areas identified by the Yakima Nation.

13 Q And how does the LD 14 that you drew in Map 3A address or
14 account for indigenous voters?

15 A Yes. So I only calculated the indigenous voter population
16 after-fact in my last report, and I compared it to the Enacted
17 Map, as well as to Dr. Trende's map, and what I found is that
18 Map 3A -- 3A -- has the greatest number of voting-age population
19 Native Americans and also the highest proportion in an LD
20 14th District. And that's comparing it to Dr. Trende's map,
21 which comes in last, and then the Enacted Map comes in second.

22 Q Now, did you review Dr. Trende's supplemental report from
23 February 23rd?

24 A Yes.

25 Q And for the record, that's -- and I hope I get this right --

1 at Docket No. 273.

2 MR. MULJI: If we could pull up Figure 1 on page 5 of
3 that report, please?

4 Thank you.

5 Q Dr. Oskooii, do you see that Dr. Trende shaded in red an area
6 of Klickitat County that he said you did not include in LD 14?

7 A Yes, I see that.

8 Q What did you observe about the demographics of this region?

9 A So I looked into the demographics of that region. There are
10 about 15,000 and change people in that area, but out of those
11 15,000 people, I believe around almost 4 percent of the total
12 population are Native Americans, and this is a predominantly
13 white area.

14 Q And to confirm, were you aware of these demographics while
15 you were drawing Map 3A?

16 A No.

17 Q Intervenors have also noted that your map alters 13 of the
18 state's 49 districts. Why was that necessary in this particular
19 configuration of LD 14?

20 A Yeah. It's necessary because, as a mapmaker, when you
21 introduce alterations to district boundaries, you will gain and
22 lose population, and, therefore, you have to equalize population,
23 you have to make sure that the districts you're drawing are
24 contiguous, they follow, to the extent practicable, political
25 subdivision boundaries, and minimize the splitting of precincts.

1 And for those reasons, it was necessary, under this iteration, to
2 impact 13 out of 49 districts.

3 Q Now, we have seen this number thrown around, that your Map 3A
4 moves 526,621 people to a new district, as compared to the
5 Enacted Plan. What's your assessment of that claim?

6 A Well, as I explained in my report, I actually don't agree
7 with that total number for one prominent reason. I believe the
8 way Dr. Trende calculated it, he double counted almost 100,000
9 people who were kept in the same district because, presumably, he
10 did not consider that only the district labels change rather than
11 those people being actually moved to a whole other district.

12 So the accurate number is actually about 423,000 and change,
13 which amounts to 5.5 percent of the entire state's population
14 being impacted by the changes introduced. And the State of
15 Washington has 7.7 million people and change.

16 Q And to wrap up our discussion of your Map 3A, what is your
17 opinion regarding Map 3A's compliance with the state's
18 redistricting criteria?

19 A It is fully compliant, in my opinion.

20 Q What's your opinion regarding Map 3A's compliance with
21 traditional redistricting criteria?

22 A It considers traditional redistricting criteria and is
23 compliant.

24 Q Have you reviewed the map submitted by Dr. Trende in this
25 case?

1 A Yes, I have.

2 Q And that was on February 23rd, correct?

3 A Yeah. I believe I received it very late night on Friday,
4 February 23rd.

5 MR. MULJI: If we could please pull up Dr. Trende's map?

6 Q Is that on the screen?

7 A (No audible response.)

8 Q Dr. Oskooii, do you see a map on your screen?

9 A Oh. Yes. Sorry. I didn't hear you.

10 Q Thank you.

11 Dr. Oskooii, do you recognize the document that my colleague
12 has pulled up here on the screen?

13 A Yes.

14 Q What is it?

15 A Well, this is an HTML version of Dr. Trende's illustrative or
16 remedial proposal.

17 Q And this is a map that -- a version that you created,
18 correct?

19 A Yeah, using exactly this GeoJSON file that Dr. Trende
20 submitted as part of his report.

21 MR. MULJI: Your Honor, we would submit this as a
22 demonstrative exhibit to this hearing.

23 THE COURT: Okay.

24 Q Dr. Oskooii, what is your assessment of Dr. Trende's map?

25 A Well, first of all, one of the first things I notice is that

1 Dr. Trende's map cracks the community of interest along Yakima
2 Valley by excluding Wapato, the city of Wapato, and Toppenish.
3 That's the first thing that popped up, but there are other things
4 that I discuss in my report.

5 Q Does that have any impact on the plaintiffs in this case?

6 A Well, I didn't conduct any sort of performance analysis. The
7 only thing I can say with respect to that is that two of the
8 plaintiffs live precisely in the two municipalities that were
9 excluded from Dr. Trende's Remedial Legislative District 15. One
10 lives in Toppenish, and one lives in Wapato.

11 Q And did you evaluate Dr. Trende's map for compliance with
12 other criteria like contiguity, for example?

13 A Yes, I did.

14 Q What did you find?

15 A Yeah. So this is another thing that jumped off to me right
16 away, and it's that if you look at the map, the Columbia River,
17 it's like splitting the east side of Legislative District 15 from
18 the west side, and there are no bridges or ferry crossings to
19 connect the people in those regions. And so based on Washington
20 redistricting criteria, this would not be a contiguous district.

21 Q And was this issue avoidable?

22 A Yes. In fact, the Enacted Map avoids this issue, and Map 3A,
23 that I proposed, also avoids this issue by making sure that
24 there's a bridge crossing from one side to the other side.

25 Q Keeping with LD 15 for a moment, in your report, you had

1 mentioned an issue with the Hanford Nuclear Site. Can you say
2 more about that?

3 A Yes. I believe that intervenors have argued in the past that
4 the Hanford Nuclear Site is of strategic importance to the city
5 of Richland for various reasons, and the only thing that I can
6 note is that the Hanford Nuclear Site is segregated from the city
7 of Richland in Dr. Trende's map, but that is not the case in Map
8 3A.

9 Q How does Dr. Trende's map compare with yours in terms of
10 compactness?

11 A Yes. In terms of compactness, Dr. Trende and I have
12 consistently used two compactness scores, Polsby-Popper and
13 Reock. And when it comes to Polsby-Popper, we achieve the same
14 compactness score; however, on the Reock metric, Map 3A scores
15 higher, which means -- which is indicative of a more compact map.

16 Q And, finally, how does Dr. Trende's map compare in its
17 treatment of the Yakima Nation's stated concerns in this case?

18 A Yes. Another issue, if I may say, of Legislative District 15
19 in Dr. Trende's map is that it actually cuts a portion of the
20 Yakima Nation Reservation and segregates it from LD 14 and puts
21 it in LD 15. And this is not just an issue of like trapped
22 polygons or zero-population areas, because that can be addressed
23 and resolved. There are actually people who live on that
24 section. In fact, that section is within the municipal
25 boundaries of Union Gap, so I presume perhaps Dr. Trende did not

1 want to cut through Union Gap and wanted to maintain that
2 municipality, and that's why that happened. But as I show in Map
3 3A, that can totally be avoided, and that Union Gap can be kept
4 whole and not cutting into the Yakima Nation Reservation.

5 Q Dr. Oskooii, thank you for your patience with me and for
6 being here today.

7 MR. MULJI: And I will pass the witness.

8 THE COURT: Thanks, Mr. Mulji.

9 Okay. Who's got this witness? Also Mr. Holt. Okay.

10 MR. HOLT: I do, Your Honor.

11 THE COURT: Great.

12 MR. HOLT: Give me just a minute here to pick up my
13 papers here.

14 CROSS-EXAMINATION

15 BY MR. HOLT:

16 Q Good morning, Dr. Oskooii. How are you?

17 A Good morning.

18 Q Nice to see you again.

19 A Good to see you again too.

20 Q So before we kind of work through the questions I wanted to
21 talk to you about today, I'm just going to touch on a few things
22 that you just barely covered with plaintiffs' counsel, if that's
23 okay.

24 Now, you brought up the fact that Dr. Trende's illustrative
25 map cracked community of interest by splitting off Toppenish and

1 Wapato; is that correct?

2 THE COURT: Toppenish.

3 MR. HOLT: Toppenish.

4 A Yes, Toppenish.

5 MR. HOLT: Apologies, Your Honor.

6 Q That's a correct statement summarizing what your testimony
7 just was?

8 A Yes.

9 Q Do you know whether or not Toppenish and Wapato are within
10 the Yakima Indian Reservation?

11 A Yes, they are within the Yakima Indian Reservation.

12 Q Are you aware that the Yakima Nation has asked for their
13 Reservation to be kept intact?

14 A Absolutely.

15 Q Okay. And to keep the new 14th District as close to the old
16 14th District as possible?

17 A Yes, such claim has been made. Yes.

18 Q Okay. You also referenced this small geographical area
19 surrounding Union Gap that Dr. Trende left off his report -- I
20 mean out of his reservation district, correct?

21 A Yes. I believe I understand what you mean.

22 Q Yes.

23 Are you aware that that was the exact same boundary in the
24 Enacted Map that was also left off?

25 A I would have to check. I don't recall if that was the case.

1 Q Okay. And are you aware that the Yakima Nation has requested
2 on multiple occasions that they retain the same boundary lines
3 that they received in the Enacted Map in this remedial map?

4 A My understanding is that the Yakima Nation desired a district
5 that included the entire Reservation, including the trust lands
6 and other areas they have identified, in a single district.

7 Q So you don't believe the Yakima Nation has requested that
8 they retain the same district boundaries that they received in
9 the Enacted Map in LD 14? You don't believe they've asked for
10 that?

11 A My understanding is that they asked for the greatest amount
12 of inclusion in any remedial proposals.

13 Q Okay. And is it a legal requirement that all of the
14 plaintiffs be placed within LD 15, the remedial district?

15 MR. MULJI: Objection. Calls for a legal conclusion.

16 THE COURT: You don't have to give a legal conclusion,
17 but you can --

18 A Yeah, I was going to say I'm not an attorney; that's up for
19 the court to decide.

20 Q Why was that something you flagged and noticed and
21 highlighted in your report?

22 A Because that's what happened. That as a result of cracking
23 the community of interest, two of the plaintiffs who reside in
24 that are no longer in there. That's just a fact.

25 Q And that's significant why?

1 A Again, it's up for the court to decide if that's significant
2 or not.

3 Q Okay. Now, you grew up in Southwest Washington, correct?

4 A Clark County, Vancouver, Washington.

5 Q America's Vancouver, correct?

6 A America's Vancouver, absolutely.

7 Q And you attended the University of Washington?

8 A In Seattle, yes.

9 Q Okay. Based on this, you would agree that you have personal
10 knowledge surrounding the different areas in Washington State and
11 their partisanship and racial demographics of where certain races
12 and political leanings lie throughout the state of Washington?

13 THE COURT: Just in general.

14 Q Generally. You have general knowledge of this, correct?

15 A Very general knowledge, but nothing specific.

16 Q Okay. Now -- just a minute here. I like Post-it notes,
17 Professor.

18 A Well, they're useful.

19 Q They are. Something you and I agree on, those notes are
20 useful.

21 A Yes, yes.

22 Q Now, what tasks were you given when you were retained by
23 plaintiffs to draw these proposed remedial maps?

24 A As I stated, to rely on Washington's redistricting criteria
25 and traditional redistricting principles to craft a remedial

1 Legislative District 14 that unites populated centers from East
2 Yakima to Pasco, along the Yakima Valley region, that the court
3 has identified as a community of interest, and then to also not
4 rely on any race, ethnicity, partisan, political, or electoral
5 data while doing so.

6 Q Did you review the court orders that were associated with
7 crafting this remedial map?

8 A Is "order" the same as an opinion?

9 Q Yes, among other things. There were several that kind of
10 came through the process here.

11 A No, I did not review any of those.

12 Q Okay. Did you review the opinion?

13 A No, I did not.

14 Q Okay. So you don't know exactly specifically what the court
15 ordered or requested be done because you never reviewed those
16 orders, correct?

17 A The only thing I know is what counsel told me.

18 Q Okay. What was your involvement with Dr. Collingwood during
19 this process --

20 A No involvement.

21 Q -- or did you have any interaction with him regarding these
22 maps?

23 A I did not have any interactions with him, but I do understand
24 that my maps, after they were completed, were shared with
25 Dr. Collingwood, and which he just testified he conducted

1 performance analysis on.

2 Q And you were in the courtroom when I was asking questions of
3 Dr. Collingwood, correct?

4 A Yes, I was.

5 Q He said he was unsure whether or not there were multiple
6 rounds of back-and-forth. Do you recall whether or not you
7 received any feedback from plaintiffs' counsel surrounding
8 Dr. Collingwood's statistical analysis and then made some
9 revisions and submitted new maps?

10 A My memory is actually very clear on this. I created five
11 maps, Remedial Maps 1 through 5. I submitted that to counsel.
12 And then, later on, I submitted Maps 1 through 5 -- 1A
13 through 5A, and then submitted that. Two occasions.

14 Q There were no back-and-forth?

15 A No.

16 Q Okay. I'm going to pull up your initial report. And you
17 kind of touched on this. I just want to take a look at this.
18 This is in ECF 245-1. And I'm going to look at page 3 of your
19 report, paragraph 8.

20 A Which report is that, the first one or --

21 Q Yes. This is your December 1st, 2023 report.

22 A And you said page 8?

23 Q Page 3. And I'm looking at the bottom page numbers on your
24 report.

25 A Okay. I have it up.

1 Q Do you see that there?

2 A Yes. Page 3, yes.

3 Q And you had stated here, you said, "I prepared" -- you talked
4 about traditional maps and you were given specific geographical
5 criteria that the plaintiffs' counsel wanted included in this
6 particular map, correct? You said you were asked to draw a map
7 that unites East Yakima with the Lower Yakima Valley. Do you see
8 that there in paragraph 8?

9 THE COURT: You can look at the screen if you want.

10 THE WITNESS: Thank you, Your Honor.

11 A Paragraph 8 says, "I prepared four remedial plans that
12 satisfy all of the above requirements, Plaintiffs' Remedial Maps
13 1 through 4."

14 I think that was different from what you just said.

15 Q And then you read on in that paragraph, and it talks about
16 how you were asked to draw another map --

17 A Yes, yes, yes.

18 Q -- that unites East Yakima with the Lower Yakima Valley?

19 A Yes. I believe you're talking about the one that does not
20 include Pasco, which would be Map 5 and 5A.

21 Q Okay. In the other four maps, aside from Map 5, were you
22 provided any type of geographical guidance of what plaintiffs
23 felt needed to be included in these maps --

24 A No.

25 Q -- about where the communities of interest were

1 geographically?

2 A Well, they just said that the court stated that it's from
3 East Yakima, along the Yakima Valley region, the population
4 centers that go through Pasco. That's the extent of the
5 information they shared with me.

6 Q Okay. Do you know if plaintiffs' counsel consulted any
7 racial or political data before they provided you with guidance
8 of what regions they wanted included in your proposed maps?

