IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

VIRGINIA ELIZONDO,	§
	§
Plaintiff,	§
	§
vs.	§
	§
SPRING BRANCH INDEPENDENT	§
SCHOOL DISTRICT, CHRIS	§
GONZALEZ, PAM GOODSON, KAREN	§
PECK, JOSEF D. KLAM, MINDA	Š
CAESAR, CHRIS EARNEST, J.	Š
CARTER BREED, in their official	Š
capacity as members of the Board of	Š
Trustees of Spring Branch ISD	§
	Š
Defendants.	Š

Civil Action No. 4:21-cv-01997

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Pursuant to Fed. R. Civ. P. 56 and this Court's order [Dkt. 22], Defendants Spring Branch Independent School District and the members of its Board of Trustees in their official capacities (collectively, "SBISD") file the following motion for summary judgment.

I. INTRODUCTION

1.1 This is a Voting Rights Act case. Plaintiff Virginia Elizondo has sued SBISD alleging that its at-large system for electing the members of the school district's board of trustees violates Section 2 of the Voting Rights Act, 52 U.S.C. §10301, *et seq.* See Dkt. 3.

1.2 "Under *Gingles*¹, plaintiffs challenging an at-large system on behalf of a protected class of citizens must demonstrate that (1) the group is sufficiently large and geographically compact to constitute a majority in a single-member district; (2) it is politically cohesive; and (3) the white

¹ Thornburg v. Gingles, 478 U.S. 30 (1986).

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majority votes sufficiently as a bloc to enable it usually to defeat the minority's preferred candidate." *LULAC v. Clements*, 999 F.2d 831, 849 (5th Cir. 1993) (en banc). Critically, "[f]ailure to establish all three of these elements defeats a Section 2 claim." *Gonzalez v. Harris County*, 601 Fed. Appx. 255, 258 (5th Cir. 2015).

1.3 As will be detailed below, SBISD moves for summary judgment on Plaintiff's Section 2 claim because as a matter of law she cannot carry her burden to satisfy the first required *Gingles* precondition – numerosity and compactness.

II. Statement of Issue to be Decided

2.1 Whether Plaintiff can carry her burden to satisfy the first *Gingles* precondition required for a viable claim under Section 2 of the Voting Rights Act. As a matter of law, she cannot.

III. Summary Judgment Evidence

3.1 Exhibit 1 – Expert report of Robert M. Stein dated January 20, 2022.

Exhibit 2 – Deposition of Robert M. Stein taken February 9, 2022.

IV. Statement of Undisputed Facts

- 4.1 According to this Court's order [Dkt. 22]:
 - a. Plaintiff's experts must be designated and reports furnished by January 10, 2022 (extended until January 20, 2022 by agreement of the parties).
 - b. Defendants' experts must be designated and reports furnished by February 10, 2022 (extended until February 22, 2022 by agreement of the parties).
 - c. Discovery must be completed by March 30, 2022.
 - d. Dispositive motions are due by April 20, 2022.
- 4.2 Consistent with the Court's order, Plaintiff has designated Dr. Robert Stein as her sole

expert witness on the three required Gingles preconditions, including the first Gingles

precondition. Dr. Stein submitted his expert report on January 20, 2022 (Exhibit 1 hereto).

Following receipt of Dr. Stein's report, on February 9, 2022, SBISD took Dr. Stein's deposition

(Exhibit 2 hereto).

- 4.3 Relevant to this motion for summary judgment, Dr. Stein testified at his deposition that:
 - a. He is opining on all three *Gingles* preconditions, including the first precondition. Stein Deposition, pp. 8-10.
 - b. There was nothing else he needs or wants to do to render his expert opinion. Id., pp. 12-13.
 - c. Table 1, page 8 of Dr. Stein's report contains his proposed illustrative district/map that attempts to satisfy the first *Gingles* precondition. This is the only proposed illustrative district/map that he has attempted to create. Id., pp. 49-50, 54-55.
 - d. In Dr. Stein's proposed majority-minority illustrative district (District One), the Hispanic CVAP (citizen voting age population) is 52.8% with a margin of error of +/- 5.9% -- meaning that the Hispanic CVAP of his proposed district could be less than 50%. Id., pp. 28-29.²
 - e. Dr. Stein "didn't really do very much" to create his illustrative district/map. "I didn't draw a map here. I worked with the map I was given"; "I started with the [map of the] seven districts that Spring Branch ISD has identified as polling places." Id., pp. 20, 49-51.³
 - f. Because Dr. Stein "didn't really do very much" to create his illustrative district/map, he cannot adequately explain it. For example, (1) he cannot explain the reason for the jut (carve-out) between his proposed District One and District Seven that is not found on the original SBISD attendance zone/polling place maps that he used: "Those maps that were shared with with me by Mr. Golando [Plaintiff's counsel], and they may have reflected a slight change in the makeup, the deviation from the current enrollment districts. I had not noticed that before." (Id., pp. 56-57); (2) he also cannot explain the carve-out between proposed districts Five and Six: "Again, I assume that that was a change that Mr. Golando [Plaintiff's counsel] had made to adjust boundaries for the demonstrative plan" (Id., p. 57); and (3) he further cannot explain why his proposed District Six is the only proposed district that is both north and south of I-10 (Id., p. 57).

² Dr. Stein does not know, and has no opinion, if it would have been possible to draw a Hispanic majority CVAP district prior to the recent 2020 census. Stein Deposition, pp. 52-53.

