

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

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MARC VEASEY, ET AL.,)	CASE NO: 2:13-CV-00193
)	
Plaintiffs,)	CIVIL
)	
vs.)	Corpus Christi, Texas
)	
RICK PERRY, ET AL.,)	Tuesday, September 2, 2014
)	(9:58 a.m. to 12:10 p.m.)
Defendants.)	(1:09 p.m. to 6:15 p.m.)

BENCH TRIAL - DAY 1

BEFORE THE HONORABLE NELVA GONZALES RAMOS,
UNITED STATES DISTRICT JUDGE

Appearances: See Next Page

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1 Corpus Christi, Texas; Tuesday, September 2, 2014; 9:58 a.m.

2 (Call to Order)

3 **THE COURT:** Are you ready?

4 **MR. DUNN:** Your Honor, one housekeeping.

5 **THE COURT:** Okay.

6 **MS. WOLF:** Your Honor, I realize I forgot to move the
7 Defendants' exhibits into evidence so I'd like to do that.

8 **THE COURT:** Okay. No objection?

9 **MR. SPEAKER:** No objection.

10 **THE COURT:** As discussed, those are admitted then.

11 **(Defendants' exhibits were received in evidence)**

12 And we're ready then for the Plaintiff to start their
13 evidence.

14 **MS. RUDD:** Good morning, your Honor.

15 **THE COURT:** Good morning.

16 **MS. RUDD:** I'm Amy Rudd representing the Texas NAACP
17 and MALC. And on behalf of Plaintiffs and Plaintiffs-
18 Intervenors I'd like to present our first witness, Sammi Luis
19 Bates, who will be testifying by video deposition. I have for
20 the Court, if I may approach, a copy of the excerpt that you'll
21 be seeing on the screen.

22 **THE COURT:** Okay.

23 **MS. RUDD:** And the video cuts have been admitted into
24 evidence as Exhibit PL1090.

25 //

1 **(Portion of transcript from 9:59:38 to 10:14:40 a.m. was**
2 **omitted / Plaintiffs' excerpts from video deposition of Sammi**
3 **Bates)**

4 **MS. RUDD:** And that concludes Ms. Bates' testimony
5 from the Plaintiffs. I just want to mention also, your Honor,
6 at the close of evidence we intend to give the Court full
7 deposition designations from all the witnesses we're
8 presenting. There are no objections to those, and you'll be
9 getting a set of those at the end of the case.

10 **THE COURT:** Okay.

11 **MS. RUDD:** Thank you.

12 **MS. ROSCETTI:** Good morning, your Honor. Jennifer
13 Roscetti with the Defendants. And we're going to proffer our
14 cuts of Ms. Bates' testimony, and I have a courtesy copy of the
15 page and line.

16 **(Portion of transcript from 10:15:29 to 10:29:58 a.m. was**
17 **omitted / Defendants' excerpts from video deposition of Sammi**
18 **Bates)**

19 **MS. ROSCETTI:** Your Honor, that concludes the
20 Defendants'. And we will also be proffering the depo cuts, the
21 entirety, at the conclusion of trial. Thank you.

22 **THE COURT:** Okay.

23 **MR. DUNN:** Chad Dunn again on behalf of the Veasey
24 LULAC Plaintiffs. We now call Calvin Carrier.

25 **(Pause / Voices heard off the record)**

1 went to high school, that sort of thing.

2 A I grew up in a small rural community called China, Texas,
3 population about 1,080 people. Went to kindergarten all the
4 way up through high school in that general area. Graduated
5 from Lamar University in Beaumont, bachelor's degree, bachelor
6 of science in biology, a minor in chemistry. And right now I'm
7 current Deputy Fire Chief, City of Beaumont.

8 Q And what is involved with being Deputy Fire Chief?

9 A Currently I directly supervise 70 personnel, scheduling
10 vacation, payroll, general fire scene command. I run the
11 gamut.

12 Q And you were born and raised in Jefferson County; is that
13 right?

14 A Yes. Born and raised in Jefferson County.

15 Q And where do you live now?

16 A Currently I reside in Harris, County, Houston, Texas.

17 Q So in being a fireman in Beaumont living in Houston I
18 assume you commute?

19 A Yes, I do every third day.

20 Q And what type of shifts do you work?

21 A Twenty-four on, forty-eight off.

22 Q Who is your father?

23 A Floyd James Carrier.

24 Q And how old is he?

25 A He was born January 13, 1931, so that would make him 83.

1 Q Of course, he's going to have some time before the Court
2 today. But is your father the gentleman in the wheelchair here
3 in the courtroom gallery?

4 A Yes, he is.

5 Q Okay. Where does your father live?

6 A He still resides in China, Texas.

7 Q And that's Jefferson County?

8 A Yes, Jefferson County.

9 Q Now, at some point you got involved in assisting your
10 father to obtain an I.D.; is that right?

11 A That's correct.

12 Q And before we get into the events of your efforts I'd like
13 to know what identifications does your father possess to have a
14 photograph on, if any?

15 A He has a state of Texas issued driver's license from the
16 Texas Department of Public Safety.

17 Q Okay. Anything else?

18 A He has a Veterans Administration I.D. card.

19 Q Do you have these with you?

20 A Yes, I do.

21 Q Would you remove them and hand them up to your Honor -- or
22 her Honor?

23 **MR. DUNN:** And for the record the State has this --
24 they're in the record as Defendants' Exhibit 224 and 221. I
25 won't publish those since they have personal information in

1 them.

2 Q Now, with respect to -- and just to make sure this is
3 clear in the record, are there any other identification that
4 your father has that has a photo or purports to have a photo on
5 it?

6 A Not that I know of.

7 Q Okay. And what he does have is a driver's license that
8 expired and a veteran's I.D. that has the remnants of a
9 photograph on it; is that right?

10 A Correct.

11 Q On the veteran's I.D. that has the remnants of a
12 photograph are you able to make out whether it's your father or
13 not?

14 A Right now, no.

15 Q And are you able to make out whether it's a man or a woman
16 in the photo?

17 A Not by the photo.

18 Q Is it your understanding your father has had this
19 veteran's I.D. for many, many, many years?

20 A As long as I can remember.

21 Q Okay. Now, at some point you went about assisting your
22 father in obtaining an I.D., as you've stated. Do you remember
23 about when that was?

24 A February of 2013. My mother died the end of January, so
25 in the process of getting all my father's affairs in order we

1 discovered that his driver's license was expired.

2 Q And what was it about your mother passing on that affected
3 how Floyd needed an I.D.?

4 A At the time she was handling all the finances because my
5 father has a stroke and was disabled and he can't get around
6 good. So my mom would drive and take care of all the business
7 for him.

8 Q What sort of challenges, if any, does Mr. Carrier, your
9 father, face in terms of dealing with the bank and other
10 institutions without an I.D.?

11 A Currently he has no access to his personal finances. I do
12 all of his banking electronically through my bank account, and
13 I transfer money back and forth. He cannot access his own
14 money because he does not have a valid Texas I.D.

15 Q When you set out to obtain an I.D. were you or your father
16 also concerned about his ability to vote?

17 A At that particular time, no. We were concerned about
18 getting all his affairs in order.

19 Q Did you come to learn later that state requirements had
20 been instituted that would require a photo identification to
21 vote?

22 A Yes, I was aware through the media.

23 Q When that -- when you gained that information did
24 obtaining an I.D. in order to have the right to vote become the
25 primary motivation in getting this identification?

1 A It was the top two.

2 Q Okay. Now, just a little bit about your father. Is he
3 somebody who votes habitually?

4 A As far as I know he has voted throughout my lifetime.

5 Q And what did he do for a living? Give us sort of his
6 short biography.

7 A My father was a carpenter and a cement finisher. He would
8 remodel homes, build homes, pour concrete slabs.

9 Q Did he also serve in the U.S. Armed Forces?

10 A Yes. He's a veteran of the Korean War.

11 Q In what branch?

12 A Army. He was a paratrooper.

13 Q So turning to your first efforts in February 2013 to
14 obtain an I.D. what -- did you participate along with your
15 father in all these steps to receive his I.D.?

16 A Yes.

17 Q What did you do first?

18 A Our first step was going to the local DPS office in
19 Beaumont, Texas to see if we would get him a Texas I.D. card.
20 Not a driver's license because he can't drive.

21 Q Okay. And does he own a vehicle?

22 A Yes. The vehicle that he and my mother co-owned.

23 Q Is he having a hard time letting that go along with
24 letting her go?

25 A Letting her go, yes. We keep the vehicle so that if he

1 has to ask a neighbor or someone in the neighborhood for a
2 ride, he already has a vehicle they can use.

3 Q All right. So you asked for a state I.D. card, not an
4 election identification certificate; is that right?

5 A Correct. I didn't know what an election identification
6 certificate was.

7 Q Okay. And we'll come back to that.

8 When you approached DPS with your father to obtain a
9 DPS I.D. what happened?

10 A I brought my father to the local DPS office in person. I
11 wheeled him -- we waited in line, I wheeled him up to the
12 window and told the lady what we were trying to do, we were
13 trying to obtain a Texas issued I.D. card. She asked for --
14 she asked if we had his driver's license. I presented the
15 driver's license. She looked at it and said, "It's over three
16 years expired; do you have a birth certificate?"

17 I said, "No, my father was born in a rural area and
18 we don't have a birth certificate. But we have a state issued
19 driver's license that your office issued. Why isn't that good
20 enough?"

21 Q And what was the response?

22 A Do you have a birth certificate?

23 Q Was there any discussion about the veteran's
24 identification?

25 A No.

1 Q Did the clerk there at DPS advise you of any other
2 potential identifications that might be affected?

3 A No. She told me that the birth certificate or a passport
4 was the primary form of identification. And she mentioned some
5 other secondary forms of I.D., but at that time she did not say
6 that an expired driver's license was a secondary form of I.D.

7 Q Now, did your father at that point have a birth
8 certificate?

9 A At that time, no.

10 Q And what was the issue, if any, in obtaining a birth
11 certificate for your father?

12 A My father was born in a rural area where Liberty, Hardin
13 and Jefferson County meet up. So we were unsure the exact
14 location of his birth.

15 Q Was he born at home?

16 A Yes.

17 Q As far as you know?

18 A With a midwife.

19 Q So after you left the DPS office what's the next thing you
20 did to attempt to obtain an I.D.?

21 A My next step was I personally drove to the Jefferson
22 County courthouse and did a search. There was nothing found.

23 Q Did a search for what?

24 A His birth certificate. I gave them his name and date of
25 birth.

1 Q Was there any cost associated with the search?

2 A Other than gas, no.

3 Q What next did you do?

4 A My next step was driving to the Liberty County courthouse
5 in Liberty, Texas and I did the same thing. We did the search
6 and the search for the delayed filing. Nothing was found.

7 Q Again, any cost associated with your efforts at Liberty
8 County?

9 A Other than gas and time, no.

10 Q What next did you do?

11 A Next I got smart and called the Chambers County courthouse
12 in Anahuac and they couldn't find anything.

13 Q Then what?

14 A Someone at the Chambers County courthouse advised me to
15 contact the Texas Department of State Health Services, their
16 Vital Statistics Unit and get them to do the search. So I
17 looked up the number and got all of the applications for the
18 birth certificate.

19 Q And did you call the state number?

20 A Yes.

21 Q What happened then?

22 A They directed me to the website where I could download the
23 application for the birth certificate. We filled out all the
24 information that we knew and we sent it in.

25 Q What did you have to send in with the application or what

1 did you send in that first go round?

2 A I think it's \$24.

3 Q Anything else other than \$24 that you included with the
4 application?

5 A With the application we also had to get it notarized.

6 Q Where did you do that?

7 A In China, Texas.

8 Q Was there a cost associated with that?

9 A Ten or twelve dollars. I'm not sure.

10 Q When you sent the application in did you at some point
11 hear back?

12 A I didn't hear back from anyone until we received -- the
13 application was returned to us with the original documentation
14 and a letter advising us of what areas of the application that
15 needed correcting.

16 Q Before we get to the correction, how long was it
17 approximately from when you mailed in the application to when
18 you got the rejection letter back?

19 A I can't give you exact, but it was 12 to 16 weeks, I
20 think.

21 Q When you received the application with information about
22 its defects, what were you told needed to be corrected?

23 A The agent handling the case, Linda Cisneros, she sent a
24 letter saying that by correcting my father's last name it would
25 make it spell different than his father's last name and that

1 they needed to match in order for it to be approved. I
2 called -- after reading the letter I called her and asked her
3 did I miss that on the application or what -- you know, I
4 wasn't trying to be smart. I was just trying to make sure that
5 I was covering all the bases. And she informed me that
6 everyone knows that. And I replied, "Everyone in your office
7 may know it but it's nowhere on your website or on the
8 application."

9 Q What is it that was told -- that you were told everyone
10 knows?

11 A That the father's -- the spelling of the father's last
12 name and the spelling of the child, which would be my father's,
13 last name has to match in order for that amendment to the birth
14 certificate to be granted.

15 Q And so just to make our record clear, I'm going to call
16 grand dad and dad, all right?

17 A Okay.

18 Q Does that make sense to you?

19 A Okay.

20 Q How is it that government records show grand dad's last
21 name spelled?

22 A C-a-r -- wait. When you say "government records," are you
23 talking about that particular birth certificate?

24 Q Yes, sir.

25 A That certificate showed C-a-r-r-y-e-r.

1 Q And how is it that your dad spells his last name?

2 A C-a-r-r-i-e-r.

3 Q And how is it you spell your name?

4 A C-a-r-r-i-e-r.

5 Q Now, your father has an accent; does he not?

6 A Yes.

7 Q How would you describe it?

8 A Cajun.

9 Q Okay. And so when he says his name can you see how some
10 people might hear it as a Y instead of an I?

11 A Yes.

12 Q So why not -- just to get past all this issue, why not
13 just tell the government we'll live with the Y instead of the
14 I?

15 A Because the Y does -- because first of all, he spells his
16 name C-a-r-r-i-e-r. Second, it does not match any other
17 documentation he has, including his DD214.

18 Q We'll get back to the DD214 in a moment.

19 But were there any other defects shown on that
20 initial rejection other than the name match issue?

21 A The -- okay, can you repeat that?

22 Q Sure. As best as you can recall, were there other issues
23 raised other than the name match issue with that first letter
24 you got?

25 A The race of his father was wrong, was incorrect.

1 Q What had it shown for the race, the government record?

2 A At that time it said "negro."

3 Q And what was your understanding of his father's race?

4 A White.

5 Q What was your father's mother's race?

6 A Negro.

7 Q All right. So what did you do to set about fixing the
8 application issues, if anything?

9 A At that time I called her back, asked her, "Ms. Cisneros,
10 what did I need to send in?" And well, I skipped a step. I'm
11 sorry.

12 Q That's fine. What step did you skip?

13 A We sent in the application for the birth certificate.
14 They sent the birth certificate back and it had misspellings.
15 And then when we sent to get it corrected along with the
16 notarized application, then we got the letter back stating
17 the -- you know, the errors on the application to amend.

18 Q Okay. And was -- in addition to the name issue was the
19 date of birth also wrong?

20 A Oh, yes. The date of birth was showing January 7th, 1931.
21 I asked my father about that, and he told me he was positive it
22 was January 13th, 1931 because he was born on his mother's
23 birth date.

24 Q So I think we might have gotten a little fouled up. Let
25 me see if I can clear it up.

1 You first sent in an application for birth
2 certificate; you got one back with some errors on it.

3 A Correct.

4 Q Including the race, spelling of your father's last name
5 and his date of birth.

6 A Correct.

7 Q And then you submitted an application to have it amended;
8 is that right?

9 A Correct.

10 Q When you got the amended application back is when you
11 found out that the names needed to match and you needed to do
12 some additional work; is that right?

13 A Yes. The additional work they said we needed a certified
14 copy of his army discharge papers, which were the Form DD214.

15 Q Anything else you were told you needed to get at that
16 point?

17 A At that time, no.

18 Q All right. Did you set about obtaining your father's
19 DD214?

20 A We already had it. We had sent the DD214 in with the
21 original application to amend. And they told us that it was
22 not valid because the county -- the clerk at the Department of
23 Veteran Affairs in the Jefferson County Courthouse had stamped
24 it on a separate slip of paper that she stapled to the copy of
25 the DD214. So I was told that was not a valid copy.

1 Q So at some point prior to this you had gone down to the
2 County Clerk's Office to get the certified DD214?

3 A Yes. I did that in person.

4 Q And your trip to do that was that in relation to trying to
5 obtain an I.D. for your father?

6 A Yes.

7 Q Did you have to pay a fee in order to obtain that?

8 A No. They do it free.

9 Q Okay. Now, when you submitted that DD214, the State's
10 initial response was because the clerk stamped another page
11 instead of the actual record, it couldn't be used; is that
12 right?

13 A Correct.

14 Q What did you do about that?

15 A I went back to the Department of Veteran Affairs, told her
16 what I was told. So she shrank it down and put it on one page
17 so that she would have enough room to put their stamp on the
18 front.

19 Q And did you then submit that back to the Department of
20 Health?

21 A Yes. I submitted a new application to amend, which I had
22 to get notarized again. I submitted the original application
23 because I was told to. I submitted the original DD214 that I
24 had sent in and the new DD214 that I had obtained.

25 Q Did you have to again pay the fee, the \$24?

1 A The fee to the State, no. That's why I had to keep
2 submitting the originals.

3 Q Did you ultimately hear back on that application?

4 A Yes.

5 Q About when was that?

6 A About two months ago, maybe three months ago.

7 Q And what was the response then?

8 A The response -- the letter that they sent saying -- said
9 that the requirements had changed and now I needed a hospital
10 record of birth if he had it, a passport if he had it, or an
11 original birth certificate showing the correct information.
12 Which I don't understand.

13 Q And what did you do in response to that letter?

14 A At that point we were disgusted and we kind of put the
15 search on hold for a while.

16 Q Did you place some phone calls to HHS ultimately to try to
17 solve the issues?

18 A I called the agent three times, left voice mails, never
19 received a phone call back.

20 Q Now, at some point your father went down and tried to
21 vote; is that right?

22 A Correct.

23 Q When was that?

24 A November of last year, 2013.

25 Q So tell us how that occurred. Who got your father to the

1 polls?

2 A I got him -- we used his vehicle. I drove him to the
3 local polling place, which is at our county barn. I walked in.

4 Q Hold on. Before you get there. At the county barn,
5 that's in Jefferson County, I assume?

6 A Correct. I'm sorry.

7 Q And how far from his house?

8 A About five miles.

9 Q Is this where he has typically voted in the past?

10 A They used to -- typically it was at the elementary school.
11 But I think in the past seven to ten years it's been at the
12 county at that particular location.

13 Q Are you the person that most often takes him to vote?

14 A I think I'm the only person that has taken him.

15 Q Is it something that is important to him?

16 A Yes.

17 Q Does he vote on a particular day?

18 A On election day.

19 Q And is that important to him?

20 A Yes.

21 Q So when you get in November of 2013 down to the county
22 barn to vote, what documents or identification have you brought
23 with you or has your father brought with him to vote?

24 A We brought the two items of documentation that I handed to
25 your Honor, and we brought his voter identification card.

1 Q Do you mean the expired driver's license?

2 A As far as the pieces of documentation? Okay. We brought
3 the expired driver's license, the Veteran Administration I.D.
4 and his voter's registration card.

5 Q I see, okay. Now, does your father actually go into the
6 polling location to vote?

7 A We pull up to the polling location and someone will come
8 outside and take your vote.

9 Q And again for our written record, is that because your
10 father is in a wheelchair?

11 A Yes, because he is in a wheelchair.

12 Q And how did he get in a wheelchair?

13 A He had two strokes.

14 Q So when you pull up what happens first?

15 A We pull up. I walk inside. The ladies inside, they're
16 elderly about my father's age. They look at me and they ask,
17 "Are you here to vote or are you bringing your dad?" I told
18 them, I said, "I'm bringing my dad because I no longer live out
19 here."

20 So at that point they open the ledger, found his name
21 and was about to scratch his name off when they ask, "Can we
22 see his I.D.?" I showed them the I.D. They looked at it and
23 they said, "Well, we can't let him vote."

24 And I asked them, I said, "Are you serious?" They
25 said, "No, we can't let him vote because his I.D. is expired.

1 And they pointed to the -- they had posters inside the polling
2 place explaining the new law. And they wouldn't let him vote.
3 And they knew who he was.

4 Q Was it apparent -- that was going to be my question. Was
5 it apparent to you that the election clerks knew who your
6 father was?

7 A Oh, yes. They never asked his name. They went straight
8 to his name in the ledger because they knew me from growing up
9 there and they knew my dad from being in China for at least
10 60 years.

11 Q So, you showed them the expired driver's license and the
12 Veterans Administration card.

13 A And the Veterans Administration card, and I told them he
14 has his voter registration with him. I'm unsure whether we
15 showed it to them at the time or not.

16 Q And, to be clear, these two documents that you gave to
17 those election clerks are the same ones that have been handed
18 up to her Honor today.

19 A Yes, they are.

20 Q Did anybody, while offering -- or while you were
21 attempting to get your father enrolled to vote, did anybody
22 offer him a provisional ballot?

23 A No.

24 Q Did anybody say to him: You can cast a ballot today, and
25 if you come back in so many days with the right I.D. we'll

1 count it?

2 A No.

3 Q So, is it fair to describe the information you were
4 provided as: These I.D.'s are insufficient; your dad cannot
5 vote; period?

6 A That's what we were told.

7 Q And then I assume you left the polling location?

8 A Yes, I did.

9 Q Now, you and your dad were called to give a deposition in
10 this case; is that right?

11 A Correct.

12 Q And I believe the record reflects that was in July 25th of
13 this year? Does that sound right to you?

14 A Correct.

15 Q At the deposition you were informed of some things or
16 asked some questions about the State. Do you remember the
17 State's attorney asking you about an election identification
18 certificate?

19 A He mentioned it by name.

20 Q Is that something that you had heard about just then at
21 the deposition?

22 A That was my first time hearing about it.

23 Q So, nobody at the county clerk's office where you got the
24 DD-214 told you anything about it.

25 A No.

1 Q Nobody at your multiple trips to DPS told you anything
2 about it.

3 A No.

4 Q Nobody with the Department of Health and Human Services
5 told you anything about it.

6 A No.

7 Q Okay. The first you find out about it is when a lawyer in
8 this case brings it up at your deposition.

9 A Yes, during the deposition.

10 Q Were you told at your deposition that to get an EIC your
11 father would still need a birth certificate?

12 A I don't recall him explaining the details of it at all.

13 Q Do you recall asking for the details and not getting an
14 explanation?

15 A Yes. I asked him for the details, and he told me he
16 didn't exactly know, and I replied, "If you don't know, how do
17 I know?"

18 Q Now, on -- were you also asked about the possibility of
19 your father voting with his Veterans Administration card?

20 A We were unaware of that.

21 Q In fact, you had tried to use the veterans card; is that
22 right?

23 A Oh, as a form of I.D.?

24 Q Yes.

25 A Yes.

1 Q Were you asked about mail voting?

2 A No.

3 Q For your father.

4 A No, we were not.

5 Q Now, you -- you were told by the State at the deposition,
6 though, that your father could vote by mail; is that right?

7 A Correct.

8 Q Is that the first you had heard about voting by mail as an
9 option for your dad?

10 A For my dad, yes. Up until that time I thought only
11 service personnel or U.S. citizens out of the country at the
12 time could use mail-in votes.

13 Q So, again, with all your trips and conversations with
14 Government offices that was never a piece of information
15 provided you.

16 A No.

17 Q Now, let's talk about your dad's mail service for a
18 minute. Does he have trouble with lost pieces of mail?

19 A There has been times.

20 Q Where is his mailbox?

21 A His mailbox, along with everyone else in China, is at the
22 local post office.

23 Q So, it's not the case that he has a box at the corner of
24 his sidewalk at the street where the postman brings his mail.

25 A No. He has to get someone to pick up his mail for him.

1 Q Does your father have a computer and a printer and ability
2 to take things off the internet and print them out?

3 A No.

4 Q Okay.

5 A I have a computer at his house, but my father does not
6 even know how to text message.

7 Q But I assume, if need be, you could find what was needed
8 on the internet and print it out for him.

9 A I could.

10 Q Yeah; just like you did the application for the birth
11 certificate.

12 A Correct.

13 Q Okay. And, so, if your dad wanted to send in a vote by
14 mail application, you could do that for him.

15 A Yes, I could.

16 Q Okay. And you'd have to print it out, take it to him, and
17 then he'd fill it out.

18 A I would have to fill it out for him.

19 Q Okay.

20 A The stroke affected his right -- his dominant hand, so he
21 has a lot of problem writing.

22 Q And do you know what the legal requirements are and the
23 criminal -- potential criminal violations are for assisting
24 somebody with --

25 **MR. KEISTER:** Your Honor --

1 **MR. DUNN:** -- to vote by mail?

2 **MR. KEISTER:** I've been patient, but I'm going to
3 object to the continuing leading of this witness. I'm also
4 going to object now to him asking him about criminal penalties.

5 **THE COURT:** Sustained as to leading. Overruled as to
6 the other matter.

7 **BY MR. DUNN:**

8 Q Okay. So, what, if anything, do you know about potential
9 crimes that can be prosecuted against people who help other
10 submit mail applications?

11 A Nothing.

12 Q Then, I assume you would be the person to take your father
13 to the mailbox?

14 A Uh --

15 Q To the post office?

16 A If I helped him fill it out, yes, I would.

17 Q Do you know how many trips it might take in order to send
18 in the application, receive back the ballot, fill it out, and
19 mail it back in?

20 A At least two.

21 Q Setting aside the location of the post office, does your
22 dad want to vote by mail?

23 A No.

24 Q Does he think voting on election day is important?

25 A Yes.

1 Q Now, after your deposition in July, on July 25th, has
2 anything else happened, insofar as your father's birth
3 certificate?

4 A We gave the deposition July 25th. On August 1st I
5 received a phone call from the State registrar saying that my
6 father's application for the amendment of the birth certificate
7 just happened to land on her desk and she would do what it took
8 to get a correct birth certificate.

9 Q Well, and let's be precise. I assume you mean the deputy
10 registrar in Texas.

11 A She told me she was the State registrar.

12 Q And she told you that your father's issue had come up?

13 **MR. KEISTER:** Your Honor, once again I'm going to
14 object to leading at this point.

15 **MR. DUNN:** I'll withdraw.

16 **THE COURT:** Sustained.

17 **BY MR. DUNN:**

18 Q What did you do at that point, then, in order to obtain
19 the birth certificate?

20 A I asked her what documentation that I needed to supply. I
21 sent all the original documentation back to her that we had
22 previously sent, and nothing extra.

23 Q Did you receive a response?

24 A Yes. We've had several phone conversations.

25 Q And what ultimately occurred as a result of these efforts?

1 A I haven't seen it in person, but my father told me he got
2 his corrected birth certificate in last week.

3 Q And for the State -- or for the Court and our record,
4 that's admitted as Exhibit -- Defendant's Exhibit 2521.

5 The amended certificate; does it still contain
6 errors, as you understand it?

7 A Yes, it does.

8 Q For example?

9 A The race of the father and the date of birth is still not
10 correct.

11 Q Now, when you had earlier gone to DPS to try to get an
12 I.D., what, if anything, were you told about your documents
13 needing to match in order to get an I.D.?

14 A They told me the names had to match and the dates of birth
15 had to match.

16 Q So, based on that understanding, if you take your father
17 down to DPS now with his birth certificate as amended and his
18 V.A. card and --

19 **THE COURT:** I'm sorry. I think there's -- is it
20 leading?

21 **MR. KEISTER:** Leading; yes, your Honor.

22 **THE COURT:** Yeah. You need to watch your questions.

23 **MR. DUNN:** I'm sorry, Judge; I didn't hear you.

24 **THE COURT:** He was standing up. I assumed he was
25 going to object to leading, because you're leading.

1 **MR. DUNN:** Okay. I'll rephrase.

2 **THE COURT:** So, I just told you to watch your
3 questions.

4 **BY MR. DUNN:**

5 Q With these new documents, what, if anything, do you think
6 will occur when you go to DPS?

7 A I called DPS. The agent I talked to said they had to
8 match or else we still couldn't get the state I.D.

9 Q Okay. And have you gone down there and actually tried at
10 this point?

11 A No.

12 Q Why not?

13 A I'm frustrated; and I can only go by what she told me,
14 that it -- they wouldn't issue it, so we haven't gone yet.

15 Q Since you found out this information have you been in town
16 to take your father?

17 A No.

18 Q Where have you been?

19 A I've been in Emmitsville - Emmitsville [sic], Maryland, at
20 the National Fire Academy for the last two and a half weeks.

21 Q And have you been there since you found out this
22 information from the State?

23 A To my father or to the DPS office?

24 Q Have you been in Maryland at your conference?

25 A Oh, yes. I was there when I was informed by my father.

1 Q So, returning just for a moment to the attempt to vote,
2 what did you observe about your father after he wasn't
3 permitted to vote that day?

4 A He was angry.

5 Q Was it something you talked about?

6 A Yes.

7 Q Was it something that he mentioned in the context of his
8 military service?

9 A He stated to me that he couldn't believe that after
10 serving his country in the war, all the social security and
11 everything else that he's paid working his entire life, that he
12 would be denied the right to vote because of a simple card.

13 **MR. DUNN:** No further questions.

14 **CROSS EXAMINATION**

15 **BY MR. KEISTER:**

16 Q Good morning, Mr. Carrier.

17 A Good morning.

18 Q Good to see you again. We last spoke on July 25th, I
19 believe, correct?

20 A Yes.

21 Q And that was the same day that your father was deposed; I
22 believe we were in Beaumont, correct?

23 A Yes.

24 Q How long have you resided in Houston?

25 A Approximately 12 years.

1 Q Okay. And you commute to Beaumont to -- to your job?

2 A Yes.

3 Q And how long have you been employed with the Beaumont Fire
4 Department?

5 A Eighteen years.

6 Q Okay. So, you've been commuting for 18 years from --
7 well, from 12 years from Houston to Beaumont. How far is it
8 from your home in Houston to your work station in Beaumont?

9 A Ninety-eight miles.

10 Q Ninety-eight miles. And you've done that for 12 years on
11 a -- on a regular basis, correct?

12 A Correct.

13 Q And I take it you drive when you go to your job?

14 A Yes.

15 Q You have a driver's license?

16 A Yes.

17 Q And I believe when we talked before you told me that
18 everyone who works at the Beaumont Fire Department is required
19 to have a current driver's license, correct?

20 A A current and Class B.

21 Q Okay. So, everyone you work with -- and how many people
22 are there in the fire department?

23 A I think we have 235 uniformed personnel and about seven
24 civilian.

25 Q Okay. Are the civilian employees also required to have a

1 driver's license?

2 A I would not know that.

3 Q Okay. Is that something that's unique to Beaumont Fire
4 Department, the requirement that the firefighters have driver's
5 licenses?

6 A Not that I'm aware of.

7 Q Are all firefighters in Texas required to have a driver's
8 license?

9 A I don't know. I can only speak for my department.

10 Q Okay. And that's what I was trying to ask, if you knew if
11 that was unique to your department or not.

12 A No, I -- I don't -- I don't know that it's unique.

13 Q Okay. Do you associate with firefighters of fire
14 departments in other areas of the state?

15 A Yes.

16 Q Is it your understanding that, generally speaking, most of
17 them have driver's licenses?

18 A I can't -- I can't answer, because I would be assuming
19 that they did. I don't know.

20 Q Okay. That's not something --

21 A Okay.

22 Q -- in your training that you found out?

23 A Well, it's nothing that comes up in casual conversation.

24 Q Okay. Now, you have a driver's license; you also have a
25 concealed handgun license, correct?

1 A Yes, I do.

2 Q All right. So, those are -- have you used either one of
3 those when you've gone to vote?

4 A The driver's license.

5 Q You use your driver's license. Okay. Now, we talked
6 about, in the deposition, about your family. To your
7 knowledge, your ex-wife has a driver's license?

8 A I really don't know.

9 Q Okay. When you were married to her she had a driver's --

10 A When we were married, she did.

11 Q All right. And I think you told me that you have two
12 children, grown children now, and to your knowledge they both
13 have driver's licenses, correct?

14 A Yes.

15 Q You told me you had a 16-year-old who was anxious to get
16 into driver's ed., correct?

17 A Correct.

18 Q Is she there yet?

19 A Not yet.

20 Q Okay. Getting ready to start with the school year?

21 A Yes.

22 Q All right. And, then, you told me you had a 14-year-old
23 who also is anxious to -- to get into the driving situation,
24 correct?

25 A Correct.

1 Q All right. So, people having driver's licenses in your
2 family are not unusual at all, correct?

3 A No, it's not unusual.

4 Q And people having driver's licenses in your -- in your
5 employment is required, so that's certainly not unusual,
6 correct?

7 A No, it's not unusual.

8 Q And I believe we talked about during the deposition
9 whether or not you knew anyone, be it friends, neighbors,
10 associates of any type, who do not have a driver's license, and
11 you told me that you're not aware of anyone, correct?

12 A I am not aware of anyone.

13 Q Okay. And as we sit here today, the only person that
14 you're aware of that -- personally, that has had a problem with
15 getting the I.D. is your father, correct?

16 A Yes.

17 Q Okay.

18 A No. No. That's incorrect.

19 Q Okay. Well, correct me.

20 A I'd like to correct that I do know some persons that do
21 not have a driver's license, and I know some that have been
22 getting -- having problems. As you were speaking a couple of
23 people popped into my head that were employees of my brother
24 when he was alive, and one of them is from Louisiana, and he
25 was having the same problem as the lady that testified before

1 my dad was. He's having problems obtaining his birth
2 certificate and a Texas driver's license.

3 Q Okay. When did you speak to him?

4 A The last time I talked to him was in February --

5 Q Okay.

6 A -- of this year, when my brother died.

7 Q Okay. When we took your deposition last month or two
8 months -- not quite two months, but July 25th -- you did not
9 bring him to my attention, did you?

10 A Correct. Correct.

11 Q All right. Nor did you bring anyone else to my attention,
12 correct?

13 A No.

14 Q Has anyone suggested to you that, after that deposition,
15 that perhaps you should try and find somebody?

16 A Oh, no. No.

17 Q It just -- it just (indiscernible) --

18 A No; it just popped in my head as you were speaking.

19 Q Okay. After your deposition did you discuss the
20 deposition with anyone in this case?

21 A No.

22 Q Okay. Have you discussed it with any of the lawyers on
23 this case?

24 **MR. KEISTER:** Your Honor, we object to the extent
25 he's inquiring about attorney-client communications.

1 **THE COURT:** Sustained.

2 **MR. DUNN:** I'm not going to ask about specific
3 conversations, your Honor. I'm just inquiring as to whether or
4 not he had any conversations.

5 **THE COURT:** That's fine.

6 **BY MR. KEISTER:**

7 Q With -- have you had any conversations with Mr. Dunn or
8 any other lawyers after your deposition in this case?

9 A Am -- am I allowed to answer?

10 **THE COURT:** You can answer that. Don't talk about
11 what was said or anything.

12 **MR. KEISTER:** Right.

13 **THE WITNESS:** Yes.

14 **BY MR. KEISTER:**

15 Q Okay. And when were those conversations? Without telling
16 me what they were, just tell me when those conversations were.

17 A I don't know the exact dates.

18 Q Okay. But it was after the deposition?

19 A As far as -- concerning what? I want to make sure I'm
20 answering correctly.

21 Q I'm just asking a very simple question. Have you had any
22 conversations --

23 A Yes.

24 Q -- with the attorneys in this case after your deposition
25 in July?

1 A Yes.

2 Q Okay. Thank you. Now, your father's -- is Mr. Carrier,
3 correct?

4 A Yes.

5 Q And Mr. Carrier had a stroke in 1996, correct?

6 A I -- I'm not positive on the dates, but, yes, he did have
7 a stroke.

8 Q Okay. But it's been many, many years that he's had to be
9 in a wheelchair, correct?

10 A Yes.

11 Q And Mr. -- your father's driver's license, which you
12 handed to the Court, expired in 2006, correct?

13 A Yes.

14 Q Okay. And do you know if after your father had his stroke
15 at some point he renewed his driver's license that expires in
16 2006?

17 A Not that I know of.

18 Q Okay. All right. And your mother died in -- on
19 January 31st, 2013, correct?

20 A Twenty twelve.

21 Q Twenty twelve. Okay. And at that point your father found
22 out that he needed some identification, correct?

23 A Correct.

24 Q All right. Why did your father need identification when
25 your mother passed away?

1 A Because -- at that time he -- well, we were trying to get
2 all his affairs in order, and we -- we couldn't get access to
3 his bank accounts or any other items that needed a form of I.D.

4 Q Okay. Were there insurance issues that he was having
5 problems with?

6 A Yes. It took us a while to get the insurance.

7 Q Were there social security problems that he was having
8 problems with?

9 A Yes.

10 Q And, of course, the banking problems he was having
11 problems with.

12 A Correct.

13 Q Or the banking issues --

14 A Correct.

15 Q -- he was having problems with. And -- and before your
16 mother passed away, she had handled all of the business since
17 your father had his stroke? Is that what it amounted to?

18 A Correct.

19 Q All right. Now, when your father began looking for an
20 I.D., was voting an issue at that time?

21 A At that time it was less than a week after my mother died.
22 No.

23 Q Okay. So, he wanted an I.D. to -- to help him start
24 handling his personal business, correct?

25 A Correct.

1 Q And that was something that he found out he had to have.
2 How did he find out he needed an I.D.?

3 A When we went to the bank.

4 Q Okay.

5 A And they told him that they would cash a check that one
6 time but he needed to get a -- an I.D. that was not expired in
7 order to continue his banking.

8 Q Okay. So, he showed them his expired driver's license
9 that you handed the Court, correct?

10 A Correct.

11 Q And they allowed him to have one transaction, but they
12 told him he needed to get a current driver's license, correct?

13 A Correct.

14 Q Okay. Did he take any other identification to the -- to
15 the bank?

16 A I'm unsure. That's all we showed them.

17 Q Okay.

18 A I don't know what else he had in his pocket.

19 Q Okay. Were there any other issues other than the bank
20 that led your father to realize that he needed a current photo
21 I.D.?