9 A They didn't provide guidance on specific regions, and I have
10 no idea what counsel or plaintiffs looked up or did.

11 Q Do you believe East Yakima is a specific region that they
12 gave you, they wanted included in a particular map?

13 A I was told that that is the region that forms a community of
14 interest that the court had identified, that this was not their
15 opinion.

16 Q Okay. Are you aware that the east side of Yakima is the
17 predominantly Latino side of Yakima, with the west side being the
18 white side of Yakima?

19 A I did not rely on any race and ethnicity data to know that.

20 Q So you didn't know this when you drew the map?

21 A No.

22 Q Is it possible that plaintiffs' counsel knew this when they
23 asked you to draw a map that included this side of Yakima?

24 A I cannot speculate as to what the plaintiffs' counsel knew or
25 did not know.

1 Q Okay. So you stated that you did not do any independent
2 research into the orders of the court regarding what remedy it
3 was ordering, correct?

4 A Sorry. Could you repeat that?

5 Q You did not do any independent research into the orders of
6 the court about the remedy it was ordering?

7 A Right. I just trusted that counsel wouldn't lie to me and
8 give me the correct information.

9 Q Okay. Now, you drew ten total maps, correct?

10 A Yes.

11 Q And we're going to focus a bit on Map 3A, as the court has
12 requested us to do.

13 A Sure.

14 Q And you have already talked about this briefly, but Dr.
15 Trende criticized your 3A and your 3A -- your 3 and 3A, as it
16 made a lot of unnecessary downstream changes, among other things,
17 correct?

18 A There were some claims to that effect made, yes.

19 Q Okay. And you testified just a few minutes ago with your
20 counsel, and dozens of times throughout your reports, that these
21 were not unnecessary but these were necessary things in order to
22 effectuate a remedy, correct?

23 A Yes.

24 Q What do you view the word "necessary" to mean, Professor?

25 A Well, in the sense that I did it because it needed to be done

1 to abide by Washington redistricting criteria and traditional
2 redistricting principles, particularly as it deals with
3 equalizing population, making sure the districts are contiguous,
4 and et cetera, following municipal boundaries.

5 Q Okay. I looked up the word "necessary" in the Oxford
6 Dictionary to see if you agree with this general definition.

7 A Okay.

8 Q Something that is required to be done or essential. Does
9 that, more or less, summarize what you just said?

10 A Yeah. I mean, I wouldn't have done it if it was not needed.

11 Q In your opinion, the changes that were made in Map 3A,
12 outside of the Yakima Valley, were necessary or, in other words,
13 required or essential to effectuate a remedy here, correct?

14 A Again --

15 THE COURT: You shouldn't tie him to a dictionary
16 definition, yeah. He said they were needed to perform the
17 function that he was retained to do.

18 MR. HOLT: He said "required," Your Honor. I will just
19 use that word.

20 THE COURT: Okay. Required, needed. I mean, it's --

21 MR. HOLT: Yeah.

22 THE COURT: You know, is it necessary for you to ask
23 these questions?

24 MR. HOLT: It is, Your Honor.

25 THE COURT: Yeah. So it's not required, but it's

1 necessary. And that's what he did. He's a pro just like you
2 are.

3 MR. HOLT: I believe that it is required. But, no.

4 Q Anyways, you understand what I'm saying, Doctor, correct?

5 You have said, I did it because it was what was needed to be done
6 to draw the remedy map that I was asked to do?

7 A Well, like I said, I wouldn't just introduce boundary changes
8 if they were not needed.

9 Q Okay. However, Dr. Trende's illustrative map that you have
10 talked about with your counsel showed that it is not necessary to
11 make all the downstream changes, outside of the Yakima Valley, to
12 create a Democratic-performing district, to honor the requests of
13 the Yakima Nation, and adhere to traditional redistricting
14 principles, doesn't it?

15 A Well, first of all, I did not run any performance to know how
16 it performs.

17 Q Okay.

18 A Second of all, the boundaries of Dr. Trende's maps are
19 completely different than mine, and I already highlighted the
20 issues with that, particularly with respect to the continuity
21 issue that existed. So I don't consider that as a viable option
22 or comparison to what I did.

23 Q You were here in the courtroom with Dr. Collingwood, correct?

24 A Yes. I said that.

25 Q And he analyzed Dr. Trende's illustrative map, correct?

1 A That's what he said he did.

2 Q And you heard eight out of eight elections that he analyzed
3 performed for the Democratic candidate in Dr. Trende's
4 majority-minority district, correct?

5 A That's what he attested to.

6 Q Okay. Now, Dr. Trende is not the only map drawer who drew a
7 map that effectuated a remedy without all of the other downstream
8 changes outside of Yakima Valley, correct?

9 A I don't know that.

10 Q You did, didn't you, Dr. Oskooii? You drew a map, in Map 5,
11 that everyone has testified that performs, that did not make
12 those changes, correct?

13 A Well, that map has a completely different configuration. As
14 I stated in the report, that particular map does not unite
15 community center -- communities of interest from East Yakima to
16 Pasco, it stops, and that was created at the request of counsel
17 to have one map that does not go to Pasco. So that's a
18 completely different map. We're talking -- it's not apples to
19 apples; it's apples to oranges.

20 Q Well, in deciding whether or not something is necessary, if
21 you can create a map that effectuates a remedy without doing it,
22 without making changes in all the surrounding districts in
23 Eastern Washington, you would agree that it's not necessary,
24 because you drew Map 5 where you didn't do it?

25 A Again, counsel, it was two different configurations of

1 Legislative District 14. So if you have a configuration of
2 Legislative District 14 that unites the population centers from
3 East Yakima to Pasco, those downstream effects, as you describe,
4 are necessarily needed.

5 Q Dr. Collingwood, in his reports and on the stand today, said
6 that all of the maps provided to him perform as a remedy map in
7 this case. Is that not the case?

8 THE COURT: We've already gone over that several times.
9 Let's move on.

10 Q Do you think that the Enacted Map drawn by the Commission
11 adhered to traditional redistricting principles, Dr. Oskooii?

12 A Yeah, I think so. I didn't examine the Enacted Map.

13 Q Then why did you make so many changes to it, in Map 3A, from
14 what the Commission did, if they adhered to traditional
15 redistricting principles?

16 A Well, obviously, the court had identified that map as having
17 an issue, and there was a call to remedy that issue. So, of
18 course, you have to make changes to remedy an issue.

19 Q And you remedied this by starting with the Enacted Map
20 without --

21 A I start --

22 Q Let me finish.

23 A Sorry. Yeah.

24 Q -- without looking at any data, political or racial, and you
25 happened to draw districts that created sufficient CVAP and that

1 all performed in double digits for Democrats without looking at
2 any data? You were able to do that?

3 A As I stated, I did not rely or view or otherwise consult any
4 racial, ethnic, demographic data, or any electoral, political,
5 partisan data.

6 Q Are you a gambler?

7 A Do I gamble? No, I don't gamble.

8 Q So you might want to take that up because this was a pretty
9 lucky -- without looking at any data, you drew ten maps that hit
10 directly on the targets, politically and racially, that you were
11 required to do. That's pretty impressive, don't you think?

12 A Again, I did not rely on such data, so I don't even know what
13 the target is supposed to be to hit a target. And like I said, I
14 don't gamble.

15 Q Neither do I, so ...

16 A Well, that's good.

17 Q As a map drawer that is dealing with a court-ordered
18 reapportionment plan, do you believe that the court ordered --
19 that a court-ordered remedial map, assuming the court enacts Map
20 3A today or in the weeks to come, that, in some respects, should
21 be held to a higher and stricter standard than the map passed by
22 the Commission?

23 A That is a legal question, counsel.

24 THE COURT: I don't understand that question being
25 relevant here.

1 MR. HOLT: Okay.

2 Q In crafting this court-ordered remedial map, Dr. Oskooii, do
3 you believe that you should follow the guidelines that the
4 Commission followed in enacting --

5 THE COURT: Does he believe I should follow the
6 guidelines?

7 Q Dr. Oskooii, do you believe that you should follow, in
8 drawing this map, the court-ordered map, do you believe you
9 should follow the guidelines, the same guidelines that the
10 Commission followed, when they drew the Enacted Map?

11 A The only thing I can tell you is that in drawing remedial
12 maps, you have to follow the state's redistricting criteria and
13 traditional districting principles and introduce only changes
14 that you deem necessary to remedy the violation.

15 Q Okay. What guidance, if any, did you take from the Enacted
16 Plan as you drew these maps?

17 A Well, I started with the Enacted Plan and I introduced
18 minimal changes to draw the Legislative District 14. So I
19 started with the Enacted Plan.

20 Q Are you aware that it was important to the Commission to draw
21 a map that would receive bipartisan support?

22 A I would imagine that in Washington State, as part of the
23 redistricting criteria, it's not to favor one party over another.

24 Q Are you aware that the testimony in this matter is that's
25 what all the commissioners tried to do, is to draw a map that

1 would receive bipartisan support?

2 MR. MULJI: Objection to the extent that counsel is
3 characterizing testimony in this matter.

4 THE COURT: Yeah, the objection is sustained.

5 Q (By Mr. Holt:) Dr. Oskooii, you would agree that, depending
6 on which CVAP metric using 2022 ACS data, LD 15 and the Enacted
7 Map has a Hispanic CVAP between 52 and 53 percent?

8 MR. MULJI: Objection, Your Honor. Dr. Oskooii has
9 already testified that he didn't look at any racial demographic
10 data. This question lacks foundation.

11 THE COURT: It's just not pertinent, counsel. The
12 objection is sustained.

13 MR. HOLT: Okay.

14 Q Have you ever been retained to draw a remedial map?

15 A No, not a remedial map. No.

16 Q Okay. This is the first time you have ever crafted a
17 remedial map?

18 A Yes.

19 Q Have you ever consulted on a remedial map?

20 A No, not consulted on.

21 Q Okay.

22 MR. HOLT: Pass the witness, Your Honor.

23 THE COURT: Anything from either of the State attorneys?

24 MS. SEPE: Just a few quick questions, Your Honor.

25 THE COURT: Sure. Go ahead.

1 Take all your stickies with you now.

2 MR. HOLT: I got them, Your Honor. I have got them.
3 That one is not mine. I don't know whose that is.

4 MS. SEPE: It's blank. It's all right.

5 CROSS-EXAMINATION

6 BY MS. SEPE:

7 Q Good afternoon, Dr. Oskooii. My name is Cristina Sepe. I'm
8 an attorney for the State of Washington.

9 I just have a few questions for you related to your
10 supplemental expert report. I believe you have that in front of
11 you?

12 A Yes. Good afternoon. Is this the third report?

13 Q I believe it's your supplemental expert report that's filed
14 at Docket No. 277.

15 A March 1?

16 Q Yes.

17 A Yes, I have that.

18 Q So you had previously testified that you found, based off of
19 the list of Public Domain Trust Land parcels, that the Yakima
20 Nation had identified that all but nine are currently included in
21 LD 14 of Map 3A; is that correct?

22 A Yes. And for one of the land areas, public domain areas,
23 there was no geographic latitude or longitude provided, but if
24 you include that, it's nine total that are not included in LD 14.

25 Q And I just wanted to highlight that you had identified

1 additional parcels that could possibly be included readily or
2 easily into Map 3A?

3 A Yeah, there are distinctly three of them that are right at
4 the border that could easily be incorporated. I'm happy to help
5 the court with any tweaks, if necessary.

6 Q Okay. And why did you characterize that as an easy fix or an
7 easy tweak?

8 A Because it's right by the border, it's not inside a
9 municipality, where you would have to then split a municipality
10 or the like to -- that would vastly shift the population and
11 cause other issues.

12 Q Okay. Thank you.

13 MS. SEPE: No further questions. Thank you.

14 THE COURT: Nothing else on the State's side?

15 Any redirect, counsel?

16 MR. MULJI: No, Your Honor.

17 THE COURT: Okay. You may step down.

18 MR. HOLT: Your Honor, if I just may note for the record
19 real quick, had I been provided more time, I would have really
20 liked to have reviewed Dr. Oskooii's map with him in great
21 detail, about why he included certain cities and did not include
22 certain cities, but given the constraints, I was not able to do
23 so.

24 THE COURT: Okay. But let me say, if you had asked
25 those questions instead of all the irrelevant questions, you

1 would have had time to do what you intended to do. So part of it
2 was your strategy and your prioritizing things.

3 You may step down.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: All right.

6 MR. PHILLIPS: Your Honor, plaintiffs would like to call
7 Caty Padilla as a plaintiff for very brief testimony.

8 THE COURT: Very brief? Okay.

9 Ms. Padilla, do you want to come forward?

10 Please raise your right hand.

11 CATY PADILLA,

12 having been sworn under oath, testified as follows:

13 THE CLERK: Please take the stand.

14 If you could please state your first and last names and spell
15 both for the record?

16 THE WITNESS: Caty Padilla, C-a-t-y P-a-d-i-l-l-a.

17 THE COURT: Thank you, Ms. Padia.

18 Mr. Phillips, go ahead.

19 DIRECT EXAMINATION

20 BY MR. PHILLIPS:

21 Q Ms. Padia, where do you live?

22 A In Toppenish.

23 Q And did you grow up in that area?

24 A Yes, I did. I grew up in the Yakima Valley.

25 Q Where did you go to school?

1 A I went to elementary in Toppenish, in Granger.

2 Q And what about high school and college?

3 A I graduated from Wapato High School and attended and
4 graduated from Heritage University in Toppenish.

5 Q So your whole life in the Yakima Valley?

6 A Correct.

7 Q Where do you work?

8 A I work in Sunnyside.

9 Q And is your family in that area as well?

10 A Yes, along the Yakima Valley.

11 Q Where are some of the places that your family lives?

12 A Toppenish, Wapato, Granger, and Grandview.

13 Q How often do you make it to other cities in this region?

14 A Daily.

15 Q What are some of the cities you go to?

16 A Sunnyside, Grandview, Toppenish, Wapato, Pasco.

17 Q How often do you make it over to Pasco?

18 A In the summer, weekly.

19 Q And why do you go to Pasco?

20 A Friends that have relocated from the Yakima Valley, from the
21 districts that I attended.

22 Q So you said you work in Sunnyside. What is your work?

23 A I am the executive director for Nuestra Casa, a nonprofit
24 that offers opportunities for folks to engage in the community,
25 and, specifically, my role, to help community-organize around

1 voter engagement.

2 Q What's an example maybe of some of the voter engagement work
3 that you do?

4 A We help Latinos read their ballot, understand the ballot.

5 Q And the community that Nuestra Casa serves, what area do
6 those community members live in?

7 A They come from Toppenish, Granger, Sunnyside, and Grandview.

8 Q I want to talk now about this lawsuit. Have you heard from
9 community members about their reactions to this lawsuit?