³ The map of SBISD's middle school attendance zones (which also show its polling places) that Dr. Stein used is based on middle school students, not citizen voting age population.

g. Critically, *he did not consider "traditional districting principles"* when creating his illustrative district/map ("I mean, I don't know what those conditions would be."). By ways of example, he did not respect neighborhoods and subdivisions and did not try to keep them intact, nor did he take into account or respect census blocks. He also did not take into account one person, one vote. Id., pp. 54-55.

V. ARGUMENT

A. Summary Judgment Standard

5.1 Summary judgment is proper when there is no genuine dispute of material fact. Fed. R. Civ. P. 56(a); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). A defendant who seeks summary judgment on a plaintiff's claim must demonstrate the absence of a genuine dispute of material fact by either (1) submitting summary judgment evidence that negates the existence of a material element of the plaintiff's claim, or (2) showing there is no evidence to support an essential element of the plaintiff's claim. *Celotex*, 477 U.S. at 323-25; *Lavespere v. Niagra Mach. & Tool Works*, *Inc.*, 910 F.2d 167, 178 (5th Cir. 1990).

B. Plaintiff Cannot Satisfy the First *Gingles* Precondition

5.2 "Satisfying the first *Gingles* precondition – compactness – normally requires submitting as evidence hypothetical redistricting schemes in the form of illustrative plans." *Gonzalez*, 601 Fed. Appx. at 258. "The proposed plan must [] encompass a district with a greater-than-50-percentvoting-age minority population." *Id.* "As the Supreme Court has made clear, the 50% threshold is a bright line test." *Benevidez v. Irving Indep. Sch. Dist.*, 690 F.Supp.2d 451, 457 (N.D. Tex. 2010). 5.3 According to the Fifth Circuit, "under *Gingles, compactness requires accounting for traditional districting principles* such as maintaining communities of interest and traditional boundaries." *Gonzalez*, 601 Fed. Appx. at 258 (emphasis added). Importantly, "*those principles must be considered when analyzing that aspect of the first Gingles precondition.*" *Id.* at 259. See also *Fairley v. Hattiesburg*, 584 F.3d 660, 670 (5th Cir. 2009) ("Courts are expected, in evaluating

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redistricting plans, to take into account 'traditional districting principles such as maintaining communities of interest and traditional boundaries.'"). In *Gonzalez*, the district court ruled that the plaintiffs presented a geographically compact hypothetical district with a greater than 50% Hispanic voting-age minority population. However, notwithstanding this ruling, the plaintiffs nevertheless lost at the district court level because "they failed to satisfy the compactness precondition because their plans did not respect traditional districting principles." *Gonzalez*, 601 Fed. Appx. at 258. On appeal, the "Plaintiffs contend[ed] the court committed reversible error on two grounds: traditional districting principles must not be considered in assessing compactness...." The Fifth Circuit disagreed, affirming the district court and holding that "Plaintiffs' challenge to the use of traditional districting principles in ruling on compactness fails; those principles *must be considered* when analyzing that aspect of the first *Gingles* precondition." Id. at 258-59 (emphasis added).

5.4 Plaintiffs cannot simply "ignore traditional districting principles such as maintaining communities of interest and traditional boundaries." *Sensley v. Albritton*, 385 F.3d 591, 598 (5th Cir. 2004). "Thus, to evaluate compactness, the Court considers the dispersion of the relevant minority population, the shape of the proposed district (as measured by a visual evaluation and by statistical measures of compactness) and the causes underlying its shape, and the district's compliance with traditional redistricting principles (such as respect for communities of interest and traditional boundaries)." *Perez v. Abbott*, 274 F.Supp.3d 624, 639 (W.D. Tex. 2017); see also, *Perez v. Abbott*, 253 F.Supp.3d 864, 911 (W.D. Tex. 2017) (same).

5.5 Traditional principles of "drawing districts and well-established demographic considerations" include the following: "First, districts should generally have equal total population. For municipalities, the population size of each district should not deviate from the

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others by more than 10%. Second, districts must comply with legal requirements, such as the Equal Protection Clause. And third, districts must be drawn consistent with existing official political boundaries (along city or county lines) and informed geographic boundaries, such as neighborhoods or communities that share a common interest." *Benavides v. City of Irving*, 638 F.Supp.2d 709, 714 (N.D. Tex. 2009); see also *Perez*, 253 F.Supp.3d at 911 (traditional districting principles include "contiguousness, population equality, maintaining communities of interest, respecting traditional boundaries, and providing protection to incumbents"). "In assessing whether a district complies with traditional districting principles, a court should also determine whether the hypothetical district respects 'communities defined by actual shared interests.' If race is the only 'common thread' that binds certain areas together, the district cannot be said to respect communities of interest." *Terrebonne Parish Branch NAACP v. Jindal*, 274 F.Supp.3d 395, 424 (M.D. La. 2017) (quoting *Miller v. Johnson*, 515 U.S. 900, 916, 920 (1995)).

5.6 Here, Dr. Stein's proposed illustrative district/map is not a legally adequate remedial plan, and is insufficient as a matter of law to meet Plaintiff's burden to "prove by a preponderance of the evidence that all of the *Gingles* preconditions [are] satisfied." *LULAC #4552 v. Roscoe Indep. Sch. Dist.*, 123 F.3d 843, 846 (5th Cir. 1997).