22 A We -- vehicle registration, license; you know, vehicle --
23 to get a new vehicle registration.

24 Q Okay. So, was he attempting to change the -- your
25 mother's car into his name? Was that what the issue was?

1 A No; just get a new license tag.

2 Q Okay. Just to re-register.

3 A Yeah, re-register.

4 Q Okay. Any other issues that brought to his attention the
5 fact that he needed a photo I.D.?

6 A Not that I'm aware of.

7 Q Okay. Now, your father lives in a rural country town,
8 correct?

9 A Correct.

10 Q All right. And same place you grew up, correct?

11 A Yes.

12 Q And your father's lived at that home for 60 years,
13 correct?

14 A At least.

15 Q At least that address. I think you said the house has
16 been rebuilt, correct?

17 A Yes.

18 Q Okay. Now, and China, Texas, is close to Beaumont,
19 correct?

20 A About 10 miles.

21 Q Okay. And is there any public transportation that you
22 know of that --

23 A No.

24 Q -- that's in -- let me finish the question.

25 A Oh, I'm sorry.

1 Q I know. We had this problem --

2 A I'm sorry. Sorry.

3 Q -- with the depos. We'll try and keep it -- for the court
4 reporter's sake, let me finish my question.

5 A Okay.

6 Q To your knowledge, is there any public transportation in
7 China, Texas?

8 A No.

9 Q Okay. What does your father do for transportation when he
10 needs to go somewhere?

11 A He will call neighbors, friends, or relatives and see if
12 they can come pick him up.

13 Q Okay. And does he -- does the neighbors accommodate him
14 when he asks?

15 A Sometimes.

16 Q Okay. Has he told you there's been a problem when they
17 haven't?

18 A Yes, there has been problems to where I've had to come
19 from Houston --

20 Q Okay.

21 A -- to bring him somewhere.

22 Q But, generally speaking, when he needs to go to the
23 grocery store or go to the post office, somebody is there to
24 help him with those.

25 A As far as I know.

1 Q Okay. And, then, you will come if there is a special
2 event or something he needs to go to; then you will come and
3 drive him to that, you know, to the medical office or whatever
4 he needs to do.

5 A Correct.

6 Q All right. And does your family also assist him in
7 transportation needs?

8 A As of now I'm -- I'm the only one.

9 Q Okay. So, your father cannot drive, correct?

10 A Correct. He cannot drive.

11 Q Does drive a lawnmower; am I correct?

12 A Correct.

13 Q Okay. He drives that around the neighborhood?

14 A Not so much so anymore.

15 Q Okay. But he -- but he did? I think you told me that
16 when we took your depo, correct?

17 A Correct.

18 Q Okay. All right. Now, your father receives treatment in
19 Beaumont, medical treatment in Beaumont, correct?

20 A Correct.

21 Q And he receives his medical treatment in Beaumont at the
22 Veterans Administration clinic, correct?

23 A As far as I know.

24 Q Okay. And you're aware that you gave or handed to the
25 judge your father's Veterans Administration card, correct?

1 A Correct.

2 Q And you're aware that that card has a photograph on it,
3 but it's worn away with age, correct?

4 A Correct.

5 Q Are you aware that your father testified that all he has
6 to do is ask for a new card at the clinic and they will provide
7 him one?

8 A No, I was unaware.

9 Q Okay. All right. Have you ever inquired as to whether or
10 not your father could get a new card with his -- with a
11 photograph on it?

12 A No, I haven't.

13 Q Okay. Do you ever take your father to his clinic
14 appointments?

15 A No. The V.A. will pick up veterans and bring them back
16 and forth to the medical facility.

17 Q Okay. You know today that -- that -- that one of the
18 I.D.'s that can be used to vote is a Veterans Administration
19 I.D. with a photograph, correct?

20 A I am aware since you told me during the deposition.
21 Before that, no.

22 Q Okay. And -- and after the deposition, has there been any
23 attempt, to your knowledge, to go ahead and get your father a
24 new Veterans Administration card with a photograph?

25 A No.

1 Q Any reason why not?

2 A Time.

3 Q Okay. All right. Your father was a plaintiff in this
4 lawsuit long, long before he went to vote in November of 2013,
5 correct?

6 A I'm unaware.

7 Q Do you know when he -- do you know when he became a
8 plaintiff?

9 A No, I do not know the exact date.

10 Q Was it in the summer of 2013?

11 A Yeah, I -- I would agree.

12 Q Was it before --

13 A No. I'm sorry. I'm sorry. I was thinking you were
14 saying summer --

15 Q Twenty thirteen.

16 A I don't think he was before the election.

17 Q Okay. You don't think --

18 A No. I would say no.

19 Q You don't think your father was part of the lawsuit before
20 you took him to vote in 2013?

21 A Not that I was aware of.

22 Q Okay. When did you become aware of your father becoming
23 part of this lawsuit?

24 A Early two thirteen.

25 Q Okay.

1 A Early 2013.

2 Q Okay.

3 A No, of '14. Of this year.

4 Q Okay.

5 A I'm sorry.

6 Q Okay. But as we sit here today, you don't know exactly
7 when he became --

8 A No.

9 Q Did you -- did you speak to the attorneys in the case
10 before your father signed up as a plaintiff in this lawsuit?

11 A I have no way of knowing that.

12 Q Did your father tell you that he was going to become a
13 plaintiff in this lawsuit before he actually became a plaintiff
14 in the lawsuit?

15 A Yes, he did.

16 Q Okay. And when was that?

17 A I really -- I really don't know.

18 Q Okay. Well, let's get back on the timeline, then, and
19 maybe it will -- maybe it will come back to you.

20 When did you take your father to the DPS office to
21 try and obtain an I.D.?

22 A The first week of February, 2012.

23 Q Okay. And are you sure on that, it was '12, or was it
24 '13? Because I believe you told me in the depo --

25 A Thirteen.

1 Q All right.

2 A Thirteen.

3 Q I know the years get confused.

4 A No; '13. Thank you.

5 Q Okay. All right.

6 **THE COURT:** So, your mother died in '12

7 (indiscernible) --

8 **THE WITNESS:** My mother died --

9 **THE COURT:** -- a year later you all --

10 **THE WITNESS:** -- January, 2012. Yes.

11 **BY MR. KEISTER:**

12 Q I thought you told me in the depo she died in --

13 A Oh -- wait. Wait.

14 Q -- January 31st, 2013.

15 A Wait. Wait. I'm -- I'm getting mixed up.

16 Q I know. Okay. So --

17 A My years.

18 Q Okay.

19 A I mean, my brother died February of this year, which is
20 two fourteen; my mother died January of 2013.

21 Q Right. Okay.

22 A Yes.

23 Q All right.

24 A Yes.

25 Q So, at that -- and then you went through the process of --

1 of your father discovering he needed some photo I.D., correct?

2 A Correct.

3 Q All right. Now, you drove your father to the DPS office
4 in Beaumont, correct?

5 A Correct.

6 Q All right. And when your father testified, he stated
7 that -- that when you all went to Beaumont that it didn't take
8 long at all to be waited on; is that correct?

9 A No; the line was not long.

10 Q Okay. So, and actually your father testified that he
11 stayed in the car first and you went in. I think you testified
12 you both went in at the same time. Is that --

13 A No, I pushed him into the office.

14 Q Okay. So --

15 A I may have gone in to see what the lines were like, but I
16 pushed him into the office.

17 Q Okay. All right. So, you may have went in, then went
18 back out to the car to bring your father in?

19 A Correct.

20 Q All right. But how long do you think the wait was before
21 you actually got someone waiting on you?

22 A Ten minutes.

23 Q Okay. All right. And at that point were you aware that
24 there was going to be a cost for the -- for the I.D. if you
25 were able to get one?

1 A Yes.

2 Q Was the cost of an I.D. an issue at all at that point?

3 A No.

4 Q Okay. You expected to pay and intended to pay, correct?

5 A I -- we expected to pay the same as, you know, you would
6 for renewing a driver's license.

7 Q Okay. Now, you went in and -- and you showed your
8 father's expired license, and that license had expired in 2006,
9 correct?

10 A Correct.

11 Q So, at that point it was seven years old, thereabout; or
12 it had been expired seven years.

13 A Correct.

14 Q Okay. And -- and the DPS representative told you that
15 that was too long, that your father would have to go through
16 the -- through a whole new application, correct?

17 A Yes, he told me that was not a valid form of ID.

18 Q Okay. And she told you that you would need a -- or, she
19 told you or told your father or told both of you, I guess,
20 right, that she would need a birth certificate?

21 A Yes, she said a birth certificate or a passport.

22 Q Okay. And did she also talk about a Social Security card?

23 A No.

24 Q Okay. That never came up?

25 A Not with her.

1 Q Okay.

2 A No.

3 Q All right. So how long were you in the DPS office do you
4 think?

5 A Ten minutes plus the time to have the conversation with
6 the clerk that was at the window.

7 Q Okay. And then you left and began the search for the
8 birth certificate, correct?

9 A Yes, that next week I started the search for the birth
10 certificate.

11 Q Okay. Now, the problem with the location of the county
12 was the fact that the area where your father was born bordered
13 on what; three or four different counties, correct?

14 A Three counties in that general vicinity.

15 Q And your father wasn't sure exactly which county he was
16 actually born in, correct?

17 A That's correct.

18 Q And so that's why, as you told the Court earlier, you went
19 to each one of those counties looking for a birth record?

20 A Correct. I went to two and called the third.

21 Q Okay. And you were never able to find one in any of
22 those?

23 A No.

24 Q Okay. Now, when you got the birth certificate back from
25 the State originally, did you ever go back to the county that -

1 - I believe it was -- what county does the birth certificate
2 show; is it Liberty?

3 A It shows Liberty County.

4 Q Okay. Did you ever go back to Liberty and see if they had
5 records based upon the spelling of his name?

6 A No, I did not.

7 Q Okay. All right. Now, how long did it take to get that
8 birth certificate? After you found out you couldn't get it
9 from the counties and then you applied for it through the
10 State, how long did it take to get that birth certificate?

11 A At least 12 weeks.

12 Q Okay. And when that birth certificate came in, there was
13 a whole lot of problems with it, correct?

14 A There were some problems.

15 Q Okay.

16 **(Pause)**

17 **MR. KEISTER:** Brian, would you pull up Defendants'
18 Exhibit 0221, please?

19 **(Pause)**

20 0221. Is that the birth certificate?

21 **(Pause/Discussion held off the record)**

22 The birth certificate.

23 **(Pause/Discussion held off the record)**

24 Defendants' Exhibit 0221.

25 **(Pause)**

1 Can we make that any more clear? There we go.

2 **BY MR. KEISTER:**

3 Q Now, does that appear to be a copy of the birth
4 certificate that you received from the State?

5 A Yes.

6 Q Okay. Now if we look through that birth certificate,
7 Mr. Carrier, what name appears on that birth certificate?

8 A It's hard to see, but --

9 Q Do we need a better copy? Let me see if I can --

10 **MR. KEISTER:** Brian, can you try pulling up
11 Exhibit 2521? I think it may be easier to read.

12 **BY MR. KEISTER:**

13 Q Is that better?

14 A Yes, I can read it now.

15 Q All right. Let's stay there. All right.

16 What does it have as the name of the child?

17 A Florida Carryer [sic].

18 Q Okay. And does your father pronounce that Floreda?

19 A I've never heard him pronounce it.

20 Q Okay. But your father's name is not Florida nor Floreda,
21 correct?

22 A No.

23 Q Okay. Your father's name, according to him, is Floyd
24 James Carrier, correct?

25 A Correct.

1 Q So we've got a problem with the first name, correct?

2 A Correct.

3 Q And the absence of a middle name, correct?

4 A Yes.

5 Q And then we've got a problem with the spelling of the last
6 name, correct?

7 A Yes.

8 Q Your father spells his name C-A-R-R-I-E-R, whereas this
9 particular birth certificate has it as Y-E-R, correct?

10 A Yes.

11 Q Okay. So that's just the beginning problems. And when we
12 go to the second line it has as his date of birth January 7th,
13 1931, correct?

14 A Correct.

15 Q And your father claims that his birth date is
16 January 13th, 1931, correct?

17 A Yes.

18 Q All right. And then we go to the father's name, which is
19 Batson Carryer [sic]. Was Batson your grandfather's name; is
20 that correct?

21 A Yes.

22 Q But his last name is spelled incorrectly, correct?

23 A Yes.

24 Q It's spelled with a "y" instead of an "ier," right?

25 A Correct.

1 Q All right. Now, we go across to your grandmother's name
2 and what's the problem with that one?

3 A From what I've been told, her last name was Ledet, L-E-D-
4 E-T.

5 Q Okay. All right. So her first name was Mable, but the
6 last name is incorrect on this birth certificate?

7 A Correct.

8 Q And then we go down to the second -- or, below that line
9 and -- actually, two lines below, with respect to your father's
10 race. Back then they put "color," and it has "Col." Correct?

11 A Correct.

12 Q And I think we assume that means colored, correct?

13 A Yes.

14 Q Okay. And we know that that is incorrect; that your
15 father was actually white -- I mean, your grandfather was
16 actually white?

17 A Grandfather.

18 Q Okay. And then, is there a problem with the ages of your
19 grandfather and your grandmother?

20 A Not that I'm aware of.

21 Q Okay. We'll ask your dad about that.

22 And then we come down and we see the occupation of your
23 grandfather is listed as a farmer. Do you know if that's
24 correct?

25 A I do not know.

1 Q Okay. Has your father told you that your grandfather was
2 a carpenter and not a farmer?

3 A Yes, my father said that his dad was a carpenter.

4 Q Okay. And then we come down and we see that it was signed
5 by a midwife by the name of, it looks like, Martha Campbell,
6 correct?

7 A Yes.

8 Q Okay. So Mr. Carrier, there's a whole lot more problems
9 with this particular birth certificate than just the spelling
10 of your father's name, correct?

11 A Yes.

12 Q Yeah. I mean, there's more wrong on that birth
13 certificate than there is correct, at least according to your
14 father, correct?

15 A I hadn't compared them. I couldn't say if there's more
16 wrong or right, but there are problems.

17 Q Okay. Well, just what we went through today; most lines
18 up there are wrong aren't they. At least were incorrect with
19 terms of spelling and dates and that type of thing, right?

20 A There are misspellings and things that need to be
21 corrected.

22 Q Right. And so, considering all the inaccuracies on that
23 document, is it somewhat understandable how there may be some
24 issues with respect to getting it corrected since we're not
25 just talking about correcting the spelling of your father's

1 last name?

2 A That's not a simple answer.

3 Q Okay. But it's a reasonable answer, isn't it?

4 A It's a reasonable answer, yes.

5 Q Okay. And I know that you've expressed some opinions
6 about, perhaps, other people having problems with birth
7 certificates and I know we're going to hear it in this trial
8 because we heard it with the first witness. But have you been
9 told of anybody in your involvement in this case or just in
10 your review -- looking for your father's birth certificate,
11 have you come across any birth certificates that were as
12 inaccurate as your father's birth certificate?

13 A This is the only one I've seen.

14 Q Okay. And have you seen your father's brothers and
15 sisters' birth certificates?

16 A Seen with my eyes? No.

17 Q Okay. Do you know if your father has those birth
18 certificates?

19 A If he has them? No.

20 Q Okay. All right. Have you made any attempt to find out -
21 - and your father was the oldest of nine children, correct?

22 A Correct.

23 Q Have you made any attempt to find out if any of your
24 father's sibling's birth certificates were as messed up as his?

25 A Yes, I talked to -- the lady I talked to, Geraldine

1 Harris, who identified herself as the State Registrar, she told
2 me she looked up all the other children of this paring of
3 Batson and Mable and my father's was the only one that was
4 misspelled.

5 Q Okay. Now, did there come a time when you took your
6 father to the Social Security office?

7 A Yes.

8 Q Okay. And was there also problems at the Social Security
9 office with respect to your father not having a birth
10 certificate?

11 A I'm not sure what you're asking me.

12 Q Okay. Your father testified that he went to the Social
13 Security Administration to try and get a copy of his Social
14 Security card, correct?

15 A Yes.

16 Q And he said that they told him he had to have a birth
17 certificate, correct?

18 A That's what he told me.

19 Q Okay. Were you with him?

20 A I was not with him when he spoke to the Social Security
21 representative.

22 Q Okay. Were you there when the Social Security rep told
23 him that his name was Floreda and that he was a female?

24 A I don't recall them ever telling him his name was that,
25 but I do recall them telling him that it listed him as female

1 on the Social Security records.

2 Q Okay. That didn't make your father happy, did it?

3 A No, it did not.

4 **(Laughter)**

5 Q Okay. And, somehow, they had his name the same as on his
6 birth certificate, correct? Or do you know that?

7 A No, they had his name as Floyd James Carrier.

8 Q Okay. And you don't -- well, you don't know that your
9 father testified they had his as Floreda?

10 A I wouldn't know.

11 Q Okay. Has your father been able to get a copy of his
12 Social Security card?

13 A I thought he had a copy of his Social Security card.

14 Q Okay. Have you ever seen it?

15 A I've seen it in the past.

16 Q Okay, because he testified in his deposition that they
17 would not send him one because he didn't have a birth
18 certificate.

19 A Well, I've seen his birth certificate [sic] when he had
20 his stroke because it had to match his VA -- I mean, his --

21 Q Social Security?

22 A Yeah, I saw his Social Security card when he originally
23 had his stroke and we went to the VA hospital, because it
24 matched the Social Security number on that VA card.

25 Q Okay.

1 A And other than that, I cannot -- I couldn't tell you if
2 I've seen it since then.

3 Q Okay. You haven't seen it since the time that he went to
4 the Social Security Administration looking for a new copy,
5 correct?

6 A Correct.

7 Q And you weren't part of the conversation that he had with
8 the Social Security rep, correct?

9 A Not all the conversations, no.

10 Q Okay. Now, those efforts were all made in order to get
11 your father a photo ID so that he could handle his personal
12 business, correct?

13 A That's how it started off, yes.

14 Q Okay. It had nothing to do with any concerns about
15 voting, correct?

16 A We became concerned leading to the election that he would
17 not be able to vote.

18 Q Okay. And at that point you recall now that he was
19 already a Plaintiff in the lawsuit?

20 A I still do not know if he was a Plaintiff.

21 Q Okay. Do you recall speaking to anyone about what type of
22 identification your father would need in order to vote?

23 A I never spoke to anyone in person. I looked it up on the
24 internet and just the news, you know. They publicized it that
25 you would need a valid ID card to vote.

1 Q Okay. But all the time that your father was in the
2 lawsuit, up until the time I took his deposition and your
3 deposition on July 25th, no one had ever told your father that
4 he could vote with that Voters [sic] Administration ID that you
5 handed the judge, did they?

6 **MR. DUNN:** Your Honor, I object. This is a thinly
7 veiled attempt to get into communications between counsel and
8 his client.

9 **MR. KEISTER:** Well, it's just a fact, your Honor.

10 **THE COURT:** I'm going to sustain it if it pertains to
11 any attorney-client privilege.

12 **MR. KEISTER:** Okay.

13 **BY MR. KEISTER:**

14 Q Not speaking about attorneys in this case, up to the time
15 that I took your deposition and your father's deposition on
16 July 25th, 2014, you were not aware that your father could vote
17 using a Veteran's Administration ID card with a photograph,
18 correct?

19 A No, I was not aware.

20 Q Okay. And, likewise, up until the time I took your
21 deposition on July 25th, 2014, you were not aware that your
22 father could apply for an election identification certificate,
23 correct?

24 A No, I was not aware.

25 Q Okay. Now I want to correct you here on something you

1 said earlier, because you said that I told you I didn't know
2 the requirements for the EIC. Weren't we talking about mail-in
3 ballots when I told you I didn't know what the time limits
4 were?

5 A Correct.

6 Q Okay. All right.

7 A Now, since you said it, correct.

8 **(Laughter)**

9 Q You disparaged me so I wanted to make sure we got that
10 correct.

11 In fact, we went through the EIC at the very end. I think
12 we did it more than once, but I informed you about it and
13 encouraged you to perhaps look into getting one, didn't I?

14 A Yes, you did.

15 Q Okay.

16 **MR. KEISTER:** And, Brian, can you pull up Calvin
17 Carrier's deposition, Page 54, beginning on Line 19 and ending
18 on Page 55, Line 20?

19 **(Pause)**

20 Q And you see this was at the very end of the depo. I began
21 asking you if it was possible to use the documentation that
22 you've been working with for your father in order to obtain an
23 Election Identification Certificate from the Department of
24 Public Safety; is that something you would be willing to do.
25 And you said, "a what?" correct?

1 A Correct.

2 Q Meaning you didn't know what that was, correct?

3 A Correct.

4 Q And I told you an Election Identification Certificate,
5 which is stamped "for voting purposes only"; is that something
6 you would be willing to do to help your father be able to vote,
7 correct?

8 A Correct.

9 Q And you said, "I would be willing to help him do that to
10 help him vote but it still would not alleviate the problem of
11 getting a photo ID," correct?

12 A Correct.

13 Q Because that's what your father wanted, wasn't it? He
14 wanted a photo ID to help him in his daily life, correct?

15 A He wanted the photo ID to help him with his daily life and
16 to be able to vote.

17 Q Okay. And then I said, "Right. A photo ID for other
18 purposes, not." You said "yes" and then you said "you
19 understand." And I said, "you understand the Election
20 Identification Certificate is a photo ID." And you said,
21 "you're telling me that. I was unaware that that even
22 existed." And I said, "Okay. All right. And as of today, you
23 have not attempted to take -- well, since you're not aware that
24 it existed then the answer is no."

25 You haven't attempted to go to DPS with this particular

1 type of documentation and request an EIC for your father,
2 correct?

3 A Correct.

4 Q So all the time that your father had been in this lawsuit
5 as a Plaintiff no one had ever educated him that that
6 possibility was there, correct?

7 A I can't speak for him. No one told me anything about it.

8 Q Okay. And have you ever tried to take the information
9 that you had, the original birth certificate that you had,
10 along with the other items of identification to DPS and see if
11 they would look at that information and issue an EIC?

12 A No, because I called them and they told me that it would
13 not be issued, so we didn't waste a trip up there.

14 Q Okay. How much information did you give them when you
15 talked to them?

16 A I told the -- the person I talked to, I told them my
17 father had his expired ID. I mistakenly told them that he had
18 his Social Security card. I told them he had his VA card. I
19 told them he had a copy of his marriage certificate. I told
20 them he had the Deed and title to his house and land. I told
21 them he had the DD-214 and I told them he had his baptismal
22 papers. And the representative told me that if the birth
23 certificate name and dates did not match up that we could not
24 be issued an ID because the birth certificate or passport were
25 the primary source of identification.

1 Q Okay. And did you ever ask to speak to a supervisor?

2 A No.

3 Q Okay. So you never physically had anyone examine the
4 documents and make a determination at DPS as to whether or not
5 they could, in fact, issue an EIC?

6 A No. I had no reason to distrust what she told me.

7 Q Okay. And as of today, even with the corrected EIC [sic]
8 -- the corrected birth certificate, that attempt hasn't been
9 made as of today to see if your father can get an ID, correct?

10 A I've been physically unable to.

11 Q Okay. But you haven't inquired yet as to whether or not
12 your father can get a photo ID, correct?

13 A No.

14 Q After he received the correct birth certificate?

15 A No. I got home Saturday and we came up here yesterday.

16 Q Okay.

17 A So no state offices have been opened --

18 Q Okay.

19 A -- since I found that out.

20 Q Okay. And if, in fact, your father can obtain an
21 identification with this corrected birth certificate, what type
22 of identification do you intend to get him?

23 A A state-issued ID.

24 Q Okay. Not an Election Identification Certificate?

25 A I still don't know what that is.

1 **(Laughter)**

2 Q Okay. So he wants a state-issued personal ID, correct?

3 A Yes.

4 Q Okay. Did your father tell you he was going to seek legal
5 advice to help with the birth certificate issue?

6 A The birth certificate?

7 Q When you were having --

8 **MR. DUNN:** Your Honor, I'd like to lodge two
9 objections. First, it's getting dangerously close to invading
10 the privilege. And, second, it's completely irrelevant what
11 legal advice he sought and when.

12 **THE COURT:** What's the point?

13 **MR. KEISTER:** Well, the point is, your Honor, there's
14 a big question in this case about who are the Plaintiffs, if
15 any, in this case and how the Plaintiffs have been found and
16 the origin of that. And in this situation, your Honor,
17 Mr. Carrier did not go out seeking to become a part of this
18 lawsuit. Mr. Carrier went out seeking to obtain help in
19 getting the birth certificate and he was recruited into
20 becoming a part of this lawsuit. And I think that's relevant
21 in terms of what his motivations were in terms of whether he
22 was seeking to have the statute ruled unconstitutional, as
23 opposed to he was simply seeking help to get a photo ID so he
24 could live his life like everybody else.

25 **THE COURT:** Sustained.

1 **MR. KEISTER:** Okay.

2 **BY MR. KEISTER:**

3 Q Now, do you know when the last time was your father voted
4 before the time you took him?

5 A I do not know.

6 Q Okay. Before your mother passed away, she would take your
7 father to vote, correct?

8 A I think so.

9 Q Okay. And would it surprise you to know that your father
10 did not vote in every election that came up?

11 A No.

12 Q Okay. Your father would, like many of us, and there's
13 nothing wrong with it, he would pick and choose the elections
14 he was interested in, correct?

15 A Talking to him, it wasn't a picking and choosing, it was
16 whether or not he was available to go to the polls.

17 Q Okay. But he like to vote for the President; is that
18 correct?

19 A Yes.

20 Q And those type of races?

21 A Yes.

22 Q But he didn't necessarily go and vote for bond elections
23 or those type of things, correct?

24 A I think he would vote for the local elections in our
25 community.

1 Q Okay. Did it surprise you that your father was going to
2 vote for the constitutional amendment elections?

3 A What is that?

4 Q That was the election on November 5th in 2013. There was
5 constitutional amendments to the Texas Constitution.

6 A No.

7 Q Did you-all ever discuss what those amendments were that
8 were being voted on and what your father's interest was in
9 voting on those particular amendments?

10 A Are you talking about the November 2013?

11 Q Yes, sir.

12 A If that's the one that had anything about the voting
13 qualification changes, yes we did speak of that.

14 Q Okay. But that one had -- during that election, your
15 father was required to show a photo ID. But, no, that issue
16 was not on the ballot. What was on the ballot was the various
17 constitutional amendment issues. Do you recall that?

18 A As far as I can recall, I thought he was going to vote on
19 that plus I thought there were some county and state and local
20 items on the ballot also.

21 Q Okay. Now, you took your father to vote on election day,
22 correct?

23 A Correct.

24 Q Do you know if he had made any previous trips to the
25 polling place before you took him?

1 A For that election?

2 Q Yes, sir.

3 A No.

4 Q Okay.

5 **(Pause)**

6 You are aware that your father can vote by mail, correct?

7 A That's what you're telling me.

8 Q Okay.

9 A I haven't researched it and I don't know.

10 Q Okay. But when we talked at your deposition, you said
11 that you had become aware that he could vote by mail, correct?

12 A Yes.

13 Q And I think that's when we got into the question about
14 when it had to be mailed in and that type of thing, and that's
15 where I told you I didn't know the exact time, correct?

16 A Among other things.

17 Q All right. So your father has the option to vote by mail
18 since he's over 65, correct?

19 A Can he without an ID?

20 Q Yes, sir.

21 A Well then, yes.

22 Q Okay. And your father has the ability to apply for a
23 disability exemption where he would not have to use his photo
24 ID, correct?

25 A I don't know, so if you're telling me, yes. Yes.

1 Q Okay. Has your father attempted to apply for a disability
2 exemption?

3 A He did not know that it -- well, I didn't know it existed
4 so I can't answer for him, but probably not.

5 Q All right. But he's treated on a regular basis at the
6 Veteran's Administration clinic, correct?

7 A Yes.

8 Q And your father is definitely disabled, correct?

9 A Yes.

10 Q All right. And you now know that if your father gets a
11 new VA ID card, with a good picture on it, that he can vote
12 with that, correct?

13 A According to what you're telling me, yes.

14 Q Okay. And if all else fails, you now know that your
15 father can go down to DPS and apply for a free EIC, correct?

16 A I do not know that.

17 Q Okay. If you had known any of these things before
18 November the 5th, 2013, would you have helped your father take
19 one of those options?

20 A If I was aware of it, yes.

21 Q Okay. All right. Thank you, sir.

22 **MR. KEISTER:** Pass the witness.

23 **(Pause)**

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REDIRECT EXAMINATION

BY MR. DUNN:

Q Mr. Carrier, I just have a question I forgot to ask you earlier. Do you know whether the veteran's access card that your father has, if that's one of the veteran's cards that the State lists as acceptable veterans ID's?

A After the deposition, I looked up the qualifications and, from what I understand, the veteran's card is a military card, not for the VA hospital.

Q Okay. And if it's acceptable to you, I'm going to let the Court hang on to those ID's while your father testifies. Is that acceptable?

A Yes.

Q All right. Thank you again.

RECROSS EXAMINATION

BY MR. KEISTER:

Q Just one thing, and I don't want to ask you about anything you discussed with the attorneys. But, after our deposition, has anyone told you that a Veteran's Administration ID with a photo can be used to vote in Texas?

A No.

Q Okay. Thank you.

THE COURT: Okay. Is that all for this witness?

MR. DUNN: Yes, your Honor.

THE COURT: All right. Sir, you can step down.

1 **THE WITNESS:** Thank you.

2 **MR. DUNN:** Plaintiffs now call Floyd Carrier.

3 **(Pause)**

4 **THE COURT:** Good morning. All right, sir, the
5 clerk's going to swear you in if you'll raise your right hand.

6 **FLOYD CARRIER, PLAINTIFFS' WITNESS, SWORN**

7 **MR. DUNN:** Your Honor, may I stand over here?

8 **THE COURT:** Yes.

9 **DIRECT EXAMINATION**

10 **BY MR. DUNN:**

11 Q Please tell us your name.

12 A My name is Floyd James Carrier.

13 Q How do you spell that, Mr. Carrier.

14 A Floyd, F-L-O-Y-D, James, J-A-M-E-S, Carrier, C-A-R-R-I-E-
15 R.

16 Q I'm sensing a bit of an accent. Do you have an accent?

17 A Probably have -- French.

18 Q Okay. French from where? Other than France, of course.

19 A Louisiana. My parents come from Louisiana.

20 Q All right. Tell us when you were born.

21 A What they told me and what I know now is January 13, 1931.

22 Q So, when they bring out the cakes with candles is it on
23 January 13?

24 A Man, I ain't never had no cakes with no candles.

25 **(Laughter)**

1 Q Where were you born?

2 A That's what we're trying to get straight now.

3 Q Okay. Well, what did you always understand where you were
4 born?

5 A Well, they told me I was on the borderline of Jefferson
6 and Liberty.

7 Q And did you grow up in that area?

8 A No.

9 Q Where did you end up growing up?

10 A To tell the truth about it, I'd say six or seven places in
11 the United States -- not in the United States, in Texas I
12 grew up.

13 Q Where have you been the last many years?

14 A China.

15 Q And that's in Texas, Jefferson County?

16 A It is Jefferson County.

17 Q About how long have you lived there?

18 A I've lived there, let's see, since '48.

19 Q Now, you heard us talking about you the last hour or so, I
20 assume. You were in the courtroom.

21 A I did.

22 Q Okay. You were in the Army as I understand it. Is that
23 right?

24 A Right.

25 Q Give us a little understanding of your military service.

1 A Well, I was a paratrooper is what I was.

2 Q In the U.S. Army?

3 A It was the Army. The Army -- paratrooper is the Army.

4 Q How long did you serve?

5 A Two years.

6 Q Were you involved in any conflicts?

7 A No, sir, I wasn't. What do you mean? What you -- the
8 word you say, what that mean?

9 Q I'm sorry. Were you involved in any military -- wars,
10 fighting?

11 A No, no, I was in the states. I stayed in the states.

12 Q All right. Now, after you got out of your military
13 service, what kind of work did you do?

14 A I went to work for (indiscernible) Canal Company --
15 irrigated water.

16 Q What kind of work did you do with them?

17 A I was a (indiscernible) over there with them -- checks and
18 stuff like that.

19 Q And what have you done -- how would you describe your
20 career work for most of your life when you were working?

21 A My career like? It was beautiful because I was really a
22 working man and I had two kids and I wanted them to have
23 everything they needed and my wife, too.

24 Q Were you contracted out --

25 A So I worked the day and night. No, I didn't go to

1 contract. I stayed at (indiscernible) 15 years. The money
2 wasn't good enough for me so I went with the big money.

3 Q And where was that?

4 A (Indiscernible)

5 Q Is that a union?

6 A Yes, a union. From there I went in business for myself.

7 Q What kind of business for yourself did you operate?

8 A Building homes, turnkey, everything.

9 Q Did you retire at some point?

10 A Can I finish telling you --

11 Q Oh, yes, sir.

12 A All right. Okay. And then later on when my son -- he
13 stayed -- eight months ago -- he finished college and me and
14 him went into business. And we went in concrete business,
15 nothing but concrete. Pouring everywhere, all over,
16 everywhere, all over the United States we poured.

17 Q When did you stop working?

18 A Oh, '96. I had a stroke.

19 Q Is that what caused you to stop?

20 A Uh-huh.

21 Q Is that a yes?

22 A Yes, sir.

23 Q I just do that for our record.

24 A Well, I know you can't understand that -- uh-huh.

25 Q Did you come to have a stroke again later?

1 A Yes, I had a mini stroke later on. It wasn't nothing that
2 bad.

3 Q And you live in China today? Is that right?

4 A Yes, still live in China.

5 Q We've heard something about your wife passing on from your
6 son. Is that right?

7 A Right.

8 Q You live by yourself?

9 A Part time.

10 Q So, tell me about voting. Is voting something that you
11 thought was important or you think is important as a citizen?

12 A Yes, I was disappointed.

13 Q What were you disappointed about?

14 A 'Cause all I did for this country and everything and that
15 day I couldn't vote. I guess they threw me to the bushes and I
16 wasn't no good no more.

17 Q What day was this?

18 A That was in 2013 is when it was.

19 Q You went down and tried to vote?

20 A Yeah. I had went -- voted the year before that, but they
21 came to the car and I voted, see, so I thought they going to do
22 the same thing. So, my son carried me down there, see, and
23 that's when all this happened, you know. So, we didn't know
24 nothing about that, see.

25 Q And what were you told about whether you could vote when

1 you tried to go down there in 2013?

2 A They told my son to tell me that I couldn't vote because I
3 need a birth certificate.

4 Q Had you tried to get a birth certificate?

5 A Yes, sir.

6 Q What was the problem, if any, for doing that?

7 A In the first place they couldn't find where I was born at,
8 see, or what county I was in -- Jefferson County or Liberty
9 County, see. That was the first problem. The next problem the
10 name was spelled wrong, see. And the next problem spelled
11 wrong, I'm a man. It's spelled like a girl name and on my card
12 I'm a female, see. And I know I ain't.

13 Q Now, you heard your son in here testify about --

14 A Yes, sir.

15 Q -- what you've been going through.

16 A Uh-huh.

17 Q Did he testify accurately as to the --

18 A Everything he told you that's what we talk about it.

19 Q Okay. And that's what happened --

20 A I turn everything over to him because he had better
21 educated than I did, see.

22 Q He mentioned some dollars and cents having to be paid to
23 some government agencies for some documents. Do you remember
24 that?

25 A Some what?

1 Q Some money having to be paid for some of your documents?
2 Do you recall your son talking about that?

3 A Some money paid to me or who?

4 Q To the government -- to the clerk's office and to the
5 Department of Health and Human Services.

6 A Oh, yeah, we had to pay for fee, you know, when you file
7 for something you have to pay the fee, you know.

8 Q Who paid that fee?

9 A My money paid it.

10 Q And just one last thing, Mr. Carrier. When you drove away
11 from the polling location, having been rejected from voting,
12 how did you feel?

13 A I felt terrible because all I did for the country and they
14 turn me down, see, so I just felt like I wasn't a citizen any
15 more.

16 Q Are you going to give up being a citizen?

17 A No, sir, I'm here today. I ain't give up yet.

18 Q Thank you for your service, Mr. Carrier.

19 A Okay, sir.

20 **CROSS EXAMINATION**

21 **BY MR. KEISTER:**

22 Q Good morning, Mr. Carrier.

23 A Good morning.

24 Q I'm going to stand over here so I can see you if that's
25 all right -- trip and kill myself.

- 1 A I think you got your hours wrong.
- 2 Q Oh, is it afternoon?
- 3 A Yes, sir.
- 4 Q Oh-oh, it's lunch time.
- 5 A All right. Okay.
- 6 Q Okay.
- 7 A I don't mean no harm.
- 8 Q I understand. I'm hungry, too. We'll go quickly. You
- 9 saw me go through your birth certificate with Calvin, correct?
- 10 A Yes, sir.
- 11 Q And you saw the problems that we outlined --
- 12 A Oh, yes.
- 13 Q Okay. And do you agree that everything that we talked
- 14 about, all the problems that were on your birth certificate,
- 15 are true problems?
- 16 A Yes, because my son talked to me to tell me about
- 17 everything, you know?
- 18 Q Okay. And a couple of things your son wasn't aware of is
- 19 that your parents ages were wrong on there. Correct?
- 20 A Yes, their age was wrong.
- 21 Q Okay. So, almost everything on that birth certificate was
- 22 wrong, correct?
- 23 A I tell you it was, man.
- 24 Q It was.
- 25 A Since I got big enough to understand things and know now,

1 that was a terrible thing, wasn't it?

2 Q Yeah, and I think you told me at the depo that you have
3 seen your brothers' and sisters' birth certificates, correct?

4 A Yeah, I did see them.

5 Q And were those as messed up as your birth certificate was?

6 A They laughed at me 'cause I was a girl, you understand?
7 And I'm a boy, you know?

8 Q So, you're the only one in your family that had such a
9 messed up birth certificate?

10 A Yes.

11 Q All right, good. Now, when your wife passed away you
12 needed to get a photo ID, correct?

13 A That's when all hell started.

14 Q All right.

15 A Excuse me for (indiscernible)

16 Q I understand. You may want to watch it, though. The
17 Judge may be mad at you. You wanted it because you needed to
18 take care of banking issues and Social Security issues and that
19 type of thing, correct?

20 A Well, he told you what I told him but anyway, the first
21 thing started is when I started to collect the death
22 (indiscernible) on my wife, you know, the \$250. They said you
23 had to show your ID and they started looking in the thing and
24 they say that -- that's when they find that, you know, all that
25 -- I had the wrong thing. All my paper was wrong, see.

1 Q Okay. And so you had problems with Social Security. You
2 had problems with the bank. Did you have insurance problems?

3 A Oh, the bank problem was they wouldn't cash my check
4 'cause, see, it was on me and my wife name, but still she tend
5 to all the business, you know? And then when before I had the
6 stroke she tended to business 'cause, see, I had to work to
7 make a living and I work from state to state, different places.
8 I didn't work in the same place all the time, see. So, that's
9 how I missed lots of my voting, see, I wasn't in a town -- you
10 know, you can't vote if you're not in that town, see. So, that
11 why I didn't vote every time.

12 Q Okay. So, you went to the DPS office to try and get an ID
13 and they told you you needed a birth certificate, correct?