10 A Yes --

11 MR. STOKESBARY: Objection, Your Honor.

12 A -- the community is hopeful.

13 MR. STOKESBARY: Hearsay.

14 THE COURT: Well, just a "Yes" or "No" answer. Yes,
15 you've heard.

16 Okay. Go ahead.

17 Q (By Mr. Phillips:) And have you formed an opinion about the
18 impact of this lawsuit on the community?

19 A Yes. This would bring hope to the community of electing a
20 representative of their choice.

21 Q You've heard today some discussion of the map called "Map
22 3A." As you look at that map and think about its impact on the
23 community, what are some of your reactions?

24 A This makes me very happy and excited that folks that live,
25 work, and play in the Yakima Valley would all -- they would be

1 able to elect a candidate of their choice. That's going to
2 affect their everyday life.

3 Q Are there any specific things that you see when you look at
4 Map 3A?

5 A Yes, that I can have the possibility to elect someone that
6 will represent me and my community in Toppenish, as well as where
7 I work in Sunnyside.

8 Q There's also been discussion about the intervenors' map.
9 Have you had a chance to look at that? I'm not sure if it was on
10 the screen when you were there, but have you looked at that map
11 before?

12 A Yes, just briefly.

13 Q And when you look at that map and think about its impact on
14 the community, what are your reactions to that map?

15 A I think it just adds to the discouragement of the community
16 and adds additional barriers for the community to be able to
17 elect a representative of their choice.

18 Q How is that? What kind of barriers?

19 A Like I mentioned, myself, like many others, we travel every
20 day, assist our families. Voting is still an important matter
21 for us, but seeing, you know, in one area someone is going to
22 represent my mom and in where I work it will be different, it
23 just doesn't encourage folks, I guess, to participate.

24 Q The final question, why did you make the trip over here to
25 testify today?

1 A It is important for me to be represented by a candidate of my
2 choice, as well as those that I serve and hear from every day.

3 Q Thank you so much for being here.

4 MR. PHILLIPS: Pass the witness.

5 THE COURT: Mr. Stokesbary.

6 This case has done a lot for your career, hasn't it? You are
7 now the Republican Leader. Congratulations.

8 MR. STOKESBARY: Or condolences, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. STOKESBARY:

11 Q Good afternoon, Ms. Padilla. Thanks for joining us.

12 You mentioned that you live in Toppenish. Obviously you are
13 here today in Seattle. Do you come here to Seattle very often?

14 A Not as much.

15 Q Okay. Do you come here occasionally?

16 A Yeah, when the Mariners are doing good.

17 THE COURT: That's very occasionally.

18 Q It means we're not here as often as we would like.

19 Do you happen to know which legislative district we're
20 standing in right now?

21 A It is not my district, no.

22 THE COURT: No, she doesn't know.

23 Q So if I told you it was the 43rd, you would have no reason to
24 not believe me.

25 Do you know whether the Safeco Field -- I'm sorry, T-Mobile

1 Park is in the 43rd District or in a different legislative
2 district?

3 A I do not.

4 Q When you go to games at Safeco Field, do you ever go around
5 the International District nearby?

6 A I do.

7 Q You do.

8 Do you know whether that's in the same legislative district
9 as this courthouse and/or T-Mobile Park or a different
10 legislative district?

11 A I do not.

12 Q What about Key Arena? Were you a basketball fan? May the
13 Sonics rest in peace. Or are you a hockey fan?

14 THE COURT: Wrong name. Try again.

15 A Sonics were long before me.

16 MR. STOKESBARY: Well, Your Honor, hopefully I bought
17 myself some grace by also calling it Safeco Field. I'm a bit of
18 an old-timer. But --

19 THE COURT: It's now --

20 MR. STOKESBARY: -- Climate Pledge Arena.

21 THE COURT: Right.

22 Q Maybe a concert at Climate Pledge Arena nearby?

23 A No.

24 Q Would you be surprised to know that's in a different
25 legislative district?

1 A (No audible response.)

2 Q But would you consider, just from your really rough knowledge
3 of the Seattle area, Key Arena, this courthouse, Safeco Field,
4 and the International District, that would be a pretty together
5 community?

6 A Yes.

7 Q So does that surprise you at all that each one of those
8 places I mentioned is in four different legislative districts?

9 A Yes.

10 Q So, you know, certainly it's understandable that when
11 legislative districts have to be drawn of equal population, the
12 lines have to be drawn somewhere?

13 A Correct.

14 Q Are you familiar with the concerns that the Yakima Nation
15 have raised with respect to this litigation?

16 A Yes, I heard some here.

17 Q Do you generally understand what they have asked for in this
18 process?

19 A I do.

20 Q And I assume you know this, having graduated from Heritage
21 University -- congratulations -- and growing up in Toppenish,
22 but, obviously, Toppenish is on the Yakima Reservation, correct?

23 A Correct.

24 Q Okay. During your testimony a minute ago, you mentioned that
25 it would add discouragement for your home in Toppenish to be

1 separated from some of the other communities along the Yakima
2 River Valley. Why is that?

3 A Because we've been seeing over and over how it's already
4 enough barriers for us to elect a candidate of our choice, and,
5 for example, me, with the work that I do, having to explain
6 different ballots to folks, and you look over at your neighbor,
7 they're voting for someone else, that is discouraging that you
8 can't organize around the same candidate.

9 Q If a district bordering you, but one that you were not in,
10 elected the Hispanic candidate of choice in eight out of eight
11 elections, would that provide any sense of encouragement?

12 A Can you repeat that?

13 Q So if the lines were drawn in a way that you were not in a --
14 let me back up.

15 You mentioned that you had seen the intervenors' proposed map
16 or demonstrative map?

17 A Yes, briefly.

18 Q And one of your concerns was that you lived in the 14th
19 District in that map rather than the 15th District?

20 A Yes.

21 Q But the 15th District has been shown to elect the
22 Hispanic-preferred candidate in eight out of the eight elections
23 studied. So would any of your discouragement be ameliorated by
24 the fact that the district next door was able to elect candidates
25 of Latinos' choosing?

1 MR. PHILLIPS: Objection. Calling for speculation and
2 approaching a legal conclusion.

3 THE COURT: No. Overruled.

4 You know, would you be happy if it wasn't your district but
5 the one next to you elected a Latina or a Latino?

6 THE WITNESS: Yes.

7 THE COURT: Sure, yeah. Why not?

8 MR. STOKESBARY: Okay. No further questions, Your
9 Honor.

10 THE COURT: Okay. Thanks.

11 Anything else? Okay. Thank you, Ms. Padilla. You can step
12 down. And we will take a 15-minute break now.

13 But before we go, do any of the attorneys know the 1960s rock
14 group that came from one of the cities that we've heard about
15 today?

16 I know people in the audience know.

17 Gary Puckett & The Union Gap. Check it out. *Young Girl*,
18 which today would get you jailed, was the song that they were
19 famous for. "Young girl, get out of my life. My love for you
20 is ..."

21 Okay. All right. So 3:15, we will start up.

22 (Recessed.)

23 THE COURT: Thank you. Please be seated.

24 So I have been told that our representative from the Yakima
25 Nation would like to speak now, so come on forward. I'm not

1 going to swear you in or have you testify, but if you will just
2 go to the podium and tell me your name, spelling your last name
3 for the court reporter, and what you want me to hear.

4 MR. ARONICA: Thank you, Your Honor.

5 THE COURT: Sure.

6 MR. ARONICA: Anthony Aronica, A-r-o-n-i-c-a, staff
7 attorney with the Confederate Tribes and Bands of the Yakima
8 Nation, an inherently sovereign Native nation that is federally
9 recognized pursuant to the Treaty of 1855.

10 Without waiving any of its rights, privileges, or immunities,
11 including, but not limited to, the sovereign immunity from suit,
12 the Yakima Nation is participating today as an interested party,
13 at the court's invitation, and we thank you for that.

14 THE COURT: You are very welcome.

15 MR. ARONICA: Thank you for noticing that the remedial
16 legislative redistricting at issue can impact the Yakima Nation
17 and its reservation and the treaty territory that expands most of
18 Central Washington State.

19 The Yakima Nation did actively participate in the 2021
20 redistricting process, including that commission's rulemaking
21 process for adopting tribal consultation, holding government-to-
22 government consultation, and separately participating in the
23 comment process, and all of those are included in that
24 commission's written record. The Yakima Nation was supportive of
25 the congressional and legislative districts resulting from its

1 extensive involvement in that 2021 process.

2 Today, in this court's remedial process, Yakima Nation's
3 interests and priorities remain the same as written in 2021,
4 specifically to preserve the integrity of the Yakima
5 Reservation's boundaries and, to the extent possible, include
6 communities of interest between the Yakima Reservation and the
7 Columbia River.

8 The Yakima Nation has provided maps and locations of its
9 public domain trust parcels in Klickitat County, for the purpose
10 of identifying communities of interest south of the Yakima
11 Reservation. And we thank the court for its strong effort to
12 preserve the Yakima Nation's stated interests in the remedial
13 process.

14 THE COURT: Great. Thank you so much, Mr. Aronica. I
15 have the utmost respect for the Yakima Nation and the tremendous
16 history that precedes contact with the white man and such. You
17 know, I took Indian law in the University of Washington Law
18 School from the great Ralph Johnson and actually worked for him
19 as a researcher for a while and it really opened my eyes to
20 things that I knew nothing about.

21 So thank you.

22 MR. ARONICA: Thank you, Your Honor.

23 Also a graduate of the University of Washington, the first
24 federal Indian law program in the country.

25 THE COURT: Wow. That's great. Thank you.

1 At any point, after you hear other witnesses, you have
2 anything you want to say, just let me know, okay?

3 MR. ARONICA: Thank you, Your Honor.

4 THE COURT: All right. Okay. What's next?

5 MS. LEEPER: Your Honor, a brief administrative matter.

6 THE COURT: Thank you for not saying a "housekeeping"
7 matter.

8 MS. LEEPER: We remember.

9 THE COURT: Yeah.

10 MS. LEEPER: Plaintiffs would like to move into
11 evidence Plaintiffs' Exhibits 533, 534, 535, 536, 537, and 538,
12 the initial rebuttal and supplemental remedial reports of
13 Drs. Oskooii and Collingwood.

14 THE COURT: Those are admitted into evidence.

15 (Exhibit Nos. 533 - 538 admitted.)

16 THE COURT: Thank you.

17 MS. LEEPER: Thank you.

18 THE COURT: All right. So that completes plaintiffs'
19 presentation, correct?

20 MR. HOLT: Your Honor, just briefly. To the extent
21 plaintiffs intend to reserve any witnesses for rebuttal, I say
22 nonexpert witnesses, otherwise, we would just invoke the rule as
23 to those witnesses, that they be not --

24 THE COURT REPORTER: I'm sorry. Can you say that again?
25 I couldn't hear you.

1 MR. HOLT: We would just like to invoke the rule of
2 witnesses that any nonexpert witnesses, potential, that they
3 would like to reserve for rebuttal, that they are not present
4 during --

5 THE COURT: Oh, you want them excluded from the
6 courtroom?

7 MR. HOLT: Yes, Your Honor.

8 MS. HARLESS: Your Honor, our position is the rule
9 doesn't apply to parties. So experts and any of the plaintiffs
10 that are here could remain.

11 THE COURT: Well, first of all, the rule doesn't apply
12 to rebuttal witnesses ever. That's why they're allowed in the
13 courtroom, to rebut what they hear.

14 So, you know, if you had made the motion previously, that's
15 one thing, but the motion is denied.

16 Okay. Are you ready to proceed?

17 MR. ACKER: Uh-huh.

18 THE COURT: All right. Mr. Acker?

19 MR. ACKER: Yes, Caleb Acker for intervenors.

20 And intervenors will call Dr. Sean Trende.

21 THE COURT: Come on forward, Doctor. Thank you. You
22 know the right way to get here. And please raise your right
23 hand, and my clerk will swear you in.

24 SEAN TRENDE,

25 having been sworn under oath, testified as follows:

1 THE CLERK: Thank you.

2 If you could please state your first and last names and spell
3 your last name for the record?

4 THE WITNESS: Yeah. It's Sean Trende, T-r-e-n-d-e.

5 THE COURT: Thanks, Dr. Trende.

6 Go ahead, counsel.

7 MR. ACKER: Thank you, Your Honor.

8 DIRECT EXAMINATION

9 BY MR. ACKER:

10 Q Dr. Trende, this is your first time before the court as well,
11 correct?

12 A That's correct.

13 Q Could you do a brief introduction of yourself for the court?

14 A Yeah. My name is Sean Trende. I am a graduate, I do have to
15 say it this way, of the Ohio State University. I received my
16 Ph.D. in December, I received a master's in applied statistics
17 there a few years ago, and I have been asked to serve as an
18 expert witness in this case.

19 Q Thank you.

20 And as counsel has noted, your qualifications have been
21 stipulated and your reports admitted. And your reports, for the
22 record, are ECF 251, which is the original, and 273, which is the
23 supplemental.

24 So you mentioned that you have a Ph.D. Does that include
25 certain concentrations?

1 A Yes. I passed comprehensive exams in political methodology
2 and in American politics.

3 Q And you have two master's; is that correct?

4 A That's right. I have a master's degree in political science,
5 as well as the master's in applied statistics.

6 Q Okay. And a J.D. as well?

7 A I do have a J.D.

8 Q Is there any of the other ones that I am missing?

9 Okay. You also, at OSU, you are a lecturer there, correct?

10 A That's correct.

11 Q What type of classes do you teach?

12 A So I teach -- there's three classes that I have taught. I
13 teach the 1100 class, Intro to American Politics. Right now, I'm
14 teaching Survey Methodology. And then I teach a class called
15 Political Participation and Turnout, which the second half of
16 that class -- the first half of the class focuses on the choices,
17 whether to vote or not to vote, how to vote; the second half
18 talks about how that interfaces with voting laws, so Voting
19 Rights Act, racial gerrymandering claims, political
20 gerrymandering claims, and the various laws, like early voting
21 and photo IDs.

22 Q And how many times have you taught that particular class?

23 A Four.

24 Q You work at RealClearPolitics; is that correct?

25 A That's correct. I'm their senior elections analyst.

1 Q And RCP, as it's sometimes called, you hear a lot about the
2 RCP average, I think. Tell us a little bit about that
3 organization.

4 A So it serves as kind of a one-stop shop for political
5 information. We aggregate articles from across the political
6 spectrum. Probably what we're most known for is aggregating
7 polling data. We rate the competitiveness of elections, learn
8 about the fundamentals of districts, and basically all things
9 elections is our purview.

10 Q And how big is RCP?

11 A It's a company of about 50 people. It has a physical office
12 in Washington, D.C., and then various people spread out through
13 the country.

14 Q And your work there focuses on certain aspects of political
15 analytics like handicapping and forecasting?

16 A Yeah, that's my main job, is to analyze political
17 developments as they relate to elections. We do a lot of
18 handicapping of races and forecasting.