5.7 First, based on the admitted +/- 5.9% margin of error, the Hispanic CVAP in Dr. Stein's proposed majority-minority district is, in reality, as low as 46.9% -- well below the 50% bright line threshold. Because of this margin of error, it is more likely than not that Dr. Stein's proposed district has less than a 50% Hispanic CVAP, and therefore as a matter of law fails to satisfy Plaintiff's burden to prove the first *Gingles* precondition by a preponderance of the evidence.

5.8 In addition, contrary to what is required by the Fifth Circuit, Dr. Stein admittedly *did not consider traditional districting principles* when he created his illustrative district/map. This means

that Dr. Stein's methodology in creating his proposed remedial plan is legally insufficient, and therefore cannot be used to satisfy Plaintiff's burden to prove the first *Gingles* precondition. Again, as mandated by the Fifth Circuit, "[traditional districting] principles *must be considered* when analyzing that aspect [compactness] of the first *Gingles* precondition." *Gonzalez*, 601 Fed. Appx. at 258-59.

5.9 Of course, a court should exclude the testimony of an expert if it is not reliable. Kumho Tire Co. v. Carmichael, 526 U.S. 137, 149 (1999); Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579, 592-93 (1993). An expert witness may be qualified and highly credible, but his conclusions may be based on unreliable methodology. An opinion based on unreliable methodology and/or data is no more than "subjective belief or unsupported speculation." Daubert, 509 U.S. at 590. "This gate-keeping obligation applies to all types of expert testimony, not just scientific testimony." Pipitone v. Biomatrix, Inc., 288 F.3d 239, 244 (5th Cir. 2022). As stated by the Fifth Circuit, "[e]ven on a motion for summary judgment, we are not required to take heed of an illreasoned expert opinion." Chen v. City of Houston, 206 F.3d 502, 508 (5th Cir. 2000). See also General Elec. Co. v. Joiner, 522 U.S. 136, 146 (1997) ("nothing in either Daubert or the Federal Rules of Evidence requires a district court to admit opinion evidence that is connected to existing data only by the ipse dixit of the expert."). Here, not only did Dr. Stein not take into account or analyze traditional districting principles (which is fatal to meeting the first Gingles precondition), he did so little to create his only proposed district/map that he cannot explain the methodology used. Dr. Stein's opinion testimony regarding the first Gingles precondition is unreliable and should not be considered as evidence sufficient to meet this precondition and avoid summary judgment.

5.10 Because the first *Gingles* precondition is a threshold issue which Plaintiff cannot meet, there is no need for this lawsuit to go further. Because this failure is dispositive, and because the relevant scheduling deadlines have passed, the Court should save itself and the parties, which include a public school district, the time and expense of an unnecessary trial by granting summary judgment and ending this litigation.

VI. Conclusion and Prayer

6.1 For these reasons, pursuant to Fed. R. Civ. P. 56, Defendant SBISD asks the Court to dismiss Plaintiff's Voting Right Act claim for failure to satisfy the first *Gingles* precondition.

Respectfully submitted,

ABERNATHY, ROEDER, BOYD & HULLETT, P.C.

/s/Charles J. Crawford Charles J. Crawford State Bar No. 05018900 SD Tex. Bar No. 335298 ccrawford@abernathy-law.com Lucas C. Henry State Bar No. 24101901 SD Tex. Bar No. 3727871 Ihenry@abernathy-law.com 1700 Redbud Blvd., Suite 300 McKinney, Texas 75069 Telephone: 214-544-4000 Facsimile: 214-544-4040

ATTORNEYS FOR DEFENDANTS

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CERTIFICATE OF SERVICE

On April 20, 2022, I electronically served the foregoing on counsel for Plaintiff and amicus by the Court's ECF system.

<u>/s/Charles J. Crawford</u> Charles J. Crawford Case 4:21-cv-01997 Document 43-1 Filed on 04/20/22 in TXSD Page 1 of 32

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

VIRGINIA ELIZONDO

Plaintiff,

v.

SPRING BRANCH INDEPENT SCHOOL DISTRICT, CHRIS GONZALEZ, PAM GOODSON, KAREN PECK, JOSEF D. KLAM, MINDA CAESAR, CHRIS EARNEST, J. CARTER BREED, in their official capacity as member of the Board of Trustee of Spring Branch ISD

Defendants

EXPERT REPORT OF Robert M. Stein, Ph.D.

January 20, 2022



I. Background and Qualifications

I am the Lena Gohlman Fox Professor of Political Science and a fellow in urban politics at the Baker Institute at Rice University. A copy of my curriculum vitae is attached as Appendix A. I am being compensated at \$250 per hour.

My current research focuses on alternative modes of elections and voting procedures, voting behavior and public policy in the United States. I teach classes on voting behavior, election sciences, public policy and survey research.

My work has been supported by the National Science Foundation, the City of Houston's Office of Public Safety and Homeland Security and the Pew Charitable Trusts, among others. Some of my select publications include "Reducing the Undervote with Vote by Mail" (published in *American Politics Research*), "Election Administration during National Disasters and Emergencies: Hurricane Sandy and the 2012 Election" (published in *Election Law Journal*), "Voting for Minority Candidates in Multi-Racial/Ethnic Communities," (published in *Urban Affairs Review*) and "The Effect of Election Day Vote Centers on Voter Participation" (published in *Election Law Journal*). In addition, I have written extensively on federal spending, 'pork barrel politics' and the electoral connection between single member district representatives, spending policies and incumbent reelection (published in *American Journal of Political Science* and *Journal of Politics*). I am co-author of *Perpetuating the Pork Barrel (Cambridge University Press*). A complete list of my publications is included in my attached curriculum vitae.