14 A Yes, sir.

15 Q And they also told you --

16 A No, the bank told me first.

17 Q Okay.

18 A The bank say you have to get your driver's license
19 straight before we can give you -- cash some money, see.

20 Q Okay.

21 A That's when I went to them people, see.

22 Q Okay.

23 A But I went to see them before me and my son with it, see -
24 - I called them when I did and they started to tell me that it
25 had expired at two or three years they expire, you know, and

1 the thing about it, see, make a long thing short. When the
2 storm came we was out of town and we came back, went to the
3 mailbox to get the mail out and somebody had pulled the bottom
4 part of my driver's license off and I had to have that to get
5 my driver's license, see. That's when we started on that deal,
6 see.

7 Q Okay. And that was back in 2006, I believe?

8 A Yes, sir. I can't remember when it was, 'cause we had two
9 storms since (indiscernible).

10 Q Right. Okay. All right. So, you went to DPS to try to
11 get a personal ID after your wife died, correct?

12 A Yes, sir.

13 Q And they told you you needed a birth certificate.

14 A That's right.

15 Q And the bank had already told you that?

16 A Well, see, the thing I had -- they didn't believe that was
17 my wife, you know? So, I had to show proof that that was my
18 wife, so that's when I had to get the birth certificate, see.

19 Q Okay. And then who told you you needed the Social
20 Security card? Remember us talking about that today?

21 A I can't remember that, how that come in the deal, the
22 Social Security card. I can't remember that, see.

23 Q But you did go and try to get one?

24 A But now -- well, I did try to get a Social Security card
25 and that was before my wife died, a long time ago. When I went

1 to get a driving license so I had to show a Social Security
2 card, see, and that's where I didn't have no Social Security
3 card. I had an Army, you know, card. That's what I'd been
4 using Social Security off of that all the time, see. And then
5 the thing about it is -- what we just talking about? 'Cause I
6 forget things quick.

7 Q Social Security card.

8 A Okay, Social Security card.

9 Q Who told you you needed to go get a Social Security card?

10 A Okay. I can't remember, but I don't know if it was them
11 or the Social Security card people. I think the Social
12 Security card people did. 'Cause see, I had to show a Social
13 Security card to identify that that was me for my wife -- for
14 me to draw -- (indiscernible).

15 Q The death benefit.

16 A Yeah, the death -- that's how it started off like that,
17 you know?

18 Q Okay.

19 A Yes, sir.

20 Q So, you went in the Social Security office and they also
21 wanted your birth certificate, correct?

22 A Oh, yeah.

23 Q And you told them you didn't have a birth certificate,
24 right?

25 A Yes, sir.

1 Q And they also had your name as Florida, correct?

2 A They had it Floyd James Carrier. They had it right.

3 Q Okay.

4 A And the Social Security number right, too.

5 Q But didn't you tell me that they had your name as Florida
6 and they told you that you were a female?

7 A No, they didn't tell me that. They didn't tell me I was a
8 female.

9 Q Okay.

10 A I think I (indiscernible) for a card. I said, you know,
11 to get my wife -- I had to turn in some papers -- my son turned
12 all the papers in. First, I would draw the money off her
13 death, in other words, see. And that's when the thing started
14 about the name Florida, you know. That was about it. My name
15 not Floyd, is Florida.

16 Q Right.

17 A And that was a female, see. That's what the Social
18 Security people start me off with.

19 Q Okay. That's what the Social Security people --

20 A And then we filed for it. And that's was why we seen that
21 on that paper, you know, all that stuff like that.

22 Q Okay. So, Social Security tells you that your name is
23 different and that you were a female, correct?

24 A Yeah, if I am mistaken, that's who told me that.

25 Q And they also told you in order to get a new card you had

1 to have a birth certificate, correct?

2 A I had to get a birth certificate.

3 Q All right.

4 A And to get the birth certificate I had to get the right
5 name.

6 Q Okay. Now, as of today you have Social Security
7 Administration send you a Social Security card.

8 A No.

9 Q Okay.

10 A No, they ain't send me no Social Security card 'cause I
11 ain't file for none yet, see. I just got my information, I
12 think, was last week it was. But I had tell all my papers I
13 have not to go get my Social Security card and get the driver's
14 license, you know, everything again I had to go -- my son came
15 the other day. We get back home and next week sometime we're
16 going to go up there and get all that straight.

17 Q Okay. But now, all of that work you did back in early
18 January or early 2013 to get an ID and get a birth certificate,
19 all of that was for the purposes of you trying to get a
20 personal ID to take care of your personal business, correct?

21 A My business, yeah. Un-huh.

22 Q It wasn't because you're not aware of this lawsuit that's
23 going on --

24 A Well, I couldn't even get my own money out of the bank.

25 Q All right.

1 A (Indiscernible) get your money out of the bank.

2 Q Right. When did you decide to become part of this
3 lawsuit?

4 **MR. DUNN:** Again, your Honor, we object on the basis
5 of relevance.

6 **(Pause)**

7 **THE COURT:** Are you following up with that question?

8 **MR. KEISTER:** Yes, your Honor, it's relevant in terms
9 of what he knew or didn't know going into a November 5th
10 election.

11 **THE COURT:** I'll allow that question.

12 **BY MR. KEISTER:**

13 Q When did you decide to become part of this lawsuit?

14 A The lawsuit? When -- I was talking with some lady and she
15 was telling me about the veteran this and you know how --
16 that's how I find out that I couldn't vote no more, see, in
17 '13. And I talked to some more veterans, see, and they had the
18 same problem, too, see. So we decided to, you know, do
19 something, see. We did.

20 Q Were you part of this lawsuit before you went to vote in
21 2013?

22 A No, no, I wasn't no part of no lawsuit. No, man, I didn't
23 know nothing about no lawsuit.

24 Q Had somebody told you of what type of ID you needed in
25 order to vote in 2013 before you went to vote?

1 A Somebody told me what kind of ID I need?

2 Q Yes, sir, to vote.

3 A No --

4 **MR. DUNN:** Again, we object other than -- not with
5 respect to other communications, but with respect to
6 communications with counsel.

7 **THE COURT:** Sustained.

8 **BY MR. KEISTER:**

9 Q How did you know to carry in your expired driver's license
10 and your veteran's card when you went to vote in 2013?

11 **MR. DUNN:** Same objection.

12 **THE COURT:** Sustained in terms of the attorney/client
13 privilege.

14 **BY MR. KEISTER:**

15 Q I'm not asking about attorney/client privilege. How did
16 you know that there was a requirement that you take a photo ID
17 to vote when you went to vote in 2013?

18 A 2013, that's when my son took it up there to vote, 'cause
19 see, now I send him up there like I did the year before, to
20 tell the lady to come, you know, come but bring a machine to
21 the car. Now that's when we find out what happened there, see.

22 Q Okay. Mr. Carrier, you're aware today that since you're
23 over 65 you can vote by mail, correct?

24 A (Indiscernible)

25 Q You're aware you can vote by mail, correct?

1 A Yes, sir, but I can't vote (indiscernible). I can't go up
2 there.

3 Q Okay. And you told me at your deposition that if you go
4 to the VA clinic they will give you a new VA ID, correct?

5 A They did. They will give me a new ID.

6 Q Okay.

7 A See, I (indiscernible) date to go up there. See, but
8 after this come up I have to come over here, see, today.

9 Q Okay. So, you know if you want to you could go to the VA?

10 A Yeah, I'm going to go get it. Yeah, I wouldn't -- nobody
11 didn't tell me I couldn't do it. I know it. 'Cause I been
12 putting off to go get one. I'm sorry to stop you.

13 Q That's all right. And you know you could apply for a
14 disability exemption where you don't have to show an ID to
15 vote, correct?

16 A No, I didn't know that.

17 Q Okay. All right. Thank you, sir.

18 Pass the witness.

19 **MR. DUNN:** Nothing further, your Honor.

20 **THE COURT:** All right.

21 **MR. DUNN:** May I assist the witness?

22 **THE COURT:** Yes.

23 **(Court confers with clerk)**

24 All right, counsel, we're going to be in recess for
25 lunch. I'm showing it is 12:10, so we'll reconvene at 1:10.

1 **THE CLERK:** All rise.

2 **(A recess was taken from 12:10 p.m. to 1:09 p.m.)**

3 **THE COURT:** You can have a seat.

4 **THE COURT:** Okay, are we ready to continue then? The
5 Plaintiff will call their next witness.

6 **MR. GARZA:** Yes, your Honor. Jose Garza for the
7 Mexican American Legislative Caucus and, your Honor, we call
8 Representative Trey Martinez Fischer.

9 **(Pause)**

10 **THE COURT:** Would you raise your right hand?

11 **TREY MARTINEZ FISCHER, PLAINTIFF'S WITNESS SWORN**

12 **THE WITNESS:** I do.

13 **THE CLERK:** Thank you.

14 **DIRECT EXAMINATION**

15 **BY MR. GARZA:**

16 Q Would you state your name and residence, please?

17 A Yes, Trey Martinez Fischer. I'm a resident of San
18 Antonio, Bexar County, Texas.

19 Q And are you currently an elected official?

20 A I am.

21 Q And you are currently a State Representative, is that
22 correct?

23 A I am, I'm a State Representative from San Antonio, Texas.
24 I'm in the middle of my seventh term and I am running for an
25 eighth term this November.

1 Q Okay. And you represent District 116 in the Texas House
2 of Representatives?

3 A That is correct.

4 Q And can you briefly describe to the Court the general
5 demographic characteristics of House District 116?

6 A House District 116 is a minority opportunity district,
7 largely Hispanic. It begins in the west side of San Antonio,
8 just outside downtown, and runs in a northwesterly direction
9 ending at the University of Texas at San Antonio at 1604. It's
10 a very diverse district. It has pockets of affluence as well
11 as some of the highest and most challenging socioeconomic
12 conditions that we face in the State, and it's a district that
13 I've represented for 14 years.

14 Q And you are currently the Chairman of the Mexican-American
15 Legislative Caucus, is that correct?

16 A That is correct.

17 Q And how long have you been the Chairman?

18 A I've been the Chairman since the election of 2008 so I've
19 served as Chairman for the sessions of 2009, 2011 and I'm
20 currently the Chair.

21 Q And would you describe for the Court what the Mexican
22 American Legislative Caucus is?

23 A Sure. Historically, the Caucus was formed in 1973 at a
24 time when the political environment and the Texas Legislature
25 was dominated by Democrats. The sole purpose of the Caucus

1 coming together was that the -- was to allow the Latino members
2 of the Texas House to leverage their voices to -- to get things
3 done, and in that instance, back in 1970, it was to capture one
4 seat on the powerful Budget Writing Committee.

5 From that time our Caucus has grown over the course
6 of several decades to not be only the oldest Caucus, Latino
7 Caucus of the United States, but also to be the largest. We
8 are now 41 members of the Texas House.

9 The Caucus uses its institutional knowledge and our
10 By-laws to travel the company and incorporate caucuses across
11 America in places where they -- States that are also beginning
12 to realize growth in population with the Latino community, so
13 it's a very big and well-known organization.

14 Q And beyond this initial purpose, Representative, that you
15 described, what are now the goals and purposes of the Caucus?

16 A I like to say that we have both an internal role and
17 external role.

18 Internally we are a member services caucus, so
19 anybody who is a member of our Caucus, and to be clear, there
20 are only two ways you can become a member of our Caucus; that
21 is either you are Latino or you represent a district that is 50
22 percent voting age population Hispanic, and in some instances
23 your session is reviewed in your first term to see whether or
24 not your voting record comports with the values of our Caucus.

25 So internally we provide member services, policy

1 briefings, education to our members. We certainly serve as a
2 public policy voice to make sure that our goals and objectives
3 are being met and, quite frankly, we are also a organizing tool
4 to make sure that public policy priorities that we support
5 receive the support; policy priorities that we oppose, we lead
6 that opposition.

7 Externally we try to be the voice for all Latino
8 Texas that is growing by the day. We like to feel like we're
9 doing our jobs and we receive calls from across the State, from
10 Hispanics, no matter where they come from, to know that they
11 have a place where they can be heard and receive assistance and
12 guidance from the 41 members of our Caucus.

13 Q And is the Caucus a branch of the Democratic Party?

14 A No. It's often a misnomer. People seem to think that.
15 The Caucus was organized in spite of the Democratic Party.
16 It's a bipartisan caucus. Today we do have a couple of members
17 who are Hispanic Republicans that are members of this Caucus
18 and at one point in 2011 there might have been as high as five,
19 if not six Hispanic Republicans.

20 Q And you've been -- have you been a member of the Caucus
21 since your first election?

22 A Since my first election in 2000, I gained admission in
23 2001.

24 Q And, in your experience, has the membership of the Caucus
25 stayed relatively unified when it identifies particular issues

1 or legislation?

2 A Because our criteria for admission is so tight and so
3 narrow, it's not a volunteer caucus. We like to think that we
4 come together and we coalesce around issues.

5 Of course, the golden rule in the Texas Legislature
6 is that members are supposed to vote their districts, and so
7 there are occasions when members, even perhaps because of a
8 role distinction versus urban, or perhaps a conservative
9 principle versus a nonconservative principle, the members have
10 that freedom to vote how they're going to vote but, quite
11 frankly, you know, we do not gain -- we do not allow folks to
12 have admission to our Caucus whose views do not comport with
13 ours.

14 Q And can you describe some of the issues that the Caucus
15 has championed over the last couple of years?

16 A Sure. Well, you know, being incorporated in the 1970s I
17 think you could characterize this Caucus as a civil and social
18 justice organization. It was to deal with rampant
19 discrimination whether it be in politics or in public policy,
20 public education, voting rights and so forth.

21 As Latinos become 38 and 39 percent of the State-wide
22 population, as we represent all of the growth -- that dynamic
23 growth in the State, I think our Caucus feels like we have a
24 much larger obligation to not stray too far from our Civil
25 Rights legacy, but since we will be responsible, in part, for

1 the larger challenges in our State, whether it be
2 infrastructure, transportation, health care, complex issues,
3 our Caucus will play a role. We are very fortunate to have a
4 member of our Caucus sit on almost every standing committee at
5 the Texas House. Not too many caucuses can take that kind of
6 credit, and so within that structure we develop subject matter
7 expertise and we use our members and we deploy them
8 strategically so that they can share their expertise with not
9 only the Body, but with folks who are concerned about public
10 policy as in terms of stakeholders.

11 Q And as you mentioned, Representative, with the Hispanic
12 population growth, has that been a topic that Number 1, is
13 familiar to the Caucus; and, Number 2, is familiar to the
14 Legislature?

15 A I think it's always been familiar to the Caucus. I think
16 this is a demographic metric that we follow very, very closely.

17 From a Legislative perspective, I think it takes a
18 census to sort of wake people's eyes up, and so in the context
19 of 2011 that we evaluated their ID and other proposals, it came
20 on the heels of a census release that showed that the State of
21 Texas grew by over 4 million people in the course of a decade;
22 89 percent of that minority; 65 percent of that Hispanic, 1
23 million children 95 percent Hispanic. It marked the first time
24 in the history of the State of Texas that our public education
25 system became majority Hispanic. These were astronomical

1 metrics of demographic growth. The result of that gave Texas
2 four additional seats in Congress. The last time that happened
3 was in the 1860s after the Civil War.

4 Q So we're going to be talking a little bit about the
5 Caucus's position on SB 14, the voter ID Bill --

6 A Okay.

7 Q -- but before we get into that, would you describe for the
8 Court the atmosphere in the Texas Legislature in 2011?

9 A Well, I would say you -- it was certainly an atmosphere
10 that was very tense. There was a election in 2010 that had a
11 very clear result in terms of the type of politics that was
12 coming to Austin. And in this environment we had to deal with
13 legislative re-districting, which is always a full contact
14 sport in Texas. We were dealing with some very, very extreme,
15 I would like to consider them to be anti-Hispanic public policy
16 initiatives from English-only proposals to, you know,
17 penalizing cities or identifying cities as sanctuary cities.

18 I think there were proposals to roll back and not
19 provide relief for the Affordable Care Act where Hispanics are
20 some of the biggest numbers of the uninsured in the State. So
21 suffice it to say that tensions were very, very high already,
22 they were very, very divisive, and what was unusual about that
23 is this sort of came off a 2009 session where everybody seemed
24 to work together, everybody had a place at the table, everybody
25 was able to negotiate and leverage and it was not necessarily

1 the best ideas that would prevail, but it was this concept of
2 sort of shared interest where everybody had a shared interest
3 in working together. That wasn't existent in 2011.

4 Q And was it your impression that this was, in part, fueled,
5 as you said, by the 2010 election, but also fueled by the
6 demographic changes that were happening?

7 A Well, I've said often that given the changing demographics
8 in the State of Texas, that people have an opportunity to work
9 for and with the Hispanic community or work against the
10 Hispanic community.

11 Lots of legislative proposals we saw in 2011 were
12 very, very clear that those in the leadership had chosen to
13 work against the growing demographic, the growing Latino
14 community in the State, and there were several policy choices
15 that are evidence of that.

16 Q And getting to the voter ID Bill, it did not have its
17 inception in the 2011 session, is that correct?

18 A No, I believe the voter ID began to sort of become visible
19 and apparent as far back as 2005 and had been filed in some
20 form or fashion in every session, so '05, 2007, 2009 and here
21 in 2011.

22 Q Okay. And in each of the prior sessions beginning with
23 2005, there seemed to be a change in the sponsor for the
24 legislation. Did that seem significant to you?

25 A It is. I think it's inside base law. I've been a

1 lawmaker now for 14 years and there are pieces of legislation
2 that I care about passionately, and if I can't pass it I'll
3 always bring it back the next session.

4 In the case of voter ID this was a subject matter
5 that just floated from author to author, and so if somebody
6 carried it in '05 and that person didn't come back somebody
7 picked it up. And what's unfortunate about that is typically
8 in the legislative process you're building consensus, you're
9 trying to work towards a resolution, particularly in the case
10 of legislation that fails, and you try to figure out what went
11 wrong, what steps you can do to make improvements, lever some
12 coalition, build some consensus and then bring back an improved
13 product in the next session.

14 Well, what was happening here is the authors were
15 changing, but there were less and less dialogue going on over
16 the years in terms of not seeking the consensus and sort of
17 that, you know, working together to pass legislation that we
18 would all care about.

19 Q And what was the Caucus's strategy, or how did they
20 approach the voter ID bill that was being proposed?

21 A In what year? I'm sorry.

22 Q I'm sorry, in -- so over the duration of these different
23 years when the legislation was being introduced, was the Caucus
24 engaged in -- in the debates over those pieces of legislation?

25 A Sure. It's -- you know, it is a very similar strategy and

1 tactic that we use for all types of legislation. In this
2 instance I think there was always an instant reaction to be
3 opposed to anything that has the ability to disenfranchise
4 voters or take away people's voting rights, and so certainly
5 you would look at legislation very suspiciously from a
6 defensive perspective. And so if you're looking at this from
7 defensive perspective then it's engagement at the community
8 level, it's making sure that the members of MALC are allies on
9 the committee, are asking the right questions, making sure the
10 witnesses are being heard and that we're making points.

11 And while that's happening there is a number of
12 conversations happening both on line and off line as to whether
13 this is really going to happen.

14 As legislation moves down the legislative, you know,
15 pipeline, if you will, then these strategies and tactics adjust
16 so when it ends up in a Procedural Calendars Committee, which
17 is a very powerful committee, then we use our allies to find
18 ways to have time-honored tags or procedural holdup. We're
19 making sure that the paperwork is in order before they can
20 proceed on the Bill, negotiating with the leadership to put
21 this priority down the road. I mean, again, lots of moving
22 parts here. It's not as if we're just -- you know, one day we
23 show up for 30 minutes and the conversation is had and it's
24 over with, this is a constant moving vehicle and as the Bill
25 then prepares to find its way set for Calendar Debate, then you

1 start all over with a very aggressive amendment strategy, a
2 very aggressive floor strategy. The parliamentary rule
3 proceduralists experts get out the rule books and start looking
4 for flaws in the Bill to send it back to Committee, and then we
5 have a whole another group of folks talking to the members of
6 the Senate to see what the Senate strategy is and what are
7 their needs and how we can assist them to make sure that our
8 points are being heard, and that they have what they need to do
9 their job in the event that this is a Bill that originates in
10 the House and is on its way to the Senate.

11 Q So we'll go over each of those different components of the
12 road to enactment.

13 A Okay.

14 Q Did members of the Caucus, and you, in particular, attempt
15 to find out what the rationale was for the 2011 voter ID Bill?

16 A Well, I think there are always discussions and, again, I
17 mean, like 2011, this is not a brand new piece of legislation.
18 So I would suffice it to say that when voter ID was filed in
19 2011, I think many of us picked up the conversation of '09
20 which was, okay, if you are insisting on having a magic
21 document that purports to be the document that protects the
22 integrity of the ballot box, then let's -- let's do this, let's
23 expand the number of opportunities people can have these IDs,
24 like in Indiana, or like a Georgia, and expand the number of
25 IDs you could use, and if somebody has that document then they

1 should be able to vote whenever, however, same day, voter
2 registration. If this is the magic document, if this is what
3 protects the franchise, well, once they have it they can vote
4 and we don't have to go with the necessity of voter
5 registration. That was sort of the sentiment in 2009, can we
6 get to a place where we can have this purported integrity at
7 the ballot box and at the same time expand voting opportunities
8 for everybody in Texas.

9 In 2011 -- I'm sorry --

10 Q No, no, no. I'm sorry, go ahead.

11 A In 2011 those conversations not necessarily fell on deaf
12 ears, but the accelerated pace of the voter ID proposal, the
13 deviations from procedure and process made it very clear that
14 this was not a piece of legislation that was going to be
15 inviting of compromise and negotiation. This was going to be a
16 piece of legislation that was going to arrive on the Governor's
17 desk, you know, early in the session to prevent anything from
18 happening after three unsuccessful attempts in the sessions
19 prior.

20 Q So you mentioned that in 2009 it seemed that the rationale
21 was the integrity of the ballot. Was that always the stated
22 purpose or the argument for SB 14?

23 A You know, you -- there may be three general arguments.
24 The argument is, well, there is, you know, improprieties
25 occurring at polling locations and, of course, you delve into

1 the weeds and you begin to learn, well, the behavior that
2 they're speaking about deals with electioneering and poll
3 worker activity, and in some unfortunate cases election judges,
4 you know, not administering election law objectively. And so
5 you bring that to the attention of advocates of SB 14, then the
6 rationale would shift. They would say, "No, no, this protects
7 the integrity at the ballot box."

8 And so you get back into the weeds, you go through
9 the data and you realize that all of the voter irregularity,
10 all of the integrity issues, if you want to call it that, you
11 know most of them deal with mail ballots. Senate Bill 14 did
12 nothing to address that. And so then you confront the
13 advocates of SB 14 and say, "Well, if you really want to
14 protect the integrity of the ballot box let's fix the vote by
15 mail process and we're happy to work with you."

16 And then it became, "Well, no, no, no, we have to do
17 this so that undocumented citizens or undocumented immigrants
18 couldn't vote." And, of course, then you get back into the
19 weeds and you come back and say, "Well, what about legal
20 permanent residents that have many of these forms of IDs that
21 you say are required to vote? They're not -- if that's
22 happening, which the evidence doesn't suggest that it is, but
23 if you think that's happening this law proposal will not
24 address that." So it was a shifting rationale to answer your
25 question.

1 Q So as the -- so as the rationale shifted and the Caucus
2 presented evidence on each of these issues, were there also
3 formal attempts to ameliorate the concerns of the Caucus and
4 the Bill?

5 A One thing that I learned in my course of legislative
6 session is the worst law that we passed in Austin is the law of
7 unintended consequences where we pass a measure and then
8 something bad happens and we come back in the out year, in the
9 future year, we come back and say, "Members, this proposal will
10 fix the unintended consequences of the law we passed two years
11 ago."

12 With respect to voter ID, we laid out a number of
13 scenarios. When I say "we" I mean members of the Mexican
14 American Legislative Caucus, to say "This public policy
15 proposal isn't going to work because the identification
16 requirements are too narrow. If you really believe that
17 Government-issued IDs work and have validity, well, let's look
18 at State employee IDs. Let's look at" --

19 Q So there were amendments to expand the --

20 A A number of amendments that would -- I mean, I could go
21 on, but some very good examples of amendments were to allow any
22 -- any sub-jurisdiction ID, State employees, County employees,
23 City employees to vote with those IDs. Students in college and
24 universities that, in my view, many colleges and universities
25 in the State of Texas are quasi-governmental entities in scope.

1 They receive funding from the State, they receive oversight by
2 the State. Those IDs should be fair game. We should certainly
3 look to making sure that we provide meaningful exemptions, or
4 that we have a provisional ballot system that actually works
5 where people don't have to come back the second time and prove
6 whatever they need to prove, like the incidents in Indiana.
7 All of these issues fell on deaf ears.

8 The issue with regard to the resources, deploying
9 strategic resources to deal with one-third of Texas counties
10 that lacked a DPS facility in their County, those issues fell
11 on deaf ears.

12 Q So one of the things we've heard, Representative, is that
13 the State now employs mobile units to assist with the securing
14 of the ID. Was this something that was raised during the --
15 during the legislative process?

16 A I'm not as familiar with the words "mobile units being
17 used," but what was used was the fact that a third of our
18 State, in terms of Texas counties, did not have a DPS facility.
19 Lots of conversation to provide this -- this tool to local
20 Governments to have -- allow for local control. Let County
21 Judges and County Commissioners' Courts decide, you know, how
22 the EIC process would work, it's Number 1, subject, you know,
23 to their control; and Number 2, they work with election
24 officials on the ground. Those issues were, you know, just not
25 even negotiable.

1 The amount of money that was appropriated in Senate
2 Bill 14, it was just a little over \$2 million, it was like \$2
3 million and 26,000. \$2 million of that was HAVA (phonetic)
4 money, so highly restricted money, money that could only be
5 used for voter education which they certainly said in the
6 proposal that that's what the money would be used for, and
7 26,000 for technology changes to update web sites.

8 So if DPS is using Troopers or mobile units or, you
9 know, personnel to -- to do things that Senate Bill 14 doesn't
10 allow them to do, they're doing it at the expense of other
11 resources within the Department. So, in other words, if it's
12 -- if it takes time and personnel hours to deploy a voter EIC
13 Program in a County that has no DPS presence, it's coming at
14 the expense of other DPS priorities and so -- which has not
15 been articulated to lawmakers or to me, for that matter.

16 Q Okay. Now were there unique procedural processes that
17 were used for SB 14?

18 A Yes. In general terms I think that, you know, anyone who
19 follows legislative procedure knows that this is, you know,
20 every Bill goes through the same process. And so what -- the
21 deviations that I saw here very clearly, this Bill originated
22 in the Senate. Immediately it was announced that the Senate
23 two-thirds rule, which has been a time-honored tradition in the
24 Texas Senate, would not be honored for this Bill.

25 Secondly, the Senate Committee met as a Committee of

1 the Whole, and a Committee of the Whole has probably happened,
2 in my career, you know, two or three times, perhaps it could be
3 as high as five, but not a very often used strategy to use the
4 floor of the Senate for the Bill to be heard using the
5 Committee of the Whole.

6 As the Bill made it over to the Texas House, the
7 Texas House has a Standing Committee on Elections where voter
8 ID Bills would certainly go. In the years past that's where
9 they had gone, but a brand new Committee was created by Speaker
10 Strauss, and what was unique about it, it was a Select
11 Committee. So when you have a Select Committee in the Texas
12 House the Speaker chooses every member of the Committee;
13 whereas, for Standing Committees, seniority will take up half
14 of the Committee. And so by having a Select Committee the
15 Speaker got to pick and choose every person he wanted on that
16 Committee. That Committee only heard one piece of legislation.

17 The Senate Bill made it over to the House before
18 there were even committees named in the Texas House. We're
19 talking about all due speed, we're talking about moving a
20 legislative proposal that this appeared to me that this was one
21 of the first pieces of legislation they were expecting to place
22 on the Governor's desk, and it might explain why the Governor
23 designated this to be a legislative priority or an emergency
24 matter which then -- which then circumvents the -- the 60-day
25 prohibition on taking legislative action on the floor of the

1 Texas House.

2 Q Were there special rules for the local calendar on SB 14?

3 A Well, a matter like this, I believe, was placed on the
4 Emergency Major State Calendar, or something to that effect,
5 and so just looking at it from a chronology's perspective, it
6 was very clear that the time-honored tradition of tagging was
7 not allowed for this piece of legislation.

8 The reason why I know that is I think you can just
9 count the number of days. Being a lawmaker, I've had several
10 pieces of legislation tagged and the tag is usually for about a
11 week. I sit next to the Chairman of the House Counter
12 Committee. I see many members go to his desk on bended knee to
13 get their proposals set on the Debate Calendar and, you know,
14 you hear about tagging all the time. It's a time-honored
15 tradition. This is what gives the members of the Calendar's
16 Committee their power, it's not just power to the Chairman of
17 the Committee. And so but looking and judging by the way this
18 Bill reached the floor, then that was not a tradition that was
19 honored in this instance.

20 Q And do members use points of order to try to impact
21 legislation?

22 A It is a very appropriate floor tactic and, in fact, there
23 were two points of order that I can recall. One that sent
24 Senate Bill 14 back to Committee and it had to deal with the
25 fact that the author of the Bill purported on the House floor

1 that -- that there were a number of days that, you know, some
2 action had to occur, and she couldn't remember whether these
3 were business days or calendar days. When she had it wrong and
4 the analysis was wrong, well, then that was a flaw, they could
5 send the Bill back to Committee, correct the flaw and it could
6 be back to the House floor which, in fact, it did -- not in
7 record time, but in -- in time to make it very, very clear that
8 this was a leadership priority to come back to the floor
9 immediately.

10 The second time around I called a Constitutional
11 point order. And the significance of a Constitutional point of
12 order is a Constitutional point of order can eliminate the
13 proposal for good, it doesn't go back to Committee, it doesn't
14 get back to the last known action and get corrected. You
15 cannot correct a Constitutional defect, the Bill dies. And the
16 only thing you can do to revive that proposal is to file it
17 again, and if it's after the filing period, seek a Motion to
18 introduce legislation on the floor of the House which is
19 subject to a vote.

20 The Constitutional flaw, in my view, was a valid
21 point of order because the House and Senate ultimately had to
22 go outside of the bounds and "outside of the bounds" means when
23 a conference report, when the House and Senate meet in
24 conference to discuss differences in their proposals, if they
25 adopt language that neither chamber debated, the only way it

1 can be passed is that the House and Senate have to take a vote
2 to go outside the bounds of the conference. And so the
3 language that was voted on outside the bounds made it very
4 clear that the election information certificate or election
5 identification certificate would not cost any money, Number 1;
6 and Number 2, would not deprive our Constitutional Mobility
7 Fund of much needed revenue that was subject to credit
8 agreements that the State of Texas had with all of the bond-
9 holders for toll roads.

10 And so my Constitutional argument was by depriving
11 the Mobility Fund of these resources we are violating our
12 credit agreements to our toll road partners, and if this money
13 is not replaced it's going to be unconstitutional. And so --

14 Q So the point that you raised was addressed in terms of how
15 the Bill was structured, but there was never a resolution of
16 your point on the Constitutional issue?

17 A When I raised the point of order you do it often times as
18 an objection in a courtroom. You -- you maybe lodge one or
19 two, and you lodge some in the alternative, and so there may
20 have been a rule challenge as well as a Constitutional
21 challenge, and I remember the ruling from the Chair was a
22 decision only on the rule aspect of the point of order and a
23 statement from the Chair that he would not get into the
24 Constitutional issues which said to me that there was something
25 there and the out of bounds resolution was proof positive of

1 that.

2 Q And, finally, Representative, do you recall any evidence
3 presented during the debate on S -- Senate Bill 14 other than
4 anecdotal evidence, that in person fraud, voter fraud, was a
5 problem in Texas?

6 A You know, at the time of the 2011 voter ID legislation we
7 had the elections of 2008 and 2010 for us to look back at.
8 What the evidence clearly showed that there may have been, of
9 the millions of votes cast in both of those elections, there
10 were perhaps four referrals for in person voter impersonation
11 with a result at that time one, if not two individuals that had
12 been officially charged and may have accepted responsibility
13 for impersonation.

14 I will also say that there were a number of lawmakers
15 that were asking for real evidence, asking the Attorney General
16 to provide monthly reports of this instance, members involved
17 at the Committee level asking the Secretary of State's Office,
18 Elections Office for analysis and review to show us where this
19 problem is, and -- and, you know, very little information about
20 -- in fact, I'll tell you no information with respect to in
21 person voter impersonation, and very, very little information
22 thereafter.

23 Q On the other hand, Representative, do you know whether
24 there had been an impact study done by the Secretary of State
25 and whether that was chaired with the legislators?

1 A I know that anything that we do that has these sorts of
2 consequences, especially at a time when Section 5 was alive and
3 well, there were always impact reports done. It was done in
4 re-districting, it was done in voter ID and I am aware, just by
5 being a member of this litigation, that there were reports that
6 were generated and, in fact, were not presented to members of
7 the Legislature, and I think that there are instances when, you
8 know, as a lawmaker, not only do we have our Constitutional
9 right to speak and debate and have access to the information we
10 need in order to do our jobs; we also have certain privileges
11 afforded to us by law that give us information for legislative
12 purposes including attorney-client product information,
13 including any kind of work product written or created by any
14 agency. In some instances we have to sign a confidentiality
15 agreement, but in many other instances we have access to that
16 report, and so it troubles me to know that reports are being
17 generated by the Secretary of State's Office to look at the
18 impact of SB 14, and not any of that information was ever
19 produced to the author of the Bill on the House -- excuse me,
20 the House Sponsor on the House side, members of the Special
21 Select Committee on voter ID, or any member for the House that
22 I worked with on this trying to defeat this proposal.

23 **MR. GARZA:** Pass the witness.

24 //

25 //

CROSS EXAMINATION

1

2 **BY MR. SCOTT:**

3 Q Hello, Representative, how are you doing?

4 A I'm doing okay, sir. How are you?

5 Q I -- during your direct, you made mention of some
6 alternative forms of identification that were proposed at least
7 by your group or by other members of the Democratic Caucus; is
8 that correct?9 A No, sir. By myself and members of the Mexican American
10 Legislative Caucus.11 Q Okay. And some of those were student I.D.'s, for
12 instance?

13 A Yes, sir.

14 Q Did you ever -- were you able to capture a metric on how
15 many student I.D.'s were used prior to the passage of SB 14 in
16 elections as a form of I.D.?

17 A I'm sorry. Could you repeat the question?

18 Q Sure. Prior to the passage of SB 14 and the
19 implementation of SB 14, are you aware of how many people used
20 student I.D.'s in actual elections for purposes of proving up
21 their identifications at the poll?22 A Right. Prior the enactment of Senate Bill 14, I wasn't --
23 I didn't understand that anyone had to produce an I.D. to vote
24 at an election poll.

25 Q So, is that a no, you don't remember or came up with any

1 type of metric that you know of, of any type of student I.D.
2 which was used for the purpose of identifying yourself when a
3 person didn't have a voter registration card at a polling
4 place, prior to the passage and implementation of SB 14?

5 A I don't have any of that knowledge.

6 Q Okay. No information was passed out to other legislatures
7 about any of the other alternative forms of identification and
8 -- or any studies about the implementation and use of those
9 type of alternate forms of identifications, correct?

10 A Not that I'm aware of.

11 Q You are a party to this -- or your organization is a party
12 to this suit, correct?

13 A Yes, sir.

14 Q You are the chairman of that organization as we sit her
15 today, correct?

16 A Yes, sir.

17 Q Have you advised anybody; for instance, Representative
18 Farrar that if she doesn't have anything to hide, then to
19 produce everything she has with regard to legislative
20 materials?

21 A In what capacity, sir? I don't --

22 Q Well, I'm just asking you if you have or haven't.

23 A If I've ever asked Representative Farrar to produce
24 documents?

25 Q If you've ever told her to produce documents if she has

1 nothing to hide.

2 A I don't know that I've had that conversation with
3 Representative Farrar.

4 Q Have you sent her any kind of correspondence that said
5 that?

6 A I may have. I don't know.

7 Q Do you know if you told her if you have something to hide,
8 maybe she should assert the legislative privilege?

9 A No. I know that there is correspondence concerning
10 legislative privilege. I don't believe that I was directing
11 those comments. My standard practice is, whenever I receive an
12 inquiry from a colleague or a member of MALC regarding a voting
13 rights question, I will make the referral to Mr. Garza or
14 Mr. Golando or the lawyers that are assisting us in that
15 matter, depending on whether it's redistricting or voter I.D.

16 Q You don't recall making any kind of -- sending any kind of
17 letter to Ms. Farrar giving her those kind of directions,
18 correct?

19 A I don't.

20 Q During the course of your direct, you used words "very
21 tense, full contact sport, builds some consensus." It's the
22 legislative process, I guess, that you've been doing for almost
23 -- over 14 years, correct?

24 A Yes.

25 Q Sometimes somebody that's against you on one Bill is with

1 you on another Bill, correct?

2 A On occasion, yes.

3 Q Sometimes a Representative says something either on the
4 floor or maybe at a meeting outside of the legislative body
5 that maybe wishes he could take that comment back; did you ever
6 do something like that?

7 A Yeah. I think that tensions flare up and -- you know,
8 people are human. They make mistakes. They're emotional and
9 there are always those occasions when somebody may walk back
10 something they said. Or on the other hand, someone may stew
11 about something they want to say overnight and they'll confront
12 the member the next day. I mean, it's a --

13 Q Well, and I think another phrase you used during the
14 direct examination was "not inviting of compromise" was how you
15 would have described this -- the aura around SB 14.

16 A Sure. I can certainly explain that if you like.

17 Q Well, no. Just is that -- that was the term you used,
18 correct?

19 A I believe so; yes.

20 Q Yeah. And there -- you found a shifting rationale,
21 correct?

22 A Yes, sir.

23 Q Is it possible this was -- this is all at least, at the
24 time, that the legislature was a battle between Republicans and
25 Democrats?

1 A No.

2 Q I mean, that's not unusual as we sit here today at the
3 trial --

4 A Well --

5 Q -- that Republicans and Democrats go to battle over
6 legislation because they think they can gain some political
7 advantage?

8 A I think what's fair is that everybody in the Chamber is
9 either Republican or Democrat. You know, the tenor and the
10 substance of the debate often deal with voting rotes and the
11 Voting Rights Act which didn't apply to Republicans or
12 Democrats. It applied to minorities.

13 Q Well, and so -- I'll get your comment if I could on a
14 snippet.

15 **MR. SCOTT:** If I could get you to play that Brian?

16 Q I'll ask you a question after this.

17 A Sure.

18 **(Video played back from 1:44:35 to 1:44:46 p.m.)**

19 **MR. SCOTT:** Okay.