19 Q And what is handicapping?

20 A It goes by a lot of names, horse-race analysis, but, just
21 generally, looking at a race and seeing how the political
22 environment interacts with the district's fundamentals or the
23 state's fundamentals to get a sense of how it's likely to
24 perform.

25 Q All right. And you said that RCP aggregates polls. Does it

1 do any polls on its own?

2 A We've looked into it, but we decided there's a conflict
3 between submitting our own polls and then including that in an
4 average. So we don't submit our own polls.

5 Q Okay. Turning now more specifically to your experience with
6 redistricting, you have been involved in redistricting cases both
7 as a retained expert and a court-appointed expert; is that
8 correct?

9 A That's correct.

10 Q We can talk a little bit about your experience on the
11 court-appointed side. You have been a special master now?

12 A I have.

13 Q Where?

14 A So the first one is kind of strange, but I was appointed by
15 the Supreme Court of Belize to be their special master in their
16 country's version of *Baker v. Carr*. I was then appointed by the
17 Supreme Court of Virginia as one of their two special masters.
18 After the Independent Redistricting Commission deadlocked, I was
19 appointed as one of the masters to redraw their House of
20 Delegates, state Senate, and congressional districts.

21 Q All three.

22 And who was the other special master in that?

23 A Dr. Bernie Grofman of UC Irvine.

24 Q What is the current status of the Virginia maps?

25 A They're still in effect. They're the only southern state

1 that didn't get challenged -- have its lines challenged as a
2 racial or political -- or as a racial gerrymander or a voting
3 rights violation this cycle.

4 Q You also have some experience in Arizona as well, correct?

5 A That's correct. I was appointed by their Independent
6 Redistricting Commission, along with Stephen Ansolabehere of
7 Harvard.

8 THE COURT REPORTER: I'm sorry, Ansolabehere?

9 THE WITNESS: Oh, gosh. A-n-s-o-l-a-b-e-h-r-e {sic}, I
10 think.

11 THE COURT: Okay. We won't hold you to the exact
12 spelling, but thank you.

13 A I was one of the experts to consult with the lawyers for
14 voting rights compliance of those maps.

15 Q And what is the current status of those maps?

16 A Those maps have also, at least as of today, not been
17 challenged in court.

18 Q And how have they been received, to your knowledge, in kind
19 of the court of public opinion, so to speak?

20 A So there's always people who are unhappy with it. The
21 Republicans are unhappy that they lost control of the House of
22 Delegates in Virginia, but they lost the statewide popular vote,
23 and that's what is supposed to happen. But, generally speaking,
24 it's been positive bipartisan reception.

25 Q And you have also worked as a retained expert in

1 redistricting cases throughout the country as well?

2 A That's correct.

3 Q Could you give us a few examples of some of your recent work?

4 A So I was retained in Michigan as an expert for plaintiffs
5 challenging that map as a racial gerrymandering violation of the
6 Voting Rights Act. We were successful, and that's currently in
7 the remedial phase.

8 I've been involved in Missouri and Tennessee, Maryland, New
9 York. A lot of places.

10 Q All right. And the Michigan case you mentioned is still
11 ongoing in the remedial phase?

12 A That's correct.

13 Q And are you involved still in the remedial phase?

14 A We're evaluating the various maps as they come up, to try to
15 get to a peaceful resolution.

16 Q And you have been cited positively by courts in your role as
17 an expert, correct?

18 A That's right.

19 Q But you have also been cited maybe not so favorably by a few
20 courts?

21 A Yes, that's right.

22 Q Particularly, in Maryland, you had some involvement there
23 with some of -- the two different cases, to your recollection?

24 A Yeah. It depends on the court there.

25 In the congressional challenge, the judge agreed with my

1 analysis and struck down those lines as a political gerrymander.
2 In the challenge to the state legislative maps, it wasn't as
3 successful. And that's just -- sometimes the judges will agree
4 with your analysis and sometimes they won't.

5 Q In Kentucky, you also faced some criticism by a trial court;
6 is that correct?

7 A Yeah, the trial court was critical.

8 Q But on appeal to the Supreme Court, do you recall what
9 happened?

10 A Yeah. The State Supreme Court cites to my report in their
11 opinion.

12 Q All right. I would like to turn now to your work
13 specifically in this case. Broadly speaking, what were you
14 retained to do for these remedial proceedings?

15 A So I was asked to -- I wasn't brought on until the remedial
16 phase. I was asked to evaluate the various remedial maps in my
17 first report. In the second report, I was asked to see if there
18 was a -- to respond to some of those criticisms and then to see
19 if there was a configuration that could meet the desires of the
20 Yakima Nation while still drawing a Hispanic district that would
21 perform.

22 Q What did you do to prepare for the process of evaluating
23 plaintiffs' proposed maps?

24 A Well, it's the typical routine you go through. You gather
25 the block assignment files and census block data and then start

1 writing code to evaluate the maps.

2 Q Did you examine the court's orders in this case in
3 preparation?

4 A I did. I did. I looked at -- in particular, I looked at the
5 initial order from, I believe, August. There was another order
6 that was entered after it became apparent that the Independent
7 Redistricting Commission wasn't going to reconvene, setting a
8 schedule for remedial maps. And then I reviewed the order
9 setting this hearing.

10 Q And what was the purpose of your reading those orders?

11 A Well, when you are evaluating remedial maps, you want to get
12 a sense of what the violation is that the court has identified to
13 get a sense of what the maps actually have to do to be compliant
14 with the court's order.

15 Q So in this particular case, you having reviewed the orders,
16 what is that particular remedy that you believe was ordered?

17 A So my understanding, from reading the order, was to create a
18 district in the Yakima Valley region that would enable Hispanic
19 voters to have a reasonable opportunity to elect their candidate
20 of choice.

21 Q And can you define in your own words what you believe "a real
22 opportunity to elect" means electorally?

23 A Yeah. I think there's probably a legal sense that you guys
24 can fight about and the judge will decide. In my sense, it's a
25 district that's more likely than not going to elect the Hispanic

1 candidate of choice. I know there's verbiage that the voters are
2 not immune from pushing, hauling, and trading, or whatever the
3 exact quote is, so I don't think it has to be a slam dunk, but,
4 for me, it just has to be a strong probability that it's going to
5 perform. And you never know.

6 There's where we call political athletes out there, people
7 like Joe Manchin, who managed to get re-elected in a district
8 that Trump -- a state Trump won by 50, or Scott Brown, in the
9 right year, was able to win in Massachusetts. You know, those
10 candidates will always come along, you can't really account for
11 every possibility, but you just try to look at what's, generally
12 speaking, going to happen.

13 Q And that's the approach that you took when analyzing the ten
14 maps from plaintiffs in this case?

15 A That's correct. And when drawing my own map.

16 Q And you analyzed five and then five, when they came out, for
17 the whole process?

18 A Correct.

19 Q Okay. I'm now going to pop up -- I believe it's already
20 on -- an excerpt from your supplemental report, Dr. Trende, which
21 is ECF No. 273 at page 12. Do you recognize this particular
22 figure?

23 A I do.

24 Q And can you describe what the figure is?

25 A So the black lines on this are the Enacted Plan. It's the

1 original boundaries that were enacted by the Commission. And
2 then the red areas show the census blocks that were changed from
3 one district to another in Remedial Map 3A.

4 Q So Remedial Map 3A, describe that for me.

5 A So, I mean, you do this stuff long enough, you start to get a
6 touch of whimsy about district shapes. It looks to me like an
7 octopus sliding along to the Columbia River, but that's just me.

8 Q What did you analyze about 3A as it pertains to the other
9 maps proposed by plaintiffs?

10 A Well, you know, you look, first, is it likely to perform, is
11 it -- what's the CVAP percentage, and then looked at not only the
12 compactness and impact the drawing that map has, but also the
13 second- and third-order effects that that map might have.

14 Q In terms of those second- and third-order effects, in your
15 view of the ten maps, or five, however you want to group them,
16 which were the most disruptive in terms of those effects?

17 A I thought Maps 3 and -- 3, but 3 and 4 were clearly the most
18 disruptive.

19 Q And why is that?

20 A Because they end up changing the district of a large number
21 of people far removed from what I interpreted as the violation
22 identified by the court. You end up changing districts. That
23 7th district is represented by members in the, you know,
24 northeastern corner of the state, you have districts that go into
25 the Tacoma suburbs. So there really are far-flung effects as a

1 result of how this map is configured.

2 Q You describe those effects as, variably, walking populations
3 or a cascade. Can you explain what you mean by that?

4 A Yeah. A cascade was not meant as any type of pun. But you
5 have this -- you can see, on Map 14, that area that's taken out
6 of 14, and that kind of creates a suction, if you will. 17 has
7 to be pulled into that portion of 14. It doesn't have to be to
8 afford a remedy, but to make this configuration work, it does.
9 Well, then District 17 is overpopulated, so it has to shed
10 population. In this configuration, the population is shed near
11 Vancouver, pulling District 20 down. You know, you can see --
12 there's a table on the next page -- there's 15,000 people,
13 roughly, pulled out here. That requires 15,000 people to be
14 moved from 17 to 20, then 15,000 people are moved from 20 to 2,
15 from 2 to 31, and so forth, as it walks its way around.

16 Q You just said that it was needed for this configuration. Can
17 you explain what you mean by that?

18 A Well, all of these second- and third-order effects are
19 created by the decision to carve that area out of Western
20 Klickitat County. If you don't take that approach, like the
21 proof-of-concept map I did or Proposed Remedial Map 5, you don't
22 get all these second- and third-order effects; you end up with a
23 much more narrowly tailored remedy for the violation.

24 Q How many districts in your view could it be tailored to?

25 A I did it with three in the map we submitted. I think

1 Dr. Oskooii's Map 5 does it in five. It might be four. But many
2 fewer than you see here.

3 Q So when you were doing these maps, you looked at partisan
4 changes as well throughout the map; is that correct?

5 A I did.

6 Q And why did you do so?

7 A Well, because I know there's usually a balance in deals that
8 are made. I know you can't primarily favor one party or the
9 other. But as to why these things are being done, and if you are
10 going to end up tipping a couple more districts -- I know that
11 one district has to be flipped from one party to the other
12 because of who the Hispanic candidate of choice is, or the party
13 of choice generally is. So to remedy this violation, there's
14 going to have to be a district in the Yakima Valley that sees its
15 partisanship change. That's the law, at least as it applies
16 to -- as the judge has found and as it applies to this current
17 political moment. But are there second- and third-order
18 consequences that are -- are there other districts that end up
19 getting flipped by this choice of configuration.

20 Q And you looked at all the districts in the state when doing
21 so?

22 A Well, I looked at all the districts that are affected.

23 Q That are affected.

24 A I didn't look statewide.

25 Q Particularly, what did you conclude about District 12?

1 A So District 12 goes from a district that's fairly safe for
2 Republicans to one that's more competitive. At least for now,
3 they'd still have the edge, but it starts to put it into play.

4 Q As to District 17?

5 A District 17 is a little more significant because it goes from
6 a state where -- from a district that's pretty 50/50, maybe a
7 little bit of an edge for Republicans, to one where it's more of
8 a two- or three-point edge for Democrats. So it really does put
9 those two Republican representatives in jeopardy.

10 Q And why did you conclude that those changes were unnecessary,
11 those partisan changes?

12 A Well, again, because the two other maps that I have been
13 talking about, Remedial Map 5 and then the map that I drew, don't
14 have those effects, don't flip other seats to the other party or
15 don't put them at risk.

16 Q Let's turn to what you called your proof-of-concept map. So
17 you have already described this, but can you repeat, what exactly
18 was your goal in providing that?

19 A So I was asked by counsel, does this -- especially after I
20 was made aware, and I understand counsel was made aware, of the
21 objections of the Yakima Nation to the maps, I was asked: Is it
22 possible to draw something that takes these concerns into account
23 but would still draw a district that would likely perform for
24 Hispanic residents in this portion of the state? And so I wanted
25 to see if it was possible.

1 Q And we will break this down, but what was your overall
2 conclusion?

3 A My overall conclusion was, yes, you can do it.

4 Q Okay. Let's zero in then on what you just mentioned, which
5 are the concerns of the Yakima Nation, as you understood it. You
6 said that you had read those concerns?

7 A Yeah. So I read the letter that was submitted, and so -- and
8 I read the judge's order, or the court's order, on what to
9 provide the court with, and so I was hopeful that there would be
10 some kind of like list of all the -- I can't remember the exact
11 verbiage -- but the communities of interest surviving --
12 surrounding the off-reservation trust parcels and the
13 reservation, and I didn't see it. So the next step was to go
14 through and read the tribal submissions to the Commission to see
15 what was identified there. And so, from that, I was able to get
16 a sense of -- what I think is a better sense of what those
17 concerns were, that there's fishing access sites that had been
18 provided by the treaty that were cut off, that there were the --

19 Q Cut off in --

20 A I'm sorry?

21 Q I'm sorry to interrupt you. Cut off in what?

22 A Removed from the same district as the Reservation, in that
23 the tribe had invested significant amounts of money in restoring
24 the Klickitat and White Salmon River basin for the fishing access
25 there. And you got a picture -- and there were just more general

1 references to the area south of the Reservation, north of the
2 Columbia River. So that's how I got the -- I could plot out
3 specific places that were mentioned and then shade in all of the
4 areas south of the Reservation, north of the Columbia River.

5 Q And those specific areas that you were looking at, you say
6 they were excluded in 3A?

7 A Yes. It's that same area that I said that's the red dot --
8 or the red area in the middle of District 14 right now. And it's
9 also the same area that creates that cascading effect that makes
10 the map walk all the way around Eastern Washington.

11 Q So in your illustrative map or your proof-of-concept map, how
12 did you go about creating it so that you kept all of those
13 interests together but still remedied the court's -- what the
14 court found to be the violation?

15 A So the first thing was that from my read of the submissions,
16 the Yakima Nation seemed pleased with District 14 as it was
17 drawn, so I tried not to alter that boundary around where the
18 Reservation was and kept that intact. And so instead -- I know
19 that there had been a PowerPoint from Dr. Barreto showing a
20 configuration north of the Reservation -- I saw that in the
21 record -- and I wanted to see if maybe that could be reproduced
22 in a way that didn't alter the Reservation boundary. And that's
23 kind of the movement that I -- or the inspiration for taking the
24 Enacted Map and altering it into the suggested map that I
25 included in my report.

1 Q And your suggested map, it moved around 80,000 people total?

2 A That's right.

3 Q Versus your understanding of about 500,000 or maybe 400,000
4 in 3A?

5 A That's right.

6 Q And your overall conclusion then is because a different
7 configuration was possible, what 3A did with the off-Reservation
8 lands, with how it was constructed, was not necessary?