Since 2010, I have been an expert witness in several cases involving election administration and voting. I have consulted for several jurisdictions in the design, implementation and evaluation of alternative voting systems including early voting, Election Day vote centers, mail-assisted voting and in-person polling locations. In these jurisdictions, I have worked closely with election administrators and elected officials to fulfill their obligation to conduct elections. These jurisdictions include: Collin, Harris and Lubbock Counties, Texas, 64 Colorado counties that make up the Colorado County Clerks Association, and Albuquerque, New Mexico. I have also designed voting districts for municipal governments and school districts in Texas. I am currently designing election districts for Lancaster ISD, Goose Creek ISD and the City of Baytown.

I have been retained by counsel for Virginia Elizondo to provide expert testimony on:

- Whether voting in SBISD school board elections is racially polarized.
- Whether Latinos or Hispanics are politically cohesive in SBISD school board trustee elections and vote as a block for Latino-preferred candidate.
- Whether the Latino or Hispanic voting age population in SBISD is sufficiently large and geographically compact to constitute a majority of the voting-age population in one or more single member districts under an illustrative seven-district plan.

- Whether White Non-Hispanics vote sufficiently as a bloc to enable them, in the absence of special circumstances (e.g., single-member districts), to defeat the minority voters' preferred candidates of choice.
- Whether single member district elections or at-large elections enhances the proportional representation of minority-preferred candidates on elected legislatives bodies.
- Whether taxing and spending practices differ significantly between governments with single member district and at-large elections.
- Whether legislative bodies are more responsive to the preferences of minority and nonminority voters in at-large or single member district elections.

II. Summary of Opinions

- There is statistically significant evidence of racial polarized voting in the Spring Branch Independent District's Board of Trustees elections for the period 2015-2021.
- White Non-Hispanics vote sufficiently as a bloc to enable them, in the absence of special circumstances (e.g., single-member districts), to defeat the minority voters' preferred candidates of choice.
- The geographic concentration of Hispanics in the Spring Branch Independent School District is sufficient to constitute a majority of the voting-age population in one or more single member districts under an illustrative seven-district plan.
- There is strong evidence in the scholarly literature to conclude that:
 - Single member district forms of representation enhances proportional representation of minority candidates on legislative bodies.
 - Single member district representation increases the likelihood that minority candidates will contest elections for position on legislative bodies.
 - Single member district representation will produce policies more responsive to the preference of minority voters.
- SBISD should adopt a single member district plan for the election of the district's seven trustees.

III. Materials Reviewed

To establish an expert opinion in this case, I reviewed a variety of materials from academic, governmental, legal and media sources. Building on my existing knowledge, expertise and experience, I consulted the scholarly (peer reviewed) research on:

- Minority representation in local governments and school districts with single member and at-large representation.
- Spending and taxing practices of local governments and school districts with single member and at-large representation.
- The responsiveness of policies in local governments and school districts with single member and at-large forms of government.

I have relied on election results provided by the SBISD for trustee elections, data from the U.S. Bureau of the Census and Harris County's Election Administrator Office for my analysis of racially polarized voting in SBISD's trustee elections.

IV. Racially polarized voting in Spring Branch Independent School District

I used a definition of racially polarized voting as outlined in *Thronburg v. Gingles* to assess whether this condition existed in the Spring Branch School District trustee elections between 2017-2021. I further sought to determine whether the extent of racially polarized voting in SBISD trustee elections was of sufficient magnitude to dilute the votes of minority voters and prevent them from electing a candidate of their choice. Finally, I assessed the likelihood that single member district elections would remedy the effect of racially polarized voting in SBISD trustee elections.

Racially polarized voting is defined as when the relevant minority group "is politically cohesive and that the white majority voters sufficiently as a bloc to enable it... usually to defeat the minority's preferred candidate (Thornburg v Gingles 478 U.S. 30, 49 (1986)."

In assessing the degree of racially polarized voting in SBISD trustee elections I obtained the following information:

- A list of all persons eligible to vote in SBISD trustee elections for the years in which trustee elections were held between 2015 and 2021.
- The residential location and voting precinct (i.e., latitude and longitude) of all eligible SBISD voters
- The voting histories of each eligible SBISD voter in the 2015, 2017, 2019 and 2021 SBISD trustee elections from data provide by SBISD and Harris County.
- The racial and ethnicity of each eligible SBISD voter using Imai and Khana (2016) ecological inference software. These estimates of racial and ethnicity are obtained by using the Center for Disease Control's list of common racial and ethnic surnames along with information about the racial and ethnic makeup of the voter's residential location i.e., census block or block group. Estimates at or above 90% were used to assigning voters to one racial and/or ethnic group including: Non-Hispanic White, Non-Hispanic Black, Non-Hispanic Asian, Non-Hispanic other and Hispanic.

I aggregated the proportion of voters by race and ethnicity by SBISD's voting precincts (N=7) by election (N=5) to identify majority-minority and majority White precincts. I further calculated the proportion of vote cast for each trustee candidate by voting precinct.

Ten trustee contests were held between 2015 and 2021 in seven to eight election precincts per election. Four of the ten contests were uncontested (i.e., only one candidate stood for election). We can identify the share of vote cast for one or more trustee candidates and the share of voters in each precinct that are Non-Hispanic White, Non-Hispanic Black, Non-Hispanic Asian, Non-Hispanic other and Hispanic in 73 precinct election contests.