20 Q That's you?

21 A That is.

22 Q And that's you giving a speech at the Texas State
23 Democratic Convention, correct?

24 A Yes, sir.

25 Q And is that building a consensus in your mind --

1 A That --

2 Q -- with your GOP folks?

3 A That was building a consensus with my audience, the
4 Democratic Convention; yes, sir.

5 Q What did you mean by that?

6 A Well --

7 **MR. GARZA:** Objection. Relevance, your Honor. That
8 was not a legislative process. That's not what he talked
9 about. I don't know that this has any relevance except to the
10 argumentative.

11 **MR. SCOTT:** Cross examination. It goes to the
12 credibility of the witness.

13 **THE COURT:** I'll allow it. Overruled.

14 **BY MR. SCOTT:**

15 A I will say that there are far worse exchanges on the floor
16 of the House than Gringos and (indiscernible). And so -- and
17 that doesn't stop parties from coming together and pulling the
18 vote in the same direction to pass legislation. We did a very
19 good job of it in 2013. I can cite some examples of that.
20 What I was referring to in 2011 which wasn't the year that this
21 speech was given -- and so, going back two years, the
22 environment didn't lend itself to people getting in a room,
23 rolling up their sleeves and working towards a compromise.
24 I'll tell you even in the debate for sanctuary cities, which
25 was a very, very divisive debate -- in fact, it was the debate

1 where I was noted for turning my microphone to address the
2 Speaker directly which is a clear violation of decorum of the
3 House floor but just to illustrate the level of how tense and
4 how divisive the floor was. Even in the divisive Bill of
5 sanctuary cities, one of the most aggressive anti-Latino pieces
6 of rhetoric, the Speaker forced people from both parties to sit
7 in this conference room and try to work through amendments.
8 And so, there's a clear difference in terms of the tenor and
9 the tone of the debate and the tension on the House floor is
10 always high and things happen.

11 Q I've said some stuff in my life. I've said some stuff in
12 this courtroom. I think the Judge could be the first witness
13 to that affect that I wish I could take back. Hit the rewind
14 button -- delete. Is that one of those comments to you?

15 A No. I think that in the entire clip -- and to be fair, in
16 the entire 17 minute speech -- you know, of which -- you know,
17 we saw ten seconds of, the lines that would follow that if you
18 were to play the minute and seven second clip that you took
19 that piece from, talks about the extreme views of the Tea Party
20 and that the most frightening piece of legislation comes in
21 their anti-Immigration platform. I was speaking to a platform
22 that has some very hard and negative sentiments about Hispanics
23 in the State of Texas. And I felt like as a Hispanic leader in
24 this State, I had an obligation to not run from it, but to
25 stand up for it and that's what I did.

1 **MR. SCOTT:** Your Honor, may we approach? There's a
2 document we probably want to run past. It's from
3 Representative Martinez Fischer who is here testifying
4 Representative Farrar is not asserting any legislative
5 privilege.

6 **MR. GARZA:** Your Honor, has the witness been provided
7 a copy of this if there's going to be --

8 **MR. SCOTT:** Not yet. I was making sure the Court
9 first --

10 **THE COURT:** What -- what's the issue here?

11 **MR. SCOTT:** He -- I think he did not recall sending
12 any writing to Representative Farrar at all about instructing
13 her on document production regarding asserting privilege or
14 producing documents in this case. I just want to simply get it
15 into the record from this witness to prove it up.

16 **MR. GARZA:** So, I think that the document speaks for
17 itself. If the document can be shown to the Representative and
18 he can ask whether --

19 **THE COURT:** That's fine.

20 **MR. GARZA:** -- he authored the Bill or authored the
21 (indiscernible).

22 **MR. SCOTT:** I'll offer it as an exhibit. If no
23 objections, we'd only need to talk about it in open Court.

24 **MR. GARZA:** I would say that I don't know how this
25 has any relevance to the issues that are pending before this

1 case. What position the Representative took and MALC took on
2 the question of legislative privilege is not a factual issue
3 that has any relevance to this case.

4 **THE COURT:** I agree. There's been some testimony on
5 it. Let's finish it up.

6 **MR. GARZA:** Yes, your Honor.

7 **THE COURT:** Do you want to show it to the
8 Representative?

9 **MR. SCOTT:** May I approach, your Honor?

10 **THE COURT:** Yes.

11 **BY MR. SCOTT:**

12 Q Representative, if you'll take a peek at that.

13 **MR. SCOTT:** And, your Honor, for the record, the
14 witness is looking at Farrar Exhibit 544, bates number.

15 **BY MR. SCOTT:**

16 A I reviewed it.

17 Q First of all, did you write that?

18 A I did not write it, but I knew of its drafting; yes.

19 Q And did you send it?

20 A I didn't send it, but I knew it was being sent.

21 Q It appears -- so for the top it says "from Trey Martinez
22 Fischer."

23 A Yes.

24 Q And it's got "Chairman at MALC.org," correct?

25 A Yes, sir.

1 Q And is that your e-mail address?

2 A That is my e-mail at MALC; yes, sir.

3 Q And only persons authorized by you to send in that name is
4 persons who use that, correct?

5 A That is correct.

6 Q This is something you authorized to be sent to Ms. --
7 Representative Farrar, correct?

8 A That is correct.

9 Q And the purpose of sending this dealt with matters
10 relating to voter I.D., correct?

11 A I believe it dealt with matters concerning legislative
12 privilege in sort of a confusion and legal advice that members
13 of MALC were receiving who are also members of the House
14 Democratic Caucus.

15 Q And the confusion legal advice was coming from the House
16 Democratic Caucus?

17 A I believe the e-mail, it states, is that -- if I may, it
18 says,

19 "On Friday, many of you received an e-mail from the
20 House Democratic Caucus giving legal advice
21 concerning the Texas voter I.D. case, specifically
22 House Democratic Caucus advise members not to waive
23 privilege."

24 And then it says,

25 "MALC has been a party in all phases of photo I.D.

1 litigation piercing the legislative privilege to
2 investigate the real concerns of policy makers during
3 the debate surrounding SB 14 passage is critical to
4 this case. Waiving legislative privilege is nothing
5 new."

6 And then it goes on to say, "Then I urge you -- members do what
7 you think you need to do but if anybody wants to talk to Jose
8 Garza, I urge you to do that."

9 Q And --

10 A That's the sum and substance of the e-mail.

11 Q Sure. And (indiscernible) paragraph --

12 **MR. GARZA:** Your Honor, I'm going to object to any
13 further questions along this line. Again, the Representative
14 has identified to the exhibit. It speaks for itself. These
15 questions have no relevance to the matters that are pending
16 before this Court --

17 **THE COURT:** Mr. Scott?

18 **MR. GARZA:** -- on the positions of legislative
19 privilege.

20 **MR. SCOTT:** Your Honor, I go -- this is cross
21 examination. This is a witness that denied ever writing
22 this a --

23 **THE COURT:** Yeah, I don't know that he denied.

24 **MR. SCOTT:** Well, okay, so I pushed it a little far
25 there.

1 **THE COURT:** You did.

2 **MR. SCOTT:** Okay. I think perhaps -- no, it does go
3 to the state of mind that was -- to the documents. We have
4 sought and as part and partial of the inventory of documents
5 the Court has been provided by Republican legislatures in this
6 case, it -- are a number of documents being relied upon by the
7 Plaintiffs' experts on various Senate factors. One of the
8 questions is whether they've had a full picture provided to
9 them by the parties of the documents that were in the
10 legislators' files. What this document obviously shows is that
11 there has been an attempt, perhaps, to manipulate that process
12 and to allow certain documents in that are helpful and those
13 that were not helpful, to hide. And it says so point blank.

14 **THE COURT:** Anything else?

15 **MR. GARZA:** I don't think that's what it says at all.

16 **THE COURT:** Okay. Sustained at this point.

17 **MR. SCOTT:** Okay.

18 **THE COURT:** Let's move on.

19 **BY MR. SCOTT:**

20 Q So, other than this e-mail that you sent out, did you send
21 any -- or was sent out on your behalf, any other correspondence
22 or e-mails or communications you've had instructing people not
23 to turn documents over?

24 **MR. GARZA:** Objection, your Honor. Again, this is
25 along the same lines. He's still talking about

1 (indiscernible).

2 **MR. SCOTT:** I'll withdraw. Pass the witness.

3 **THE COURT:** Okay. He's withdrawing. Anything
4 further, Mr. Garza, for this witness?

5 **MR. GARZA:** Nothing further, your Honor.

6 **THE COURT:** Okay. Thank you, sir. You may step
7 down.

8 **(Witness Excused)**

9 **MS. BALDWIN:** Your Honor, the United States calls
10 Dr. Stephen Ansolabehere.

11 **THE COURT:** All right.

12 **(Pause)**

13 **THE COURT:** Good afternoon. Would you raise your
14 right hand?

15 **STEPHEN ANSOLABEHHERE, PLAINTIFFS' WITNESS, SWORN**

16 **(Pause)**

17 **DIRECT EXAMINATION**

18 **BY MS. BALDWIN:**

19 Q Good afternoon. And would you please state your name and
20 your place of residence for the record?

21 A Stephen Daniel Ansolabehere; spelled A-n-s-o-l-a-b-e-h-e-
22 r-e. I live in Newton, Massachusetts.

23 Q And where are you currently employed Dr. Ansolabehere?

24 A I'm employed at Harvard University.

25 Q And what's your position at Harvard?

1 A I'm a professor in the Department of Government.

2 Q As a professor in the Department of Government, what are
3 your areas to academic focus?

4 A U.S. elections, American politics, generally. Questions
5 pertaining to statistical analysis, social science data
6 especially pertaining to voting patterns.

7 Q Dr. Ansolabehere, did you attach your C.V. to the
8 supplemental and rebuttal report that you submitted in this
9 case?

10 A I did.

11 Q And does that C.V. accurately summarize your professional
12 background?

13 A It does.

14 Q Could you tell the Court approximately how many papers
15 you've published in scholarly peer review journals?

16 A I don't know (indiscernible) a hundred.

17 Q And I understand from your C.V. that you're a member of
18 the Academy of American Arts and Sciences?

19 A The American Academy of Arts and Sciences; yes.

20 Q And when were you inducted?

21 A 2007.

22 Q Okay. And about how many editorial boards of peer review
23 journals in political science have you served on?

24 A Eight or nine I guess. Maybe more.

25 Q In your professional or academic background outside of

1 this case, have you had occasion to perform quantitative
2 analyses on large sets of data such as voter registration
3 files?

4 A I have.

5 Q And could you give the Court an example or two of that?

6 A I run a large survey consortium. We conduct surveys of
7 around 50,000 people per year and we validate the vote
8 statements of those people and their registration. So it's a
9 database matching of individuals for whom we have the name and
10 address, date of birth, and a gender, and we match that to the
11 voter files in all the 50 states in that process. I've also
12 done research in conjunction with the Cal Tech MIT voting
13 technology project on the quality vote of registration lists,
14 relying primarily on the catalyst data.

15 Q And have you served as an expert witness in any prior
16 voting cases before?

17 A I have.

18 Q And approximately how many?

19 A Eight or nine, somewhere.

20 **MS. BALDWIN:** Your Honor, based on these
21 qualifications and as more fully set out in Dr. Ansolabehere's
22 report, the United States offers Dr. Ansolabehere as an expert
23 in American electoral politics and statistical methods in
24 political science.

25 **MR. SCOTT:** Your Honor, my understanding is we were

1 supposed to hold off on the Daubert-Jones until after the
2 presentation of evidence. I'm happy to take the witness on
3 voir dire or we can do it at the end of my cross.

4 **THE COURT:** What did you-all agree to?

5 **MR. SCOTT:** I think that we agreed that after the
6 witnesses were done is when we were going to take up the
7 Daubert-Jones.

8 **THE COURT:** Okay. So you can just continue. We'll
9 address it then.

10 **MS. BALDWIN:** Okay. Thank you.

11 **BY MS. BALDWIN:**

12 Q Dr. Ansolabehere, what were you asked to do with this
13 case?

14 A I was asked to take the Texas election administration
15 management database, the team database, and match it to
16 databases for the I.D. under SB 14, the Department of Public
17 Safety database and various Federal databases to determine how
18 many individuals in the State of Texas who are registered
19 voters possessed I.D. under SB 14, how many individuals may
20 qualify for an exemption under disability provisions under
21 SB 14, how many individuals might be over 65 and allowed to
22 vote by mail under SB 14 and not have to show an I.D. while
23 voting by mail, and also to ascertain whether there were racial
24 disparities in the possession of I.D., and finally to examine
25 voting data as it pertained to existing registration and voting

1 patterns in the State of Texas that might indicate a current
2 history or current pattern of racial disparities and the
3 ability to register or likely to registering and voting in the
4 State of Texas.

5 Q On the first question on the possession of SB 14 accepted
6 forms of I.D., did you reach a conclusion on that question?

7 A I did.

8 Q And what did you conclude?

9 A I concluded that approximately 787,000 people are
10 registered voters in the State of Texas don't possess SB 14
11 I.D. in the sense that we could not find a matching record
12 between the team database, the voter registration database and
13 any of the State or Federal databases corresponding to an SB 14
14 I.D.

15 Q And on the second question of racial disparities, did you
16 reach a conclusion on that question?

17 A I did.

18 Q And what did you find?

19 A I found that blacks in the State of Texas were about twice
20 as likely to not possess SB 14 as Anglos and Hispanics were
21 about 40 to 50 percent as likely to not possess SB 14 I.D. and
22 that was true across many different slices of the data that I
23 took.

24 Q And what about rates of registration and turn out by race;
25 did you reach a conclusion on that question?

1 A Yes.

2 Q And what was that conclusion?

3 A I concluded that blacks and Hispanics register at lower
4 rates than Anglos in the State of Texas and given registration,
5 they vote at lower rates than Anglos in the State of Texas.

6 Q We'll talk in some more detail, but I'd like to turn very
7 briefly to the first question you did and ask if you could give
8 the Court just a very brief overview of the methodology that
9 you used to determine the number of people approximately who
10 have or do not have SB 14 I.D.

11 A Very briefly, I took information on the Texas election
12 administration management database corresponding to Social
13 Security Numbers, Texas DPS I.D.'s, address, name, date of
14 birth, gender, constructed multiple identifiers and in that
15 database and in each of the matching databases, linked those
16 records and determined how many records had no matching or
17 linking record on the identification database. From that I
18 constructed the list of matched records, a list of non-matched
19 records and was able to analyze the -- import data concerning
20 race to analyze racial disparities.

21 Q Is database matching a generally accepted academic
22 research methodology?

23 A Yes; it's very widely used.

24 Q In what kinds of fields is database matching used?

25 A All over, from political science to public health to

1 sociology. It's a very widely used technique in social
2 sciences and --

3 Q And --

4 A -- even in medical research.

5 Q And have you previously done database matching in your own
6 academic work?

7 A I have.

8 Q Would you explain very briefly -- and we'll get more into
9 the results in detail later -- but how you reached your
10 conclusion about black and Hispanic voters being more likely
11 than Anglo voters to lack SB 14 I.D.?

12 A I took several different attacks on the question of
13 whether racial disparities. The first attempt was to use a
14 technique called ecological regression which is widely used in
15 social sciences and in voting rights cases in particular to see
16 if they're using census data on race, if there was a
17 relationship between race and possession of I.D. The second
18 approach was to use homogenous block groups, that is census
19 block groups, local areas that are highly homogenous for one
20 racial group -- say 80 percent or more Anglo, 80 percent or
21 more black, 80 percent or more Hispanic, and look at the race
22 of non-possession of I.D. across those block groups. The third
23 thing I did was to look at data provided to me from a catalyst
24 which corresponded to their estimated race of individuals on
25 the voter files and to see whether there were (indiscernible)

1 rates of possession for -- or non-possession for I.D. for
2 blacks, Hispanics, and Anglos according to those estimates.
3 And finally, I looked at the Spanish surname voter registration
4 records that are on the team database to see if the Hispanic
5 numbers in the other methodologies were consistent with what
6 would come up from the SSBR.

7 Q So, Dr. Ansolabehere, why did you have to use those four
8 different methodologies to get to the question of race?

9 A Well, another sort of data that one might use in this
10 context would be self-reported race and in some States -- nine
11 States, race is self-reported by the individual when they
12 register to vote and is on the voter file. It's not on the
13 voter file here so I wouldn't have that data to look at. Even
14 still, we'd probably want to look at these different
15 methodologies. In particular, ecological regression has been
16 accepted by the Courts since Thornburg versus Gingles in 1986
17 as a method for determining (indiscernible) impact of election
18 laws or (indiscernible) kinds of voting behaviors. So, these
19 are just the standard techniques that one would use to analyze
20 race.

21 Q Okay. And just to walk through them again. So your first
22 method was ecological regression.

23 A Uh-huh.

24 Q And so, to what extent would you say the ecological
25 regression is a widely accepted methodology in political

1 science?

2 A It's very widely used. It's a standard tool.

3 Q Okay. And you -- have you previously done ecological
4 regression in your academic work?

5 A I have.

6 Q And the second method that you mentioned is homogenous
7 block group analysis? To what extent would you say that this
8 is, if any, a standard methodology in political science?

9 A It's very widely used in political science and also in
10 other fields, especially sociology.

11 Q And is -- to what extent is that a methodology that's also
12 used in voting rights case law?

13 A It's also used in voting rights cases.

14 Q And the third methodology you mentioned is catalyst data.
15 Have you published any studies in peer review journals using
16 catalyst data previously?

17 A I have.

18 Q Okay. Are you aware of other scholars publishing articles
19 in peer review journals using catalyst race data?

20 A There are; yeah.

21 Q And the fourth way that you measured racial differences I
22 believe you said was Spanish surname voter registration? Can
23 you say where the information about those Spanish surnames
24 comes from?

25 A It's on the team database. There's a field that says --

1 indicates whether the surname is Spanish surname or not.

2 Q And what's your understanding on what information, if any,
3 that team classification is itself based on?

4 A I -- my understanding of that comes from documents from
5 the Texas legislative counsel website. I believe this
6 information was constructed as part of their re-districting
7 databases.

8 Q And does the census also have a Spanish surname voter list
9 as far as you're aware?

10 A Uh --

11 Q A Spanish surname list?

12 A Yes.

13 Q Okay. We'll talk in more detail about the results from
14 each of these specific methodologies but overall, what did
15 these four methodologies show with respect to rates of I.D.
16 possession across races?

17 A Across all of the methodologies, I found significant
18 differences between the rates of possession or non-possession
19 of I.D. for blacks, Hispanics and Anglos and blacks across all
20 these different methods for roughly twice as likely or more to
21 not have an I.D. as the Anglos and Hispanics were 50 percent or
22 so more likely to not possess I.D.'s as Anglos.

23 Q Did you prepare a report setting out -- one or more
24 reports setting out your analysis in this case?

25 A I prepared two reports.

1 Q And what's the difference between the two reports that you
2 prepared in this case?

3 A The first report was based on data that we -- that was
4 extracted as a snapshot of the voter files in January -- for
5 January 15th, 2014. I performed those analyses in the first
6 part of the summer and in late July, I believe, it was
7 discovered that the Department of Public Safety hadn't released
8 the 3.1 million records to us for the analysis. I then
9 incorporated those records into the analysis and we did all the
10 analysis in the original report with that in mind.

11 Q And to what extent did that additional 3.1 million records
12 from DPS affect the magnitude of the no match list you found
13 between the first report and the second report?

14 A The no match list had 1.2 million records in the initial
15 analyses in my first report and it had 787,000 in the second
16 report and the secondary analysis.

17 Q Is all of the analysis that you're relying on presently
18 for your conclusions reflected in your supplemental and
19 rebuttal report?

20 A It is.

21 **MS. BALDWIN:** And, your Honor, just so the record is
22 clear, the rebuttal and supplemental report is marked as
23 Plaintiffs' Exhibit 752. And while that report had initially
24 been designated as highly confidential, we've since removed
25 that designation without objection from the Defendants.

1 **MR. SCOTT:** That's correct; no objection, your Honor.

2 **THE COURT:** All right.

3 **BY MS. BALDWIN:**

4 Q So, I'd like to talk in a little bit more detail about the
5 process of the matching methodology and kind of break it out
6 into a number of steps.

7 **MS. BALDWIN:** If we could turn on the Elmo?

8 Q I'd like to show you the second page of a document that's
9 included as Exhibit A to your supplemental report. What's this
10 document?

11 A This document is a set of instructions or a description of
12 the matching process that was shared with -- or the Texas
13 Federal agencies for the purpose of their programming of the
14 methods that we developed.

15 Q Okay. And did you offer this document?

16 A I did.

17 Q And it says that the matching process proceeds in four
18 parts. Could you walk us through what the first part is and
19 what that involves?

20 A The first step is to take the databases and prepare them
21 by standardizing fields. So, one field like name or date of
22 birth might be recorded differently in one database than in
23 another database. A good example is date of birth. In one
24 database it might be zero, three, zero, five, one-nine-five-
25 zero for March 1st, 1950 date of birth. And in another

1 database, it might be stored as March 1, 1950 and so all of
2 those have to be standardized in order to allow for matching on
3 those fields. Also names often have apostrophes in some
4 databases. I think like O'Connor and then no apostrophe in
5 another database so standardization of all of the databases was
6 done first to ensure the greatest likelihood of matches.

7 Q And was that done across all the kinds of fields that you
8 matched on; those kinds of standardizations?

9 A Yes.

10 Q Okay. And is there any academic research on the effect of
11 that kind of standardization?

12 A There is. And taking the first step of varying the
13 standardizing databases increases matching significantly.

14 Q Okay. And what is the second step overall in the matching
15 process?

16 A The second step was to construct the actual identifiers
17 used. So, S -- Social Security 9 or SSN9 is one identifier
18 that's commonly used. We also have Texas Department of Public
19 Safety I.D.'s on -- and those were on some of the records, not
20 all of the records. And -- but most of the identifiers
21 constructed to link one record to other records in other
22 databases relied on address, date of birth, gender and name and
23 various combinations of those. So across all the different
24 fields, we constructed 13 different identifiers. Those were
25 developed in a program. That program was shared with the

1 Federal agencies.

2 Q Okay. I'd like to direct your attention to page 87 of
3 your report. What does this table show here?

4 A This table shows the different combinations of fields that
5 were used to construct identifiers and what each combination
6 corresponds to in terms of which fields are being used. So
7 combination code "A" is a match that was constructed using
8 first name, last name, gender, date of birth, residential zip
9 and residential street number. And the reason for not using
10 street name is there are so many different variations in street
11 names that it's almost impossible to fix them to construct a
12 high match rate. So it turns out that zip five and street
13 number is quite a good way to proceed.

14 Q Okay.

15 A Uh, the second --

16 Q And why are there --

17 A -- oh, sorry.

18 Q Why there are 13 of these?

19 A Uh, there are --

20 Q Why so many?

21 A -- 13 because I'm taking all different variations that
22 would drop out -- the first two correspond to using all four
23 kinds of information -- address, date of birth, name and
24 gender. But then the subsequent combinations drop name or
25 gender or date of birth or address information so that I can

1 guard against a problem in one field preventing a match such as
2 a nickname.

3 Q Okay. And when you say a problem with a nickname, could
4 you give an example of how it -- say somebody in one database
5 being called "Jim" and another database being called "James;"
6 what is that?

7 A Okay. So, an example would be comparing combination codes
8 "A" and "B." If someone is named Jim in one database -- say
9 the team database -- and named James in the driver's license
10 database, that person may not match on that first code just
11 because of the nickname being used in one database. But
12 combination code "B" drops the first name from the match so the
13 nickname would not interfere with a match. You would match
14 with his last name -- say, "Smith" and "Smith" and all the
15 other information. Similarly, there's missing data in some of
16 the fields and typographical errors and that's why one would
17 drop out various fields to ensure that you could find matches.

18 Q Okay. So, going back to the overall process, what is the
19 third actual step of the process?

20 A The third step of the process is to use each field -- or
21 each combination constructed and sweep through the database and
22 find every record that matched that field so it's a one to many
23 match. And when those one to many matches are -- you know, we
24 do all 13 sweeps for each match. There were some complications
25 with the Department of State with having to deal with how their

1 names are stored which increased the number of matches and
2 sweeps that needed to be done.

3 Q So, when you do all of these matches, how many
4 combinations do you have to hit on between, say, team and
5 another database for your process to consider that person to
6 have matched to a form of I.D.?

7 A Any matching on any one of those combinations counts as a
8 match.

9 Q So you could not match on 12, but match on a single
10 combination, and what would the result be there?

11 A That would be a match.

12 Q This process that you've laid out, does it address -- to
13 what extent does it address all errors that would either come
14 from false positives, where somebody's matched but they not
15 actually have an ID, to false negatives where they're not
16 matched but, in fact, that person does have an acceptable ID?

17 A The purpose of using multiple identifiers is to try to
18 minimize those errors to the extent possible using all the
19 available information. And there will be some errors, some --
20 some records will be called a match that shouldn't have been,
21 some records will be not matched that might have been if more
22 information were available.

23 Along the way, in constructing the algorithm, I did
24 some internal tests comparing matches on Social Security
25 numbers, nine-digit Social Security number, with the matches on

1 the combination of address, date of birth, gender, and name and
2 discovered that matching on address, date of birth, gender, and
3 name is as good as using SSN9s. Essentially we're using two
4 different commonly used keys to match databases. We discovered
5 that the error rate was only about 2-1/2 percent, people not
6 found with address, date of birth, gender, and name, people
7 were found with SSN9. Interestingly enough, people who were
8 found with -- who were not found with SSN9 but were found with
9 address, date of birth, gender, and name were about 2.5 percent
10 as well.

11 So we think that -- it appears that the two different
12 pieces of the algorithm that are being used are hitting at a
13 very high rate for social scientific standards or database
14 national standards. Two and half percent's pretty good. And
15 since we're using both of them, we know that we're well below
16 the 2-1/2 percent error rate.

17 So I don't know how low it is, because we've
18 exhausted all the information, but the algorithm does a fairly
19 good job minimizing it, so it's a very small error rate.

20 There will be records that are -- you know, if you
21 look really closely at the database you'll find odd things, but
22 those are going to occur with a low frequency and -- and
23 keeping in mind the inferences drawn the frequency in which
24 those errors occur is lower than the differences between the
25 racial groups and non-possession of ID. So I don't think the

1 errors interfere with the inferences drawn.

2 Q Okay. So that was going to -- can you say, based on what
3 you know about the error rate, that the error rate associated
4 with your matches is not causing or biasing the racial
5 disparities that you're finding?

6 A It can't count for the racial disparities.

7 Q And what's the last step of your matching process? After
8 you've gone and compared all of the databases, what happens
9 next?

10 A The last step is to return from the matching process the
11 information identified, the matched record indicates whether
12 there is a blank for no match, one if there was one match, two
13 if there were two or more matches. And then also for the Texas
14 DPS data, what is it, the field indicating whether the record
15 corresponds to a deceased individual, that field is returned
16 for that match. So that allows us to determine if for any
17 match the person showed up as deceased, then we can apply that
18 and remove that from the data.

19 Q Okay. So just to be clear, the deceased, is that
20 something that involves -- if somebody matched to a driver's
21 license record that had been marked as deceased, what happens?

22 A A field is appended to the TEAM database indicating that
23 that -- this is the individual.

24 Q And then what happens to that individual in the analysis
25 thereafter?

1 A The deceased individuals are removed from the baseline.

2 So we started out with 13.5 million records and ended up with
3 13.4 million records because of the removal of deceased.

4 Q Okay. Well, let's start talking in more detail about how
5 the process actually played out.

6 So the 13.5 million records you started out with,
7 what does that correspond to?

8 A That's the total number of records on the TEAM database as
9 of January 15th, 2014.

10 Q Okay. And once the matching has occurred and records
11 removed, records that matched the deceased record are removed,
12 how many people did you find out of that total universe of TEAM
13 did not match any valid SB 14 ID?

14 A I believe the number is 786,727.

15 Q Okay. In writing your report, did you analyze the rates
16 of matching the different forms of SB 14 ID?

17 A Yes. So as part of the process of each step, I looked to
18 see how many people were matched to a driver's license, how
19 many people were matched to a passport, how many people were
20 matched to each of the forms of ID, as well as the two
21 disability databases, the federal disability databases used.

22 Q Okay. I'd like to draw your attention to this page from
23 your report, which is Page 89. Could you explain what this
24 chart that we're looking at, Table V2, shows with respect to
25 people who matched to one of the SB 14 IDs?

1 A This table indicates what -- how many and what percentage
2 of people matched to each form of ID. They're not exclusive.
3 You can match to more than one form of ID. For example, if you
4 have a passport and a driver's license and a concealed handgun
5 license, you would match potentially to all three. You might
6 show up a few times. But it does indicate the rate at which
7 people in the state -- people who are registered voters in the
8 state of Texas have different forms of ID.

9 Q Okay. So really kind of quickly, what does the all column
10 show and then just taking it down with respect to what can you
11 see from the all column with respect to the percentage of Texas
12 registered voters who have driver's licenses?

13 A The all column is all records on the TEAM database and
14 what it indicates is that 83.8 percent of all records on the
15 TEAM database have a driver's license. That is by far the most
16 common form of ID.

17 Q Okay. And what -- can you tell from this chart about what
18 the next most common form of ID is?

19 A The next most common form of ID is a federal form of ID
20 from the Department of State passport, and that was about
21 42 percent of the records.

22 Q Again, based on what you said earlier, it's not -- some of
23 the people who have driver's licenses, they may also be in that
24 42 percent, is that right?

25 A Right, otherwise it would be 125 percent.

1 Q Right. Exactly. Okay.

2 And so what about -- what can we tell from this chart
3 about the relative possession rates of the different forms of
4 ID by race? How do you read the chart?

5 A So I used for this chart the Catalist coding of -- or
6 estimate of race of individual records, and according to that
7 it indicates that 86.8 percent of Whites on the voter file have
8 a driver's license or match the record with a driver's license,
9 compared with 74.7 percent of Blacks and 80.3 percent of
10 Hispanics.

11 Q Okay. Are there some forms of ID that are more commonly
12 held by racial minorities than by Anglos, according to this
13 chart?

14 A Yes.

15 Q Okay. And like what forms of ID are those?

16 A The personal state IDs, the second row of IDs, is one
17 example, and the USCIS citizenship papers is another example.

18 Q Okay. Are those more or less common than some of the
19 other forms, like passports, driver's licenses, commonly held
20 overall?

21 A Yeah, less than 10 percent of people are matched for each
22 of those.

23 Q Okay. So what about people who didn't match to any forms
24 of ID, are they reflected in this chart in all?

25 A No, if you didn't match to any one of these at all you

1 ended up on a no match list.

2 Q Okay. Just before we get into talking about the no match
3 list, I just have a question that I wanted to ask from some of
4 the testimony that we heard this morning.

5 If the only form of government ID that a voter had
6 was something issued by the Veterans Administration called a
7 veterans universal access card, do you have an expectation of
8 whether that person would have ended up on your match list or
9 your no match list if that card was literally the only form of
10 government photo ID that they had?

11 A So that's not a vet?

12 Q Yes.

13 A So we had an explicit list from the Secretary of State as
14 to which actual IDs from the federal sources would be used and
15 my recollection is the veterans card was the veterans
16 identification card or VIC. I don't --

17 Q Okay.

18 A -- know about the universal access card.

19 Q Okay.

20 A So it would not have been in our list.

21 Q So that's -- if it's a different card from the VIC it
22 would be your understanding that it would be a no match?

23 A Correct.

24 Q And that would be expected?

25 A Correct. And the documents we passed through the federal

1 agencies specified which IDs they were to match on.

2 Q Here we've been talking about people likely on the match
3 list. I'd like to switch gears and talk about the people who
4 are on your no match list and those who you determined were
5 likely to lack SB 14 ID.

6 In preparation for your testimony today did we
7 prepare a chart that went through the different methodologies
8 that you used to look at race?

9 A Yes.

10 Q And (indiscernible) methodology, but just to start with,
11 can you tell me for each racial group what the blue, the red,
12 and the green correspond to?

13 A So the green bars correspond to African-Americans, the red
14 bar is Hispanic, and the blue bar is Anglos, and this is the
15 percent of each group that is estimated to be a no match.

16 Q Okay. So let's start on the left-hand quarter of the
17 chart with ecological regression and if you could just walk
18 through -- I'll just walk through step-by-step.

19 What does this bar graph reflect with respect to the
20 results for ecological regression?

21 A The ecological regression analysis indicated that about
22 12 percent of Blacks, about 9 percent of Hispanics, and about
23 4 percent of Whites did not possess IDs under SB 14.

24 Q And are these differences statistically significant?

25 A Yes, very much so. The probability of observing these

1 just by chance is about zero.

2 Q And for the ecological regression, what's the underlying
3 race data, again, that's being used, as reflected in this bar
4 graph? Where does the race data come from?

5 A I did the ecological regressions two ways. One, I used
6 the Census Bureau's American Community Survey Citizen Voting
7 Age Population estimate, so the official accepted CVAP
8 estimate. And the other way, the other racial data I used was
9 the Voting Age Population from the Census Enumeration for 2010.

10 Q Okay. And you said CVAP. So just we're defining terms,
11 is that Citizen Voting Age Population?

12 A It is.

13 Q Okay. And so are these the Voting Age Population from the
14 Census Enumeration or the Citizen Voting Age Population from
15 the ACS?

16 A I believe those numbers are the CVAP numbers --

17 Q Okay.

18 A -- or the Citizen Voting Age Population numbers.

19 Q And when you looked at those Voting Age Population and
20 Citizen Voting Age Population, did it -- to what extent did
21 that make a difference in your results?

22 A It made no difference for the conclusion, the estimates
23 were a little tiny bit different.

24 Q Okay. And so those are both, to be clear, Census data,
25 one is from the Enumeration and one's from the American

1 Community Service?

2 A Correct.

3 Q What's the next set of bar charts that we see on this?

4 A The next set of bar charts compares the rates of non-
5 possession of ID across block groups that are at least
6 80 percent African-American and at least 80 percent Hispanic
7 and at least 80 percent Anglo and the numbers are extremely
8 close. The ecological regression estimate is about 12 percent
9 of African-Americans don't possess ID, about 9 percent of
10 Hispanics estimated not to possess ID, and about 5 percent of
11 Anglos.

12 Q And just so we're clear, what's a block group?

13 A A block group is a geographic area defined by the Census
14 corresponding to a few thousand people.

15 Q Okay. And why did you do both the ecological regression
16 and the block group analysis?

17 A These are standard methodologies in voting rights cases
18 for assessing voting behavior and effects of election laws on
19 racial groups.

20 Q Is one of these numbers more accurate or more true or more
21 valid than the other, in your opinion?

22 A No, especially given how close they are to each other.
23 They're confirming each other. The ecological regression uses
24 all the block groups and so it uses all the data, so in some
25 sense it's preferable, it makes it a little more precise.

1 Q Did either of the ecological regression or the block group
2 analysis allow you to say this specific person on the no match
3 list is of this race?

4 A No, they're not -- you do not have to estimate the
5 differences as a class group. You don't have to estimate
6 individual level race to estimate the effects on groups. And
7 that's what these techniques are doing.

8 Q Is the fact that they don't go down to the individual
9 level affect in any way your understanding of the validity of
10 the overall differences between the groups as shown in the
11 ecological regression and the block group analysis?

12 A Not in this context, especially because you have other
13 data that are also confirming the same pattern. So if you see
14 the same picture over and over again across different ways of
15 thinking about race or estimating racial differences, it's
16 confirmatory.

17 Q Okay. Let's take the third bar graph, the Catalist graph.
18 First tell us what that shows and then we'll talk about what
19 the Catalist data is some more.

20 A Okay. That shows using the Catalist estimate of race for
21 each individual in the voter files, the rate of non-possession
22 of IDs, non matching of SB -- with SB 14 IDs, was 9 percent for
23 African -- people identified as African-American by Catalist,
24 6 percent for Hispanics, and 5 percent for Whites.

25 Q So what is Catalist?

1 A Catalist is a data firm that assembles all of the voter
2 registration lists in the United States and combines that with
3 other sources of information and then sends that information to
4 candidates and parties and groups as part of their political
5 campaign organizations and get out the vote activities and so
6 forth.

7 Q What information did you actually receive from Catalist
8 with respect to race?

9 A Catalist provided for each record two pieces of
10 information. One was the estimated race and the confidence in
11 the estimate.

12 Q Okay. And when you say "the confidence in the estimate,"
13 what does that mean?

14 A The confidence in the estimate is their classification of
15 how likely it is that this individual is to be of a given race,
16 because it's not self-reported, it's an estimate of what that
17 individual's race is. And there will be some errors in that by
18 virtue of being -- or misclassifications by virtue of it being
19 estimates.

20 Q Okay. So the confidence scores, like how is that
21 represented? Are there different levels that you got back?

22 A Right. They gave us different levels, so very likely,
23 likely, that sort of thing.

24 Q Okay. And did you use those confidence levels in your
25 analysis?

1 A Yes. So the first -- the third panel, but the first panel
2 corresponding to Catalist data uses all of the estimated -- the
3 race estimates for all of the 13 million or so records. And
4 then the second panel of Catalist data just took the data for
5 which they had the highest confidence, which is about half of
6 the records on TEAM. And we did the analysis that way, just to
7 make sure that when we look at the data for which they have the
8 highest confidence do we see racial differences, and we do.

9 Q And what's your take away from the fact that if it's
10 there -- you know, the African-Americans, for example, the
11 disparity goes up when it's restricted to highest confidence,
12 what significance, if any, do you place on that?

13 A That's actually to be expected, given some
14 misclassification in the data. The piece of the data I'm not
15 looking at is the piece where it said the least confidence was
16 the noisiest and that misclassification will actually bias the
17 estimate downward. In other words, biased towards finding no
18 effect as opposed to finding an effect. So -- but it got --
19 but the differences -- but the group spread out and the
20 differences got bigger was to be expected.

21 Q Explain that some more. How do you know that as you go to
22 highest confidence you would expect that the disparities become
23 wider versus why wouldn't you expect that they might also
24 become less wide?

25 A It's well known in statistics that if you have measurement

1 error in a classification variable such as race it will bias
2 toward finding no effect, bias toward finding nothing, no
3 difference across groups. And an example might help.

4 Suppose you have two groups and one group is Black
5 and one group is White and there are a hundred people in each
6 group and all the Whites have ID and none of the Blacks have
7 ID. So the true difference in the actual data -- because here
8 the actual data is a hundred percent. It's a hundred here and
9 zero here. But suppose you misclassify some of the Whites and
10 call them Black and some of the Blacks and call them White, so
11 suppose you misclassify 20 percent of the Whites and call them
12 Black and 20 percent of the Blacks and call them White, then
13 what you've done is you've taken a bunch of people who don't
14 have ID and called them White, therefore your estimated White
15 rate is going to be 80 percent, as opposed to a hundred
16 percent, and your estimated possession of ID rate among the
17 Blacks will be 20 percent, as opposed to zero percent. So now
18 you've got a 60 percentage point difference, as opposed to a
19 hundred percent point difference, so it's shrinking.