9 A That's right. I look at the configuration I had, I look at
10 the configuration in Proposed Map 5, and I say, yeah, you don't
11 actually have to do all these second- and third-order effects to
12 construct an adequate remedy. There's a reason that in my first
13 report I have very little to say about Proposed Map 5, because at
14 least given the confines of the court's order, I thought it was a
15 remedy that didn't have a lot of bad effects.

16 Q All right. That's all.

17 MR. ACKER: Pass the witness.

18 THE COURT: Great. Thanks, Mr. Acker.

19 Any questions from state attorneys?

20 MS. SEPE: No.

21 THE COURT: All right. And who is going to do cross?

22 MS. HARLESS: I'm going to do the cross, Your Honor.

23 THE COURT: Okay. Thank you. Go ahead.

24 CROSS-EXAMINATION

25 BY MS. HARLESS:

1 Q Good afternoon, Dr. Trende.

2 A Good afternoon.

3 Q I want to talk a little bit about the map you drew and
4 submitted on February 23rd. You made small changes to the
5 Enacted Version of District 15 to draw your map, right?

6 A I made the smallest I could, yeah.

7 Q And your goal was to transform District 15 into a
8 minority-majority district that was typically carried by
9 statewide Democratic candidates, correct?

10 A Yeah. I mean, if we want to be specific, it's the Hispanic
11 candidate of choice, which, in these races, I understand it's
12 been established as the Democrat. It's a nitpicky distinction,
13 but it is an important one.

14 Q In your report, you said, "carried by statewide Democratic
15 candidates," correct?

16 A Yes.

17 Q And it was a requirement that your remedial district have a
18 Hispanic citizen voting age population over 50 percent, right?

19 A Correct.

20 Q And you didn't produce any maps to the court with a Hispanic
21 citizen voting age population less than 50 percent, right?

22 A That's right.

23 Q And you did no analysis to determine whether Latino-preferred
24 candidates could win in a district with less than 50 percent
25 Hispanic citizen voting age population, correct?

1 A That's right. I was just looking to see if it was possible
2 to draw this performing district and keep the Reservation lands
3 intact.

4 Q And you used racial data to help ensure that your district
5 was over 50 percent Hispanic CVAP, right?

6 A Yeah, that's right. In my experience, you can look at racial
7 data as long as it doesn't predominate over other interests.

8 Q And you turn on the Hispanic citizen voting age population
9 percentages in the software that you used?

10 A That's right.

11 Q And while drawing District 15, you selected geography based
12 on the racial makeup?

13 A So subject to making sure traditional redistricting
14 principles are complied with -- I mean, there's lots of other
15 things I would have liked to have done that would have made it
16 easier without doing that, but as a tertiary consideration, yes.
17 I think it's admirable how Dr. Oskooii testifies he went about
18 doing it, but my understanding is it's not how it's required to
19 do. You don't have to be completely race blind, especially once
20 a VRA violation is found.

21 Q So was that a "Yes"?

22 THE COURT: The answer can stand, yeah.

23 Q And you say in your report you explicitly avoided
24 configurations that would have increased the Hispanic citizen
25 voting age population beyond where it landed in your map, right?

1 A I avoided configurations that would have had higher CVAPs if
2 they required me to cross county lines, create additional county
3 or municipal splits, but I think that's the extent of what I said
4 in the report.

5 Q All right. Let's pull up your report. And we're going to
6 pull up ECF 273, and this is your supplemental report. And let's
7 look at page 2, the last sentence. And if you read that, it
8 says, "It is likely possible to draw a district with a higher
9 Hispanic citizen voting age population or Democratic performance
10 by allowing race or politics to predominate over these concerns;
11 these maps were excluded from consideration." Do you see that?

12 A That's right, yeah.

13 If you let race and politics predominate over the other --
14 over these concerns, which are the things I mention in the
15 earlier sentence, "county and jurisdictional splits, respecting
16 communities of interest," et cetera, you could do that. But I
17 wasn't going to do that.

18 Q Okay. Let's turn to Figure 12 on page 29 of your initial
19 report, which is ECF 251, and we're going to pull that up.

20 And do you see that on the screen there, Dr. Trende?

21 A I do.

22 Q This figure contains a dot density map that you created to
23 attempt to show population compactness in the Yakima Valley
24 region, right?

25 A Correct.

1 Q And you didn't create a dot density map like this for Map 3A,
2 right?

3 A For -- no. I don't think 3A was in evidence when I wrote
4 this report, was it?

5 Q You didn't create a dot density map like this for Map 3
6 either?

7 A I actually don't recall, but I'll -- if you say that it's not
8 in there, I don't have a reason to quibble with you.

9 Q And in your report, you say that you use a blue dot for every
10 10 Hispanic citizens of voting age, right?

11 A That's right.

12 Q And you use an orange X for every 10 white citizens of voting
13 age, right?

14 A That's correct.

15 Q And a purple plus sign for every 10 citizens of voting age of
16 other races; is that correct?

17 A Right.

18 Q The symbols you chose for white people are about twice as
19 large as the symbols you chose for Latino people, aren't they?

20 A So I think the size is actually set the same in the R code.

21 The X will cross more, and that's why you layer -- so the way
22 that the program draws this map is it draws it layer by layer.
23 It sets the background, then it draws the orange Xs, and then the
24 blue dots.

25 One of the problems with doing it that way is that if you

1 have things be the identical size, the blue dots will cover up
2 completely any orange X. And so having the X take up a little
3 more volume allows it to show when a blue dot is on top of it.
4 It's still a problem because some of these blue blobs do have
5 orange Xs under them that are completely concealed, but it's the
6 best way I know to depict this.

7 Q Well, it makes it look like the white population is, you
8 know, double the size of the Latino population, doesn't it?

9 A I don't think so.

10 Q And when you --

11 A Because there's white voters that are completely covered by
12 some of the heavy-density Hispanic population.

13 Q When you submitted this dot density map and draft to your
14 lawyers, nobody brought up how these symbol sizes look
15 misrepresentative to you?

16 A I don't think they're unrepresentative or misrepresenting
17 anything.

18 Q And given you're rounding, each of these symbols might
19 represent as few as five people and as many as 14 people, right?

20 A No. The first one does. The way it works is that if there
21 are like 23 people, Hispanic residents, you would definitely get
22 two dots, but then the third one would have been rounded down, or
23 27, the third one would appear, because it would round up.

24 But for every ten, you get one, and then for the last chunk,
25 it's a round.

1 And I would love to be able to do it one dot for every
2 person, but then you really would get just a giant blob and it's
3 not helpful.

4 Q But some of these symbols could be nearly twice the
5 population you show or half the population you show, right?

6 A I'm sorry. I'm not following you.

7 Q If some of the dots are rounded down to 15 -- down to 5 or up
8 to 14, some of those symbols could be nearly twice the population
9 you claim, which is 10 citizens per symbol, right?

10 A Well, I don't claim 10. I think I explained that there is
11 this rounding going on. But, yes, at that exact threshold of 5
12 to 15, there can be a variance in how many people they represent,
13 but I don't know any other way to do it.

14 Q You have provided no specific threshold for how
15 geographically close the Latino populations would need to be to
16 be compact in your opinion, correct?

17 A That's correct.

18 Q And your opinion of the non-compactness of the Latino
19 population in the region is based solely on eyeballing where the
20 dots are located in your dot density map, right?

21 A Yeah. When I look at this approach, I do it with Justice
22 O'Connor's admonition in mind, that redistricting is a place
23 where appearances matter. And a lot of these, you know, the
24 racial gerrymandering claims, a lot of these things are dependent
25 on a visual inspection of the districts.

1 Q Well, you have done analysis before in another state
2 legislative Voting Rights Act case where you used metrics to
3 measure the compactness of the minority population, correct?

4 A Yeah. So in Louisiana, there was an order from the Fifth
5 Circuit saying to look at population compactness as opposed to
6 just district compactness, and the only metric I know of in the
7 literature for doing population compactness is the moment of
8 inertia metric. So that's the metric that I employed there. But
9 even there, I only used it to identify the most compact
10 populations. Since this district is barely 50 percent plus one,
11 you really don't need that here to see what the most compact
12 50 percent plus one population is. Remember, too, in Louisiana,
13 that was for illustrative maps, where the 50-percent-plus-one
14 threshold is super important.

15 Q Well, you had a 50-percent-plus-one threshold here too,
16 right, Dr. Trende?

17 A I wouldn't allow the district to -- I wouldn't take
18 configurations of the district that required me to go into other
19 counties or across municipalities, that's right.

20 Q And you didn't go below 50 percent, right?

21 A No. I kept the same rough HCVAP as the illustrative map from
22 Dr. Oskooii had.

23 Q And the metrics you used in the Louisiana case to measure
24 compactness of the minority population were not accepted by the
25 court, correct?

1 A The court excluded the only metric I know on the literature
2 for identifying populations. Actually, I don't think it was
3 excluded. It wasn't relied upon. It survived the *Daubert*
4 challenge.

5 Q Instead of metrics here, your approach is you just know it
6 when you see it, right?

7 A Just like with a racial gerrymandering claim, the visual
8 inspection is important. I would love for something more
9 specific to be in the law, but it's generally done by visual
10 inspection.

11 Q And your eyeball test also doesn't take into account other
12 redistricting criteria that go into drawing a district, right?

13 A I think when you are trying to explain shapes, you can
14 certainly point to things that require it to be a certain way.
15 So I don't know that I'll agree with that, but, you know --

16 Q Well, it doesn't account for line placement to comply with
17 equal population requirements, for example?

18 A Every district has to have -- has to comply with equal
19 population requirements, but I guess if there's a bulge or an arm
20 that has to be there for equal population requirements, then that
21 would explain the shape.

22 Q And it doesn't account for line placement to keep the Yakima
23 Reservation whole, right?

24 A That's right.

25 Q And it doesn't account for line placement to avoid political

1 subdivision splits, correct?

2 A That's right. If there's a subdivision that has to be
3 included at the boundary, then I guess that would be
4 inexplicable. But I also know from having drawn a lot of maps
5 that if you get one of these little bulges sticking out, in my
6 experience, you try to also include precincts surrounding it, to
7 keep those bulges from occurring.

8 Q In your initial report, you claim that plaintiffs' Map 3
9 shifted census blocks in 28 out of the state's 39 counties,
10 correct?

11 A Yeah. That was a mistake.

12 Q And the remedial district in your map is labeled 15, not 14,
13 right?

14 A I think that's right.

15 Q And this means the state Senate election in your remedial
16 district will be held in an off year, where there's no
17 presidential or gubernatorial election, correct?

18 A Well, if that were -- so I guess phrasing it as a remedial
19 district, that would be true. I mean, the main goal with drawing
20 that map was just to see if it were possible, like I said, to
21 keep the interests of the Yakima Nation intact while still
22 drawing a district that would perform. So if, as an actual
23 remedial map, that were a problem, you could flip the numbers on
24 it. But, yeah, it would occur in an off-year election as
25 currently numbered.

1 Q Did the lawyers tell you to number it that way?

2 A No.

3 Q And you didn't assess the turnout difference between Latino
4 and white voters in off-year elections in the Yakima Valley
5 region, right?

6 A That's correct.

7 Q And so you also didn't do any analysis to see how the turnout
8 differential in --

9 THE COURT REPORTER: Excuse me, counsel.

10 THE COURT: You are going too fast, counsel.

11 MS. HARLESS: I'm sorry.

12 Q And so you also didn't do any analysis to see how the turnout
13 differential in off-year elections might impact election outcomes
14 in District 15, right?

15 A Yeah, that's right. I did a similar approach to these
16 analyses that have been done by the Commission and by plaintiffs'
17 experts.

18 Q When you decided to number your District 15, you didn't give
19 concern to whether that would affect Latinos' ability to elect in
20 your proposed district?

21 A Well, I don't think it does since, on average, this district
22 performs at 6 percent and performs in all the elections that
23 people had been looking at. And you have a foundational
24 assumption there, which is that I was choosing on how to number
25 it. I just keep it the Enacted Map and changed the boundaries.

1 I didn't make conscious choices on how to number the districts.

2 Q Now, you testified earlier that courts have found your
3 testimony unpersuasive before, right?

4 A That's right.

5 Q And you were an expert in a Kentucky congressional
6 redistricting case, *Graham v. Adams*, right?

7 A That's right.

8 Q And you offered opinions there about the pairing of certain
9 communities in districts, correct?

10 A I think that's right.

11 Q And, in fact, you said the judge disagreed with you, but it
12 was a little stronger than that, wasn't it?

13 A He definitely did not like my testimony there.

14 Q And the court there found your testimony self-serving and
15 unreliable, correct?

16 A Yes.

17 Q You were also an expert in a Maryland state legislative
18 redistricting case, and I think you talked about that one, the
19 *Matter of 2022 Legislative Redistricting of State*, right?

20 A Right.

21 Q And in that case, you provided analysis about the compactness
22 of districts?

23 A Yes.

24 Q And, there, the court noted the superficial quality of your
25 analysis and gave it little weight, correct?

1 A Yeah. I mean, in -- so in that matter, in that case, all I
2 had been asked -- I kind of agree that it was a superficial
3 analysis because all I was asked to do was to calculate
4 Polsby-Popper and Reock scores and produce maps. That's what the
5 lawyers asked me to do, so that's what I did. It wasn't a very
6 in-depth analysis of those maps. It wasn't intended to be.

7 Q And you were also an expert in a 2023 racial gerrymandering
8 case in South Carolina, right?

9 A That's right, the one that's before the Supreme Court right
10 now.

11 Q And in that case, you provided opinions about the
12 characteristics and extent of changes to Congressional District 1
13 in the state's 2022 redistricting plan, correct?

14 A Yeah. I think the opinion was that it was consistent with a
15 political gerrymander.

16 Q And in that case, the court found your testimony and reports
17 regarding Congressional District 1 unpersuasive, right?

18 A That's right.

19 Q Dr. Trende, you'd agree that when assessing the performance
20 of a district with changed boundaries, the best practice is to
21 use statewide races, right?

22 A Yes.

23 Q And it would be an impossible analysis to assess the
24 performance of a district with changed boundaries using a
25 candidate running in that district, correct?

1 A I think it's very -- I mean, I don't want to say never
2 because, as I have learned the hard way, this transcript will
3 follow me around for the rest of my life.

4 There may be districts you draw that are so lopsided one way
5 or the other that you could make that type of analysis, but,
6 generally speaking, I'd avoid it.

7 Q Do you remember testifying in deposition in the *LULAC v.*
8 *Abbott* Texas redistricting case?

9 A Yes.

10 Q And you had a lawyer there with you, right?

11 A Yes.

12 Q And you testified under oath?

13 A Yes.

14 Q We're going to pull up that deposition, and we're at page 226
15 of that deposition. And you were asked:

16 "Okay. Your analysis of whether a district is shored up is
17 not based on the vote share of the Republican candidate who is
18 actually running in, for example, that congressional district,
19 correct?"