The dominant races and ethnicities among SBISD voters are White (majority) and Hispanic (minority). Asian and African-American SBISD voters rarely exceed 10% of the district voting population in any election year.

To measure the degree to which there is racially polarized voting in SBISD Trustee elections I regressed¹ the proportion of persons White and Hispanic in each voting district on the proportion of votes cast for each candidate. Racially polarized voting is established when the direction of these relationships are signed in opposite directions. A second condition for polarized voting is when the White majority vote against a minority preferred candidate i.e., Hispanic candidate is significant and positive. That is, the share of vote the Hispanic received increases significantly as the proportion of voters in each voting district increases.

Racially polarized voting is observed in every election studied. White and Hispanic voters diverge in their support for each candidate on the ballot, including uncontested contests where we report under vote as the second candidate.

Figures 1-4 report the proportion of vote cast for the White candidate, minority-preferred candidate (i.e., Hispanic surname candidate), and the proportion of vote Hispanic and White in each precinct in all elections. Hispanic surname candidates are identified as the minority-preferred candidate. A minority-preferred candidate appeared on the ballot in seven of ten contests. The findings confirm significant (p<.05) racially polarized voting for White and Hispanic voters.





¹ Ordinary least squares regression.



Fig 2: The proportion of vote cast for white candidate and Share of vote Hispanic

Fig 3: The proportion of vote cast for Hispanic candidate and Share of vote White





Fig 4: The proportion of vote cast for Hispanic candidate and Share of vote Hispanic

V. Compactness of Hispanic citizen voting age persons in SBISD

Table 1 reports the number and proportion of citizen voting age by race and ethnicity for the seven proposed voting districts in SBISD. These data are from the 2020 U.S. Census and the American Community Survey 2015-2019 and best approximate that the likelihood that at least one or more majority Hispanic trustee districts can be constructed. More than half (52.8%) of the citizen voting age population in proposed district 1 is sufficient to enable Hispanic voters to elect a candidate of their choice i.e., an Hispanic.

				%
				Hispanic
			Citizen	Citizen
		Voting Age	Voting	Voting
	Total	Population	Age	Age
District	Population		Population	Population
1	26,171	18,782	9,180	52.8
2	26,131	19,802	14,355	30.7
3	26,132	19,732	14,345	32.5
4	26,432	19,164	14,180	17.4
5	26,110	19,429	16,235	9.5
6	26,194	20,493	18,450	15.4
7	26,194	19,091	12,535	31.1

	Table 1		
Citizen Voting Age Po	opulation by SBS	ID Voting District	

. .

Under the proposed configuration of voting districts in SBISD there is sufficient evidence to show that at least one single member majority Hispanic trustee district can be created. There may be other configurations of voting districts that could yield more than one majority Hispanic trustee districts.

Demonstrative Spring Branch ISD Single-Member District



VI. Racial and ethnic segregation in SBISD

The ethnic makeup of the district's seven election/enrollment districts is heavily skewed. Four districts (i.e., Landrum, Northbrook, Spring Oaks and Spring Woods) are overwhelmingly comprised of Hispanic students, with an average of 87% of students in these election/enrollment districts Hispanic. In the remaining three election/enrollment districts (Memorial, Spring Branch and Spring Forest) between 42% and 52% of the student are white.

I have measured segregation of SBISD students using the index of dissimilarity between whites and Hispanics at the school and enrollment zone level. The index is equal to:

$$\frac{1}{2}\sum_{i=1}^{N}\left|\frac{w_i}{W}-\frac{l_i}{L}\right|,$$

where w_i and l_i represent the number of whites and Latinos in school I respectively, W and L represent the total number of whites and Latinos in the district, respectively and N represents the total number of schools (enrollment zones) in the district. Information on the racial and ethnic makeup of SBISD schools comes from National Center for Education Statistics².

The dissimilarity index captures how proportional Hispanics and whites are distributed across schools and enrollment zones. For example, SBISD is comprised of 26.7% white students 59.2% Hispanic students.³ Given these district-wide distributions, one would expect every school and/or enrollment zone would have the same proportion of students Hispanic and white if the district was not segregated or was fully integrated. Another way to think about the dissimilarity index is the proportion of Hispanic (white) students who would have to move to a different school or enrollment zone in order for the composition of each school or enrollment zone to be identical to the composition of the district as a whole.

Researchers (Abbott and Magazinnik 2020;Massey and Denton 1993; Ananat 2011; Collins and Margo 2000; Cutler and Glaeser 1997; Cutler, Glaeser and Vigdor 1999) identify dissimilarity index scores below .3 as indicating low levels of segregation, .3 to .6 as moderate levels of segregation and .6 and above as high levels of segregation. SBISD's dissimilarity index score at the school level is .694 and .596 at the enrollment zone level. These scores suggest that well over half of the Hispanic students enrolled in SBISD schools would have to move to another school in order to achieve an integrated distribution of students by ethnicity.