20 Misclassification biases away from finding the facts
21 and that's why you want to see cross different techniques,
22 where you're seeing and observe differences. It's a very well
23 known statistical property of measurement error. It's been
24 known since the 1940s.

25 Q What is the -- what are the Catalist estimates actually

1 based on? Like how does Catalist come up with the race and
2 those race confidence scores, as far as you're aware?

3 A Catalist uses an algorithm developed by CPM and they use
4 their data and they put their data into that algorithm. That
5 algorithm relies on -- primarily on local area census data
6 about the composition of those local areas. I don't know if
7 it's block groups or block (indiscernible). And also
8 information about names and the frequencies with which certain
9 names occur in difference racial groups. So a name like
10 Hinojosa, that's a good guess that that's a Hispanic person,
11 because that's a very common Hispanic surname.

12 Q Okay. Are you aware of whether or not there are people on
13 your no match list who the Catalist estimates misclassified
14 their race?

15 A Oh, yeah.

16 Q Okay. Is that to be expected?

17 A Yeah.

18 Q Okay. And this morning we heard testimony from someone
19 named Sammi Bates by video. Do you know whether her Catalist
20 race estimate is correct or incorrect?

21 A I don't know for sure.

22 Q Okay. If someone had an incorrect estimate, what would be
23 the reasons that that would likely be?

24 A Well, if they had a -- if they were in a -- if they were
25 in a local area, suppose you were a Black person living in a

1 very White area, a 95 percent White area, the best guess about
2 the race of that individual, without knowing anything about
3 them, no name or anything, the best guess for the race of any
4 individual in an area that's 95 percent White is that that
5 individual is White. That's the best guess. Ninety-five
6 percent of the time you're going to be right. When you add in
7 other information, such as surnames, you start to learn how
8 likely they are to be one group or another.

9 So if they're misclassified, it's probably that
10 they're in an area that's fairly homogenous for another racial
11 group and they have a surname that is not very distinctive or a
12 first name that's not very distinctive, like Phil Smith or
13 something like that.

14 Q And again, if there is some misclassification looking at
15 the Catalist results and the results in general, how do you
16 know that that's not creating the disparities that you're
17 finding?

18 A Misclassification, again, would shrink all the bars toward
19 each race, so there would be -- if I completely just randomly
20 guessed, everything was a coin toss, all the bars would be the
21 same height. But the fact that I'm finding statistically
22 significant differences that are sizeable indicates that the
23 misclassification isn't enough to swamp any true racial
24 effects. And also the fact that I'm seeing a similar pattern
25 in a homogenous block using ecological regression and relying

1 on the census data for racial classifications suggests that
2 there's something real underneath the data.

3 Q In addition to the forms of analysis that are reflected on
4 this chart, you mentioned that you did Spanish surname
5 analysis. What did that show?

6 A I mainly did it comparing the SSVR with Hispanic groups in
7 the other estimates and it showed that the rate of non-
8 possession for people with a Spanish surname from the voter
9 records was I think around 6-1/2 or 7 percent. I don't
10 remember the exact number. So it's falling right in the same
11 range as the other estimates. It also showed that people with
12 a Spanish surname were more likely to not possess an ID than
13 others. But the other group combines Whites and Blacks, so
14 it's not a totally appropriate comparison for drawing
15 inferences about all the effects of the ID law on all racial
16 groups.

17 Q Okay. So you can see Hispanics from the Spanish surname
18 analysis, but do I understand that you can't really make
19 conclusions about differences between Anglos and Blacks?

20 A Right, or between Anglos and Hispanics, because the
21 other -- the non-Spanish surname group is Blacks plus Anglos --

22 Q Okay.

23 A -- plus Asians plus whatever.

24 Q Okay. In view of everything we've talked about, these
25 forms of analysis and the Spanish surname analysis, to what

1 extent, if any, do you have any doubt as to whether or not
2 there are, in fact, statistically significant racial
3 disparities in rates of ID possession between Anglos and
4 Hispanics and African-Americans?

5 A I have no doubt that there are differences --

6 Q And --

7 A -- that are statistically significant.

8 Q I'd like to switch gears and talk about people who are -

9 **MS. BALDWIN:** And just for your Honor, the
10 demonstrative that I've just been showing has been marked as
11 Plaintiffs' Exhibit 1100.

12 **BY MS. BALDWIN:**

13 Q I'd like to shift gears and talk about people who are
14 eligible to apply to -- eligible to vote by mail or apply for a
15 disability exemption.

16 As far as you know, are voters over 65 eligible to
17 vote by mail in Texas?

18 A Yes.

19 Q And do you have to show ID in order to vote by mail?

20 A If you're over 65 under SB 14, no.

21 Q And your no match list, your 787,000 figure, it includes
22 people who are over 65, right?

23 A Correct.

24 Q And one of the State's experts has written that, you know,
25 people who are over 65, they're not affected by SB 14 because

1 they can vote by mail. Do you agree or disagree with that
2 paraphrasing?

3 A I disagree.

4 Q And why do you disagree?

5 A Well, if that person tried to vote at the polls, they
6 would be affected. So if your neighbor called you up on
7 election day and got you to vote and you were over 65, you'd
8 still have to show ID.

9 Q Okay. Do you recall approximately how many people on your
10 no match list are under 65 and not eligible to automatically
11 vote by mail? And I can point you to a page.

12 A I think it's a couple hundred thousand.

13 Q Okay. So that it's not a memory test, let me --

14 A I think the number is 580 -- 586 was the remaining number?

15 Q This is Page 95 from your report. What --

16 A Okay, 589, five hundred and eighty-nine thousand --

17 Q Okay.

18 A -- four hundred and eighty one.

19 Q So that's the number, to be clear, of people who are on
20 the no match list who are under age 65?

21 A Correct.

22 Q And did you examine what effect, if any, taking out the
23 people who are over age 65 has on the racial disparities that
24 you previously found?

25 A So if you restricted the analysis just to people under 65,

1 the racial disparities remain across all the different ways of
2 analyzing the data, ecological regression, Catalist, and so
3 forth.

4 Q Okay. And so just to be clear, the ER no match under 65,
5 what are the percentages that you see there?

6 A ER corresponds in this graph to ecological regression and
7 9 percent of African-Americans under 65 are estimated to not
8 possess relevant ID, 7 percent of Hispanics, and 3 percent of
9 Anglos.

10 Q Okay. And what if you look at that same group of voters
11 on the no match list, the 500 -- approximately 590,000, using
12 Catalist, what are the racial rates that you see?

13 A 7.4 percent for African-Americans, 5 percent for
14 Hispanics, and 4 percent for Anglos, and those differences are
15 statistically different from zero.

16 Q Okay. Is that another way, a more political science way
17 of saying statistically significant?

18 A Yeah.

19 Q Okay. People who are disabled can apply for an exemption
20 from showing ID at the polls, isn't that right?

21 A Correct.

22 Q And do you know in that data that you examined how many
23 people actually had gone through that process and had applied
24 for and received the disability exemption?

25 A As of the date of the day that we used, which was

1 January 15th of this year, it was 18.

2 Q So only 18. Are there a larger universe of people than 18
3 who would be eligible to apply but haven't?

4 A Yeah.

5 Q Um --

6 A Tens of thousands.

7 Q Do you know approximately how many people are on your no
8 match list if you take out people who are eligible to apply for
9 the disability exemption, even though they haven't? And I
10 can --

11 A I think it's around 80,000 or so.

12 Q Okay. The people left on the no match list?

13 A Oh, after removing those. And the elderly or --

14 Q Just disability.

15 A It's about 700,000.

16 Q Okay. And what happens when you both take out anybody who
17 could apply for the disability exemption and anybody who is
18 over 65, what effect, if any, does that have on the racial
19 disparities that you've observed?

20 A All right, so if I further restrict the analysis just to
21 people who are under 65 and don't qualify for an exemption, I
22 still see racial disparities using either method for measuring
23 race.

24 Q Okay. And so the --

25 A Ecological regression or the Catalist.

1 Q -- the third chart shows the ecological regression
2 results?

3 A Correct. And the net chart, 8 percent of Blacks are
4 estimated -- in that subgroup are estimated not to possess ID,
5 versus 6 percent of Hispanics and 2 percent of Whites.

6 And using the Catalist racial estimates, the numbers
7 are 6 percent of Blacks, 5 percent of Hispanics, and 3 percent
8 of Whites.

9 Q Professor Ansolahaehere, I think I want to switch gears
10 again and talk about dead wood.

11 Could you explain what dead wood is?

12 A Dead wood in a catchall term for obsolete data on a
13 database.

14 Q Okay. And with respect to voter registration, what does
15 dead wood refer to?

16 A Dead wood consists of people who might be deceased, people
17 who might no longer be at their address or not legal voters
18 anymore.

19 Q Okay. And could the presence of dead wood affect the
20 number of no matches that you find?

21 A Potentially, yes.

22 Q Okay. And did you do any analysis to look at how dead
23 wood might affect the racial disparities that you found?

24 A I did.

25 Q And did we also create a chart going through those?

1 A We did.

2 **MS. BALDWIN:** This one I'm putting up, your Honor, is
3 Page 2 of PL1100 and then I presume that this is Page 3 of
4 PL1100.

5 **BY MS. BALDWIN:**

6 Q Let's talk about the ways that you looked for potentially
7 dead wood records on the voter file. What methodologies did
8 you use to identify voters on the screen that might no longer
9 be actual voters?

10 A I used three different approaches. One was to look at
11 active voters, Texas calls them suspense voters, or the ones
12 that are not active, and those are almost entirely people who
13 have not voted in two successive federal elections. The other
14 information I used to identify potential dead wood was expired
15 licenses on the driver's license lists. And then finally
16 Catalist provides flags that consist of national change of
17 address flags, so if you've moved, if you file a national
18 change of address that flag is put on the database, even if
19 you've moved within county or between states or within the
20 state. Also they have information about records that may be
21 deceased. And then finally they have their own measure or
22 estimate of dead wood based on frequency voting and those
23 things.

24 Q Okay. And so taking the first screen, looking just at who
25 is an active voter, as opposed to a suspense voter, just to be

1 clear, can suspense voters still while they're in that category
2 show up on election day and legally vote at the polls?

3 A Sure. But suspense voters are a big category of people
4 who haven't voted in a while, might still be at their address,
5 or maybe they've moved or maybe they're deceased, so this is
6 kind of a big category that is intended to like sweep out dead
7 wood, just to see if we're -- the point is to see if the
8 results we've already seen are sensitive to potential
9 identification of dead wood.

10 Q And when you say "sensitive to see whether," is that
11 another way -- is dead wood biasing the results, like causing
12 the results?

13 A Right, or do the results change much if we sweep out those
14 kinds of records.

15 Q Okay. And so when you remove the people who are on the
16 suspense list and only look at active voters, what do you see?

17 A What I see is if I only look at active voters the
18 disparities in possession of ID are actually somewhat bigger.
19 Ten percent of African-Americans are in the no match list among
20 the active voters, 8 percent of Hispanics, and only 3 percent
21 of Anglos. So Blacks are three times more likely to not
22 possess ID and Hispanics are more than twice as likely.

23 Q Okay. And what about the parallel figures using Catalist
24 for active only in the second column?

25 A The parallel figures are 8 percent of African-Americans

1 among the actives are found to not possess ID, 6 percent of the
2 Hispanics, and 4 percent of the Anglos.

3 Q Okay. And you mentioned before expired licenses. Why do
4 you consider matching somebody who's a currently registered
5 voter matching to an expired DPS license, why could that be a
6 screen possibly for dead wood?

7 A If someone moved, left the state, never bothered to tell
8 the DMV or the DPS that they've moved, they don't have any
9 reason to remove them, eventually that license becomes expired.
10 So that would be one hypothetical example of somebody who would
11 be dead wood and the expired license would be an indicator of
12 that.

13 But expired licenses occur for other reasons, like
14 you're no longer driving. And so, again, this is just an
15 overly aggressive attempt to sweep out things -- records that
16 may be counted as dead wood and to see if the results change as
17 we take big steps in that direction.

18 Q Okay. And so then the NCOA flag to that, you could -- if
19 I moved across the street and told the post office, could I
20 have an NCOA flag?

21 A Right.

22 Q And would that be any different from moving out of the
23 state in terms of that flag?

24 A No.

25 Q Okay. So, but you removed anybody with an NCOA flag as

1 one of the sweeps?

2 A Right. If you moved from Texas to Colorado and filed an
3 NCOA, you show up. If you moved from one side of Dallas to the
4 other, you show up.

5 Q Okay. And so the last two charts, what do they show?

6 A The last two charts show that when I impose all of the
7 screens active, all the Catalist flags for dead wood, deceased,
8 or NCOA, and also expired licenses and I remove all of those
9 records, suspense voters, expired records, and all the Catalist
10 flags, I still see statistically significant differences across
11 the racial groups in their rates of non-possession of ID.

12 Q In general, do you have an opinion of how well or poorly
13 Texas does with its list maintenance and addressing dead wood
14 as compared to other states?

15 A So when I -- I've only studied comparatively the states
16 through the Caltech-MIT Voting Technology Project on how well
17 states are doing in performing different tasks of election
18 administration. Texas always shows up as one of the best
19 states in terms of management of the voter files. I think only
20 about 3 percent of the records show up as dead wood. And if
21 you imagine that 10 percent of people move every year, that
22 means that they are able to keep up with people on a four-month
23 or less basis, which is pretty impressive.

24 Q And are those results consistent with the results that you
25 saw from the various Catalist dead wood flags and modeling?

1 A Yeah.

2 Q And just under deceased flag that Catalist had that is
3 incorporated in today's last two charts, what's your
4 understanding of what the underlying data that goes into
5 whether Catalist says somebody may be deceased is based on?

6 A I think one of the sources of data used was Social
7 Security deceased records and then other sorts of information
8 that they collect.

9 Q And is that a definite indication of deceased or is it a
10 model of likelihood, as far as you know --

11 A Um --

12 Q -- the Catalist death flag?

13 A I think it's a model, information, it takes the Social
14 Security stuff and other stuff and combines it. It's an
15 estimate.

16 Q Dr. Ansolahehere, did you also examine the voting history
17 of people on the no match list?

18 A I did.

19 Q Okay. And why did you do that?

20 A So the reason for modeling the voting history was to
21 understand that there were people who were actually voting who
22 would be affected. One way to think about what the question
23 behind that analysis is, is had this law been in place in, say,
24 2012, are there actual people on the record who would not have
25 been able to vote and were there racial disparities in those

1 people --

2 Q Okay.

3 A -- among those people.

4 Q And what did you -- what elections did you look at in
5 terms of elections prior to SB 14 and no match?

6 A I looked at 2012 general election and 2010 general
7 election results.

8 Q And what did you find in terms of racial disparities, if
9 any?

10 A I found that there were significant racial disparities for
11 Blacks in all of the elections and for Hispanics in the midterm
12 election, I think. No disparity for Hispanics -- between
13 Hispanics and Anglos in the general election, the presidential
14 election.

15 Q And did you examine those using both Catalist and
16 ecological regression?

17 A Yes.

18 Q Dr. Ansolahere, were you involved in the prior
19 litigation regarding SB 14, Texas v. Holder in the D.C.
20 District Court?

21 A I was.

22 Q And were an expert for the United States?

23 A I was.

24 Q (Indiscernible) that Texas had failed to show that SB 14
25 did not have a discriminatory affect (indiscernible) did the

1 D.C. District Court rely on any expert testimony?

2 A No.

3 Q Are there differences between the analysis that you've
4 done in this case and the analysis that you did in Texas v.
5 Holder?

6 A Yes.

7 Q Could you walk through what some of those differences are?

8 A Well, first the basic objective was different. The
9 objective there was to find -- because it wasn't clear at that
10 point exactly how Texas intended to implement the law. It
11 hadn't been implemented yet. And the purpose of that was to
12 find exactly matching records, so first name, last name, date
13 of birth, and Social Security number, thinking that that was
14 the identification that would be shown, first name, last name,
15 date of birth. In addition, we did not have access to the
16 federal databases, so all that was matched was to the DPS
17 records, the Department of Public Safety records. This time we
18 have the state of Texas records and access to the federal
19 records. I didn't have direct access to the federal records,
20 so the federal agencies programmed what we provided.

21 I also -- another important difference was the
22 treatment of deceased records. We had a different
23 understanding about how deceased records should have been
24 treated in that case and that's since been clarified.

25 And then sensitivity of the results to name

1 variations, especially nicknames. The data analysis provided
2 here for some of the matches doesn't rely on name at all, so
3 it's not going to be sensitive to nicknames. Some of the
4 matches with hyphenations, look for married, change of name and
5 so forth. So sensitivity in nicknames and name variations.

6 And finally, the robustness of the analysis to the
7 racial data. In that analysis we only relied on the Catalist
8 racial analysis and now we supplemented that with the
9 ecological regressions and the Spanish and the voter records.

10 Q Have you had an opportunity to read and respond to --
11 reply to the rebuttal reports of Drs. Hood and Milyo?

12 A I have.

13 Q I'd like to talk about some of their concerns and your
14 responses and start with Professor Hood.

15 First, has Professor Hood used database matching as a
16 methodology to examine the question of possession of photo ID
17 before?

18 A He has.

19 Q And in what states has he done that?

20 A He has a published article with Professor Bullock on
21 analyzing Georgia.

22 Q Okay. And are there any conclusions that Professor Hood
23 reached in the Georgia article that you think are relevant to
24 the things that you've done here?

25 A Two of the conclusions that they reached were, first, that

1 in Georgia people who lack ID are significantly less likely to
2 vote than people who do not lack ID to a very large effect.
3 And second, that minorities in Georgia were less likely to
4 possess ID, in part because of economic disparities, such as
5 education and income level.

6 Q And how did the overall rates of non-possession by race
7 that Dr. Hood found in Georgia compare to the rates of non-
8 possession by race that you found here in Texas?

9 A They're very similar.

10 Q And are you aware of whether Dr. Hood had also looked at
11 voter ID possession in South Carolina?

12 A He has.

13 Q And are your conclusions in this case similar to his in
14 South Carolina in terms of the rates of possession by race?

15 A They are.

16 Q Was Dr. Hood able to rely on data in Georgia and
17 South Carolina that had self-reported race?

18 A He did. Those are two states with self-reported race on
19 the rolls.

20 Q Okay. And what about a unique identifier, was that a part
21 of those matches?

22 A Yes, they had unique identifiers.

23 Q Okay. And so your results, notwithstanding that you
24 didn't have self-reported race or a unique identifier, is it
25 fair to say that you still reached similar results in Texas?

1 A Yeah, they appear -- basic rates of no match and the
2 difference across the groups and the rates of no matching
3 appear quite similar.

4 Q And in preparation for your testimony we created a chart
5 of the seven issues that Dr. Hood identified with respect to
6 concerns about knocking the TEAM. I'd just like to talk
7 through your responses to those.

8 The first concern is the no unique common identifier
9 that Dr. Hood raised. How, if at all, do you think your
10 methodology addresses that concern?

11 A I actually think it improves on it, because the use of
12 address, date of birth, name, and gender, as I discussed
13 earlier, the way we use it is as reliable at linking records as
14 Social Security number, nine-digit Social Security number,
15 which is the most commonly used unique identifier in database
16 matching. So that combination is at least as good and then to
17 use both of those two things together, you're improving on
18 that.

19 And even with a unique identifier, you're still not
20 going to hit everybody, because of typographical errors or
21 missing data in the unique identifiers. So really using 13
22 different identifiers improves on what one would normally get
23 even with a common identifier.

24 Q Okay. And so just to be explicit, you compared your
25 matching success rate with Social Security number with your

1 matching success rate with your age, date of birth, gender, and
2 name combinations?

3 A Correct. I took everybody who had a Social Security
4 Number 9 on the TEAM database, which was about 45 percent of
5 the records, matched those people to records on DPS, then I ran
6 the algorithm for using address, date of birth, gender, and
7 name and found that 97.5 percent of those people matched on
8 some combination of address, date of birth, gender, and name.
9 Then I re-ran it the other way and said find everybody who has
10 a Social Security Number 9, find everybody who it matches on
11 address, date of birth, gender, and name, now ask what
12 percentage of them also match on SSN9 and it was about
13 97.5 percent. So the two approaches are as good as each other.

14 Q And the second concern that the TEAM database, not all
15 records have state ID numbers on all records, how did you
16 respond to that concern, if at all?

17 A That's correct and that's why one would use these other
18 sweeps to fill in and find matches for records for which there
19 is not a state identification number or a Social Security
20 number.

21 Q Does Dr. Hood raise any concern that that concern or
22 really any of these seven concerns are related to biasing the
23 results that you've seen by race?

24 A He provides no evidence or really no argumentation that
25 any of these concerns would affect the conclusions that I've

1 drawn about racial differences.

2 Q What about inconsistencies between database fields, how
3 was that addressed?

4 A So an inconsistent -- his example of an inconsistency
5 between the database fields was the example we discussed
6 earlier of a nickname on one database, Jim, and a proper name
7 on another database, James, and, again, by not using name
8 information and by not using first name information on
9 different matches we avoid that as an obstacle to not finding a
10 match.

11 Q And erroneous information (indiscernible) it was
12 impossibly old dates of birth, how was that addressed, if at
13 all?

14 A Again, not every match relies on dates of birth, so
15 erroneous information such as an impossibly old date of birth
16 or a typographical error was avoided.

17 Q What about the issue of incomplete information on deceased
18 individuals?

19 A So not every record has a deceased -- TEAM doesn't have
20 any information about deceased individuals and we use
21 information from the DPS to strip out the deceased individuals.
22 But to make sure that that is not a problem to the inferences
23 drawn I have done the analysis using the deceased information
24 from Catalist and various dead wood analyses. So I think I'm
25 reasonably confident that this is not a concern for any

1 inferences drawn.

2 Q Does Dr. Hood identify any additional methodology you
3 should have done to look for deceased people?

4 A No.

5 Q So next, the no self-reported race or ethnicity, is that
6 something that Dr. Hood points out any other way that you could
7 have addressed the lack of self-reported race?

8 A He is not specific about what he would recommend that we
9 do in the absence of that. I'm using the standard methods in
10 my discipline and in voting rights cases for assessing racial
11 differences when you don't have self-reported race on the voter
12 files.

13 Q And to be clear, does the lack of self-reported race cause
14 you to have less confidence at all in the results that you've
15 seen overall in terms of the racial disparities?

16 A No. If I had self-reported race, I would have done that
17 analysis as well. Again, I'd want to see it from all different
18 ways to make sure it was robust.

19 Q Okay. And the post-estimation validation, is that the
20 exercise that we've already talked about with comparing the
21 Social Security number and the date, gender, and name?

22 A Correct. And by the end of the matching process all the
23 information is used, so it's not possible to do any additional
24 post-estimation validation because you'd need some key, like
25 SSN9, that you'd judge your matching against. So we've used

1 all the information. It's not possible to do any further
2 analysis along those lines.

3 Q Dr. Hood looked at voter participation for people on your
4 no match list in elections since SB 14 has been in effect,
5 correct?

6 A Correct.

7 Q And did you also look at that question of whether anybody
8 on your no match list had voted since the law has been in
9 effect?

10 A I did.

11 Q Okay. What elections did you look at?

12 A The primary in March and the runoff in May.

13 Q Okay. What did you find?

14 A I found in those elections about 3 percent of people on
15 the no match list were recorded as having voted.

16 Q And did you look at whether they were voting by mail or
17 voting in person?

18 A I did and about 80 percent, I think, or 75 percent voted
19 in person.

20 Q So about how many people did that come out to?

21 A My recollection of one of the elections was 27,000 records
22 were recorded as having voted, 22,000 voted in person, 5,000 by
23 mail.

24 Q And given that all 22,000 of those people were on your no
25 match list as not having ID, do you have any explanation for

1 how it is that they could be recorded as voting in person in an
2 election in March or May?

3 A Well, there are lots of different explanations. It could
4 be that the poll workers just let them vote, which occasionally
5 happens. And we've seen that in various studies where people
6 are asked whether they were asked to show ID and they'll say no
7 or they were asked but they didn't have it and they were just
8 allowed to vote anyway. Or they'll be in a state like
9 Massachusetts where you're not allowed to ask for ID and
10 they're asked for ID anyway. So the poll workers often do
11 their own thing when it comes to implementation of some of
12 these laws. So it could be the case that some poll workers
13 were just letting people pass.

14 It could also be that the people went out and got ID
15 in the intervening period or reregistered and it would change a
16 little bit every month, every day.

17 Q What did you end up with, like what's the date of your no
18 match list?

19 A January 15th.

20 Q Okay. So there was a time period from then until the
21 elections, you're saying that people could have --

22 A So one election is three months later and the other is
23 fine months later, so in that intervening period those
24 circumstances might have changed and --

25 Q Okay.

1 A -- they got an ID, they reregistered, and stuff like that.

2 Q Any other explanations, like could you just have been
3 wrong with some people?

4 A Oh, yeah, some people are -- yeah, there's an error rate
5 and some people might be misclassified.

6 Q Do you have any information that would allow you to take
7 that group of, you know, 22,000 voters and distinguish what the
8 actual reason for any particular group of them is?

9 A No, that would involve a further study.

10 Q Does Dr. Hood have any information that would allow him to
11 distinguish between what the reason is for that group of
12 voters?

13 A Not in his report, sorry.

14 Q Let's go to Dr. Milyo's report. Did Dr. Milyo identify
15 anything in your matching protocol that he said you should have
16 done differently?

17 A No.

18 Q What's your understanding of what Dr. Milyo's main concern
19 with your matching process is?

20 A His name concern was dead wood.

21 Q And did Dr. Milyo identify any specific additional steps
22 that you should have taken but did not with respect to dead
23 wood?

24 A No.

25 Q I'd like to talk very briefly about the portion of your

1 report on the historical voting and registration turnout
2 patterns by race. Can you give a brief overview of what data
3 sources you examined to look at those questions?

4 A I examined rates of registration and voting in the voting
5 tabulation districts and the census data on those areas. I
6 examined data from Catalist, because Catalist has a record of
7 who voted and didn't, and we had the racial data from
8 (indiscernible) and Catalist as well. And finally I looked at
9 the current population survey of the Census Bureau, which
10 conducts every other November a registration and voting
11 supplemental survey, and I looked at their Texas data from
12 that.

13 Q And what election years were you looking at when you were
14 looking at rates of registration and turnout?

15 A 2006 to 2012 federal elections.

16 Q And looking at these various different sources for
17 registration and turnout rates by race, what conclusions did
18 you reach?

19 A I concluded that minorities, Black and Hispanics, are
20 registering at lower rates than Anglos in the years leading up
21 to the passage of SB 14 and they're voting at lower rates.

22 Q To what extent, if any, did either of Texas's experts take
23 issue with any of this portion of your analysis?

24 A They raised no objections at all.

25 Q What's the relevance to your mind of your conclusions

1 about background registration and turnout rates by race to the
2 analysis that you've done about disparities and ID possession
3 rates by race?

4 A So the background factors are identified in various voting
5 rights cases as important for thinking about how an additional
6 burden potentially imposed by a law, a new law, might affect
7 different racial groups and the evidence from the background
8 factors indicates that minority groups were already registering
9 and voting at lower rates and this would be -- the ID law would
10 be a potentially other burden added on top of that.

11 Q Dr. Ansolahere, in light of all of the questions that
12 you've examined in this case, what is your ultimate opinion on
13 whether or not SB 14 will impose a disparate burden on minority
14 voters in Texas?

15 A My ultimate opinion is that minority voters are
16 significantly less likely to possess the requisite ID and that
17 they will be affected more than Anglo voters.

18 **MS. BALDWIN:** Pass the witness.

19 **(Pause)**

20 **CROSS EXAMINATION**

21 **BY MR. SCOTT:**

22 Q Hello, Dr. Ansolabehere. Nice to meet you -- see you
23 again.

24 A Good to see you.

25 Q When last we visited it was at your deposition up in

1 Washington, D.C., a couple of weeks ago, correct?

2 A Correct.

3 Q And we covered a lot of ground and you've -- we've covered
4 a lot of that ground today, and I've tried to -- been knocking
5 off stuff, so I'll try and be as quick as I can with you and
6 get you back on your way home.

7 A Okay.

8 Q The people on your -- the citizens on your -- your no-
9 match list, the one that contains approximately 787,000 names,
10 does that include the National Change of Address folks?

11 A Yes.

12 Q Okay. So, in direct examination from counsel, I think you
13 said that -- that you had pulled them out of some subgroup. Do
14 you recall how many people that was that you pulled out of
15 that?

16 A How many had NCOA flags?

17 Q Yes, sir.

18 A I don't remember how many had that specific flag.

19 Q Okay. But it would be the entirety of the number that
20 Catalist had provided to you with a mark or with a flag that
21 said NCOA, though, correct?

22 A Correct.

23 Q Okay. You originally received from the State of Texas
24 about 13,500,000 records that was the entirety of what's known
25 as the "TEAM," T-E-A-M, database, which is all registered

1 voters in the State of Texas, correct?

2 A Correct.

3 Q In addition to that, you received a data set of 25 plus
4 million records from the Department of Public Safety, correct?

5 A Correct.

6 Q And one of the first steps that you undertook was to match
7 those two databases and pull from those information that was
8 contained in the -- certain fields from the Department of
9 Public Safety records; is that correct?

10 A Correct.

11 Q And then you created your own sub-database, correct?

12 A We appended -- you mean the no-match list? Is that what
13 you're --

14 Q Well, we're just talking in general terms right now, the
15 13 million.

16 A Well, we appended the fields indicating whether there was
17 a matched record or not to TEAM's. It wasn't a sub-database,
18 per se.

19 Q Okay. And, so, from -- from a step process, you took the
20 overall TEAM database, and when you found a match, whether it
21 be on the Texas driver's license record, the Texas photo I.D.
22 records or the concealed handgun records, anybody that matched
23 with any of those three areas would be a match, correct?

24 A Correct.

25 Q You then took that information and you matched it with

1 several databases that were in the custody, and still are, of
2 the United States of America, correct?

3 A We did not send them the -- the indications of whether it
4 was a match for Texas. We just sent them the TEAM database
5 and -- and the instructions and -- and model code.

6 Q And you didn't actually perform those matches; those were
7 performed by someone at the various departments, correct?

8 A Correct.

9 Q And, so, if there was a form of photo I.D. that the State
10 of Texas was accepting for purposes of complying with SB 14,
11 that was a department within the federal government that the
12 information was sent over to see if there was a match for any
13 of the people on the TEAM database, correct?

14 A Correct.

15 Q And, again, if there was a match in that process, those
16 folks would then be labeled "match," correct?

17 A Correct.

18 Q And after you went through all of this process, you ended
19 up with -- I'll call it two lists. One's a "match list" and
20 the other is a "no-match list," correct?

21 A Correct.

22 Q Now, we've had some time during the course of our case to
23 talk about no-match list. I did pull -- I didn't see it as an
24 exhibit today from the United States Government or from the
25 plaintiffs; did you -- if I brought up something we'll mark for

1 identification purposes only today, a document that I'll call
2 your "no-match list," and if I could, we can go through and
3 maybe it's easier to look at that and cover the fields, okay?

4 A Okay.

5 **MR. SCOTT:** Okay. If you'll put the -- so, will you
6 reduce that in size, I guess? Oh, I guess right there may be
7 better.

8 **BY MR. SCOTT:**

9 Q So, Doctor, over on the left-hand side we've got a --
10 we've got a column A, and it says "VUID." Right?

11 A Correct.

12 Q And what's "VUID," I guess?

13 A That's a field on the TEAM database corresponding to the
14 voter I.D. They have an I.D. that they put on every record --
15 every individual.

16 Q And, so, the next field is "last name." Is that correct?

17 A Correct.

18 Q Okay. And that's the voter's last name.

19 A Yes.

20 Q First name, same thing; middle name, correct?

21 A Correct.

22 Q And, then, let's go on down if we could, and let's look
23 for -- I tell you what; let's look for a specific VUIN. How
24 about 1149380291?

25 Now, I want to cover something while we're getting to

1 that point. Everybody on your voter I.D. -- on your no-match
2 list is somebody that as a result, in your opinion, from -- as
3 a result of the passage and implementation of SB 14, is
4 prevented from voting because they don't possess the requisite
5 photo I.D. in order to cast a ballot in person, correct?

6 A Correct, unless they go out and get some.

7 Q Yes.

8 A Yeah.

9 Q And, so, if we pull up a name, any name on this, we should
10 be able to find people who that is the reason they're not
11 voting, right? In general.

12 A Potentially, yeah.

13 Q So -- all right. So, we've got Cargill, Kimberly Diane.
14 We've deleted her social security number, although the
15 information you sent over to our fine folks over at the other
16 federal agencies it had that information in it so that they
17 could try and find a match on that as well, correct?

18 A Correct.

19 Q So --

20 **MS. BALDWIN:** Your Honor, I don't want to interrupt;
21 I just want to preserve an objection. You know, since this is
22 a file that, while we did produce a file with that name, you
23 know, Mr. Scott's representing that certain information has
24 been deleted off of, you know, to take him at his word that no
25 other information, but we haven't had an opportunity to look at

1 the file that he's -- read out anything, so I just want to
2 preserve the right to take a break as we need to later, and if
3 we need to recall Dr. Ansolabehere to, you know, address
4 anything, once we can make sure that we're looking at the same
5 file, I just want to have that opportunity to do that.

6 **THE COURT:** That's fine.

7 **BY MR. SCOTT:**

8 Q And, so, let's -- can we slide the -- there we go.

9 So, then, the next is gender. So, she's female, at
10 least on your chart. Did the gender, was it all -- was that
11 information that was all sent over from the State or was that
12 something you received from the federal government? Were
13 there -- how did that get there?

14 A Gender is on the TEAM database.

15 Q Okay. And if there were -- are there any occasions where
16 it was not there and you had to impute what the gender might be
17 for a person?

18 A Right; so, for about five percent or so there was no
19 gender field recorded, and the way that was treated was we
20 imputed the gender for the most common -- the most common
21 gender for the given first name. So, if the person's name was
22 David and gender was not there, we would make that an M because
23 99 percent of people with David on the voter file had a male.

24 Q Common sense.

25 A Yeah.

1 Q All right. So, what's the official I.D. in column G?
2 What does that refer to?

3 A The official I.D. number?

4 Q Yes, sir.

5 A That's a -- I think that's the DPS I.D. number. I think
6 that's what it is.

7 Q Sure.

8 A Yeah.

9 Q And -- oh -- look at that. The State of Texas just got
10 more money, I guess.

11 **(Laughter)**

12 All right. So, that's the official I.D. where I'm
13 circling it under there --

14 A Uh-huh.

15 Q -- for -- that would be her driver's license number.

16 A Yeah, or state I.D.

17 Q Now, at some point in time there was a lot of information
18 in the TEAM database that was provided to you and a lot of
19 these numbers were deleted, the official I.D. numbers. Do you
20 know why that was?

21 A Why the official I.D. numbers were deleted from the
22 database that was provided to me?

23 Q Yes.

24 A I don't remember.

25 Q Okay. It was one of the clean-up steps, in fact. If a

1 official I.D. in the TEAM database didn't match the federal
2 record, it was to be deleted? Do you recall that?

3 A Oh, no, no, not -- "extracted" I think is the word.
4 That's not deleted.

5 Q Okay.

6 A That just says take those cases and use those cases.

7 Q Okay.

8 A That's not deleted.

9 Q Okay. So, next column is date of birth -- well, the
10 next -- what it is, is D.O.B., date of birth. How come you did
11 it that way?

12 A That's just the standardization.

13 Q Okay. Let's keep moving on over here.

14 A It's the name -- the name of the date of birth field is --
15 is the same as in the -- in the -- in the database to which
16 we're matching, so the other database might have stored date of
17 birth in a different way, so it's just the standardization of
18 date of birth.

19 Q Okay. So, "V" stands for "voter," "S" stands for
20 "suspense," right?

21 A Correct. That's my understanding.

22 Q Everybody on this -- in this no-match list is either a --
23 a active voter or they're an "S" for "suspense," right?

24 A I believe that's true.

25 Q And, so -- but all of them can still vote, correct?

1 A Uh-huh.

2 Q And the only reason they're not voting is because they
3 don't have proper I.D. under SB 14, right?

4 A That's the interpretation, yeah.

5 Q Okay. Well, is it -- is that right?

6 A Yeah, I think so. Looks like, uh-huh. Right.

7 Q All right. So, let's go to column K, block number.

8 That's -- so, that's somebody's address, physical address; 1804
9 Waterton, correct?

10 A Correct.

11 Q So, keep going over. In Whitehouse; that's up in East
12 Texas in Smith County over by Tyler. Next, Texas -- did you
13 find any no matches where the state wasn't Texas?

14 A Um -- I remember looking at this, and I'm trying to
15 remember if there were any no matches with -- I don't remember,
16 but --

17 Q I mean, part of the requirement to vote in Texas is you've
18 got to be a resident of Texas, right?

19 A Uh -- yeah, but people put different addresses on, so
20 somebody whose mailing address was recorded or a post office
21 box, so -- I don't -- but I don't remember if that was the
22 case.

23 Q So, with the National Change of Address database, you
24 weren't able to tell within the National Change of Address
25 database if somebody had moved across town or had moved across

1 the country, correct?

2 A Right. I just used the flag that was presented.

3 Q Okay. And for purposes of putting together this list, if
4 they were in NCOA, you assumed for those folks, however many
5 people that is, that they stayed within the confines of the
6 State of Texas and were an eligible voter in all other ways
7 other than they didn't possess adequate I.D., a proper I.D. to
8 vote under the terms of SB 14, correct?

9 A Well, again, the sensitivity analysis has removed
10 everybody who has an NCOA flag just to make sure that, you
11 know, we're sensitive to the -- the deadwood issue.

12 Q Okay.

13 A So, we're not -- we're only -- at this point we're only
14 removing, like, the deceased records according to State of
15 Texas. We're not using Catalist to tell us who's deceased;
16 we're not using Catalist to tell us who has an NCOA flag.

17 Q Okay. So, we've got "county file I.D." What's that mean?

18 A The county file I.D.?

19 Q Yes, sir.

20 A I don't remember what that -- what that corresponded to.

21 Q Race, Caucasian.

22 A Uh-huh.

23 Q So, Ms. -- what's her name? If you can you go back to the
24 column A for me? Cargill.

25 A Oh, I think -- sorry. I think county file I.D. is that

1 the data comes from a county, and that's the I.D. that the
2 county sent over.

3 Q So, you're highly likely this one is Caucasian. Is that a
4 determination you made?

5 A No, that is the -- those are the fields passed to us from
6 Catalist. That's the Catalist racial estimate and their race
7 confidence.