20 And your answer was: "Well, you can't really do that because
21 the candidate running in the congressional district, as you add
22 precincts to it, you're adding precincts where that congressional
23 candidate wasn't running."

24 "Question: Okay."

25 "Answer: You're asking for an impossible analysis."

1 Did I read that correctly?

2 A Yeah, you did.

3 And I think in the context of that analysis, where it was
4 districts that weren't, you know, 90 percent Republican or
5 Democratic, that that's certainly true. The only time that I
6 would -- the only reason for any wiggle room, the way that you
7 asked it and the context for it, is that there might be,
8 hypothetically, a 90 percent Republican district, and I think
9 you could say, confidently, that's going to elect a Republican.
10 A 55 percent Trump district, it's a little bit trickier.

11 MS. HARLESS: No further questions, Your Honor.

12 THE COURT: Okay. Anything else, Mr. Acker?

13 MR. ACKER: Just a few, if I may.

14 THE COURT: Sure.

15 REDIRECT EXAMINATION

16 BY MR. ACKER:

17 Q Dr. Trende, in your original initial report, you stated that,
18 as to population distribution, that you essentially incorporated
19 the same analysis from Maps 1 and 2?

20 A I'm sorry?

21 Q It was a bad question.

22 A It's getting up to my bedtime.

23 Q Yeah.

24 You did analysis on population distribution, including the
25 density dot map that we saw for Maps 1 and 2?

1 A Yes.

2 Q And then for Maps 3 and 4, your conclusions were, as to
3 those, the density for those populations, your conclusions would
4 be the same?

5 A Yes.

6 Q Okay. Thank you.

7 And as to that population density and the dots, one of your
8 degrees is, I think, is -- is it applied statistics?

9 A That's right.

10 Q Okay. And so are you familiar with the law of large numbers,
11 I think they call it?

12 A Yeah.

13 Q Can you explain that to me? Because I can't do it.

14 A Well, there's the weak law and the strong law. But the weak
15 law of large numbers is that as you add up -- basically, in lay
16 terms, as you add observations, you come closer to the true
17 population average.

18 Q So with respect to your dot density map, would you expect the
19 rounding issues to average out?

20 A Yeah. In the aggregate, I don't think there would be a
21 problem.

22 Q And as to the selection of the dots, you did not approach
23 that with any ill intent as to race, per the dots?

24 A No. It was to -- I understand the complaint, and the code is
25 there, so it can be generated in a different way if people really

1 think it's misleading, but it's a practical choice. You can't do
2 one dot for each person, I've tried, and you end up with just a
3 blob on the map, so you have to do rounding. And like I said, if
4 you don't account for the fact that you're drawing the Hispanic
5 population or black population last, drawing it on top of the
6 white population, you end up covering up a lot of the orange Xs,
7 just like still happens in this map. You know, so that's why you
8 take the dot plots, you take the core plus maps that show the
9 percentages in the precincts, and kind of read them together,
10 like I do in my report, to see what's going on.

11 Q And then just two final questions. As to Map 5, you reviewed
12 Map 5 and 5A, correct?

13 A Correct.

14 Q And you concluded that -- you reviewed that Dr. Collingwood
15 concluded that they would perform and be a remedy, in your view?

16 A Yes.

17 Q And despite being under 50 percent HCVAP?

18 A That's my recollection of what the -- I think the HCVAP was
19 like 46.7, and I think that actually had the strongest Democratic
20 performance of any of the maps.

21 Q And then one last question. You mentioned this South
22 Carolina case in which you took some flack from the district
23 court. That is on appeal at the Supreme Court?

24 A That's correct.

25 Q Are you aware that the central issue that the Supreme Court

1 is taking on direct appeal is whether the district court's
2 factual conclusion will stand?

3 A That's right. It's a question of whether the district court
4 properly sorted out whether it's a political or a racial
5 gerrymander, and my opinion was that it was a political
6 gerrymander.

7 Q And the Supreme Court has not yet issued its opinion in this
8 case?

9 A That's correct.

10 MR. ACKER: No further questions.

11 THE COURT: Thanks, Mr. Acker. Anything else out there?

12 Thank you very much, Dr. Trende. You are a great witness. I
13 appreciate it. Thank you.

14 MR. MULJI: Your Honor, plaintiffs would like to call
15 Dr. Oskooii as a rebuttal witness for a short examination.

16 THE COURT: Sure.

17 But are you done on your side with the witnesses you wanted
18 to call?

19 MR. HOLT: Yeah, subject to recross or whatever.

20 THE COURT: Sure. Okay. We can recall Dr. Oskooii.

21 MR. MULJI: Dr. Oskooii has just arrived back from the
22 bathroom. Would it be okay if we took a short recess?

23 THE COURT: Why don't you just step outside and talk to
24 him? You want to tell him what this is about?

25 MR. MULJI: To go over the -- yeah, I think he just

1 missed the last bit of Dr. Trende's testimony.

2 THE COURT: I see. Okay.

3 Let's see. Where are we?

4 DR. OSK00II: I drank too much water.

5 THE COURT: Okay. Five minutes?

6 MR. MULJI: Thank you, Your Honor.

7 THE COURT: Okay. Great. A five-minute break.

8 THE CLERK: Please rise.

9 (Recessed.)

10 THE COURT: Thank you. Please be seated.

11 Okay. Come on up. You are still under oath. Please be
12 seated.

13 All right. When you are ready, Mr. Mulji.

14 KASSRA A.R. OSK00II,

15 previously sworn, resumed and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. MULJI:

18 Q Welcome back, Dr. Oskooii.

19 You were present for some of Dr. Trende's testimony, yes?

20 THE COURT: Until nature called, yeah.

21 A Yeah. I tried to stick in there, but, you know, I had to
22 leave.

23 Q Okay. I just have a few questions for you.

24 Did you hear Dr. Trende describe his map as a "proof of
25 concept"?

1 A Yes, I was there for that.

2 Q Do you see Dr. Trende's map as a valid proof of concept in
3 this case?

4 A Well, you know, my opinion is, and with all due respect to
5 Dr. Trende, if you have a proof of concept, you have to actually
6 make sure it complies by the redistricting criteria, and I
7 mentioned there's a contiguity issue with the Columbia River,
8 splitting one side of the Legislative District 15 from the other
9 side, with no bridge crossings or ferries.

10 So just to resolve that, you will have to alter that section,
11 which will have those second-, third-order effects that
12 Dr. Trende was testifying to.

13 Q What is the significance of the contiguity issue in LD 15 in
14 Dr. Trende's map?

15 A Well, I mean, you would have to resolve it. You can't have
16 people swim over the Columbia River from one side to the other.
17 You know, sometimes, if they're small areas, that could be okay,
18 or if people can walk at least from one side to another district,
19 but if you have the Columbia River, I wouldn't recommend, you
20 know, swimming past it to get to the other side of the district.

21 Q Thank you. I will move on to the next topic.

22 Were you around for Dr. Trend's testimony regarding the
23 changes to the number of districts that you made in Map 3A?

24 A Yes, I was.

25 Q And do you recall discussion of Figure 5, I believe, or at

1 least one like it?

2 A Yes.

3 Q Do you see the areas highlighted in red?

4 A Yes, I do.

5 Q What do these -- what do these areas highlighted in red tell
6 you about the changes your map made relative to the Enacted Plan?

7 A Well, all it really shows here, based on this, is the land
8 areas. It doesn't actually show where people are in those red
9 areas. So you could have a very sparsely populated area and then
10 you would have a blob of red, and it would give the impression as
11 if lots of people were moved and massive changes were made. And
12 for this reason, that is why, in response to that, I submitted
13 core retention metrics to account for the changes as a percentage
14 of the population.

15 Q And for our benefit, can you explain what a core retention
16 analysis is?

17 A Yeah. Basically, you are trying to determine how many people
18 are kept together in a preexisting district from the proposal,
19 such as Map 3A, or Dr. Trende's map, because you have to provide
20 context of the movement precisely because there are a lot of
21 potentially sparsely populated areas. And the core retention
22 metric that I provided shows that only 5.5 percent of the entire
23 state's population were affected by Map 3A.

24 Q Don't ask me to do math, but can you put that in the inverse?
25 What is the core retention rate of your Map 3A?

1 A So it's the reverse. It's 94.5 percent of all Washingtonians
2 were kept together in Map 3A, as they were in the Enacted Map.

3 Q In your experience, evaluating maps for compliance with
4 traditional redistricting criteria, is it high, low? Where does
5 that fall?

6 A I mean, that's high. Of course it's high. You're
7 essentially only touching 5.5 percent of the entire population.

8 Q Were you around for the testimony of Dr. Trende regarding
9 alleged political impacts of your map?

10 A Yes.

11 Q And to be clear, you testified earlier that you did not
12 consider any political or election data, correct?

13 A That's right.

14 Q Why was that?

15 A Well, one, I was instructed to by counsel, to not rely on
16 such data, and, also, my understanding is that, in Washington
17 State, you know, partisanship should not be considered to favor
18 one party or another, and, therefore, I did not want it to be
19 data that I could even look at as I'm drawing the maps.

20 Q Nevertheless, in response to Dr. Trende, you examined the
21 political impacts that he alleged, yes?

22 A Yes. In response to the claims that Dr. Trende made and
23 after I had completed all the maps, I provided some partisan bias
24 metrics to assert -- to assess the claims that were made by
25 Dr. Trende.

1 Q One of those was the efficiency gap?

2 A Yes. I provided two commonly used partisan metrics, partisan
3 bias metrics -- one is the efficiency gap and the other one is
4 declination -- and they essentially try to see to what extent are
5 party supporters packed or cracked across the districts that
6 would introduce a partisan bias in favor of one party or the
7 other.

8 Q I want to turn to page 43 of your January 5th report at
9 Docket No. 254-1. And you have a table here comparing partisan
10 bias metrics across a number of plans, including the --

11 THE COURT REPORTER: Excuse me. You need to slow down.
12 Repeat your question, please.

13 MR. MULJI: My apologies.

14 THE COURT: And get closer to the microphone too.

15 MR. MULJI: Oh. Yeah.

16 Q In this table, you compare the partisan bias metrics, or at
17 least the efficiency gap that you just discussed and one other,
18 the declination metric, across various plans; is that right?

19 A That's right.

20 Q And what did you find with respect to these partisan bias
21 metrics?

22 A First of all, looking at the Enacted Map, what the results
23 show is that the Enacted Map has a slight tilt in favor of
24 Republicans, given the statewide vote share. This is visible
25 with the efficiency gap, which considers wasted votes, and also

1 declination, which I can explain if needed. And in Map 3A, since
2 that's the subject of today's discussion, keeps the slight
3 Republican tilt. Both, when it comes to efficiency gap and
4 declination metrics, show that.

5 Q Do tell us about declination.

6 A Yes. So declination is a complex formula, and, basically,
7 you have to consider the share of the votes in each district that
8 a party has won and also which districts each party has won. And
9 the way you do that is you organize or order all the seats that
10 Republicans have won by different shares. So the bigger share,
11 the lower on a y-axis that district will be. So you order it
12 from the biggest share to the lowest share, until the 50 percent
13 horizontal line, which would be the mark where things would flip,
14 and then you order the same thing for Democrats, the Democratic
15 seats, from the least gap or share of votes won to the most.
16 Then you find the midpoint or mass for both Republicans and
17 Democrats and you draw a line from that midpoint to the
18 50 percent horizontal marker, you do the same thing for
19 Democrats, and then there's an angle, like a geometric angle,
20 that you draw that assesses to what extent one map, you know,
21 tilts things in favor of Republicans or Democrats.

22 Declination scores that are closest to zero indicate a
23 totally fair map. If the scores are positive, it indicates a
24 pro-Republican tilt, and if it's negative, it indicates a
25 pro-Democratic tilt.

1 Q Thank you.

2 And I forgot to ask you, with respect to the efficiency gap,
3 how are the -- what is the scoring sort of scale for efficiency
4 gap outputs?

5 A Yeah. It's the same way. So efficiency gap of zero would
6 suggest that it's a completely fair map, no one is really
7 benefiting. Positive scores indicate a tilt towards Republicans;
8 negative scores indicate a tilt towards Democrats.

9 Q What's the reason for looking at two of these metrics rather
10 than just any one?

11 A Well, they're doing different things. For instance,
12 efficiency gap is really considering wasted votes. So you can
13 win a seat by just having 50 percent plus one, or you can win a
14 seat by receiving 70 percent votes. So anything in excess of
15 50 percent plus one would be considered wasted or inefficient.
16 So you're trying to see the seats that Democrats and Republicans
17 win, how many votes are wasted, to assess if they're being packed
18 or cracked across districts.

19 Q Had your Map 3A introduced dramatic changes to the political
20 composition of districts in Washington, would that be reflected
21 in the efficiency gap score?

22 A Yeah. If there were dramatic changes, one would expect
23 perhaps the efficiency gap to tilt in favor of Democrats, but
24 that is not the case. Still, with Map 3A, there's a slight
25 Republican tilt, as is with the Enacted Map.

1 Q The same question with declination. If the map had
2 introduced dramatic changes to the political composition of
3 districts, would that be reflected in the declination score?

4 A Yes, of course it would be, if they're dramatic changes or,
5 as I described, substantive changes, not just 1 or 2 percent here
6 and there based on composite scores.

7 Q Okay. And to be clear, the efficiency gap and partisan
8 declination scores for Map 3A compared to the Enacted Plan were
9 lower slightly, yes?

10 A Yes. They're both slight pro-Republican tilts. And I say
11 "slight" even with the Enacted. It's not a big
12 pro-Republican-tilt map enacted. And that is the same -- it's
13 the same with 3A.

14 Q Now, there was -- now, we also heard testimony today about
15 particular districts. I think district 12 and 17 were mentioned.
16 Dr. Trende suggested that you made District 12 more competitive;
17 is that correct?

18 A Well, again, I did not rely on any partisan metric. So any
19 changes to those -- minor changes to those percentages are just
20 by-product of changing lines and applying the different
21 redistricting criteria, such as equal population, contiguity,
22 maintaining political subdivision. So that's what the result is.

23 Q And you looked at the partisan leaning of all the districts
24 that changed in your map, yes, and you discussed them in Table 4
25 of the appendix of your March -- sorry, your January 5th report.

1 What did you find with respect to the partisan change of
2 any -- of all the districts that change in Map 3A?

3 A Yeah. You know, in terms of -- and Dr. Trende mentioned a
4 10-percentage-point threshold in his initial report; that, you
5 know, if changes are within 10 percent, they signify something.
6 And I said -- basically, here I'm saying that if we consider a
7 10 percent threshold, basically the Enacted Map has one district,
8 District 5, that is over 10 percent or performs for Democrats,
9 and it has eight that -- or the gap is 10 percent or greater for
10 Republicans, and the same is true across all these other remedial
11 proposals.