Table 2 reports the proportion of students by enrollment zone in SBISD by race and ethnicity. In four of the districts seven enrollment zones 78% or more of the students are Hispanic. In the

² Source: https://nces.ed.gov/ccd/schoolsearch/school_list.asp?Search=1&DistrictID=4841100

³ The remaining proportion of the SBISD students at Asian (5.9%), Black (4.8%), and two or more races (2.3%).

remaining three enrollment zones 42% to 52% of the students are White. There is strong evidence that the racial and ethnic makeup of SBISD schools and enrollment districts is high segregated

Enrollment Zone	% White	% Hispanic
Northbrook Middle	0.02	0.96
Spring Woods Middle	0.05	0.88
Spring Oaks Middle	0.07	0.85
Landrum Middle	0.13	0.78
Spring Forest Middle	0.42	0.36
Spring Branch Middle	0.47	0.36
Memorial Middle	0.52	0.25

Table 2 Percent Enrollment by Race/Ethnicity

VII. Recommendations

The degree of racial segregation and voter polarization in SBISD supports the plaintiff's request that future SBISD trustee elections be held with a single member district plan of representation. The district currently has seven board members and elections are conducted in seven precincts corresponding to the district's enrollment districts. Using a single member district plan to elect trustees will most likely result in the election of at least one school board trustee reflecting the preferences of SBISD's Hispanic voters, and likely more.

VIII. Minority representation in at-large and single member systems

How we elect our legislative representatives has long been a prominent subject of study. A core research question in this field of study is whether the method of election discriminates against representation of non-majority populations including racial and ethnic minorities. In the United States, the two most popular ways for electing our representatives are single member district and at-large elections. In at-large elections, voters across an entire jurisdiction (e.g., city, county, school district) have the opportunity to select from among contesting candidates for every available seat in the governing body. Alternatively, single member district representation divides the jurisdiction into separate precincts/wards each with its own seat in the legislative/governing body.

Opponents of at-large representation claim that majority interests, voting in a bloc, dilute minority votes. When minorities are concentrated in particular areas such that they comprise a majority, switching to single member district representation can afford minorities representation in the legislative body. Properly configured, single member district representation can produce representation for minorities proportionate to their representation in the jurisdiction. For example, if a minority group comprises 20% of the adult voting age population in a school district, it is more likely that 20% of the legislative body will be comprised of members preferred by the minority group with single member district elections than at-large elections.

Though the vast majority of empirical research demonstrates that single district representation results in greater and more proportional representation for Black and Hispanic voters (Davidson

and Grofman 1994; Davidson and Korbel 2981; Engstrom and McDonald 1981; Karnig and Welch 1982; Leal, Martinez-Ebers and Meier 2004; Marschall, Ruhil, and Shah 2010; Meier et al 2005; Molina Jr and Meier 2018; Moncrief and Thompson 1992; Polinard 1994; Robinson and England 1981; Stewart, England and Meier 1989; Trounstine and Valdini 2008; Abbot and Magazinnik 2020), several studies, have reported null findings (Bullock and MacManus 1987; Cole 1974; MacManus 1978; Welch 1990; Leal, Martinez-Ebers and Meier 2004⁴). Two studies have reported a negative relationship between single member district elections and minority representation (Meier and Rutherford 2014; Welch and Karnig 1978).

Two factors explain the lack of unanimity in the scholarly literature on the effect of single member district representation on minority representation. The first is the contingent nature of electoral reform on minority representation and the second is the challenge researchers face in making reliable and valid casual inferences and estimates of this effect. Single member district elections can succeed in electing minority-preferred candidates when the minority population is sufficiently large and geographically concentrated such that it constitutes a majority in the area they occupy, as is the case in SBISD. Most studies compare the representation of minority populations among single member and at-large systems of representation without consideration of how and why these different forms of representations were first adopted, thus omitting unobserved differences between jurisdictions with long histories of at-large representation.

Abott and Magazinnik (2020) identify two contingencies which condition the positive effect of single member district representation has on minority representation. "[T]he voting population be segregated enough for the minority group to constitute a local majority in at least one ward, and that the political boundaries be drawn accordingly (2020:719)." A second condition is that the district must be of sufficient size to attract candidates to run for office.

Studies by Abott and Magazinnik (2020), Marschall, Ruhil and Shah 2010) and Trounstine and Valdini (2008) all employ contingent effects of minority group size and segregation when estimating the effects of changing from at-large to single member district representation on minority representation. These scholars all report significant gains in minority representation, albeit for different genders, races and ethnicities in city councils and school districts with single member district representation and where the same changed from at-large to single member district representation.

To date, the strongest empirical evidence supports the thesis that the likelihood of proportional representation of racial and ethnic minorities on legislative bodies is greater with single member districts than at-large elections when district size is large and minority group size is sufficiently large and segregated. Abott and Magazinnik note "When all of these conditions are met, the positive impact of reform is striking, exceeding one additional officeholder for every three available seats (730)." When these conditions are not met, however, moving from an at-large to single member system of representation was found to have a null or even negative effect on

⁴ The authors qualify their null findings by noting that Hispanics "may be able to profit from at-large districting when they are a majority of the population (2004:1241)." In non-majority Hispanic settings, Hispanic representation does not benefit from at-large districting.

minority representation, accounting for "why a large and active academic literature ... has produced so many conflicting findings (731)."

The scholarly literature supports the following conclusions:

- Single member district representation increases the likelihood that minority candidates will contest elections for positions on legislative bodies.
- Single member district forms of representation enhances proportional representation of minority candidates on legislative bodies.
- Single member district representation will produce policies more responsive to the preference of minority voters.

IX. The taxing and spending policies of governments with at-large and single member district representation

A purported advantage of at-large over single member district elections is that elected single member district representatives trade off the virtues of public goods against the attractiveness of spending on particularistic goods ('pork') benefitting voters in their home or single member districts. In at-large systems, representatives are thought to voice the preferences of the average (median) resident throughout the entire jurisdiction. In single member systems, the representative better expresses the preferences of the average resident within a specific geography. Assuming preferences vary by geography, at-large systems work to pull the tails of the preference distributions inward, reducing the representation of diverse preferences. A potential consequence of this presumed effect of at-large representation is to under represent (and under value) non-majority voters' preferences.