8 Q And that's done for everybody on the no-match list and
9 everybody for the match list, correct?

10 A Correct.

11 Q Okay. Now, "NCO Applied"; what's that?

12 A That's the -- the NCOA flag.

13 Q Oh, that's the thing if they moved. So, she has not
14 moved, so she's still active at that address, right?

15 A Yeah; there's no NCOA flag.

16 Q She didn't get her mail forwarded wherever she is if she's
17 not living at that address, correct?

18 A Right. And not everybody files an NCOA, so yeah.

19 Q Fair enough. Column P. So, let's go to it. Census
20 state. Is Texas I.D. number 48?

21 A It is.

22 Q Okay. Census county 423. Smith County is probably 423,
23 correct?

24 A Yep.

25 Q And, then, census tract 2009; what's that?

1 A Okay. So, census has successively finer gradations of
2 geography, and a tract is bigger than a block group and bigger
3 than a block.

4 Q Okay. So, where she lives is located in a tract that's
5 known as 2009.

6 A Right.

7 Q Where do you get that from, the Census Bureau?

8 A Yep.

9 Q Okay. And, then, "census block"; is that the actual block
10 she lives on?

11 A Census block group is a group of blocks, and blocks are
12 pretty close to actual blocks, but they're -- depends on --
13 depends on the geography. Some places the blocks are really
14 big; some places they're small. It's not -- it's not
15 corresponding to a street block.

16 Q Is there a certain critical mass of people that determines
17 what a census block would be?

18 A Uh, no, they tend to be typically around eight -- 800
19 people, 500 people, depending on the state. Some census blocks
20 have zero population.

21 Q So, if I'm in the middle of the panhandle somewhere where
22 there's not a lot of people, it may be a very large geographic
23 area.

24 A Right.

25 Q So, "census block group"; what's that?

1 A That's the cluster of blocks that are -- that's an
2 intermediary between the census tract and a -- and the block.
3 So, they take a cluster of blocks, and it's just a level of
4 aggregation.

5 Q So, for census block 32, you went to a Census Bureau and
6 you pulled that number?

7 A No, these --

8 Q Or did you create that?

9 A These data were provided to us -- the actual codes here
10 came to us from Catalist. They had this information on them.
11 They had already done that matching for us.

12 Q So, this is not from the Census Bureau.

13 A It is ultimately from the Census Bureau.

14 Q But it's got -- it's got a -- it goes by way of Catalist.
15 It takes a detour to you.

16 A Right; they did the work of mapping every address into
17 every census area.

18 Q Can you go to a dictionary within the census and pull the
19 same information?

20 A If you have the longitude and latitude of every address.
21 So, you need an additional database, which they happen to have
22 already, and I don't have that.

23 Q Okay. Let's go over just a little bit more. Deceased;
24 no. Deadwood; not dead. What's the difference in "deceased"
25 and "deadwood"?

1 A So, their deadwood model, SY is their modeled data, so
2 this is modeled data, and this is an estimate of the likelihood
3 that this person is a deadwood record, which means is there
4 evidence of a move or is there -- is that person likely still
5 there or is there a record of deceased from and -- from social
6 security or from some other source from which they've received
7 data.

8 Q So --

9 A So, it's a -- the "deadwood" is a combination of, you
10 know, likely movers, individuals who are deceased, and so
11 forth.

12 **MR. SCOTT:** Brian, would you pull up the picture of
13 the -- of -- oh, Smith County I think is the appraisal
14 district.

15 **(Pause)**

16 **BY MR. SCOTT:**

17 Q So, this is Smith County, which is where Whitehouse is
18 located.

19 A Okay.

20 **MR. SCOTT:** Could you make that where we could look
21 at it. If you can enlarge that ownership information.

22 **BY MR. SCOTT:**

23 Q So, there is this thing, it says "Beachfront Boulevard,
24 Biloxi, Mississippi," and then it's got "James and Rachel
25 Wilson."

1 Go up a little bit more. Let's make sure we're
2 looking at the right address, Brian, if you don't mind.

3 **(Pause; voices and whispers off the record)**

4 Oh. Go right here. There we go.

5 **BY MR. SCOTT:**

6 Q Eighteen-o-four Waterton is -- I'm going to represent to
7 you that's her address. Okay?

8 A Okay.

9 Q And there is a reason she's not there, and I --

10 Brian, will you bring up the Government photo of
11 Ms. Cargill.

12 So, here is Ms. Cargill. Well, let's get her -- she
13 currently -- this is a Government I.D., I assure you. She's a
14 resident of the state of Texas, she's boarded by the State of
15 Texas, and she is Kimberly Cargill, and this is her information
16 that -- and it is actually the same person that you have on the
17 no-match list. In 2010 she committed a capital murder and
18 received the death penalty and she currently is sitting on
19 death row. So, a couple of questions.

20 First of all, did you do any kind of analysis
21 whatsoever to get rid of people who are convicted -- who are
22 currently serving time in prison and might also be, like
23 Ms. Cargill, on the no-match list?

24 A No.

25 Q Did you attempt to pull out any of the people who have not

1 been rehabilitated under the terms of their probation so that
2 they have been -- had their right to vote reinstated?

3 A No.

4 Q You would agree with me if -- where you could find
5 somebody like Ms. Cargill, she -- her record and anybody that's
6 a felon or anybody that doesn't have the right to vote should
7 have -- should be pulled off your no-match list, correct?

8 A I believe that's true under state law in Texas that felons
9 are not allowed to vote.

10 Q And, so, anybody who is not -- does not have the right to
11 vote, would you agree you'd pull those off? If I can identify
12 those to you, you'd be happy to pull those off, right?

13 A If I was provided a database and I was instructed that
14 that was the proper thing to do with it.

15 Q Well, did anybody instruct you to look for people that
16 were felons?

17 A No.

18 Q Did anybody tell you to look for people that were
19 potential no-matches that were otherwise in the list? For
20 instance, NCOA's that had moved off to who knows where?

21 A Yes, in discussions with attorneys at the Department of
22 Justice we --

23 Q And a decision was made not to do that.

24 A To pull NCOA's off?

25 Q Not to pull them off.

1 A Or to -- to flag -- to flag the NCOA's.

2 Q Okay. But --

3 A Yeah, to -- to look for -- the analysis that we did
4 provide removes NCOA's at one stage.

5 Q Well, your number, though, for your no-match is seven
6 hundred and eighty-five -- 787,000 approximately, correct?

7 A Correct.

8 Q That includes all NCOA's, right?

9 A Correct.

10 Q And it includes Ms. Cargill and anybody like her, right?

11 A Correct. Yeah.

12 Q There are a category of people that don't vote. They just
13 simply don't vote. You and I visited in your deposition about
14 this. For whatever reason, they just -- they're registered,
15 but they don't participate. And we agreed, at least at the
16 deposition, that that category of person, they're not going to
17 have a large -- SB 14 and the requirements to go vote are not
18 going to have an impact on their lives, correct?

19 A Potentially. I don't know if their lives might change and
20 they want to vote at some later date.

21 Q Well, but it doesn't prevent them from voting, correct?

22 A No, they can do things to vote.

23 Q And, then, there is another category of people, and
24 they're people it doesn't matter what you do, it doesn't matter
25 what the weather is, and I'm sure you're one of those people,

1 that duty drives them to vote all of the time.

2 A Oh, I don't vote all of the time.

3 Q Okay. Well, you're going to be in the third category.

4 **(Laughter)**

5 You would agree there's that category of people out
6 there; they just -- they're great citizens.

7 A Yeah, there are some people who vote a lot.

8 Q And, then, there is that middle group. Well, first of
9 all, did you undertake to identify and categorize that first
10 group that we talked about, people that don't vote?

11 A No.

12 Q Did you do anything to identify that other group, people
13 that vote all of the time?

14 A No.

15 Q And, so, then we're left with there is that other, middle
16 group, that -- we'll call them a marginal voter. They vote --
17 maybe it's the election; maybe it's the candidate; maybe it's
18 the mood; who knows --

19 A Uh-huh.

20 Q -- but they vote. And you haven't identified what that
21 group is either, correct?

22 A No.

23 Q Okay.

24 A I mean, SB 14 affects everybody, so -- I mean it applies
25 to everybody. I think the academic literature on this does

1 have, you know, a sense of, like, everybody is affected in
2 terms of burdens, so --

3 Q Well, let's go back to our VUID list, your no-match list,
4 and I'm going to give Brian another VUID number, and that's
5 1203885376. Let's see what -- who the lucky number belongs to.
6 Michelle Enoch Bessiake. And that's her VUID number, and she's
7 on the no-match list. Have you ever visited with her?

8 A No.

9 Q Do you know who she is?

10 A No.

11 Q She used to -- she used to be a plaintiff in this case.
12 She nonsuited, or dismissed her cause of action. She also is a
13 young lady that is an out-of-state resident of Indiana who
14 moved to Texas to go to college. And you didn't know any of
15 that.

16 A No.

17 Q Did you get provided a copy of the pleadings --

18 A Uh --

19 Q -- in this case?

20 A At some -- at some point I --

21 Q So, you got a copy of their complaint, the complaint that
22 the plaintiffs filed, correct?

23 A Yeah, I believe so.

24 Q Okay. So, let's go back to the right here --

25 A Uh-huh.

1 Q -- Brian. She's female; date of birth; we've redacted her
2 social security number as part of the agreement. Her date of
3 birth; keep going here. Keep going. She lives down in
4 Rosewood in Houston, and she is listed as race confidence,
5 highly likely Caucasian. And, again, that's an assignment of
6 race that was done by you using Catalist information for this
7 person, correct?

8 A Right; Catalist provided us with that information, and we
9 used that classification when doing the analysis using the
10 Catalist racial identification.

11 Q And Ms. Bessiake is a -- a registered voter on the no-
12 match list --

13 A Uh-huh.

14 Q -- who the only reason she can't vote in Texas, is the
15 reason she's on the list, is because she doesn't possess I.D.
16 that would comply with SB 14; is that correct?

17 A That's my understanding here.

18 Q Okay. So, if you were to find out that she had,
19 subsequent to registering in Texas, had gone back to her home
20 state and registered to vote, would that mean she's no longer
21 eligible to vote in Texas?

22 A Um, I don't know what the state law is in --

23 Q It's not a trick question, I don't think.

24 A But --

25 Q You can't vote in two places, can you?

1 A You can't vote in two places, but --

2 Q You get one vote per election cycle.

3 A Well, some states you can, so I don't know what the state
4 law is.

5 Q Which state?

6 A There are some states that allow you to vote in local
7 elections -- I don't remember which ones -- if you're
8 registered --

9 Q But not --

10 A -- but it's like not -- you know, it's like --

11 Q Not Texas, right?

12 A I don't know what the state law is pertaining to that. My
13 guess is probably not, but --

14 Q Okay. Do you know of a way -- well, let's limit it to
15 federal elections.

16 A Uh-huh.

17 Q Do you know of a way that somebody like Ms. Bessiake would
18 be able to vote in a federal election that's held in Texas and
19 then fly home and go vote up there?

20 A No. You cannot vote in two federal elections.

21 Q Perfect. And, so, because of this, you are highly likely
22 that Ms. Bessiake is Caucasian, correct?

23 A That's what the classification is that we received from
24 Catalist, yeah.

25 Q Okay. So, let's -- let's take it -- do you -- do we have

1 a copy of her photo or her driver's license? And we have
2 redacted the information to counsel. I think that was part of
3 the agreement.

4 And there is Michelle Bessiake; that was a document
5 that was produced --

6 A Uh-huh.

7 Q -- during the course of her deposition. And that's her
8 Indiana driver's license; actually, it's her learner's permit.
9 She's fixing to go, I guess, become a licensed driver. Do you
10 know what the requirements, document wise, in Indiana are to
11 obtain a driver's license?

12 A No.

13 Q Do you know if they're any different than Texas?

14 A I don't know what Indiana's laws are. One thing I would
15 note is that -- what's the date on this for when she got this?

16 Q Uh, let's look.

17 A Is the issuing state -- it's the beginning -- it's around
18 the time that --

19 Q Can you switch to the --

20 A -- yeah, it's around the time that the data were -- were
21 pulled here.

22 Q It looks like 1/9/2014.

23 A Uh-huh. Okay. So, it's around the time that the data
24 were pulled, so --

25 Q Data were pulled what?

1 A The data for this study were pulled.

2 Q And you --

3 A January 15th, 2014. So, it may have been that, I don't
4 know, maybe she filed a paper and it hadn't been processed yet.

5 Q Well, she was a party plaintiff, right?

6 A Yeah.

7 Q I mean, she -- you're hired by the plaintiffs to render
8 testimony in this case, right?

9 A Correct.

10 **MS. BALDWIN:** Objection. Dr. Ansolabehere, just so
11 the record's clear, is the United States' expert; he's not the
12 expert for all of the parties.

13 **MR. SCOTT:** Okay. Sorry.

14 **BY MR. SCOTT:**

15 Q Did you -- she's also an out-of-state student who came to
16 the state of Texas to go to school, correct?

17 A Uh --

18 Q Oh, you didn't know that.

19 A I'll take your word for it.

20 Q It's in her pleading. Do you know how many out-of-state
21 students are currently on the no-match list that you have
22 produced in this case?

23 A I have no way of knowing that.

24 Q Do you know how many out-of-state -- how many people who
25 are registered to vote in Texas who now reside -- or are also

1 registered in another state?

2 A I have no way of knowing that.

3 Q Well, Catalist has a 50-state database of all of the voter
4 registration, correct?

5 A Correct.

6 Q Now, did you do the contract with Catalist, or who did?

7 A DOJ did.

8 Q So, the Department of Justice had the contract with
9 Catalist, and Catalist had within its confines all 50 states
10 and all of the voter registrations of everybody in all those
11 states, correct?

12 A Correct.

13 Q Do you know if they ran or asked to run Ms. Bessiake
14 through the Catalist database to find out if she was registered
15 in two states?

16 A I don't know.

17 Q Do you know -- do you know if they did it on behalf of any
18 of the other people who are listed or registered in two states?

19 A I don't know.

20 Q Do you know percentage-wise how many people are registered
21 in two states at the same time?

22 A I think it's an extremely small number.

23 Q Do you have any estimate?

24 A Uh, based on some of the data that's been coming out of
25 these two new projects, one from Pew and one from the

1 Secretaries of States, the numbers are extremely small, less
2 than -- less than one percent was my -- what I heard from one
3 study.

4 Q So, if she had shown up at the voting poll with her
5 student I.D., she would have been able to vote, right, in
6 Texas?

7 A Yeah, if she --

8 Q If that is the law.

9 A If she had shown up at the voting booth, she's legally
10 registered, if she had her I.D.

11 Q Did you write a paper on Indiana and the voter I.D. laws
12 in Indiana?

13 A I wrote a paper in the Harvard Law Review on the -- on the
14 race of -- possession of -- of -- you know, of the effects of
15 I.D. laws at that time.

16 Q As part of that paper did you have to undertake a study,
17 briefly at least, of the Indiana laws regarding what it takes
18 document wise to obtain a photo I.D.?

19 A The part of that paper was -- that was done by my
20 colleague, Nate Persily. He was doing that part; I was doing
21 the data work.

22 Q That's a "no."

23 A So, yeah, I did not do the -- the legal review.

24 Q So, let's look at another one. VUID 1184062007.

25 **(Pause)**

1 Sammie Louise Bates. We watched her -- we watched
2 her deposition this morning. Were you here when her deposition
3 was played?

4 A No.

5 Q And so let's cut to the chase on this. If we can slide
6 back to the right. Your -- you and -- you and the friends over
7 at Catalist have a possible confidence that she's Caucasian.
8 So for purposes of your opinion in all these charts that were
9 done on the database match, someone could be one of three
10 categories of a code, right? You could be Caucasian possibly,
11 Caucasian highly likely and Caucasian likely; is that correct?

12 A Correct.

13 Q If I'm any of those three, does that mean that you put me
14 on the list as Caucasian?

15 A In one of the -- in some of the analyses, we just used the
16 race category and some of the analyses, we used only the highly
17 likely race.

18 Q Now, what's weird to me is that you had pulled the race
19 from the Department of Public Safety. Do you remember that?

20 A Yes. Race was on the Department of Public Safety data.

21 Q What happened to it? Did anybody use it to go cross-check
22 any of the matches to find out how accurate Catalist and your
23 data were including your imputation of race confidence and race
24 of any of these individuals?

25 A There was an inquiry about whether we should use that and

1 I was told not to use it.

2 Q Who by?

3 A The Department of Justice.

4 Q Let's turn to 1121389639. Were you here during the
5 deposition of -- I mean, I'm sorry. It felt like a deposition.
6 Were you here during -- sorry, Ronnie. Were you here during
7 the testimony of Floyd Carrier?

8 A No.

9 Q Let's slide on over to the right. He's a Plaintiff and he
10 is highly likely Caucasian. Again, that's a determination you
11 and Catalist made, correct?

12 A Catalist made it and I used their data, yeah.

13 Q And he's the guy that had a record in the Department of
14 Public Safety database, correct?

15 A Correct.

16 Q And he's also a guy that is part of the pleadings and so
17 we can go look at his pleadings and look at what he's
18 represented to this court. He is bi-color, correct?

19 A I believe that he's --

20 Q He's --

21 A I'll take your word for it.

22 Q Well, and he's also got to --

23 A I wasn't in the courtroom. So I don't know.

24 Q -- he gave a deposition in this case and was -- and
25 identified which race he was, correct?

1 A Okay.

2 Q So here's his -- I mean, I'm sorry. Here's his complaint
3 that was filed in this case on his behalf and it says -- oh,
4 no, I broke it. Plaintiff Floyd James Carrier is a resident of
5 China, Jefferson County, Texas. He is African American. He is
6 physically disabled, wheelchair bound and, quite frankly,
7 seemed like a super nice guy. But from your standpoint, you
8 had the pleadings but you chose to input a different race than
9 what he was. Why?

10 A I didn't know if -- I didn't know if that was same record.
11 So --

12 Q Okay. Now, there's another pleading that I guess we'll --
13 well, let's -- you have admitted in your testimony today that
14 errors in classification occur, correct?

15 A Correct.

16 Q If I were to tell you I have found over a million errors
17 in your classification on work you did in this case as we
18 compare it to people's self-identified rate, would that mean
19 you'd be willing to pull back the opinions that you had
20 delivered on the purposes of database matches?

21 A No.

22 Q How about if I told you I found a million and a half
23 mistakes -- errors in the classification of race on individuals
24 in the database match? Would that change your opinion?

25 A No. I mean, we validated with the ecological regression

1 as well. So we'd slice the data using totally different
2 approaches understanding the effect of the law and different
3 racial groups. So --

4 Q Well, will you admit there's over 2 million records in the
5 race classification that you have placed along with Catalist in
6 the database (indiscernible) performed in this case that are
7 done incorrectly?

8 A I don't know where those numbers are coming from. I
9 couldn't tell you --

10 Q Do you deny that?

11 A Do I deny that they are 2 million? I don't know one way
12 or the other.

13 Q Well, as we sit here today in court with Plaintiffs trying
14 to tell Texans that there are elected officials who passed
15 SB 14 that it violates The Voting Rights Act --

16 A Uh-huh.

17 Q -- you can't tell this Court whether there are 2 million
18 or more errors in race classifications in the match and
19 no-match list that you have produced to this Court to support
20 that case; is that correct?

21 A That's correct. I don't -- I have not done a study along
22 those lines.

23 Q Let's visit a little bit about Catalist if we could.

24 A Okay.

25 Q Catalist was your decision to pick?

1 A I recommended several firms to DOJ and they picked. I
2 have experience working with Catalist. So I said I've had good
3 experience with them in the past. So --

4 Q And had you worked with them and DOJ before?

5 A Yes.

6 Q And had you worked with them and DOJ in a case against
7 Texas before?

8 A Correct.

9 Q And that was the case up in Washington, D.C., correct?

10 A Correct.

11 Q And that's the case that you found that approximately 10
12 percent don't match?

13 A Correct.

14 Q 1.2, 1.3 million people?

15 A I think it was 1.9 million records were no-match, I think,
16 on that study.

17 Q Okay.

18 A But that was, again, using a different approach matching
19 only first-name-last-name database and date of birth.

20 Q Did you sit in a witness stand kind of like that to go
21 over your testimony like you did here and testify that there
22 was 1.9 million people that were no-matches in the Washington,
23 D.C. court?

24 A Yeah, whatever the right number was. I think it was 1.9.
25 Maybe it was 1.5, somewhere in there, yeah.

1 **MR. SCOTT:** Ryan, would you put up the Catalist
2 excerpt? We're going to skip Congressman Veasey's records for
3 a second.

4 Q Catalist is an outside entity and they have -- one of
5 their key scientists is an expert who's scheduled to testify
6 here tomorrow. Do you know that?

7 A I didn't know when he was scheduled but --

8 Q He -- I threw him for a loop. I'm sorry. With regard to
9 the other entities -- here they are.

10 So do you understand that Catalist has a website and
11 they have a client list?

12 A Yes.

13 Q And on that client list, they list, I guess, their
14 clients. We'll ask this to the man tomorrow but were you aware
15 of their connection?

16 **MR. SCOTT:** Ryan, would you slow it down for the --
17 how about keep coming down? Ah, go back down.

18 Q Were you here when Representative Martinez Fischer was on
19 the stand?

20 A At the very end.

21 Q (indiscernible) it was just -- this is all about politics,
22 Republicans, Democrats. So here's the clients that make up the
23 folks that Catalist lists as its clients. It's got, "Democracy

24 USA, Democratic Congressional Campaign Committee,
25 Democratic Governors' Association, Democratic

1 Legislative Campaign Committee, Democratic Senatorial
2 Campaign Committee, Democrats.com."

3 **MR. SCOTT:** Going down. Yeah, go to the next page.
4 I'm sorry, Ryan. Get to the T's. Wait a second.

5 Q "The Texas Democratic Trust and the Texas Democratic
6 Party." Did you raise an issue with them that there has got to
7 be some type of guarantee that there is no perception of
8 impropriety in this case?

9 A I recommended, I think, Voter Vault and Aristotle and
10 Catalist and --

11 Q Was that --

12 A -- I wasn't aware that the Texas Democratic Party or the
13 Texas Democratic Trust were clients of Catalist. I don't
14 remember seeing that before.

15 Q It's --

16 A It's a long list.

17 Q It is a long list. They seem to do well. Do you know who
18 the general counsel of the Texas Democratic Party is?

19 A No.

20 Q He's sitting over there at that table.

21 A All right.

22 Q So when you do academic research --

23 A Uh-huh.

24 Q -- do you attempt to insulate yourself from outside
25 influence?

1 A Yes.

2 Q How do you do that?

3 A I send out for bid for different projects. So Catalist, I
4 work with Catalist and I send out feelers to other
5 organizations and let them bid on projects. So --

6 Q Okay.

7 A And I don't own stock in the companies.

8 Q Well, one of the things that's interesting --

9 **MR. SCOTT:** Hold on a second. Don't pull that up
10 yet.

11 Q He's going to pull up Congressman Veasey's records. Do
12 you know how much the United States government paid for the
13 Catalist research that it received in this case?

14 A No idea.

15 Q The race classification of individuals in this case?

16 A Don't know.

17 Q Okay. Well, I'm going to pull out a quarter and we're
18 going to play a game. I'm going to flip it. I'm going to take
19 -- heads, we'll take what you and Catalist have described for
20 Congressman Veasey and tails will be we'll take what
21 Congressman Veasey has described and see who's right. Heads,
22 so let's see who --

23 **MR. SCOTT:** If you'll pull up Congressman Veasey's
24 information.

25 Q So as we look at the top, there's Congressman Veasey and

1 those people below there are also Party Plaintiffs in this
2 case. So you've identified that he is a male. And if we could
3 keep going over to the far right. Fort Worth and stock.

4 **MR. SCOTT:** Well, you can keep going.

5 Q I've added a couple of deals to this so we can speed the
6 case up because I thought everybody would have lost their
7 patience by this time. So it is possibly Caucasian. He has
8 identified himself in his complaint as African American, hasn't
9 he?

10 A Correct.

11 Q Have you taken the time to visit -- do you know Dr. -- do
12 you know Congressman Veasey?

13 A No.

14 Q Do you know what city he represents -- or cities?

15 A Dallas-Fort Worth area.

16 Q Yes, sir. And do you know that -- and, again, we can go
17 to the other Plaintiffs. Would it surprise you to find that
18 you had misclassified six party Plaintiffs in this case for
19 race of those Plaintiffs?

20 A It depends on where they live and what their last names
21 are. That's -- the algorithm uses that and the rate of
22 classification is a function of those factors.

23 Q Well --

24 A So --

25 Q -- if we wanted to be accurate, it really depends on what

1 we are, right?

2 A Well, when you don't have race on the voter file, you try
3 to answer the racial question different ways and I'm tackling
4 this from different perspectives.

5 Q But you had race. You had race for 400-and-some-odd
6 thousand people that are on your no-match list. Did you know
7 that?

8 A What do you mean?

9 Q I mean there's Department of Public Safety records for
10 over 400,000 people on your no-match list. Did you know that?

11 A The racial field that we were told -- I was instructed not
12 to use, is that what you're referring to?

13 Q Yes.

14 A Yes.

15 Q And so that's why you didn't use it because you were
16 instructed not to use it, correct?

17 A Correct.

18 Q Okay.

19 A We were told that -- I was told that there were concerns
20 that the State had with the data and there were problems with
21 the data. So --

22 Q But you did no independent research to determine that,
23 correct?

24 A No, no.

25 Q Now, I'm going to turn your attention, if I could, to a

1 different area. You have testified in direct that there's
2 approximately 22,000 people on the no-match list who've also
3 voted in the last -- I'm sorry -- 27,000 people who voted in
4 the March or May Texas primary, correct?

5 A Correct.

6 Q Now, I don't want to get on sensitive ground here. So to
7 the extent, let's exclude the mailing because we can assume
8 that those folks qualified either as over 65 or disabled,
9 correct?

10 Q Okay.

11 Q Is that --

12 A True.

13 Q Is there any other way they would have been able to mail a
14 ballot?

15 A I don't think so. I think that's it.

16 Q Had you done anything to figure out how it is that they
17 got a hold of the mail ballots -- the 5,000 people?

18 A No.

19 Q I mean, you looked at a number and derived that number and
20 that was it, correct?

21 A Correct.

22 Q The 22,000, this is where I'm going to try to get into
23 some sensitive ground. Did the 22,000 who you -- the paid
24 employee -- or paid experts by the Department of Justice have
25 identified did not have proper identification, that complies

1 with SB 14 and have passed a ballot in a Texas election after
2 that statute was implemented -- I don't want you to go into any
3 testimony or anything you've done with regard to law
4 enforcement in pursuing those potential 22,000 claims against
5 precinct workers who may have violated the law. Okay, so let's
6 exclude that.

7 A Uh-huh.

8 Q Have you been able to identify any of those individual
9 people and find a reason why it is that they passed their
10 ballot?

11 A No.

12 Q And you said you had about 3 percent turnout or the
13 no-match list had about 3 percent turnout rate in the March and
14 May primary, correct?

15 A Right, whatever the figure was, yeah.

16 Q And so what was the overall turnout for the March and May
17 primary? Do you know?

18 A I don't know.

19 Q I mean, did the no-match list do pretty well in turnout?

20 A No. I don't think so.

21 Q Would --

22 A I don't know.

23 Q -- are we talking double digit turnout in the March and
24 May primary in Texas?

25 A I don't remember what the numbers were.

1 Q Okay. Estimating -- we talked about ecological regression
2 and homogeneous block analysis that you've done in this case.

3 A Correct.

4 Q We're talking about estimates that you have taken and
5 other people have taken and we're applying other estimates on
6 top of those, correct?

7 A What do you mean by that?

8 Q Well, you're doing estimates on estimates in order to
9 analyze the data.

10 A I don't understand what you mean by estimates on
11 estimates.

12 Q Okay. Well, let's --

13 A Estimates of what?

14 Q Well, estimates of the population you're analyzing,
15 correct?

16 A Well, I'm using the census data and --

17 Q The census data provided to you by?

18 A Well, I'm using the actual census data for that.

19 Q Well, what information were you using in the census block
20 that you used to analyze that you received -- I think you
21 testified you received it from Catalist.

22 A Oh. What I received from Catalist was an identification
23 of what the area was in which the person lived. I downloaded
24 the actual census data from the census website and used that
25 and the ecological regression to measure the rate of no-match.

1 Q So Catalist information was used to help you produce your
2 results on the ecological regression analysis, correct?

3 A It was used to locate individuals.

4 Q And with regard to the homogeneous block analysis you
5 performed, what information -- where did you get your baseline
6 information for that?

7 A The blocks?

8 Q Yes.

9 A The data that comes from the census and the ACS, the
10 American Community Survey and from the census enumeration.

11 Q So out of homogeneous block analysis, are you able to
12 identify any individual -- anybody out of that study that you
13 can say is unable to vote because they lack proper voter ID?

14 A Those techniques are for measuring racial differences
15 across groups and some behavior, like possession of ID. It's
16 not about estimating the race of individuals.

17 Q What's ecological fallacy?

18 A What's the ecological fallacy? That was an observation of
19 William S. Robinson.

20 Q And what is it?

21 A Ecological fallacy is that ecological aggregates don't
22 always correspond to individual estimates.

23 Q So it's tough to take a big group people and try and
24 impute something about individuals out of that big group
25 analysis?

1 A Under assumptions, you can do that.

2 Q Well, under assumptions, you can pick the race
3 classification of people, right?

4 A Uh-huh, correct.

5 Q The problem is sometimes that's wrong, right?

6 A Correct.

7 Q Your number is 27 percent higher than Dr. Herron's number
8 for a prediction of no-matches using ecological regression.
9 Did you know that?

10 A I didn't know that.

11 Q Now, you're a professor at Harvard, correct?

12 A Yeah.

13 Q He's a professor at Dartmouth, correct?

14 A Okay.

15 Q Whose result is right, yours or his?

16 A I haven't looked very closely at the details of how he
17 implemented his ecological regression. My specification is
18 stated.

19 Q Do you have more confidence in your ecological regression
20 analysis, in your homogeneous block analysis or in your
21 database match or are they all viewed by you the same?

22 A I -- mindful of the errors of the misclassification in
23 Catalist, I think that those are underestimating the
24 differences across the racial groups because of what
25 misclassification will tend to do in a situation like this. So

1 I -- that all the tests -- that all of the data is pointing to
2 the same conclusion is underscoring the same basic conclusion
3 and so I'm confident in that conclusion.

4 Would I pick any one of them over the other? I would
5 -- homogeneous block group and the ecological regression are
6 going to be close to each other. So I think those are the most
7 consistent with each other and that's probably the most likely
8 estimate.

9 Q So earlier today I thought I heard you say that they were
10 all three very similar and that gave you comfort, correct?

11 A Yeah.

12 Q Well, what if 2 million plus of your people on your
13 database match that you have labeled Hispanic or black are
14 actually white, would that change the results?

15 A Again, that degree of misclassification would reduce the
16 size and that's what we're seeing when we compare the
17 ecological regression to the Catalist analysis, that is, the
18 differences across those bars are smaller than in the
19 ecological regression and that would be a consequence of
20 misclassification.

21 Q So as a result of all your work that you've done in this
22 case and all the things that you've derived and all the people
23 that you've seen, are you able to tell this Court that there is
24 anybody that cannot cast a ballot in Texas as a result of the
25 implementation of SB 14?

1 **MS. BALDWIN:** And, your Honor, I just want to have a
2 running objection to the 2-million number. I mean, throughout
3 the entire exam -- and I didn't want to interrupt the pace of
4 what Mr. Scott was doing but there's been no foundation, no
5 facts offered whatsoever at all for the idea that there is this
6 amount of misclassification.

7 **MR. SCOTT:** We'll bring a rebuttal witness on it,
8 your Honor.

9 **THE COURT:** Okay. I'll see. I mean, there's nothing
10 in the record yet --

11 **MR. SCOTT:** Yes, ma'am.

12 **THE COURT:** -- on that?

13 **THE WITNESS:** Could you restate your question?

14 **BY MR. SCOTT:**

15 Q Ah-hah. Can you, based upon all the work that you've done
16 in this case, identify one person that you believe cannot vote
17 because they are unable to obtain voter ID that complies with
18 SB 14?

19 A That was not the task I was asked to do, to identify
20 individuals.

21 Q Okay.

22 **MR. SCOTT:** Nothing further, your Honor.

23 **THE COURT:** All right.

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2 **REDIRECT EXAMINATION**

3 **BY MS. BALDWIN:**

4 Q Mr. Ansolahehere, I want to bring up -- I'm going to put
5 on the Elmo an exhibit that I'm going to read from just for --
6 I'll show the first page just for identification purposes.

7 This is Plaintiff's Exhibit 942 and this is a letter sent from
8 the office of the Secretary of State. Let's see if we can see
9 a date. What's the date on that letter, Dr. Ansolahehere?

10 A January 12th, 2012.

11 Q Okay. And this letter concerns some DPS data. I just
12 want to read you a passage of the letter and ask if this would
13 have changed your analysis in any way. I'm going to read from
14 the second bullet. "DPS previously used the following racial
15 classifications on all ID applications: American
16 Indian, Alaskan Native, Asian Pacific Islander,
17 Black, Other and White. Not until May 2010 did ID
18 applications at DPS offices across the state contain
19 a field for Hispanic."

20 If until 2010, DPS did not collect information for
21 who is Hispanic and just had those other race categories, do
22 you think that the DPS data is a reliable source of self-
23 reported race?

24 A It had an awful lot of incomplete missing data.

25 Q And reading on in the bullet underneath that, "It is

1 impossible to identify which classifications Texans
2 of Hispanic dissent selected on ID applications
3 completed prior to May 2010. For this reason, DPS's
4 data for racial classifications other than Hispanic
5 are no doubt significantly distorted." If in your
6 academic judgment, you were offered a data source of so-called
7 self-reported race where the person collecting the self-
8 reported race was saying that those racial estimates were
9 significantly distorted, would you have confidence in relying
10 on that data?

11 A No.

12 Q We talked about -- one of the first examples that
13 Mr. Scott brought up on the no-match list was a woman who
14 appears to be a felon in another state.

15 MS. BALDWIN: Could we bring up P0901 at Page 63? If
16 we could switch to the --

17 Q Could you read the first paragraph, if you can read that?

18 A Is this an eye exam?

19 (Laughter)

20 Q I'll read it for you if --

21 A "Each weekday, the Department of Public Safety, one,
22 prepares an abstract of each final judgment received
23 by the department convicting a person 18 years of age
24 or older who is a resident of the state with a felony
25 and, two, files each abstract with the Secretary of

1 State. These records are then processed against the
2 voter rolls to identify possible felons and provide
3 to the county in which the individual is registered
4 for further investigation. That purpose has been
5 accomplished."

6 Q Okay. And I'm going to represent to you that this answer
7 comes from interrogatories that the State of Texas served in
8 response to the Plaintiffs. So if the Department of Public
9 Safety gives the Secretary of State information on felons on a
10 daily base for people who have been convicted of felonies in
11 Texas, would those people based on that paragraph have likely
12 already been removed recent felons from the team data that you
13 received on January 15th?

14 A That was my understanding, yeah.

15 Q Do you know of any state that does a more often than daily
16 removal of felons than Texas?

17 A Daily is the most frequent I've heard of. So --

18 Q We talked some about, on your direct, misclassification
19 errors in race of particular people. When Mr. Scott pulled up
20 the big, massive spreadsheet, the race information that was
21 race estimates from Catalist, correct?

22 A Correct.

23 Q And do those race estimates from Catalist have anything to
24 do with your separate analysis of ecological regression?

25 A No.

1 **MR. SCOTT:** Objection, your Honor. I think -- well,
2 I mean, he's already testified.

3 **THE WITNESS:** Sorry. Sorry.

4 **BY MS. BALDWIN:**

5 Q So is -- and the ecological regression analysis -- the
6 information from Catalist that you used for that was the
7 geo-coded census locations, correct?

8 A Correct.

9 Q Is that a standard mechanical process, geo-coding census
10 locations?

11 A Correct.

12 Q Is there any exercise of discretion typically that's done
13 in geo-coding?

14 A No.

15 Q You either can locate a person where there's census data
16 or you can't, right?

17 A Correct.

18 Q To what extent, if any in your view, does Catalist's
19 client list have any effect on its geo-coding that was used in
20 your ecological regression?

21 A Not at all. It's a straightforward programming problem.

22 So --

23 Q And we talked a bit earlier about the effects of
24 misidentification by race. Is it surprising to you that there
25 are particular people on your no-match list who their Catalist

1 estimate is not, in fact, their actual race?

2 A Not surprising.

3 Q To what extent would you expect that to be the case?

4 A I mean, it would depend -- it depends a bit on what
5 geography the people are being extracted from. So if I -- if
6 you're taking people from the geography that's predominantly
7 white and it happens to be a black person, the most likely
8 guess would be that that person is white. So that's the kind
9 of error that would show up.

10 Homogeneous black group helps in thinking about that
11 a contrast which is take areas that are very white, very black,
12 very Hispanic and compare race and non-possession of ID and we
13 find, you know, a big difference across those areas. So
14 different kinds of information -- you know, different kinds of
15 geographies will be to different kinds of misclassification but
16 adding the name information and so forth improves the -- you
17 know, reduces those misclassifications within those areas.

18 So Catalist is fairly good at identifying race and
19 I've looked at their data most intensely in Florida and there
20 it's quite good because Florida has race on the voter rolls.

21 Q And tell us about the validation you've done of the
22 Catalist data in Florida on the voter rolls.

23 A Because race is on the voter rolls and it's a very large
24 state, compare their racial classifications and the data --
25 they're not perfectly reliable but they're very highly reliable

1 indicators of the self-identified race from the voter rolls.

2 Q Okay. And I want to ask you again. Based on everything
3 that you've done, what is your basis for believing that any
4 misclassification by Catalist is not creating the racial
5 disparities that you're observing?

6 A Um --

7 Q And maybe we can put up a --

8 A Okay.

9 Q -- slide as an example if we have that on a -- feel free
10 to talk in general and if you want to use a specific example.

11 A Okay. And my basic conclusion is that the problem of
12 misclassification in this particular instance would actually
13 lead to reducing the differences across the grids rather than
14 expanding observed differences.

15 And the example I gave earlier is such an example and
16 here's another such example which is if you take people who
17 have ID and people who don't ID by each racial group because
18 the white bar is the truth, 80 percent of whites have ID and 30
19 percent of blacks have ID compared to 20 percent of whites not
20 having ID and 70 percent of blacks not having ID.

21 And then if 30 percent of blacks are misclassified as
22 whites and 30 percent of whites are misclassified as blacks,
23 then the proportions are reduced because the estimates are
24 muddied by misclassification of the two racial groups. So
25 instead of estimating the true proportion of 80 percent of

1 whites having ID, the result would be 65 percent of whites
2 having ID and instead of estimating the true proportion of 30
3 percent of black having ID, the misclassification leads to an
4 estimate of 45 percent of blacks having ID.