12 Q Is it fair to say that the Republican district stayed
13 Republican?

14 A Yes, using this 10 percent threshold. But my favorite or a
15 better measure would be still the declination/efficiency gap
16 because that takes into consideration all the vote shares and
17 wasted votes and how many seats won. That's a better approach.

18 Q Did Democratic districts remain Democratic?

19 A Yes. District 5 remains Democratic by this metric, and all
20 the Republic districts remain Republican.

21 Q Toss-ups remained toss-ups?

22 A Districts that are less than 10 percent remain toss-ups and
23 they remain still toss-ups.

24 Q Thank you, Dr. Oskooii.

25 THE COURT: Okay. Mr. Holt, questions.

1 MR. HOLT: Just an undisclosed number of questions I
2 will ask briefly.

3 THE COURT: Okay.

4 MR. HOLT: I do have my tabs. I put them on a big sheet
5 of paper this time.

6 CROSS-EXAMINATION

7 BY MR. HOLT:

8 Q You stated to counsel, just barely, that you did not look at
9 political data when drawing the maps, number one, because you
10 were asked not to, correct?

11 A That is correct.

12 Q And, number two, you believe that there was a requirement
13 under the Washington Constitution, which there is, that maps not
14 be drawn to favor one political party over another, correct?

15 A That is true, yes.

16 Q It's possible that you could ensure compliance with that
17 constitutional provision by looking at data to make sure you
18 don't unintentionally favor one party over another, correct?

19 A That is reasonable, yes.

20 Q For example, had you looked at political data before you
21 submitted the maps, you might have seen the two- to three-point
22 shifts in 12 and 17 and not done those, correct?

23 A No. I would have seen nonmeaningful changes and would have
24 kept things the same.

25 Q Okay. Now, did you look -- and the bridge-across-the-

1 Columbia-River issue that you just discussed, did you look at how
2 many people would need to be shifted to resolve that issue in
3 Dr. Trende's map?

4 A No, I did not.

5 Q If I told you it was under 800 people that would need to be
6 shifted to correct that, would that surprise you?

7 A I don't know what that number is, so, yes, it would surprise
8 me.

9 Q If that was the case, that's a relatively simple fix,
10 correct?

11 A I don't think that's the number, though.

12 Q Okay.

13 A Just knowing the geography of that region and the sparsely
14 populated area and the precinct shapes and the block shapes, it's
15 not going to be easy to resolve that.

16 Q But you have no idea what the number is because you never
17 looked at it, though, correct?

18 A That's right, I did not.

19 Q Now, you stated earlier with me that you believe the
20 Washington Redistricting Commission adhered to Washington
21 redistricting criteria in drawing the Enacted Map, correct?

22 A If that's what they stated, they must have.

23 Q Well, I asked you earlier, and you said, yes, you believed
24 they did.

25 A Well, I hope they did. Yes, I believe they did.

1 Q Okay. We have heard a lot of testimony today from you, from
2 Dr. Trende, we have briefed this over the last years now. Who do
3 you think is better suited to determine what city is in, what
4 city is out, what county is split, what county is not split, what
5 person is in, what person is out, an expert or the legislative
6 body that has been designated to make those determinations?

7 A Well, I think this is why you start with the Enacted Map and
8 introduce only minimal changes, to give due respect to the
9 Commission that have created that map, and you are not starting
10 from a blank canvas and redoing everything.

11 Q Outside of giving due respect, do you believe you have a
12 requirement to keep the Enacted Map intact except for the changes
13 necessary to effectuate a remedy?

14 A Typically, when you work from an Enacted Map, you try to
15 introduce changes that are minimal and necessary. So that's the
16 answer.

17 Q But do you believe you have a duty to do so, not just a best
18 practice? Do you believe you are required, essentially, to do a
19 least changes or remedy map, with the Enacted Map as the
20 baseline?

21 MR. MULJI: Objection. Calls for a legal conclusion.

22 THE COURT: Yeah, I mean, I think clearly the answer for
23 Dr. Oskooii is, no, I don't have a requirement, because nobody
24 told him he did, and so ...

25 MR. HOLT: Understood.

1 I pass the witness, Your Honor.

2 THE COURT: Okay.

3 MR. ACKER: Your Honor, if we may call Dr. Trende back
4 up?

5 THE COURT: Sure. But let me ask Dr. Oskooii --

6 DR. OSKOOII: Yes.

7 THE COURT: -- please, there was talk about untrapping
8 the polygons.

9 DR. OSKOOII: Yes.

10 THE COURT: And then Ms. Sepe talked about three tribal
11 areas. Could you update 3A to reflect those changes?

12 DR. OSKOOII: Yes, yes. And those trapped polygons,
13 they're easy solutions, and you can -- I can help the court, if
14 needed, to resolve all those trapped polygons and include those
15 three public domain locations into --

16 THE COURT: Okay. Could you make that change and submit
17 a revised 3A by Wednesday of next week?

18 DR. OSKOOII: Yes.

19 THE COURT: Okay. Thank you. You may step down.

20 DR. OSKOOII: Thank you.

21 THE COURT: Dr. Trende, you are still under oath. Come
22 on up.

23 MR. SMITH: Your Honor, while he comes up, I had a
24 question pertinent to the last exchange. So last night the
25 Secretary became aware of one more minor change. Would you like

1 us to submit a declaration to the court or just to share that
2 with Dr. Oskooii to include?

3 THE COURT: Both.

4 MR. SMITH: Both.

5 THE COURT: A declaration to the court and share it with
6 Dr. Oskooii.

7 MR. SMITH: Thank you, Your Honor.

8 THE COURT: So, Dr. Trende, come on up here. And let me
9 ask you the same kind of question that I just asked Dr. Oskooii.
10 Could you revise your map to deal with this no-bridge-over-
11 the-Columbia-River --

12 DR. TRENDE: I believe so, Your Honor.

13 THE COURT: -- issue too and get it to us by Wednesday
14 of next week?

15 Dr. TRENDE: I'm sorry I spoke over you.

16 I believe so, Your Honor.

17 THE COURT: Oh, yeah, not a problem. Okay. Thank you.
18 Okay, Mr. Acker.

19 MR. ACKER: Thank you, Your Honor.

20 SEAN TRENDE,

21 previously sworn, resumed and testified as follows:

22 DIRECT EXAMINATION

23 BY MR. ACKER:

24 Q Dr. Trende, I just want to discuss core retention with you
25 briefly. Dr. Trende, you were in the courtroom during the last

1 examination?

2 A Yes.

3 Q And you heard what was discussed?

4 A Yes.

5 Q And what I have just put up here is from your supplemental
6 report?

7 A That's correct.

8 Q And do you recognize this footnote?

9 A I do.

10 Q Could you just summarize, if you would, the difference in the
11 terminology here between "core retention" and what you're getting
12 at?

13 A Yeah. So core retention, it's a perfectly valid metric, if
14 you want to look at the percentage -- if the question is what
15 percentage of the current district is maintained in a subsequent
16 district. And it answers that question well.

17 I was looking at something a little different, which was the
18 overall impact of the maps on the people in the districts, how
19 many people in total are moved around. Because in this -- my
20 reasoning for that was that, in this context, where, you know,
21 you're trying to remedy the violation but not much more, you need
22 to know how much beyond remedying the violation has gone on.

23 So, overall, whether it's 400- or 500,000, Map 3A shifts
24 around about three senate districts' worth of people. I think
25 that's an important factor/consideration to bear in mind. I

1 think it's perfectly valid too to look at the percentages that
2 Dr. Oskooii puts up.

3 Q And if you may, read the final sentence of your footnote,
4 please, beginning at "And once again"?

5 A So, yeah, there -- well, just to do the question. "And once
6 again, the differences between 95 percent core retention and 97.5
7 retention is a big deal: 1-in-20 residents in the state being
8 moved versus 1-in-40."

9 People don't necessarily deal with percentages well, because
10 you would look at 95 percent and 97.5 and think they're very
11 similar, but in terms of the impact, when you look at it and the
12 number of people being moved around, it can be pretty
13 substantial. And something like 86 percent retention means that
14 like one in seven people are being moved around.

15 Q Okay.

16 MR. ACKER: No further questions.

17 THE COURT: Okay. Thank you.

18 Any questions?

19 MS. HARLESS: No, Your Honor.

20 THE COURT: Thanks, Ms. Harless.

21 Anything else from the State?

22 Okay. Great. Thanks. You can step down, Dr. Trende.

23 Anything else? Any other witnesses anyone wants to call?

24 All right. I'm not going to ask for any oral argument. This
25 was done for testimony, and our experts, I thought, were

1 absolutely superb, all three of them.

2 Whatever decision I make, Dr. Trende, it will not add to the
3 history of judges being mean to you. Not that I can't be when I
4 want to be, but there was absolutely no reason to be. You were
5 clear and helped elucidate a lot of issues for me. So thank you
6 very much.

7 DR. TRENDE: Thank you, Your Honor.

8 THE COURT: And, Mr. Acker, you did a superb job on your
9 direct, so thank you for that.

10 Okay. I will digest what happened here today, get those
11 revised updated maps from both Dr. Trende and Dr. Oskooii, and we
12 will endeavor to get a decision out by a week from today,
13 understanding that our Secretary of State needs an absolute
14 answer. A week, maybe later, or a little less even.

15 So thank you, all, for your presentations today and your
16 cooperation with each other and with the court.

17 We are adjourned. Thank you.

18 (Adjourned.)

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C E R T I F I C A T E

I, Nickoline M. Drury, RMR, CRR, Court Reporter for the United States District Court in the Western District of Washington at Seattle, do certify that the foregoing is a correct transcript, to the best of my ability, from the record of proceedings in the above-entitled matter.

/s/ Nickoline Drury

Nickoline Drury

Soto Palmer, et al.

v.

Hobbs, et al.

* * * * *

Remote Deposition Upon Oral Examination of
Alex Ybarra
December 5, 2022

* * * * *

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

SUSAN SOTO PALMER, et al.,)
 Plaintiffs,)
 v.)
 STEVEN HOBBS, in his official)
 capacity as Secretary of State)
 of Washington, and the STATE OF)
 WASHINGTON,) No. 3:22-cv-05035-RSL
 Defendants,)
 and)
 JOSE TREVINO, ISMAEL G. CAMPOS,)
 and State Representative)
 ALEX YBARRA,)
 Intervenor-Defendants.)

REMOTE DEPOSITION UPON ORAL EXAMINATION OF
ALEX YBARRA

Monday, December 5, 2022
9:00 a.m. to 12:35 p.m.

REPORTED BY: LAKESIDE REPORTING
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1 December 5, 2022, Remote Proceedings:
 2 PROCEEDINGS: 9:00 a.m.
 3 (Discussion off the record.)
 4 ALEJANDRO "ALEX" YBARRA,
 5 having been sworn/affirmed on oath to tell the truth, the
 6 whole truth, and nothing but the truth, testified as
 7 follows:
 8 EXAMINATION
 9 BY MS. LEEPER:
 10 Q Okay. Good morning, Representative Ybarra. We just
 11 met off the record, but for the record my name is
 12 Simone Leeper, and I'm counsel for the plaintiffs in the
 13 Soto Palmer v. Hobbs case.
 14 I'm going to identify some other individuals that
 15 you'll see on your Zoom screen now, which is the other
 16 attorneys in the room. So obviously you know your
 17 Representative Drew Stokesbary. Also online is Kate
 18 Worthington for the Secretary of State and Andrew Hughes
 19 for the State of Washington.
 20 Off video but also joining us are some additional
 21 people from the counsel of the plaintiffs' team, and
 22 that's Annabelle Harless, Ben Phillips, Mark Gaber,
 23 Aseem Mulji, and Ellen Boettcher. So they'll be joining
 24 us today but staying off camera.
 25 I'd love to go over just some of the ground rules of

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1 Q Okay. Could you tell me what you know about the
 2 process of redistricting in general?
 3 A Just in general, there's a law or -- a law out there
 4 that says you shall get two Republicans, two Democrats are
 5 part of the team. They're going to hire a chairman or
 6 chairwoman to run the group.
 7 And then these four folks get some staff to help
 8 them draw the lines. They get software, and then they
 9 start drawing the lines to make sure they have the same
 10 amount of people in each district.
 11 Q Do you know anything in particular about the process
 12 of redistricting state legislative districts in the state
 13 of Washington?
 14 A Can you clarify --
 15 Q Yeah.
 16 A -- your question?
 17 Q So you sort of told me what you know about
 18 redistricting in general, but do you have any more
 19 specific information about the process of redistricting
 20 specifically Washington's state legislative districts?
 21 A Well, I can tell you that there's some -- some
 22 requirements about what the redistricting team has to do
 23 is to make sure that, you know, the folks that live in a
 24 particular area are kind of -- you know, stay together,
 25 you know, for instance. At least that they try to do

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1 that correct?
 2 A I do.
 3 Q And prior to the 2021 redistricting you lived in
 4 Legislative District 13 as well; is that right?
 5 A State that again.
 6 Q And you also lived in Legislative District 13 prior
 7 to the most recent round of redistricting; correct?
 8 A Yes.
 9 Q And as we've discussed, you currently represent
 10 LD 13 in the Washington legislature; correct?
 11 A Yes.
 12 Q Do you have any objections to the configuration of
 13 LD 13 that resulted from the 2021 redistricting process?
 14 A I wouldn't call them objections, but I want Mattawa
 15 back and Schwana. They -- I live in Grant County. They
 16 live in Grant County. Our utilities are Grant County PUD.
 17 They live in -- They go to the Mattawa or the Waluke
 18 School District, which is my -- As a school board member I
 19 represent the Waluke School District. So they're a Grant
 20 County community, not a Yakima County community.
 21 And so being in the 15th, I think they're -- You
 22 know, they may not get the representation that they may
 23 receive if they were -- have representation from the 13th.
 24 Q And do you see LD 13 as representing Grant
 25 communities more so than Yakima communities?