At the federal level Mayhew's seminal work (1974) established the logic underlying higher spending and taxing in governments with single member district representation. Mayhew and subsequently Sheplse, Weingast and Johnson (1981) argued that representatives elected from single member districts had a strong incentive to extract distributive⁵ spending benefits for their constituents to enhance their re-election. A system of log rolling in which single member district representatives agreed to support each other's district specific spending priorities produced an inefficient level of spending and taxing i.e., produce more taxing and spending than might occur with an at-large system of representation. By implication, the level of spending and taxing was assumed lower in legislative bodies with at-large representation, where the electoral benefits of distributive taxes and concentrated spending are not available.

Empirical support for a significant and positive relationship between spending and the electoral fortunes of single member district representatives has been mixed, modest and conditional. Most research has been unsuccessful in corroborating a significant relationship between spending allocations to single member district congressional representatives (Bickers and Stein 2000). The prevailing finding is the electoral connection is conditional on incumbent's electoral vulnerability,

⁵ Distributive spending refers to outlays concentrated to specific rather than generalized recipients, often defined by geography and which is funded by taxes levied on all persons inside and more importantly outside the area in which the spending benefits are located. An example of distributive spending is infrastructure projects located in specific areas of a jurisdiction and not readily accessible to persons not living in the immediate area.

a rare condition and related to grant awards, not the amount of money flowing to the district (Stein and Bickers 1994).

Research on the spending and taxing policies of subnational governments does not demonstrate significant differences between jurisdictions with at-large and single member representation (Morgan and Pelissero 1980; Lineberry and Fowler 1967; Langbein, Crewson and Brasher 1997; Farnham 1990). In a few instances, (Zax 1990; Deno and Mehay 1987) researchers have found that cities with at-large elections spend more on municipal employees than cities with single member district representation. The few studies that did find significantly higher spending in cities with single member representation (Southwick 1997; Dalenberg and Duffy-Deno 1991) used weaker cross sectional research designs with limited controls for factors that shape municipal taxing and spending policies, including state laws,⁶ the range of goods and services provided ⁷ and most importantly citizens' preferences for spending. These studies fail to take into account that the adoption of at-large or single member district systems is related to the same factors shaping spending and taxing decisions.

The research on spending and taxing among governments with different modes of representation presumes that the higher levels of spending governments in jurisdictions with single member district representation is both inefficient and non-representative of the preferences of the full community. Though spending and taxing may be higher in single member district governments this finding does not suggest anything other than that citizens in these jurisdictions prefer higher spending. In the next section of my report I turn to this question asking whether single member or at-large modes of representation better represent the interest of citizens, both majority and minority citizens.

X. The representation of policy preferences among jurisdictions with different modes of representation

Tausanovitch and Warshaw's research (2014) ask whether different modes of representation provide for better representation of public preferences. Using a unique database that measured public preferences for spending and tax policies among every U.S. city and town over 20,000 in population (N=1,600) the authors estimate whether the taxing and spending policies of these communities match citizen preferences by mode of representation.⁸

Drawing upon previously discussed explanations for spending and taxing among at-large and single member district systems of representation the authors hypothesized that cities with at-large districts are more responsive to citizens' policy preferences than cities with single-member districts. The authors' design was sufficiently rigorous to correct many of the deficiencies in previous research that produced mixed findings about the relationship between spending and

⁶ Many states mandate minimum spending and service content for the goods and services their municipalities provide their citizens, independently influencing spending. Tax limits imposed by states on cities and school districts further shape spending.

⁷ Cities differ significantly on the number and scope of goods and services they provide their constituents (Peterson 1991). The repertoire of goods and services is itself a function of the constituent preferences, constituents' ability to pay for these goods and services as well as how these goods and service are produced (Stein 1991).

⁸ The authors constructed a measure of public preferences for taxing and spending across a large number public policies e.g., public employee pensions, recycling, health care and bans on smoking in bars and restaurants.

alternative modes of representation. The authors conclude: "our findings provide no support that at-large districts lead to better representation (2014: 621)."

A great number of minority school board members, in either at-large or single member districts elections, should produce policies favored by minorities. Multiple studies suggest greater minority representation on school boards translates into outcomes that are more positive for minority students (Meier, Stewart and England 1989; Reyes, Scribner and Schribner 1999; Spring 2000; Leal and Hess 2000; Rocha and Wrinke 2011; Theobold 2007; Leal, Martinez-Ebers and Meier 2004). Robinson (2016), however, finds that a great proportion of Hispanic board members leads to *less* support for bilingual policies, popular among Hispanic voters. Flink and Molina (2016) find the level of Hispanic representation has a positive effect on bilingual education spending only when the proportion of bilingual population in the district is relatively small. Is the relationship between minority representation and policies preferred by minorities stronger under single member district or at-large elections?

Leal et al (2004) asked whether greater Latino representation on school boards with single member rather than at-large elections nets great Latino representation among the district's teachers and administrators. They find that "at-large elections negatively influence Latino educational representation, which produces a ripple effect that ultimately reduces the share of Latino teachers (2004:1224)."

"Latino representation on school boards is significantly associated with increases in the percentage of Latino administrators, and the percentage of Latinos in administration is the most important variable determining the presence of Latino teachers. As we know the Latino community wants more Latinos teaching their children, greater Latino school board representation is therefore more likely to lead to education policies congruent with community wishes (2004:1242)."