5 So instead of seeing a 50 percentage-point difference
6 -- and in this example, you could only have a 20 percentage-
7 point difference and that's just a matter of simple
8 misclassification one way or the other and that's commonly
9 what's called "measurement error" when misclassification
10 happens in data such as these, that is, it would reduce finding
11 differences and the fact that we find significant differences
12 means that even with the misclassification, there's still
13 evidence of a racial disparity.

14 Q So to be very clear, do you have any doubt that the
15 misclassification is creating the racial disparity that you've
16 observed?

17 A No. It's, if anything, biasing it downward to -- away
18 from finding a disparity.

19 Q Okay. And last on ecological regression, I believe you
20 testified on direct that that was an accepted methodology and
21 cited a case called "*Gingles v Thornburg*"?

22 A *Thornburg v Gingles*, yeah.

23 Q Thank you. Could you just say what Court decided that
24 case?

25 A The United States Supreme Court, 1986.

1 Q Thank you.

2 MS. BALDWIN: That's all I have.

3 RECROSS EXAMINATION

4 BY MR. SCOTT:

5 Q We've got real-world facts going on here, Doctor. We have
6 elections taking place. We have people who are signing up for
7 voter ID. Why are we not focused on the outcomes of those
8 individuals and whether or not they have been impacted by this
9 statute rather than defaulting to a theoretical world that
10 seems to run counter-factual? Why is that?

11 A I'm not sure I get the gist of your question. I was asked
12 to do a database match to determine whether there were
13 differences between who had ID and who didn't have ID. That's
14 an approach followed by even the State's own expert, Trey Hood,
15 in his assessment of Georgia. So I don't think this is a
16 hypothetical. I think this is the technique that the social
17 scientists use to assess whether or not the different racial
18 groups are affected differently by the -- in this case, the
19 voter ID law but in other voting rights cases as well.

20 Q So if you do an ecological regression and anybody else in
21 his case does an ecological regression, your numbers should be
22 the same, correct?

23 A It depends on how -- what variables are being used for
24 race and it depends also on how they weighed it. I weighed it
25 properly by voting -- by the voting age population. So --

1 Q Let's say you an ecological regression and another
2 Plaintiffs' expert does an ecological regression, you'd agree
3 those two, based on science, should line up and be the same
4 number, correct?

5 A I'd have to see what that other person did.

6 **MR. SCOTT:** Nothing further, your Honor.

7 **THE COURT:** All right. Is that all for this witness
8 then?

9 Sir, you can step down. Let's go ahead and take a
10 15-minute break.

11 **THE WITNESS:** Thank you.

12 **(Witness stepped down)**

13 **THE CLERK:** All rise.

14 **(A recess was taken from 4:15 p.m. to 4:28 p.m.; parties**
15 **present)**

16 **MR. BRAZIL:** May I proceed, your Honor?

17 **THE COURT:** Yes.

18 **MR. BRAZIL:** At this time the Plaintiffs would call
19 Marc Veasey.

20 **THE COURT:** All right.

21 **MR. BRAZIL:** Mr. Veasey, if you'd be sworn.

22 **THE COURT:** Good afternoon, sir. Would you raise
23 your right hand?

24 //

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2 **MARC VEASEY, PLAINTIFFS' WITNESS, SWORN**

3 **MR. BRAZIL:** Your Honor, for the record, Scott Brazil
4 for the Veasey, LULAC Plaintiffs.

5 **DIRECT EXAMINATION**

6 **BY MR. BRAZIL:**

7 Q Would you please state your name?

8 A Marc Veasey.

9 Q And Congressman Veasey, would you give us a brief
10 background of your education?

11 A Yeah, absolutely. I finished from the Fort Worth
12 Independent School District at Arlington Heights High School
13 and graduated from Texas Wesleyan University Methodist College
14 in Fort Worth.

15 Q What year did you graduate?

16 A 1995.

17 Q And your degree was in what?

18 A Mass communication.

19 Q Would you identify your race for the record and for the
20 State?

21 A Black or African American, as some people will say.

22 Q Okay. You are currently an elected official?

23 A That is correct, sir.

24 Q How so?

25 A I was elected to the United States Congress in 2012.

1 Q And so you took office in January of 2013?

2 A That is correct.

3 Q Before being elected to Congress did you also serve in a
4 public capacity?

5 A Yes, sir, I did. I was elected in 2004 to serve in the
6 Texas State Legislature.

7 Q And what district did you represent?

8 A That was House District 95 that I represented until 2012
9 when I ran for Congress.

10 Q So you were elected to four terms?

11 A That is correct.

12 Q And what area for the Court, what area did that district
13 encompass, generally?

14 A Southeastern Tarrant County.

15 Q In the four terms that you were in the House was photo
16 I.D. or voter I.D. a topic of discussion during several of
17 those sessions?

18 A Yes, absolutely.

19 Q And can you just briefly give us a background of that?

20 A Well, every session that I was in there was some attempt
21 at the photo I.D. bill, whether it was an amendment or it was a
22 full-scale bill; or like the last session there was an attempt
23 each session to pass one of these photo I.D. type bills.

24 Q And who was your desk mate during that four terms?

25 A For every term I was in the state legislature my desk mate

1 was Trey Martinez Fischer.

2 Q Who we heard from earlier today?

3 A That is correct.

4 Q And when I say "desk mate," what does that mean?

5 A In the Texas Legislature, unlike in the U.S. House, you
6 actually have a desk that sits on the House floor with a
7 telephone and a computer and, you know, plenty of space to put
8 papers and things like that just like a typical desk. And it's
9 basically two desks that are put together to kind of serve as
10 one desk with two chairs. And Trey was my desk mate for the
11 entire time I was in the legislature.

12 Q You heard him testify that some of the debate over the
13 voter I.D. bill was contentious. Did you hear that testimony?

14 A Oh, absolutely.

15 Q Do you agree with that?

16 A Oh, 100 percent.

17 Q Did it -- was it always that way or did it get
18 progressively worse or more heated, so to speak?

19 A It was always that way.

20 Q So during your four terms each time it came up there was
21 heated debate.

22 A Yes, yes. It was probably -- I would say even at the end
23 it was probably even -- the last term it was probably more
24 heated.

25 Q Okay. For the Court, what was your last term?

1 A In 2011.

2 Q Okay. So when Senate Bill 14 was passed, became law, you
3 were in the Texas House?

4 A Yes.

5 Q Okay. Did you oppose each of the bills during your four
6 sessions?

7 A Yes, absolutely.

8 Q And why is that?

9 A Because I thought that they were discriminatory bills. I
10 thought that they were bills that --

11 **(Background noise in courtroom)**

12 **THE COURT:** You can proceed.

13 **THE WITNESS:** I thought that they were discriminatory
14 bills that instead of trying to prevent voter fraud, which is
15 what the Republicans said that they were purported to do, they
16 were actually preventing African Americans and Hispanics from
17 voting, making it harder for African Americans and Hispanics to
18 vote.

19 **BY MR. BRAZIL:**

20 Q And so that's one of the reasons that you opposed it each
21 time?

22 A Absolutely.

23 Q In 2007, you were not on the House Elections Committee
24 were you?

25 A In 2007, no, I was not on the House Elections Committee.

1 Q Did you go to the hearings before that committee?

2 A Oh, yes, absolutely.

3 Q And why did you do that?

4 A Because, again, I thought that the bill was very
5 discriminatory and I thought it would have had adverse impact
6 on the constituents that I represented in southeast Fort Worth.
7 And so I decided that I was going to sit in on the committee
8 hearing. Although I was not on the committee, it's proper
9 courtesy in the Texas Legislature to allow other members other
10 than the legislature to come in and sit in on committee and ask
11 questions as long as other committee members have already asked
12 any questions that they may have. But it was proper courtesy
13 for the Chairman or whoever was the presiding Chair at the time
14 to allow any member of the legislature to come in and ask
15 questions.

16 Q And did you do so?

17 A Yes, I did.

18 Q And tell us what happened.

19 A I was asking questions -- what I particularly remember
20 about that time that Leo Berman out of Smith County from Tyler,
21 he was the Chairman of elections during that time period. And
22 he didn't like some of the questions that I asked, and he threw
23 me out of the committee hearing.

24 Q What type of questions were you asking?

25 A They were questions related to the impact that it may have

1 on African American voters.

2 Q And who were you asking the questions of?

3 A It would have been one of the witnesses that would have
4 come to testify before the Elections Committee.

5 Q And is it routine to allow non members, non committee
6 members to ask questions after everyone else has had their
7 turn?

8 A Yeah, as long as the other committee members have spoken
9 it's very common courtesy. It doesn't have anything to do with
10 partisan -- you know, what committee you're on -- I mean what
11 political party you may happen to belong to. It doesn't matter
12 if the Chairman is a Democrat or a Republican. It's always,
13 you know, common courtesy to allow any member of the
14 legislature to ask questions at any given committee hearing
15 that they would like to.

16 Q And who was the Chairman in 2007 of the Elections
17 Committee?

18 A That would have been Leo Berman.

19 Q And his race is what?

20 A White.

21 Q And did he give a reason for asking you to leave the
22 committee hearing?

23 A He appeared to be frustrated. He did not give me a
24 reason. He appeared to be frustrated and he looked over at me
25 and he said, "You're out of here."

1 Q Did you leave?

2 A Oh, yes.

3 Q Okay. Did you ever serve on any election committee during
4 your four terms in the House?

5 A I did. My last term in the House I served on the
6 Elections Committee and I also served on the Select Committee
7 that was formed by the Speaker to pass out the voter I.D. or
8 photo I.D. bill.

9 Q Let me ask you about that. You said "Select Committee"?

10 A Yes.

11 Q And is that different from a Standing Committee or other
12 committee?

13 A Yes, it is.

14 Q How so?

15 A That is a committee that the Speaker of the House will
16 create to focus in on a certain issue or topic.

17 Q And in this case who appointed the committee members?

18 A That would have been Joe Straus.

19 Q How many members? Do you recall?

20 A I do not remember how many committees were on the Select
21 Committee. Maybe eleven. I don't remember exactly.

22 Q What was your position on that committee?

23 A I was the Vice Chair of the committee.

24 Q And that means what?

25 A The Vice Chair of the committee doesn't mean a whole lot,

1 to be quite honest with you.

2 **(Laughter)**

3 But for that particular -- I mean for any particular
4 committee if the committee Chairman wants to, you know, step
5 away for some reason -- sometimes in the legislature you're
6 talking about 140 days of sheer madness. And so there may be a
7 time where a member may have two committee hearings going on at
8 the same time. And so let's say the committee Chairman needs
9 to go and make a vote in his other committee. Then I would
10 just simply fill in as the Vice Chair of the committee and keep
11 the proceeding going until the Chairman gets back.

12 Q How long did this committee sit?

13 A The committee didn't sit long. I think for the entire
14 140 days maybe one, two days at the most to just pass out the
15 voter I.D. bill.

16 Q Did it consider any other bills?

17 A No. No, it did not. It had a broad enough scope to
18 mean -- I believe it was called the committee -- the Select
19 Committee on Voter Integrity and Voter Fraud, or something of
20 that nature. But it didn't look into anything else pertaining
21 to voting at all. I mean it was just -- it was clear that it
22 was set up to just pass the voter I.D., photo I.D. bill.

23 Q And why do you say it was set up just to pass the photo
24 I.D. bill?

25 A Because that was the only thing that -- that was the only

1 time the committee met.

2 Q Was one or two days?

3 A Right. For just that one single bill.

4 Q Did that committee investigate any allegations of voter
5 fraud?

6 A No, none.

7 Q Hear any witnesses or see any studies regarding voter
8 fraud?

9 A No. And it was asked over and over again to produce --
10 you know, we would ask over and over, hey, you know, show us
11 proof of voter fraud. And it was just all basically innuendo.

12 Q And who were you asking to see this information from? Who
13 were you seeking information from?

14 A From colleagues that were sitting on the dais and from,
15 you know, people that will come to testify around the state on
16 why they felt this bill needed to be passed. And again, you
17 would ask over and over again, hey, produce some fraud here. I
18 mean this is the committee on voter fraud. Show me the fraud.
19 And no one ever showed any fraud.

20 Q How many select or special House committees were appointed
21 during your four terms?

22 A That I wouldn't be able to say.

23 Q You had told us that you gave up your gavel. What did you
24 mean by that?

25 A Well, it's customary for the Chair and the Vice Chair of

1 any committee to get a gavel. You know, because in order for
2 the Chairman to run the committee smoothly and stop people from
3 interrupting and to stop, you know, witnesses from speaking
4 when they're not supposed to and what have you, each Chairman
5 is given a gavel and the board to bang the gavel on.

6 And I received a gavel that, you know, was marked VC,
7 you know, whatever, let's say it was the 82nd legislative year.
8 You know, Vice Chair, you know, Committee on Voter Fraud and
9 Voter Integrity, you know, Select Committee. And I was just
10 really -- quite honest, I was really just kind of ashamed and
11 embarrassed for that because I was only chair -- that was the
12 only committee I was ever Vice Chair of for the four terms I
13 served in the House. And I just didn't want that to be -- that
14 wasn't something that I would be proud to be hanging in my
15 house, that I was, you know, Chair of a -- or Vice Chair of a
16 committee. I felt you know very strongly that their main, you
17 know, goal was to commit, you know, voter suppression. And so
18 I gave the gavel and the board away to one of the schools in
19 southeast Fort Worth.

20 Q By your fourth session I assume it was no secret to the
21 members of the House and Senate that you were against voter
22 I.D., photo I.D.

23 A Correct.

24 Q Why do you believe you were appointed as the Vice Chair to
25 a committee that was only in session one or two days and was

1 only given the duty of passing one bill?

2 A You know, I don't know. Probably because, you know,
3 people want it to make it look like, oh no, it was -- you know,
4 there was fairness going on here. And that was probably, you
5 know, just some kind of, you know, game that was being played.

6 Q In your opinion was it fair?

7 A Oh, no. The committee was not fair at all, no.

8 Q During your last session during the debate and the
9 testimony on Senate Bill 14 did you offer certain amendments?

10 A Yeah, absolutely I did.

11 Q And before I get into the individual amendments that you
12 offered, what was the purpose generally of trying to amend
13 Senate Bill 14?

14 A The reason why I felt strongly about amending Senate
15 Bill 14 was that, you know, if you have concerns about a bill
16 that is going to be discriminatory or that is going to have an
17 adverse impact on the district that you represent, then you'd
18 want to offer amendments to help, you know, rectify that
19 situation to the best ability, you know, possible.

20 Q I assume other amendments were offered by other members of
21 the House?

22 A That is correct.

23 Q Okay. And I think in your deposition the State inquired
24 into three of the amendments that you offered. Do you recall
25 that?

1 A Yes.

2 Q Okay. Let me show you the first amendment.

3 **MR. BRAZIL:** And for the record, your Honor, this
4 appears in Plaintiffs' Exhibit 34, Pages 24 and 25. I'm going
5 to use this because it's easier to read.

6 Q Generally, what was the reason or the purpose behind
7 offering this amendment?

8 A This amendment, the reason why I would offer this
9 amendment stating that the voter is the same person named on
10 the list of registered voters for that precinct, that's
11 basically the voter would sign an affidavit saying that I'm,
12 you know, not committing -- it was basically saying that you're
13 not committing voter fraud and that I am who I say that I am,
14 so go ahead and count my ballot instead of it being a
15 provisional ballot.

16 Because one of the areas that I had really grave
17 concern in on this law was the fact that people -- you know, in
18 voting, particularly you know after the Voting Rights Act was
19 passed, you know, it was a -- states and municipalities and
20 things like that, particularly in the south, it seemed like
21 they took a great -- you know, they wanted to make sure that
22 there was not a burden being put on the voter and that if there
23 was any sort of, you know, fraud or anything like that that was
24 taking place, it was really up on the local election
25 administrators and what have you to show that, hey, this is a

1 person committing fraud.

2 But, you know, one of the issues that I had with this
3 voter I.D. bill was that it kind of reverses that and you kind
4 of go back really to the 19, you know, 50's and 60's and that
5 now the burden is all of a sudden on the voter. The voter all
6 of a sudden has to go back in time and show that he is actually
7 who he is.

8 And you can file a -- you can vote a provisional
9 ballot but it wouldn't count. And so the odds of the voter
10 actually coming back up to the county courthouse to produce the
11 I.D. within the timeframe there to me would have been an unjust
12 burden on my district. And so I wanted to say that, hey, you
13 know, if there's voter fraud going on, no one would come in and
14 actually sign a affidavit stating that they are -- they are who
15 they say they are if they're not that person. And so this
16 basically makes it to where their vote would count. And then
17 that way you actually have a -- you know, let's say that 100
18 people sign this affidavit. You'd have 100 affidavits to go
19 through instead of going through 20,000 -- you know, going
20 through the entire voter roll in Tarrant County, and then that
21 way you would have a much smaller universe of individuals there
22 if you really thought that voter fraud was, you know, taking
23 place.

24 And I thought this was just a great way to make sure
25 that if a guy's I.D. was 61 days expired, hey, his vote would

1 still count. You're not putting that burden on him to actually
2 figure out a way how to get back up to the county courthouse,
3 show his I.D. so his vote would count.

4 Q So if a person's name was on the registration for that
5 precinct, on the voter rolls for that precinct, they would sign
6 an affidavit and cast a regular ballot.

7 A Right. Yeah, exactly. Saying hey, my vote -- my I.D. may
8 be 61 days expired but you know what? I am who I say I am.
9 I'm willing to sign an affidavit and say that I am, so why
10 can't my vote count? Why do I have to take this extra burden
11 and this extra step to come back up here and jump through all
12 of those hoops just so my vote will count? This way the vote
13 automatically counts. And then that way if anybody wanted to
14 come in -- it could be the King Street Patriots, the NAACP, it
15 doesn't matter. If anybody wanted to come back in and look
16 through those 100, that small stack of signed affidavits to see
17 if any voter fraud took place, they'd have a small stack of
18 affidavits to go through. And then that way everybody's vote
19 would count; and if you find fraud, you find fraud.

20 Q Who did you think would be most affected by casting
21 provisional ballots and having to return to the courthouse?

22 A From my experience that would have been the constituents
23 that I represented in southeast Fort Worth, the constituents
24 like them all around the state. You know, there were -- even
25 under the previous law people would call in and have issues and

1 they would sometimes have to file a provisional ballot. And so
2 I wanted to make sure that this was not something that would
3 increase under this law, and so that was the reason why I filed
4 this amendment.

5 Q What happened to this amendment?

6 A The amendment was voted down.

7 Q Before I forget, the Special Committee you were on, was
8 that early in the session or late in the session?

9 A When all the committee assignments came out that's
10 whenever it was -- the committee was announced.

11 Q Okay. But the committee --

12 A So that would have been early on in the session.

13 Q So the one or two days that you sat on this special
14 committee was early in the session.

15 A Now, I don't remember the exact date when the session took
16 place.

17 Q Let's turn to the second amendment that you offered.

18 **MR. BRAZIL:** And for the record, your Honor, this is
19 Plaintiffs' Exhibit 34, Page 36. But I'm going to use my copy
20 because it's easier to read.

21 Q You offered this amendment to allow a potential voter to
22 use a valid employee identification.

23 A Correct.

24 Q And what was the purpose behind offering this amendment?

25 A The purpose behind offering this amendment was, let's say

1 that -- I was thinking about like local employers in the Dallas
2 Fort Worth area. And so if you worked for a defense contractor
3 or some other place, airline or you know something of that
4 nature that required that an individual, you know, be vetted in
5 order for them to get an I.D. to come onto an area that is high
6 secured and requires that there be a certain level of security
7 there, you ought to be able to use those same I.D.s to be able
8 to vote. And even if it's at a -- you know, another, you know,
9 place of identification, if the employer feels strongly enough
10 that that I.D. protects their property and the person is vetted
11 enough to be around other people that work on that particular
12 facility, why wouldn't that person be able to use that same
13 I.D. to go and vote?

14 Q You use an example in your deposition of American
15 Airlines. If you can gain access to the restricted areas at an
16 airport with an I.D. that has a photograph on it, did you think
17 that should be good enough to vote?

18 A Yeah, absolutely. Absolutely it should be. I see no
19 other reason why. I mean obviously that is an area that
20 everyone in the entire American public would want to know was a
21 safe secured area. And so if you can use those I.D.s to be
22 able to have access to planes or, again, anything of that
23 nature, then why wouldn't you be able to use those same I.D.s
24 to be able to, you know, simply cast, you know, your suffrage?

25 Q What happened to this amendment?

1 A It was voted down.

2 Q Okay. This amendment and the one that we spoke of
3 previously, did you get a consensus in the House as to why it
4 was voted down?

5 A I think that at that point that they just were not
6 accepting any I.D. -- I mean any -- that they were not
7 accepting any amendments at all, that the people that wanted
8 this bill passed were not accepting any amendments at all. I
9 mean there were a lot of rumors going around that ALEC, you
10 know, the controversial organization that you hear about in the
11 newspaper, that ALEC had actually written this bill, that it
12 was not even written by the Republican members of the
13 legislature and that they didn't want any changes at all to
14 this bill.

15 Q Did it appear to you during the legislative process that
16 there were not going to be any changes?

17 A Oh, yes, absolutely. It was clear from the very
18 beginning.

19 Q Did you offer these amendments before or after you sat on
20 the Special Committee?

21 A I would have offered these amendments after the hearing
22 that we had on the Select Committee.

23 Q Did you -- when you were on the Select Committee did you
24 voice your concerns or propose any changes to the bill?

25 A Oh, yeah, absolutely. I mean we talked a lot about

1 changes and how you could make things better. But again, I
2 mean it was pretty much -- it was pretty clear that there would
3 be no changes to this bill, that the bill was already written,
4 it was prepackaged, it was ready to go and that they were
5 absolutely not going to be accepting any changes at all to this
6 bill.

7 Q As far as the process, the speed of the process, this was
8 your last of four sessions, correct?

9 A Correct.

10 Q Was this bill on slow track, fast track, super fast track?
11 How would you describe it?

12 A It's hard to remember back then, you know, to describe how
13 I would say where it, you know, would fall into that category.
14 And so I wouldn't want to guess on that. But it seems like
15 that maybe it was -- that we had the hearing kind of in the
16 middle of the session or so. But it's hard to say.

17 Q Fair enough. The third amendment that you offered, a
18 little longer, tell us the purpose behind offering that
19 amendment.

20 A Well, this amendment would basically require the Secretary
21 of State's Office to come up with some sort of a system to see
22 who was casting these provisional ballots. And I thought that
23 this was like a good bipartisan amendment. But you know,
24 again, it was not, you know, taken seriously.

25 I mean one of the things that I always hear when I'm

1 back home and if I have it on WBAP or something like that and
2 they're having these conservative talk shows on, you hear the
3 callers call in and you often times hear the conservative talk
4 show, you know, guests call in -- I mean the host, you know,
5 say that, hey, you know, prove to me that there is
6 discrimination and I'll stand -- and I'll go out there and I'll
7 march with people that you see out marching in the street, and
8 I'll go out there with this particular national, you know,
9 African American leader if you show me that there's actual
10 discrimination.

11 And so this would -- if the Secretary of State's
12 findings would show that there was actual discrimination
13 because the people that were denied the right to vote were
14 overwhelmingly Latino or African American, then you know --
15 then it would make -- then it would, you know, reverse, you
16 know, the -- it would make it to where we could, you know,
17 figure out a way how to, you know, maybe go back and fix these
18 issues. But you know, again, this one was voted down and I
19 thought that this was pretty -- you know, I mean if you're
20 vehemently stating on the House floor that no discrimination is
21 going to take place, then why not be for this amendment?

22 Q Were there members standing on the House floor stating
23 that?

24 A Oh, absolutely. I mean the Republicans were on the House
25 floor, you know, stating that no, no, no, there's no

1 discrimination; we're not trying to discriminate against
2 African Americans or Latinos; this bill was not going to do
3 that. Well, if it's not going to do that, then take this
4 amendment. Because this amendment only says that there's a
5 remedy if there's actual discrimination.

6 Q And what happened to this amendment?

7 A It was voted down.

8 Q Okay. Were you surprised by how quickly the State
9 announced the implementation of Senate Bill 14 after *Shelby*
10 *County*?

11 A I was obviously very disappointed, you know, particularly
12 because, you know, there was a federal court that was, you
13 know, if I'm not mistaken majority -- you know, Republican
14 appointees that said that there was some serious issues with
15 discrimination and discriminatory findings in this bill. And
16 so the fact that the Attorney General that is supposed to
17 protect the entire state would say, no, we're going to
18 immediately implement this when you still have these issues
19 with this federal court, I was -- I was disappointed but not
20 surprised. Because again, you know, had you been in the Texas
21 Legislature and you had just seen some of the discriminatory
22 things that took place as it related to voting for the eight
23 years that I was there, then no it -- I hate to say that, but
24 it was not a surprise at all.

25 Q Shifting gears for a moment, your constituents in your

1 district, your House district -- you're in for four terms --
2 did you have a segment that wanted to vote in person versus by
3 mail or --

4 A No, that's the -- absolutely. I mean I was just talking
5 with my -- before this school year started at the end --
6 towards the end of last school year, so it would have been
7 earlier this spring -- I was talking with one of the teachers,
8 my son's second grade teacher who lives in the district with
9 her mom. And she always takes her mom and aunt to go and vote.
10 Well, I mean they're well past the age where they can vote by
11 mail. But she was telling me, she said, you know, no they want
12 to go -- you know, they've been doing this now for, you know,
13 eight, ten years; you know, they want to go and vote for you in
14 person. And so every year I make sure that I take time and I
15 go and take them to go and vote early for you in person. They
16 do not want to vote by mail. Even though they're senior
17 citizens, they want to be able to vote for you in person. And
18 I can tell you that there are a lot of people in the senior
19 citizen community in southeast Fort Worth that feel exactly
20 that way.

21 Q And does that cross all racial lines?

22 A Absolutely.

23 Q The four sessions that you were in in the House, voter
24 I.D. -- the voter I.D. bill or bills did they change? Was it
25 the same bill each time or was there a change?

1 A This one was considered like the worst one out of all of
2 them. Like this one was considered like the -- you know, like
3 the -- you know, the one that would be the most suppressive out
4 of all of them.

5 Q And why did you believe this bill, Senate Bill 14, was the
6 most oppressive?

7 A Because there were -- one of the reasons why was because
8 before the bill even made it onto the House floor it was --
9 again, the word that was going around the Capitol was that that
10 this bill was already written like even before the legislative
11 session had already started, like it was written by an outside
12 organization and that it was going to be the very worst one out
13 of all of them, that this one was going to be one that really,
14 you know, ratcheted down on minority voters and making it
15 harder for people to vote and that there wouldn't be any
16 amendments that would be accepted. They wanted it like it was
17 and so that was like a big concern to a lot of people.

18 Q Is that what you meant by "prepackaged"?

19 A Yes. Yeah, exactly.

20 Q Okay. Do you believe that Senate Bill 14 has a
21 discriminatory effect?

22 A Oh, absolutely. I don't think there's any doubt about
23 that.

24 Q On what group or groups?

25 A I think, you know, mostly for Latino and African American

1 voters based on my experience. Not just as an elected official
2 but working as, you know, previous -- working on campaigns.

3 When we worked in a mall that was frequented -- I
4 mean it was a mall that was, quite honestly, it was almost
5 exclusively used by Latinos and African Americans in the
6 southern part of Fort Worth. And I would talk with people all
7 the time that didn't have the I.D.s when we set up our Tarrant
8 County Democratic party office and people would walk by. And
9 we would say, "Hey, you know, have you voted yet? Do you need
10 a ride to the polls?"

11 And people would tell me all the time that they
12 didn't have the -- you know, an I.D. I would ask them, Hey, we
13 can take you. The voting place is just, you know, less than a
14 mile from here. It would take less than five minutes to drive
15 on the other side of Seminary and exit Rippey (phonetic) and go
16 down to the Worth Heights Community Center to go and vote. And
17 they would say, "Well, I don't have an I.D." You know, or we
18 would ask them, Well, do you have, you know, water bills? Do
19 you have, you know, something that would -- you know, a
20 Blockbuster card? Do you have something that would show, you
21 know, who you were?

22 And so, you know, for me it was something that I
23 routinely saw. Again, particularly as a -- as someone that was
24 working on campaigns in '98, 2000, 2002 you know cycle that I
25 experienced, you know, often.

1 Q Were these individuals predominantly African American and
2 Latino?

3 A Oh, yeah, yeah, yeah, easily. And again, the mall, I mean
4 anybody that lives in Fort Worth will tell you that this
5 particular mall most of the people that use it, the consumers
6 that use that particular mall are, you know, African American
7 and even more so even Latino.

8 Q Do you believe that Senate Bill 14 was intended to be
9 racially discriminating?

10 A Yes, absolutely I do. I feel very strongly about that.

11 Q Do you believe that racial motivation underlied -- was
12 underlying the legislative process?

13 A Yes, absolutely.

14 Q Do you have a Congressional photo I.D.?

15 A Yes, I do. I do have a Congressional photo I.D.

16 Q Can you board a plane with a Congressional I.D.?

17 A Yes, you can board a plane with a Congressional I.D.

18 Q Can you access restricted areas in Washington, D.C. with
19 that I.D.?

20 A I can go into the White House with my Congressional I.D.

21 Q Can you vote in Texas with that I.D.?

22 A No.

23 **MR. BRAZIL:** I'll pass the witness.

24 //

25 //

1 //

2 **CROSS EXAMINATION**

3 **BY MR. CLAY:**

4 Q Good afternoon, Congressman Veasey.

5 A Good afternoon.

6 Q Nice to talk to you again.

7 A Good to see you. Good to talk to you.

8 Q Well, I just have a few questions. I know you've been
9 around here, waiting around all day and I don't want to take
10 too much of your time, so I just have a few questions for you.

11 Now the first is I'd like to -- you mentioned earlier
12 that voter ID was taken up in several successive Legislative
13 sessions, is that right?

14 A Yes.

15 Q And so the Legislature considered a voter ID Bill in 2005,
16 is that right?

17 A If -- we didn't consider a Bill again. It came -- it may
18 have come up in some form of an amendment.

19 Q So -- but the idea of asking someone to provide an ID in
20 order to vote was considered by the Legislature in 2005,
21 correct?

22 A I believe so.

23 Q Okay. And in 2007 the Legislature considered a voter ID
24 Bill, is that right?

25 A Yes.

1 Q And then again in 2009, is that right?

2 A Yes.

3 Q And then finally voter ID was passed in the 2011
4 Legislative session, is that right?

5 A That is correct.

6 Q Now do you recall in 2007 whether that was a Bill or not?

7 A I believe that it was a Bill because it seemed like there
8 was a companion Bill that Phil King had. He is a Republican
9 from Weatherford, Texas.

10 Q Okay.

11 A And it seems --

12 Q And do you recall how that Bill -- the Bill didn't
13 ultimately pass, correct?

14 A No, it did not, no.

15 Q And do you recall how that Bill, and I'll use the term
16 "died" in the Texas Legislature?

17 A If -- again, it's been a while, but it seems like it was
18 on a point of order.

19 Q Do you know what the two-thirds rule is in the Senate?

20 A Yes, I do.

21 Q So you don't recall whether or not it was the two-thirds
22 rule that prevented the voter ID Bill from passing the Senate
23 in 2007, do you?

24 A I do not remember, but if it wasn't a point of order in
25 the House then it very well could have been the two-thirds rule

1 of the Senate.

2 Q Okay, thank you. And then, again, in 2009 the voter ID
3 Bill was filed, or perhaps several were filed in 2009, and
4 those were considered by both the House of Representatives and
5 the State Senate, is that right?

6 A Yes.

7 Q And do you recall how -- and, again, a voter ID Bill did
8 not pass the Texas Legislature in 2009, is that right?

9 A That is right.

10 Q Do you recall how voter ID died in the Texas Legislature
11 in 2009?

12 A If I'm not mistaken the clock ran out on the Bill. Maybe
13 -- because maybe it was like towards the end of the session
14 when a lot of Bills start to pile up.

15 Q Yeah, I think that's right.

16 Do you know what the term "chubbing" means?

17 A Yes, I do.

18 Q You do? Could you define it for me?

19 A That is a practice that both is used in the House when
20 someone doesn't want a Bill to pass. So let's say that I have
21 a Bill on the House floor, let's say I have a Bill on the Local
22 and Consent Calendar. Someone may go and chub the Bills that
23 are right before mine to like stop my Bill from ever making it
24 onto the -- onto the House floor so it can go ahead and pass
25 through.

1 Q So is it somewhat similar to a filibuster?

2 A It -- I mean, in the sense that it's a parliamentary
3 tactic.

4 Q It's way of sort of talking a Bill to death, is that
5 right?

6 A I guess you could say that.

7 Q And sitting here today do you recall whether or not the
8 House Democrats chubbed voter ID to death in the 2009
9 Legislative session?

10 A I do not remember, but if there had been a -- and the
11 House Democrats may have chubbed voter -- done chubbing the
12 voter ID, and I probably would have participated in that.

13 Q Thank you. Well, if you participated, would you remember?

14 A Not necessarily because that's a very -- I mean, it's --
15 you know, again, as I have mentioned earlier, in the Texas
16 Legislature this is 140 days and it's -- happens pretty fast --
17 everything happens pretty quickly.

18 Q But you testified that the 2009 version of voter ID died
19 towards the end of session, right?

20 A Right.

21 Q Okay. So we're talking about just the time period at the
22 end of session?

23 A Right.

24 Q But you don't recall whether or not you participated in
25 chubbing the 2009 voter ID Bill?

1 A I don't remember, but I probably did.

2 Q Next you mentioned that -- that in the 2011 session the
3 Bill seemed to be a fait accompli or a settled matter in that
4 the House Republicans were not going to take any amendments, is
5 that right?

6 A Right.

7 Q Do you recall whether or not the Senate accepted any
8 amendments?

9 A I believe that the Senate did accept some amendments.

10 Q Do you know which amendments they accepted?

11 A I do not recall which amendments they accepted.

12 Q Do you remember if they accepted an amendment from Senator
13 Hinojosa?

14 A Yes, I do, I believe that they did accept an amendment by
15 him.

16 Q Did they also -- didn't they also accept an amendment from
17 Senator Davis?

18 A Yes, they did.

19 Q You're not a lawyer, is that right?

20 A No, I'm not.

21 Q So you understand that a State that is covered by Section
22 5, although it has a valid law on its books, is not able to
23 implement that law until it gains pre-clearance, either through
24 the Department of Justice or through a Federal court, is that
25 right?

1 A Correct.

2 Q Okay. So you understand that a State that is not subject
3 to the pre -- Section 5 or the pre-clearance regime can, once
4 it enacts a law, it can immediately implement that law, is that
5 right?

6 A That's my understanding.

7 Q And just one last few questions, and I hate to bring it
8 back up, but -- and I promise I won't dwell on it very long
9 because this guy over here kind of stole my thunder on it, but
10 do you know what Catalist is?

11 A To what -- what is?

12 Q Catalist is? They were testifying about it earlier today.

13 A That was my first time ever hearing about the
14 organization.

15 Q Okay. Do you recall the testimony from Dr. Ansolahere
16 for which you were in here for, where he said that Catalist
17 based its race classifications in part on population data in
18 very census geographic units?

19 A I do remember slightly some -- yeah, that was a very long
20 testimony, so I don't remember every, you know, single thing
21 that was talked about there on that.

22 Q I would agree with that.

23 You have a driver's license, correct?

24 A Correct.

25 Q And when you applied for that driver's license did you --

1 well, what race did you tell DPS you were?

2 A Black.

3 Q Okay. And what is the address on your driver's license?

4 A 6113 Chola Drive.

5 Q And is that in your Congressional district?

6 A It is.

7 Q What is the racial makeup of your Congressional district?

8 A The racial makeup of my Congressional district is
9 definitely majority minority. It is probably about 60 percent
10 Latino, 20 percent black, and the rest would mainly be white.

11 Q And what is the racial makeup of your neighborhood would
12 you say?

13 A I would say that it's probably a third black and 15
14 percent, 20 percent Latino, and it actually -- no, it would
15 probably be the majority black.

16 Q Let me switch to the -- thank you.

17 **MR. CLAY:** If we could zoom in on the box here?

18 Q I'm going to represent to you that this is the -- census
19 track 1065.15 is the census track where your house is.

20 A Okay.

21 Q Could you tell me the total population of that census
22 track?

23 A A total population of the census track is 3,782.

24 Q Okay, and can you tell me --

25 **MR. CLAY:** Thank you, sir.

1 Q -- and can you tell me what the black or African American
2 population of that census track is?

3 A It is almost 2,000, 1,981 people.

4 Q So by my math, and I'm no mathematician, but that's over
5 50 percent of the census track is black or African American, is
6 that right?

7 A Correct.

8 Q Okay. Congressman, I don't have any further questions. I
9 want to thank you for your service to the great State of Texas
10 and this country, and more importantly -- or, not more
11 importantly, but as a Fort Worth guy I appreciate your service
12 to Tarrant County as well.

13 A Thank you very much. Thank you.

14 **MR. HEARD:** Thank you, Congressman. No further
15 questions, your Honor.

16 **THE WITNESS:** Thank you.

17 **THE COURT:** All right. Thank you, sir, you can step
18 down.

19 **THE WITNESS:** Thank you, your Honor.

20 **(Witness excused)**

21 **MR. ROSENBERG:** Your Honor, just to have a preview of
22 where we are, and notice to the State, we're not going to put
23 Michael Herron on until tomorrow morning at 8:00 o'clock
24 because of the timing.

25 We do have a video clip that would run about 28

1 minutes plus whatever else the State has.

2 **THE COURT:** Okay.

3 **MR. ROSENBERG:** We could do that and end for the day
4 if that's okay with your Honor?

5 **THE COURT:** All right. So that will take us to about
6 6:00 o'clock maybe?

7 **MR. ROSENBERG:** Thank you.

8 **THE COURT:** And who is that of? Who is that of?

9 **MR. ROSENBERG:** Mr. Haygood is going to introduce it.

10 **THE COURT:** Okay. I was just wondering who the
11 witness is.

12 **MR. HAYGOOD:** Oh, sure. Good afternoon, your Honor.
13 Ryan Haygood of the Texas League of Young Voters and Imani
14 Clark.

15 Your Honor, you will now see excerpts of the video
16 deposition of Ms. Elizabeth Gholar. She is a registered voter
17 here in Texas who cannot vote in person because of SB 14. I'm
18 providing for you a courtesy copy of the excerpts of
19 Ms. Gholar's video deposition, as well as the video deposition
20 itself, and that's Exhibit PL-1092.