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1 that.
 2 They try to make sure if there's any physical
 3 barriers, like the Cascade mountains, you don't want to
 4 cross them because it's kind of hard to do, or things like
 5 that. And they want to -- I think they have to be --
 6 Every district has to be continuous. It can't be broken
 7 up in pieces.
 8 So those are kind of the general rules that they
 9 have out there.
 10 Q And what's informing your understanding of state
 11 legislative redistricting in Washington?
 12 A Because I think I -- I think there was a -- Somebody
 13 gave me a paper or something, if I remember right, and
 14 said, "How does it work?" And this is how it works, like
 15 a two-pager.
 16 Q And was that during the 2021 redistricting process?
 17 A Yes.
 18 Q What do you know about the Federal Voting Rights
 19 Act?
 20 A Not much.
 21 Q What little do you know?
 22 A The vote has to be fair, and fair depends on where
 23 you're sitting. So if you're in Yakima, it's going to be
 24 different than it would be in Quincy, so --
 25 Q You currently live in Legislative District 13; is

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1 A To some extent, yes.
 2 Q What part of your district would you prefer to lose
 3 to gain back Mattawa and Schwana?
 4 A Yakima -- Yakima areas.
 5 Q And why is that?
 6 A Because they're close. They're -- Because Yakima is
 7 farther way from where my district is. It's the way far
 8 south part of my district, my new district.
 9 And so there's a piece right in the middle of my
 10 district that is much closer to the center of the
 11 District 13 than some of those Yakima areas.
 12 Q Do you believe that you would be harmed if the
 13 configuration of LD 15 was to be changed right now?
 14 A Would I be harmed?
 15 Q Yes.
 16 A Yeah. Yeah, I think so.
 17 Q How so?
 18 A Well, I'm already starting to go to the new areas
 19 that I represent and speaking with those constituents and,
 20 you know, figuring out what their issues are and trying to
 21 help them.
 22 Session is coming up in January, and so there's a
 23 lot of work to be done to support all my new communities
 24 that I represent. And so all that work that I've been
 25 putting in and the rest of the legislators of the 13th

Deposition of Benancio Garcia III

Garcia III v. Hobbs, et ano. / Palmer v. Hobbs, et al.

February 3, 2023



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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BENANCIO GARCIA III,)
Plaintiff,)
v.) No. 3:22-cv-5152-RSL
STEVEN HOBBS, in his official)
capacity as Secretary of State)
of Washington, and STATE OF)
WASHINGTON,)
Defendants.)

and)
SUSAN SOTO PALMER, et al.,)
Plaintiffs,)
v.) No. 3:22-cv-5035
SECRETARY OF STATE STEVEN)
HOBBS, in his official)
capacity as Secretary of State)
of Washington, et al.)
Defendants.)

VIDEOCONFERENCE DEPOSITION UPON ORAL EXAMINATION OF
BENANCIO GARCIA III
Tacoma, Washington
(All participants appeared via videoconference.)
DATE TAKEN: FEBRUARY 3, 2023
REPORTED BY: CINDY M. KOCH, RPR, CRR, CCR #2357

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1 BY MR. GABER:
 2 **Q. And is that the case in the Pasco area as well?**
 3 A. Tri-Cities tends to do better, but I can't say
 4 that that is, because I wouldn't know, but I can say in
 5 Yakima, Lower Valley, free school lunch, you know. You
 6 can see a lot of that and that purpose, but I can't say
 7 I would -- I could say, you know, Tri-Cities itself.
 8 **Q. Okay. But the -- the Yakima and the Lower**
 9 **Valley, the Latino communities would share that in**
 10 **common?**
 11 A. Yeah, most would have that in common in that
 12 demographic area.
 13 **Q. And you were speaking in particular about how**
 14 **you would be the only candidate in your primary race who**
 15 **would be able to represent the Latino people.**
 16 **Was it your impression that the candidates you**
 17 **were running against were not really campaigning for**
 18 **Latino votes in the primary?**
 19 A. No. What I'm trying to say is that I want more
 20 participation, and it's time for -- to try to get
 21 everybody registered, which is, you know, a large Latino
 22 population. You know, you want to see Latino
 23 representation in leadership positions, but you want to
 24 make sure that you do it through a fair process under
 25 our constitution.

1 So you're representing everyone. I want to
 2 make that clear. You're representing everyone, and --
 3 and you're doing what's in the best interest of your
 4 district, you know, or 4th Congressional District, I
 5 should say. So you're representing everybody.
 6 What I want to see is more inclusion across the
 7 board, you know, and that's why, when I went out there
 8 to try to register voters, I didn't care who you are. I
 9 want you to register, please. It's that important.
 10 **Q. I agree with that. I get that.**
 11 **Is it your impression that, in particular,**
 12 **there's lower voter registration among Latino voters in**
 13 **Yakima County than is the case with the proportion of**
 14 **white voters who are registered to vote?**
 15 A. It's been proven in the past, and you can look
 16 at some of the news articles that Yakima Herald has put
 17 out, that, you know, even though there's a large
 18 representation in the Latino population, that when it
 19 comes time to vote, unfortunately, there hasn't been
 20 large numbers in being able to vote for whatever
 21 candidate.
 22 **Q. Right. So that's lower voter turnout among**
 23 **Latino voters in Yakima area, as well as lower voter --**
 24 A. Lower turnout in overall aspects.
 25 **Q. Okay.**

1 A. Yeah, in the 4th District.
 2 **Q. Now, I read a newspaper article about a**
 3 **controversy surrounding telephone messages that**
 4 **supporters of yours wanted to be put out by the State**
 5 **Republican Party, and there was an article where you**
 6 **were criticizing the party for its actions there.**
 7 **Do you recall that?**
 8 A. That's correct. Absolutely. That's correct.
 9 **Q. And one of the things that you alleged was that**
 10 **the State Republican Party was trying to suppress Latino**
 11 **voters in the primary.**
 12 **Do you recall that?**
 13 A. Absolutely. That is correct.
 14 **Q. Can you just talk a little bit, explain that --**
 15 **that event and -- and what --**
 16 A. I will. First of all, I was one of five
 17 Latinos in the nation to get supported out of Latino
 18 StrikeForce out of Texas. Now, the RNC was involved to
 19 help use the -- the phone bank system of the Republican
 20 Party.
 21 Now, we created our message, both in Spanish
 22 and English, and we had approval to do this. And so for
 23 every registered 4th District Latino Republican, we put
 24 on that phone bank.
 25 Now, this phone bank system was to help us to

1 get our vote out. And so the message was changed,
 2 re- -- an RNC member who worked with the Washington
 3 State Republican Party, with Caleb, who's the chairman
 4 of the Washington State Republican Party and his
 5 staffing, we had to get approval to use that, and we
 6 finally did.
 7 It was greatly delayed, for about three months.
 8 Not only was it delayed, but when we got the messaging
 9 out there for the voicemail, we had done over 10,000
 10 plus phone calls.
 11 And they switched the voicemail message. And
 12 so it looked like Washington State Republican Party, a
 13 general message, instead of saying, vote for Benancio
 14 Garcia, 4th Congressional District candidate, and here's
 15 the reason why.
 16 Now, the only reason we found out about that
 17 was because an RNC member quit. Gave me a phone call,
 18 said, Ben, I quit because the Washington Republican
 19 Party switched your voicemail. That is suppressing the
 20 Latino vote.
 21 Then there is the second aspect of things,
 22 number two. They had funds -- Washington State
 23 Republican Party had funds to hire two supervisors, one
 24 in Yakima and one in Wenatchee, to register Republican
 25 Latinos. They hired nobody.

1 Me being the only Latino representative, it
 2 would have favored. Dan Newhouse would no longer be
 3 your congressional victor. It probably would have been
 4 Culp. But they greatly affected this election, the
 5 outcome, and suppressed the Latino vote.

6 **Q. And was it your sense that that was sort of a**
 7 **coordinated effort in the State Republican Party, to**
 8 **suppress the Latino vote in the area?**

9 A. What I will say is this: They say it was a
 10 mistake. There's no mistakes in a congressional race
 11 like this. We have a third party out of Texas that told
 12 them there was no misunderstanding to -- and --
 13 misunderstanding about this.

14 As a matter of fact, you know, you probably
 15 didn't see this, since you did your research on me. Did
 16 you see the fact that I saved somebody's life in a --

17 **Q. I did --**

18 A. -- mass shooting? You know?

19 **Q. I did see that, and that was extraordinarily**
 20 **impressive.**

21 A. You know, I thank God that I was there at the
 22 right place, right time. My -- my thing is like it was.
 23 I didn't change. I believe in seeing all people's
 24 rights. I believe strongly in the civil rights.

25 That's why I was Ebony Senate rep in college.

1 **Q. You said the RNC member told you he was**
 2 **quitting because of this; is that right?**

3 A. That's my understanding.

4 **Q. And that was because of the suppression of the**
 5 **Latino vote in your race?**

6 A. Because of what happened in my race, yes,
 7 that's correct.

8 **Q. Has anything been done to rectify the situation**
 9 **with the State Republican Party?**

10 A. What I -- what I do want to do is go ahead,
 11 after I'm completely settled in in my home and -- and
 12 take care of other personal matters, I will go ahead and
 13 then write a letter to the RNC, write a letter to the
 14 state chairman, and write a letter to the 4th District
 15 chairmen, chairpersons, and let them know about what has
 16 occurred, what has happened.

17 This isn't just my word. You know, to be
 18 supported, one in five in the nation, Latinos, that's a
 19 privilege, and to know that the phone bank system does
 20 work because they have a history of getting winning
 21 candidates.

22 So I will be putting that out there, and I will
 23 leave it in the hands of the Republican Party on what
 24 they want to do, but I will certainly entertain the fact
 25 that I may take legal aspects on this in some manner

1 And I feel -- and it doesn't matter which party it is,
 2 I will do the right thing. For our voice not to be
 3 heard and what I feel is suppression, we can disagree
 4 upon this, and I welcome a lawsuit, you know.

5 We did not get fair representation in this 4th
 6 Congressional District race. And it's not on the
 7 candidate. This was done -- they can say, well, Ben,
 8 you know you need to pay for that.

9 At no point in time, especially since I was
 10 supported by a third party who is well connected to the
 11 RNC, was that ever brought up. Why didn't you ask me,
 12 we can't do this, instead of having my volunteers phone
 13 bank, and instead of having my voice message out, it was
 14 for the Washington State Republican Party. Not
 15 acceptable.

16 **Q. And is it the case that you didn't find out**
 17 **about this until after this had -- the decision had been**
 18 **made not to use your message?**

19 A. It was before. It was before the decision. I
 20 found out during the campaign process, but, you know,
 21 those are -- are strong challenges when you've already
 22 committed so many hours and so much in volunteers to
 23 have to overcome. You can't take that time back.

24 **Q. Right.**

25 A. The impact has already been done.

1 because what occurred is not acceptable. And I am a
 2 fighter, you know. And if it's wrong, I will fight it.

3 **Q. Did you hear from Latino voters who were upset**
 4 **that this had happened in your race?**

5 A. A lot of people were upset. I gave a speech
 6 about it in Ellensburg -- not Ellensburg. I gave a
 7 speech about it -- oh, gosh, what district? I gave a
 8 speech about it, and some of the candidates had
 9 questions, you know, like what are you talking about
 10 exactly here? You know.

11 And this, like I said, was later on toward --
 12 you know, toward the end, where, you know, you had to
 13 make it clear how the facts have occurred. And the
 14 people were upset, you know.

15 And what was wonderful is, you know, to see
 16 some of the candidates say, what exactly are we talking
 17 about here, whether it was Culp's people or whether it
 18 was Sessler's people, you know, or it was people in
 19 general that were there asking questions, you know, "Are
 20 you saying this happened?"

21 I go, "Absolutely, and this is why."

22 And it's just not my word. You don't give us
 23 access to your phone bank system -- because they, like
 24 the Democrat Party can go ahead and say, hey, let me
 25 see -- look at your -- look at your phone system, you

1 Q. Well, I can tell you your counsel's had them
2 for two weeks, and I understand the need for more time,
3 particularly given the circumstance with the fire at
4 your house.

5 I would, you know, request that we -- and would
6 you be agreeable to maybe sit with us again if we have
7 any questions based on what's in those documents?

8 A. I would. There were some text messages that
9 were sent, and, you know, I made -- we made some phone
10 calls to -- to the fact, you know, and it was basically
11 one reporter that basically, you know -- and it was just
12 a phone call.

13 So -- they were trying to understand how this
14 was suppressing the vote, you know, or they wanted a
15 complete, you know -- like, who's the one that did it?
16 Well, you know -- evidence on that.

17 And I'm like, wait a minute. We've got a video
18 on the training. We've got an email that -- from the
19 Latino StrikeForce. We had access to their phone
20 banking system.

21 We created our own district in the sense of all
22 registered Latino voters, Republican voters. 10,000
23 phone calls were made and the voicemail was switched.
24 You don't have access to all that, and not have their
25 permission for it, and there's no misunderstanding of

1 verbally given me the -- why he quit, but -- in his text
2 message, it was a little different, that they removed
3 the Spanish version, you know, on the text message.

4 So, you know, we both were pretty disheartened
5 in -- in what we want to see in leadership. How could
6 you not let the Latino StrikeForce know? How can you
7 not let the RNC member know? How can you not let my
8 staff or myself know? That's a big, big mistake. Out
9 of respect of me running for congress, how can you not
10 let any of these organizations know?

11 Q. And so the Spanish language part was removed as
12 well?

13 A. Yes.

14 Q. And just to clarify, the -- you know, I know
15 you're -- the Congressional District 4 is larger than --

16 A. It's the largest.

17 Q. Yeah.

18 A. It's the largest in the state.

19 Q. But it covers all of Yakima County; is that
20 right?

21 A. Yes.

22 Q. And then it also includes Benton County and
23 Grant County; is that right?

24 A. Yeah. All the way from the Canadian border,
25 from Okanogan, basically almost central, almost Central

1 why we're doing it.

2 So, you know, it's just not acceptable. If
3 they wanted to say no because maybe they have a
4 candidate dog in the fight, that they would hopefully
5 let you know, then just say no.

6 But I know -- I have a hard time trusting
7 politicians, and I have a hard time trusting lawyers,
8 you know. Just being honest. And -- so, you know, I
9 guess I'm the little guy fighting for the big dream, but
10 I -- I believe that I will be where I need to be in a
11 little while because I'm a big fighter.

12 Q. Well, I have no doubt about that. With respect
13 to the -- sorry. Back to the text messages. It sounds
14 like there's some texts that you exchanged with the
15 Latino Task Force people; is that --

16 A. StrikeForce.

17 Q. StrikeForce?

18 A. Latino StrikeForce out of Texas.

19 Q. Okay.

20 A. Yes, there is, you know.

21 Q. Okay.

22 A. Yes, there is.

23 Q. And you still have all of those?

24 A. I should have the texts because, like I said, I
25 was on the phone the moment I found out, and Manice had

1 Washington, down to the Columbia. Klickitat, Benton,
2 Franklin, Adams, Grant, Okanogan, Yakima. At one point
3 it was parts of Walla Walla, a little tiny part, you
4 know.

5 Q. And so Pasco is in the district as well; right?

6 A. Absolutely.

7 Q. And Othello and Adams County?

8 A. Yes.

9 Q. And then all of -- all of Yakima. Mattawa's in
10 the district?

11 A. Yes.

12 Q. So there's quite a bit of overlap between
13 District 15 in the legislative map and District 4 for
14 the congressional plan?

15 A. Yeah.

16 Q. Now, I understand that you need time to look
17 for the documents. Have you looked through them at all
18 in response to the subpoena --

19 A. No.

20 Q. -- for today?

21 A. No, no.

22 Q. Okay.

23 A. And to be honest, I wasn't sure what -- what
24 you would want from me in documents, or how the
25 question -- you know, the -- seriously? She just banged