21 **(Portion of transcript from 5:12:57 to 5:37:33 p.m. was**
22 **omitted / Plaintiffs' excerpts from video deposition of**
23 **Elizabeth Gholar)**

24 **MR. HAYGOOD:** Your Honor, that's the end of
25 Ms. Gholar's deposition expert -- excerpts.

1 **MR. WHITLEY:** One second, your Honor. I apologize.

2 **THE COURT:** Okay.

3 **MR. WHITLEY:** If it's agreeable to your Honor, we
4 would just like to submit the excerpts as opposed to playing
5 the video and we'll just put the excerpts in if that's okay
6 with you.

7 **THE COURT:** Okay. So I need to read that?

8 **MR. WHITLEY:** Just a couple pages.

9 **MR. HAYGOOD:** And, your Honor, I'll just add that
10 we're adding those full -- the full deposition transcripts at
11 the end of the case for Ms. Gholar.

12 **THE COURT:** Okay. But you-all are highlighting what
13 I -- what you-all want me to consider, correct --

14 **MR. HAYGOOD:** Yes, your Honor.

15 **THE COURT:** -- and that's what we're doing here?

16 **MR. HAYGOOD:** Yes, your Honor.

17 **THE COURT:** Because I'm just going to reiterate
18 again, if you-all are going to give me a bunch of documents, I
19 don't know what it relates to and where it's important unless
20 you direct me.

21 **MR. HAYGOOD:** Sure. And, your Honor, we'll direct
22 you to the most important parts of Ms. Gholar's deposition.

23 **THE COURT:** Yeah. I'm just making sure and I may
24 keep saying that because I --

25 **MR. WHITLEY:** And, your Honor, it's only a couple

1 pages --

2 **THE COURT:** -- I think you-all understand my concern.

3 **MR. WHITLEY:** Absolutely. And we're happy to play it
4 if it's easier for you --

5 **THE COURT:** No, I can read it.

6 **MR. WHITLEY:** Okay.

7 **THE COURT:** I just -- I'm just --

8 **MR. WHITLEY:** I'm --

9 **THE COURT:** -- I will continue to reiterate that
10 through the trial. If there's exhibits -- because there's lots
11 of exhibits in this case -- you-all need to direct me as to
12 what is important and in which manner it's important or I may
13 not consider it --

14 **MR. HAYGOOD:** Sure.

15 **THE COURT:** -- as you would like for me to. So --

16 **MR. HAYGOOD:** And so for purposes of Ms. Gholar, your
17 Honor, what we -- you're to hear the most important aspect of
18 her deposition.

19 **THE COURT:** No, I'm good with that. I just -- I
20 start getting concerned when you-all say we're going to give
21 you this deposition testimony and I'm, like, I could sit there
22 -- it would be inefficient for me to sit there and read all the
23 depositions, look at every single exhibit if it's not really
24 that important to what I need to consider here.

25 **MR. HAYGOOD:** Okay.

1 **THE COURT:** So that's all.

2 **MR. HAYGOOD:** Thank you.

3 **THE COURT:** All right. Any other testimony?

4 **MR. ROSENBERG:** Not today, your Honor.

5 **THE COURT:** Okay. We're a little bit short on our
6 eight hours. So as long as you-all don't -- maybe about -- not
7 quite 30 minutes short.

8 **MR. ROSENBERG:** Well, we can do ten minutes of
9 deposition reading. Ms. Rudd.

10 **THE COURT:** I mean, don't fill in time if you're not
11 going to plan to present it.

12 **MR. ROSENBERG:** No, we were going to do this --

13 **THE COURT:** Okay.

14 **MR. ROSENBERG:** -- if we had --

15 **THE COURT:** Yes.

16 **MR. ROSENBERG:** We're just trying to move things
17 along.

18 **THE COURT:** We'll do that.

19 **MS. RUDD:** Your Honor, we just want to read the
20 testimony of two witnesses into the record. They're witnesses
21 from the Texas NAACP, Ms. Linda Lydia and Mr. Yannis Banks and
22 if I could, I can hand up transcripts with the highlighted
23 testimony that we'll be reading from. And with the Court's
24 permission, I'll have my colleague sit in the witness box and
25 read for the witnesses.

1 **THE COURT:** Okay.

2 **MS. RUDD:** So the first transcript we'll be reading
3 from is the transcript of Linda Lydia which will be the first
4 one in the folder there.

5 **EXAMINATION OF LINDA LYDIA BY EXCERPTS OF DEPOSITION TESTIMONY**
6 **(QUESTIONS READ BY MS. RUDD; ANSWERS READ BY COUNSEL)**

7 "QUESTION: Ms. Lydia, would you please state your
8 name for the record, please?

9 "ANSWER: Linda Darden Lydia.

10 "QUESTION: And what is your involvement with the
11 Texas NAACP?

12 "ANSWER: I'm an elected officer of the Texas NAACP.

13 "QUESTION: And as an elected officer, do you have an
14 official title?

15 "ANSWER: Yes, I do.

16 "QUESTION: And what is that?

17 "ANSWER: Secretary.

18 "QUESTION: Ms. Lydia, why did the Texas NAACP join
19 this lawsuit?

20 "ANSWER: Because of the impact it will have on
21 minorities.

22 "QUESTION: What is that impact?

23 "ANSWER: That impact is the burden of acquiring an
24 additional piece of identification when we were
25 operating with a voter's registration card and I

1 guess in most states, they still operate with a voter
2 registration card as the only piece of identification
3 needed to vote.

4 "QUESTION: In what way did SB 14 change the
5 activities of the Texas NAACP?

6 "ANSWER: That not only were you getting someone to
7 fill out a voter registration card, you were also
8 giving them information about SB 14 telling them, you
9 know, that you need to make certain that the name on
10 this voter registration card that you're filling out
11 matches that name that's on your picture ID
12 identically. Otherwise, you may be denied the right
13 to vote. So there was a lot more -- education
14 normally came after the registration project. Notice
15 I said voter registration, voter education. These
16 were compartmentalized.

17 "QUESTION: What additional resources are committed
18 to the new compartment described as voter
19 registration education?

20 "ANSWER: We had to provide material about the
21 changes. It's -- and obviously we were instructing
22 people, you know, that when you fill out your voter
23 registration card, make sure you pull out your
24 picture ID that you're going to be using, if you have
25 one, that it matches that card because of the

1 discretionary power that an election official has
2 when it comes time to vote.

3 "QUESTION: So did that process involve allocating
4 resources for making printouts and handouts and
5 flyers?

6 "ANSWER: Yeah. We had -- we had a card. I just
7 told you. We created a card with another group --

8 "QUESTION: Uh-huh.

9 "ANSWER: -- but we handed out with voter
10 registration cards just so that people were aware of
11 the law. Any time you have any legislative changes,
12 we try to educate our community about those
13 legislative changes.

14 "QUESTION: And so the education of your members
15 regarding SB 14 is not the first time you've had to
16 educate your members regarding a change in voter
17 laws; is that correct?

18 "ANSWER: No but this is the most extensive change
19 we've ever had to make.

20 "QUESTION: Can you tell me what activities, outreach
21 activities, programming activities, any kind of
22 activity of the NAA -- of the Texas NAACP that it has
23 that it usually conducts in any given year? Can you
24 give me examples of such activities that have been
25 allocated less resources as a direct result of SB 14?

1 "ANSWER: The utilization of Yannis Banks, our one
2 staff person. That has almost been -- I would say
3 he's gone from being in a position that was 60
4 percent administrative and he's now doing probably 80
5 percent legislative as a result of this bill.

6 "QUESTION: As part of the assistance that Texas
7 NAACP provides to voters, does that include helping
8 voters gather the necessary documentation to vote?

9 "ANSWER: Some of units may have. I'm not -- I'm not
10 personally familiar with anyone who has one of the
11 units that has done something like that. I'm not
12 really for sure but I know we have encouraged them to
13 assist their constituents to get the materials
14 needed, the documents needed, whether it's a driver's
15 license or whether it's their birth certificate.

16 "QUESTION: In the election cycles that have occurred
17 after the implementation of SB 14 --

18 "ANSWER: Uh-huh.

19 "QUESTION: -- has Texas NAACP assisted voters during
20 those elections in the manner that you've just
21 described?

22 "ANSWER: I'm sure we have.

23 "QUESTION: Did those activities require more or less
24 resources
25 than for previous elections prior to SB 14?

1 "ANSWER: Definitely more.

2 "QUESTION: But in the Texas NAACP's activities
3 related to assisting voters --

4 "ANSWER: Uh-huh.

5 "QUESTION: -- to vote --

6 "ANSWER: Uh-huh. Okay.

7 "QUESTION: -- have they expended more or less
8 resources for that -- those activities as a result of
9 SB 14?

10 "ANSWER: More.

11 "QUESTION: In what way?

12 "ANSWER: Resources getting people to and from sites
13 I'm sure were expended by some of our units where
14 they needed to get to DPS offices. We've had Yannis
15 who has been working exclusively on this effort.
16 That has definitely increased our expenditure,
17 printing of material, informational events to educate
18 the community. What else? Just a number of
19 different activities. Example that comes to mind, I
20 know some of the units who usually do membership
21 recruitment, now as part of their membership
22 recruitment events, they do provide information and
23 they have always had the registration cards but they
24 now also have to provide -- they have to provide
25 information about SB 14 and the requirements of that

1 as a prerequisite to vote.

2 "QUESTION: Ms. Lydia, why does the Texas NAACP feel
3 it necessary to devote time and resources toward
4 voter registration activities?

5 "ANSWER: Because it -- because this is a right of
6 citizenship in this country, the right to vote and
7 especially it has been hard fought by African
8 Americans. The time was we had poll taxes as a form
9 of disenfranchising. How many bubbles in a bar of
10 soap kind of lunacy testing. So, yeah, there is a
11 long and egregious history of African Americans and
12 other minorities being disenfranchised in this
13 country and maybe I'm a little bit outraged that I
14 even have to answer that question because it is so
15 blatantly obvious.

16 **MS. RUDD:** Thank you. We're now going to read from
17 the deposition of Yannis --

18 **THE COURT:** Is the State going to present anything on
19 that witness?

20 **MS. RUDD:** Sorry. Do you have --

21 **MR. TATUM:** Yes, we have some --

22 **THE COURT:** Do you want to do it now or do you want
23 her to wrap up the other one?

24 **MS. RUDD:** It's up to you.

25 **MR. TATUM:** I think it would be more appropriate to

1 do it now considering we're still on --

2 **THE COURT:** All right, go ahead.

3 **MR. TATUM:** I'm sorry, your Honor. One moment,
4 please.

5 **EXAMINATION OF LINDA LYDIA BY EXCERPTS OF DEPOSITION TESTIMONY**

6 **(QUESTIONS READ BY MR. TATUM; ANSWERS READ BY COUNSEL)**

7 "QUESTION: Has the Texas NAACP in any way been
8 unable to fulfill its stated mission as a result of
9 SB 14?

10 "ANSWER: No. I'd like to think that we're still
11 carrying out the mission of the NAACP, maybe not to
12 the extent that we have done previously because of
13 the allocations of whether its manpower or dollars to
14 this particular effort.

15 "QUESTION: Are you aware of any members of the Texas
16 NAACP that are registered to vote that have chosen
17 not to vote as a result of SB 14?

18 "ANSWER: No.

19 "QUESTION: Do you know of anyone who has registered
20 to vote that has made the conscious choice to not
21 vote because of SB 14?

22 "ANSWER: Sort of as a protest perhaps? No, I've
23 never even heard of that concept of someone not
24 voting because of SB 14. I mean, that's so alien.
25 No, I've never even thought about it.

1 "QUESTION: Does the Texas NAACP contend that a
2 person who is trying to vote should be the same
3 person who is registered to vote?

4 "ANSWER: Of course. We don't -- we're not fostering
5 voter fraud.

6 "QUESTION: Ms. Lydia, does the Texas NAACP expect
7 that it will continue to be able to fulfill its
8 stated mission in the foreseeable future?

9 "ANSWER: Yes."

10 **MR. TATUM:** Thank you.

11 **THE COURT:** So that was an excerpt from what you gave
12 me, right --

13 **MR. TATUM:** Yes, ma'am.

14 **THE COURT:** -- what she just read?

15 **MR. TATUM:** Yes, your Honor.

16 **THE COURT:** Okay.

17 **MR. TATUM:** And that began on Page 8 for your record.

18 **MS. RUDD:** And, your Honor, I may have spoken too
19 soon. We're actually going to read from the deposition of
20 Martin Golando as our last witness of the day. Mr. Golando is
21 from the Mexican American Legislative Caucus and I'll hand you
22 the excerpts that we'll be reading.

23 **THE COURT:** Do you want this one back then?

24 **MS. RUDD:** That's great. We will read that into the
25 record later.

1 **THE COURT:** Can you give that back to her?

2 **MR. SPEAKER:** Yes.

3 **MR. TATUM:** I'm sorry. And you're doing Banks right
4 now or Golando right now?

5 **MS. RUDD:** Golando.

6 **MR. TATUM:** Golando.

7 **EXAMINATION OF MARTIN ANTHONY GOLANDO**

8 **BY EXCERPTS OF DEPOSITION TESTIMONY**

9 **(QUESTIONS READ BY MS. RUDD; ANSWERS READ BY COUNSEL)**

10 "QUESTION: Would you state and spell your full name
11 for the record please?

12 "ANSWER: Martin Anthony Golando, M-a-r-t-i-n,
13 Anthony, A-n-t-h-o-n-y, Golando, G-o-l-a-n-d-o.

14 "QUESTION: Mr. Golando, what is your role at MALC?
15 And before you answer that question, let me just go
16 ahead and say here, when I say "MALC" I mean the
17 Mexican American Legislative Caucus. And throughout
18 this deposition I may say "MALC" or "you" or "your".
19 And when I say that, I mean MALC, unless I
20 specifically indicate otherwise. Do you understand?

21 "ANSWER: I do.

22 "QUESTION: Okay. So getting back to my question,
23 what is your role at MALC?

24 "ANSWER: I'm a general counsel at MALC. That's my
25 title.

1 "QUESTION: And how long have you held that position?

2 "ANSWER: Since May 1st.

3 "QUESTION: Of this year?

4 "ANSWER: Correct.

5 "QUESTION: Did you have any role at MALC before you
6 became general counsel?

7 "ANSWER: Yes, it was basically the same job without
8 the title. I weighed in on the legal consequences of
9 actions; I weighed in on the day-to-day operations.
10 I worked very closely with the executive director.

11 "QUESTION: Can you describe the purpose and mission
12 of MALC?

13 "ANSWER: The purpose of MALC is to assist the
14 members of MALC and their staffs in being prepared to
15 be a voice for the Mexican Americans of Texas.
16 That's the purpose.

17 "QUESTION: How long has MALC been in existence?

18 "ANSWER: Since 1973, so 40 years -- 40-plus years.

19 "QUESTION: And how was it formed?

20 "ANSWER: It was a caucus. There's rumors about how
21 it was formed in the back of a closet but just
22 members of -- Mexican American members of the
23 legislature at that time formed together a group.

24 "QUESTION: Can you approximate a percentage of your
25 annual budget that's been dedicated towards voting

1 rights litigation?

2 "ANSWER: I can't, but I can approximate a certain
3 budget, my time. I get paid a certain amount and 80
4 to 90 percent of my time is dedicated to voting
5 rights litigation. So voting rights takes up 80
6 percent of my time with MALC. So there's less time
7 for me to do policy development. It's less time for
8 me to work with members about their own bills. It's
9 less time for us to focus on our core mission.

10 "QUESTION: You mentioned the core mission of MALC.
11 Can you describe generally the kinds of activities
12 that MALC regularly engages in in furtherance of its
13 core mission?

14 "ANSWER: We try to develop policies to advance that
15 core mission. We work with our members with their
16 own bills. We try to pass their agenda. We work
17 with their staffs to make sure that their staffs are
18 the best prepared that they can be. We try to speak
19 with unanimity on issues of importance to the Mexican
20 American community and generally do everything you
21 can to try to speak with one voice about matters of
22 importance to the community as a whole, which
23 includes things like, you know, press releases,
24 policy agendas and every other public kind of
25 statements you can make so ...

1 "QUESTION: And what kinds of resources are devoted
2 to these core activities?

3 "ANSWER: Financial resources, staff resources and
4 time.

5 "QUESTION: Does MALC engage in any kind of
6 activities related to voter education?

7 "ANSWER: Absolutely.

8 "QUESTION: Could you describe those activities?

9 "ANSWER: We are an information hub about the law and
10 so our duty is to inform our members so they can
11 inform the constituents how various laws might affect
12 them, specifically SB 14. Over the last -- since SB
13 14 has been -- began to be enacted last year, we have
14 received lots of requests by legislators about what
15 the law means and how they can talk to the
16 constituents about the law, what their requirements
17 are. And so MALC has been a resource for voter
18 education for the members themselves. And there's
19 also been members of the community who would call up
20 and ask what does the law mean and we would tell them
21 to the best of our knowledge to give them resources
22 as best as we can.

23 We have an electronic news letter that we send out
24 every week called "The Caucus." In voter ID has an
25 SB 14 and its requirement have been a central part of

1 each of those which I think we gave to you in our
2 document productions. Also our public statements
3 where we try to educate voters about the effects of
4 voter ID and what the requirements are in order to
5 educate them to their vote have been prominent.
6 We've also given you those things too. So it's my
7 experience that we've devoted a lot of resources to
8 be an information hub to voter educate on this issue
9 so ...

10 "QUESTION: So do you-all expend or commit resources
11 to educate those members of MALC about voter ID laws
12 and constituents of members of MALC about voter ID
13 laws?

14 "ANSWER: I think that's right. I think that the
15 caucus doesn't just go out to members, and our public
16 statements I believe obviously travel wherever they
17 go. And so I think that it's for the public and for
18 the members themselves.

19 "QUESTION: Can you tell me what kinds of resources
20 are committed toward voter education activities?

21 "ANSWER: First you have to understand the law in
22 order to talk about it. So much of my job is to suss
23 out the law and understand it. So some portion of my
24 salary is dedicated to that.

25 Our public statements via press releases, Facebook

1 responses, or through our caucus, are written by
2 staff. There is staff time devoted to that. It
3 costs money to do those things. The cost of
4 contacts. I think we actually use a different email
5 platform that costs money each month to. You have to
6 develop the words for this. There's editing involved
7 in that.

8 Anyways, long story short, I think that lots of staff
9 time is devoted from our core purpose, which is
10 policy development and member relations, to educating
11 on this topic so ...

12 "QUESTION: Did MALC commit resources towards voter
13 education purposes prior to SB 14?

14 "ANSWER: Not to my knowledge. There may have been
15 some resources committed to talk about the law,
16 generally, but there's been a radical uptick, a
17 logarithmic increase in the amount of money, time,
18 staff, that we spend educating our members and the
19 public at large about SB 14.

20 "QUESTION: When you say "a radical uptick," can you
21 exemplify that by a certain percentage?

22 "ANSWER: I think it's very difficult to empirically
23 say, X amount of time or money was spent on this
24 issue because there's lots of indirect costs that you
25 may not be aware of or you might miss. I will just

1 say this: When he began working as a chairman, Trey
2 had a vision for MALC to have a broad, comprehensive
3 policy horizon. It changed the way in which MALC and
4 Latino issues were being talked about. We've done
5 some part of that but his goal for MALC was to be
6 able to talk about roads and transportation, energy,
7 and to devote staffers to those core concepts. We've
8 been unable to do that because of the last four years
9 with the diversion of resources in order to answer
10 the clarion call to combat this bill and its law.

11 "QUESTION: But when you say, "a radical uptick in
12 resources," what is that based on?

13 "ANSWER: My prior knowledge of the budget. I just
14 know that we had a vision to hire a policy analyst
15 for complex financial transactions. We had a vision
16 to talk about transportation and water policy in a
17 more complex and fundamental way to kind of change
18 the way in which people thought about Latino policy
19 and we've been fundamentally unable to do those
20 things because of our diverted focus to voting rights
21 issues.

22 "QUESTION: So has MALC been engaging in voter
23 education activities related to various voter ID
24 bills since 2004?

25 "ANSWER: I can't speak to 2004 or 2005; I can only

1 speak to the recent uptick since the bill has been
2 passed. Voter education is probably not necessary if
3 there is -- if the bill hasn't been passed or
4 implemented, right? Although sometimes I think
5 members receive questions or MALC receives questions
6 saying, "Do I have to bring my ID or not?" Right?
7 That's a form of voter education. But before the
8 passage we would say, "No;" and after the passage we
9 would say, "Yes." I would just say generally there
10 has been a tremendous increase in the amount of
11 information requested and provided by MALC on this
12 issue so ...

13 "QUESTION: And when you say "this issue," you mean
14 SB 14?

15 "ANSWER: Correct; the implementation of SB 14.

16 "QUESTION: Why did MALC join this lawsuit?

17 "ANSWER: Because we believe that members of our
18 community and the legislators themselves will be
19 deeply harmed by its passage, and have been.

20 "QUESTION: Does MALC feel that its interests are not
21 adequately represented by the United States of
22 America in this lawsuit?

23 "ANSWER: Yes.

24 "QUESTION: And why is that?

25 "ANSWER: I think that there are unique requirements

1 for Latino elected officials and their constituents
2 that aren't necessarily represented by the DOJ. I
3 say that with all respect to the DOJ so ...

4 "QUESTION: Is MALC as an organization harmed by
5 SB 14?

6 "ANSWER: Yes.

7 "QUESTION: In what ways is MALC harmed by SB 14?

8 "ANSWER: For the last four years, roughly, we have
9 diverted a tremendous amount of financial resources
10 and staff time and other resources to educate the
11 public about its effects and to combat its
12 implementation.

13 "QUESTION: Can you tell me what portion of MALC's
14 annual budget is diverted towards educating Texans
15 specifically about SB 14?

16 "ANSWER: The portion -- about 80 percent of my
17 salary is devoted to voting rights. Eighty percent
18 of my time and therefore 80 percent of my salary,
19 whatever it is, has been devoted to voting right
20 issues in Texas, generally. I think that whatever
21 space that we have in our electronic correspondence,
22 our weekly news letter, its cost, and usually one
23 third of the coffee is devoted to SB 14 or voter ID
24 or status update on litigation. So whatever the
25 monthly cost of that is, plus the staff time itself.

1 We're not hourly, we're flat rate, and so it's hard
2 to determine what percentage but a significant
3 percentage. It's prevented us from having lots of
4 policy convenings that we might want. And most
5 recently I think that a good example is that we have
6 a border crisis right now for UAC's unaccompanied
7 children and it would be a traditional role of MALC
8 to play a bigger role: have a convening and talk
9 about what the needs are for border protection and
10 how we can ameliorate this immediate situation. And
11 we haven't been able to focus on it because of the
12 diversion of staff time and focus and financial
13 resources, unfortunately.

14 "QUESTION: Does MALC contend that it is unable to
15 fulfill its mission because of SB 14?

16 "ANSWER: Yes, in part.

17 "QUESTION: In what way has MALC been unable to
18 fulfill its mission because of SB 14?

19 "ANSWER: The mission of MALC is to have a
20 comprehensive voice about all matters of importance
21 to the Mexican-American community, to provide
22 assistance to our member legislatures and their
23 staffs in order to further that goal. The
24 comprehensive goal is not just related to the
25 traditional civil rights issue. Like I said before,

1 Trey's goal for the caucus was to have a diverse and
2 new policy horizon for MALC members and Latino
3 policy. That current goal is under serious
4 constraints because of our diversion of resources.
5 It's sad, but it's true.

6 "QUESTION: Does MALC consider its SB 14-related
7 activities as outside the scope of its mission?

8 "ANSWER: The voter education portion -- I wouldn't
9 say it's necessarily outside the scope of the
10 mission, but it certainly has taken away from the
11 core mission, which is a comprehensive policy voice.
12 Comprehensive means more than just one thing. Right?
13 If we wanted to talk about water or transportation,
14 complex financial transactions, other issues that are
15 considered Latino issues, we wanted to change that,
16 and we have been unable to do so because of the
17 devotion of the time and resources to this issue,
18 so --

19 "QUESTION: Do you know specifically what portion of
20 the kind of set costs that you referenced earlier
21 have had to be diverted toward SB 14-related
22 activities?

23 "ANSWER: Again, it's very difficult to say. So our
24 set costs, our salary costs, rent, and other things
25 like what you pay for your newsletter distribution,

1 what you pay for your list, what you pay for your
2 copier, etcetera, what you pay for paper, what you
3 pay for, those are set costs. Right? Obviously my
4 salary is devoted largely to voting rights. Summer's
5 salary in part is for handling logistical issues and
6 running litigation and SB 14 generally. Lindsey,
7 lots of our public statements are about voter ID, so
8 lots of her content is about voter ID. Nathan does
9 video, so I think we had some videos related to
10 voting rights generally, so some part of his
11 statement. I can't estimate the paper. Rent,
12 obviously some portion of their salaries is devoted
13 to that, and we've had meetings about voter ID at
14 MALC. Obviously it's related in some way. It's very
15 difficult to say. I just know that we devoted more
16 resources than I can currently measure for you, and
17 it's been tremendously daunting for my caucus.

18 "QUESTION: Can you specify what particular
19 activities that fall under the core mission of MALC
20 have had to be set aside because of MALC's devoted
21 attention to SB 14-related activities?

22 "ANSWER: Ideas aren't one-to-one. It's a zero sum
23 gain largely. But I can say that specifically our
24 focus the last four weeks in trying to get these
25 documents out and trying to prepare for litigation

1 generally has prevented us from taking a more -- a
2 deeper policy look at this UAC problem on the border.
3 I discussed before how voter education efforts have
4 taken away from Trey's vision for MALC, which is to
5 have a more comprehensive and meaningful Latino
6 policy in all sectors. Our goal was to have no issue
7 be considered a non-Latino issue. Every issue should
8 have a Latino focus or Latino facet to it, and so our
9 policy development operation has been relatively
10 sapped because of our entry in this lawsuit. We've
11 lost a lot of staff because we couldn't afford to pay
12 them because of our voter education efforts and our
13 litigation generally. We lost a staffer to the TDP
14 last fall, in part because we couldn't pay him what
15 he was worth. I left state employment in part
16 because I wanted to create budgetary space for us to
17 not lose people. That's part of the reason I left,
18 because you can kind of have a hybrid employment
19 between the caucus and trades a capital staff.
20 Right? And so I think that our financial troubles
21 have been exacerbated by our voter education efforts
22 and our efforts involving SB 14."

23 "QUESTION: Is MALC able to identify a constituent of
24 a MALC member who has suffered harm at any point
25 because of SB 14?"

1 "ANSWER: And this may be where I differ from my
2 attorney in the sense that on our discussion of harm
3 -- because I believe that every one of our
4 constituents have been harmed by the bill. And I
5 don't mean this -- I really don't mean this
6 esoterically. It sounds like I'm just preaching
7 platitudes. I'm really not trying to do that. I
8 think every person in Texas is harmed by the bill.
9 When Texas passes laws that are focused on what I
10 believe is a disfranchising intent that have a --
11 that were passed with an impermissible purpose, that
12 cheapens what it means to be a Texan. And I'm saying
13 this as someone who is an adopted Texan. I'm not
14 even from here really. But this is a great state and
15 it is made a worse place because of bills like this,
16 in my opinion. And so the honest answer to your
17 question is that I think everyone has been harmed by
18 it; everyone in this room, everyone in this state.
19 "QUESTION: Can you elaborate on what you mean by
20 'impermissible purpose?'

21 "ANSWER: I think that -- impermissible generally
22 means an unlawful purpose. In this instance, I mean
23 a racist purpose. I think that this bill is -- it
24 seeks to abridge the voting rights of minorities on
25 account of their race. That's what I mean. And I

1 think that it also unequally enforces the laws. I
2 think that there are several provisions like that in
3 this bill that do that. So I think that those are
4 two impermissible motives on behalf of policy and
5 decision makers that enacted this bill."

6 **MS. RUDD:** Thank you, your Honor.

7 **THE COURT:** All right, anything from the defense on
8 that witness?

9 **MR. TATUM:** Yes, your Honor. And, your Honor, just
10 for the sake of time and not to create any unnecessary overlap,
11 we're going to start in the middle of the packet I just gave
12 you, and I'll be referring to the page numbers so you can
13 follow along, if that's okay.

14 **THE COURT:** Okay.

15 **MR. TATUM:** We're going to be starting on page 9 of
16 the packet that I just gave you.

17 **EXAMINATION OF MARTIN ANTHONY GOLANDO**

18 **BY EXCERPTS OF DEPOSITION TESTIMONY**

19 **(QUESTIONS READ BY MR. TATUM; ANSWERS READ BY MR. WHITLEY)**

20 "QUESTION: Do you know a percentage of MALC's
21 financial resources have been diverted towards the
22 litigation of this lawsuit?

23 "ANSWER: This lawsuit, we've been lucky enough to
24 have little litigation expenses associated with this.
25 We had a lot more travel during the Section 5 trial.

1 Mr. Garza's salary, some part of it has been devoted
2 to this, and obviously some portion of my salary is
3 devoted to this, although I'm not involved with the
4 litigation; more the voter education policy
5 development side of it. I guess it's a mixed bag. I
6 couldn't say specifically, but there's been some
7 resources, some significant financial resources
8 devoted, I guess, a bunch, I guess."

9 **MR. TATUM:** And, your Honor, further down on that
10 page, starting on line 17.

11 "QUESTION: So MALC does not have any kind of
12 discernible or tangible measure for the exact
13 percentage of its resources that have been diverted
14 towards SB 14-related activities. Is that right?

15 "ANSWER: I don't think that's fair. I think that
16 it's really difficult to untwine employment. Right?
17 I do a lot of things for MALC. So does Summer. And
18 there are hills and valleys in terms of what you're
19 focusing on. What I can speak to is that the last --
20 since fall of 2011 and since the implementation of SB
21 14, I guess last year since the vacation, I guess
22 that would be 2012 -- no, 2013, I'm sorry. There's
23 been a tremendous amount of focus, time and some
24 money devoting to educating our members, their
25 constituents about this issue. Just because I can't

1 give you a percentage today, like 65 percent, what
2 would that mean, other than what you can measure -- I
3 mean, how do you measure staff time?"

4 **MR. TATUM:** Your Honor, I'll be reading from page 12
5 of the packet, starting on line 16. Did any members of MALC --
6 oh, sorry, David. I'll let you get there.

7 "QUESTION: Did any members of MALC vote for SB 14?

8 "ANSWER: Yes.

9 "QUESTION: Do you know which ones?

10 "ANSWER: Joe Pickett did, I think. I think Jose
11 Aliseda did when he was a member. John Garza did.
12 Larry Gonzalez did. I don't think Aaron Pena did. I
13 could be wrong, though. He may have, but I don't
14 think so.

15 "QUESTION: Does MALC contend that any of its members
16 who voted for SB 14 did so with discriminatory
17 intent?

18 "ANSWER: I don't know. Like I said, I couldn't
19 point to a specific member and how they felt, what
20 they felt internally. I just know -- I know there's
21 been generally -- Raul Torres I think voted for voter
22 ID as well. I know them generally as good people.
23 Larry Gonzalez is an exceptional person. He was a
24 great staffer. Raul Torres was one of the kindest
25 people I ever met in the legislature. John Garza is

1 a very nice man. Actually, his car was my car once
2 and he was very kind about it, like super kind. Jose
3 Aliseda is super cool. He's a pilot and he has a
4 scuba license, which is really neat. Anyways, my
5 point is, I know these guys personally and I can't
6 believe that they would, but I also don't know what's
7 in their hearts, and I don't know -- I don't think
8 it's also the point of the legislative intent. It's
9 not that they're -- it could be that they're deeply
10 held racists and that they voted for it because
11 they're racists. That's possible. I don't think so.
12 But it's also possible that they did so with a still
13 impermissible purpose because they were advocating on
14 behalf of racists or what -- or they thought a racist
15 law because they thought it made sense pragmatically.
16 Anyways, I guess what I'm saying is, I don't know
17 what's in their heart, but it's possible, but I doubt
18 it."

19 **MR. TATUM:** Very bottom of that page.

20 "QUESTION: Does MALC believe that Texas should make
21 sure the people attempting to vote are registered
22 voters?

23 "ANSWER: Yes.

24 "QUESTION: Does MALC believe that Texas should make
25 sure that people do not vote or attempt to vote in

1 the name of another person?

2 "ANSWER: Yes.

3 "QUESTION: Does MALC acknowledge that voter fraud
4 exists?

5 "ANSWER: Voter fraud generally?

6 "QUESTION: Yes.

7 "ANSWER: Yes.

8 "QUESTION: Does MALC acknowledge that voter fraud
9 exists in Texas?

10 "ANSWER: Yes.

11 "QUESTION: Does MALC believe that voter fraud should
12 be illegal?

13 "ANSWER: Yes."

14 **MR. TATUM:** Your Honor, skipping to the bottom of
15 that page.

16 "QUESTION: Is MALC able to identify any constituents
17 of its members who do not have a driver's license?

18 "ANSWER: Undoubtedly they do, but I can't give you a
19 list of names of people without a Texas driver's
20 license.

21 "QUESTION: Is MALC able to identify any constituents
22 of its members who do not have a state-issued photo
23 ID?

24 "ANSWER: Again, undoubtedly they do because of the -
25 - what we know about ID rates among Latinos, African

1 Americans, and the indigent, but I can't give you
2 specific names.

3 "QUESTION: Is MALC able to identify any constituents
4 of its members who do not have a concealed handgun
5 license?

6 "ANSWER: That's a much smaller universe of people.
7 I think there must be -- I think there's 18,000
8 people in the CHL database, I think. There may be
9 more than that. I may be off by an order of
10 magnitude. But I can't give you a specific name of
11 people who don't have a CHL; although large portions
12 of MALC members probably -- constituents don't have a
13 CHL. It's a very small universe of people.

14 "QUESTION: Is MALC able to identify any constituents
15 of its members who do not have a U. S. passport?

16 "ANSWER: No, I'm not privy to that information.

17 "QUESTION: Is MALC able to identify any constituents
18 of its members who do not have a military ID card
19 with a photo?

20 "ANSWER: I'm not privy.

21 "QUESTION: When you say you're not privy to that
22 information --

23 "ANSWER: I don't know, I don't know.

24 "QUESTION: Is MALC able to identify any constituents
25 of its members who do not have a citizenship

1 certificate?

2 "ANSWER: The only person I knew who ever had one was
3 Jose Aliseda, and he kept it with him. He showed it
4 to me once in a deposition and it was -- he talked
5 about how hard it was to get and what it took for his
6 family to get it and for his brother to get it. So
7 the answer to your question is no, but I know that
8 that's a small number, and I can't imagine showing
9 that at the polls, how hard it was for him to get
10 that.

11 "QUESTION: Is MALC able to identify any constituents
12 of its members who do not have an EIC?

13 "ANSWER: I think there have been 12 EICs issued, or
14 something like that, some small number of EICs. I
15 don't know the names of people who have been issued
16 EICs and I think we're talking dozens of EICs at this
17 point have been issued.

18 "QUESTION: To constituents of MALC members?

19 "ANSWER: No. It's the people in Texas generally. I
20 could be wrong with that number, but I remember at
21 some point it had been like only a few dozen had been
22 issued in last year. Anyways, I don't have that
23 information, but it's a low number of folks who
24 qualify for that.

25 "QUESTION: Is MALC able to identify any of its

1 members who do not have any of the documents
2 necessary to get an EIC?

3 "ANSWER: Any of its members or --

4 "QUESTION: Sorry. Is MALC able to identify any
5 constituents of its members who do not have any of
6 the documents necessary to get an EIC?

7 "ANSWER: I think some of the Intervenors that are
8 represented by Mr. Garza don't have the documents
9 necessary to get an EIC. I think that's correct.

10 "QUESTION: Can you identify one of them?

11 "ANSWER: You know, I don't know them by name, I'm
12 sorry. I know that there's a man in Nueces County,
13 or maybe it was actually -- it was in Hidalgo County
14 -- that's where it was, Hidalgo County -- who can't
15 get a birth certificate because he was born, I think,
16 by a midwife. It was very hard for him to get an
17 actual birth certificate. And that was the only kind
18 of document he could get to go get an EIC. I think
19 that's correct, so --

20 "QUESTION: Do you know how many constituents of your
21 members have attempted to get an EIC?

22 "ANSWER: No, I don't know. I have no knowledge.

23 "QUESTION: Do you know if any constituents of your
24 members have attempted to get an EIC?

25 "ANSWER: I presume it's likely, though it's -- EICs

1 are very rare apparently, but I don't know.

2 "QUESTION: So MALC filed its complaint on September
3 17th, 2013. Can you identify any constituent of a
4 MALC member who at that time had been unable to vote
5 on account of his or her inability to obtain an
6 acceptable form of ID under SB 14?

7 "ANSWER: Just the affected parties that Mr. Garza
8 represents. Those are the ones I'm aware of. I know
9 that there's been several provisional ballots cast
10 throughout the counties, but I do not know their
11 BUIDs (phonetic), I don't know their names. But the
12 affected people who Mr. Garza represents, I think
13 that's a good source of that information.

14 "QUESTION: Well, right now, as we sit here, is MALC
15 able to identify any constituent of a MALC member
16 who, on September 17th, 2013, the date that MALC
17 filed this complaint in this case, had been unable to
18 vote on account of his or her inability to obtain an
19 acceptable form of ID under SB 14?

20 "ANSWER: Again, I think the affected people are
21 certainly represented by MALC folks. And to the
22 extent they couldn't vote on that day, then that's my
23 answer.

24 "QUESTION: So you're unable to identify any one of
25 them?

1 "ANSWER: I can't identify them by name, but I can
2 give you the category of folks that's known to you
3 because they're Intervenors. I don't know their
4 names, I'm sorry. But I do know that there are
5 affected people, and those people are likely
6 represented by MALC members."

7 **MR. TATUM:** At the bottom of that page, your Honor.

8 "QUESTION: Is MALC able to identify any constituents
9 of its members who have not been able to vote in an
10 election because of SB 14?

11 "ANSWER: You know, I don't think so. I don't think
12 that -- I'm not sure who that -- the people who --
13 the affected parties who are Intervenors who are
14 represented by MALC people have actually tried yet to
15 vote. I could be wrong. Whatever is in their
16 intervention paper, I would stipulate to, so --"

17 **MR. TATUM:** Okay.

18 **THE COURT:** All right. Is that all for today then
19 from the Plaintiffs?

20 **MR. ROSENBERG:** Yes, that's -- I'm sorry.

21 **THE COURT:** You all have discussed the witnesses for
22 tomorrow already, correct?

23 **MR. ROSENBERG:** Right. We've been giving 48 hours'
24 notice both to the Court and to the State.

25 **THE COURT:** Okay, you're excused for today. We'll

1 see you at 8:00 o'clock in the morning.

2 **(This proceeding was adjourned at 6:15 p.m.)**