Leal et al (2004) also uncover an important condition governing the link between single member district election, proportional minority representation on school boards and minority supported educational policies. "...[W]hen Latinos are a minority in the population, the population-representation relationship is non-linear, with larger percentages getting significantly more representation than smaller percentages (2004: 1234)." This finding suggests the etiology prominority policies under single member district elections with proportional minority representation is conditional on the size of the minority population

McBrayer (2020) builds on Leal et al findings and suggests descriptive representation (i.e., minority board members) does not always lead to substantive policy representation. Instead McBrayer hypothesizes that this relationship is conditioned on the mode of representation i.e., single member versus at-large. She specifically looks at the provision of bilingual education services among at-large and single member district school districts in Texas school districts. McBrayer finds that different modes of representation are better at translating minority representation into substantive policies when demand for these policies varies. Specifically McBrayer finds:

- Hispanic representatives have a positive effect on bilingual funding allocation when the entire board serves single-member districts, suggesting that this specific electoral arrangement strengthens the relationship between descriptive and substantive representation.
- Hispanic representatives in at-large electoral systems allocate more bilingual funding proportion only when there are small portions of qualifying students.
- Hispanic representatives in at-large systems have a negative effect on bilingual allocation when there are large portions of qualifying students.

"This suggests that schools with the least demand for bilingual funding are best represented by minority officials in at-large systems, yet schools with the most demand are underrepresented by minority officials. Thus, in both electoral scenarios, Hispanic representatives substantively represent campuses with low demand for bilingual programming, which is congruent with Flink and Molina's (2016) findings. Only Hispanic officials in single-member districts substantively represent campuses with high demand for bilingual programming, congruent with theoretical expectations (McBrayer 2020:1689-1690)."

The extant literature on the representation of minority policy preferences shows that descriptive representation (i.e., proportional minority representation on school boards) is a necessary but not sufficient condition for fulfilling the policy preferences of minority constituents. This policy connection for minority interests is significantly enhanced with single member district elections rather than at-large elections.

A single-member plan for SBISD would likely strongly improve bilingual and other educational outcomes critical for Hispanic students. In addition, a single-member districting plan for SBISD will increase the responsiveness of school board trustees to minority and low-income students, minority voters and minority educators.

I state under penalty of perjury that the foregoing is true and correct.

Executed on January 20, 2022.

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Robert M. Stein

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B.A., Ohio Wesleyan University, Delaware, Ohio, 1972.

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Fields of Specialization

Elections and election administration, Federalism and intergovernmental relations, state and local government, urban politics and public policy.

Teaching Positions

Lena Gohlman Fox Professor of Political Science, 1996

Fellow, James A. Baker III Institute for Public Policy, 2006

Professor, Department of Political Science, Rice University, 1989-1996

Visiting Associate Professor and research scientist, Workshop in Political Theory-Public Policy and Department of Political Science, Indiana University, 1987-1988

Associate Professor, Department of Political Science, Rice University, 1983-1989

Assistant Professor, Department of Political Science, Rice University, 1979-1983

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Administrative positions

Faculty Director, Center for Civic Engagement, Rice University 2007-2021

Dean, School of Social Sciences, Rice University, 1996-2006

Interim Dean, School of Social Sciences, Rice University, 1995-1996

Chair, Department of Political Science, Rice University, 1994-1995

Director, Policy Studies Program (undergraduate major), Rice University, 1987-1995

Director, Graduate Studies, Department of Political Science, Rice University, 1987 Chair, Department of Political Science, Rice University, 1984-1986

Director, Rice Institute of Policy Analysis Public Opinion Poll, 1983-present

Political analyst, KHOU-TV, Houston, TX, 1983-present

Fellowships, awards, and offices

Outstanding reviewer award, Political Research Quarterly, 2010.

Best paper award on Federalism and Intergovernmental Relations for "Inter-Local Cooperation and the Distribution of Federal Grants," by the section on Federalism and Intergovernmental Relations, American Political Science Association, 2004 (with Kenneth Bickers).

President, Urban Politics Subsection, American Political Science Association, 1999-2000.

Recipient, George R. Brown Award for Superior Teaching, Rice University, 1998.

President, Southwestern Political Science Association, 1998.

Recipient, Outstanding Mentor of Women in Political Science Award, Women's Caucus for Political Science, American Political Science Association, 1996.

Special book award from the Urban Politics and Policy Section of the American Political Science Association for Urban Alternatives: Private and Public Markets in the Provision of Local Services, 1991.

Research fellowship, Indiana University, Workshop in Political Theory and Public Policy, 1987-1988.

Recipient, George R. Brown Award for Superior Teaching, Rice University, 1987.

Fellowship, U.S. Advisory Commission on Intergovernmental Relations, 1978-1979.

Research Grants and Contracts

Measuring and improving the impact of using stadiums and arenas for voting. Funded by New Venture Fund. 8/1/2021-2/28/2022. Co-PI, \$125,350.

The integrity of mail-in voting in the 2020 Election. Funded by the National Science Foundation (2105671), 12/1/2020-11/30/2020. PI, \$120,283.

Optimizing vote-by-mail implementations on consumer grade equipment. Funded by the National Science Foundation (2033923), 7/1/2020-6/30/2021. Co-PI, \$200,000.

Making voting safe for voters and poll workers: Meeting the challenge of the COVID-19 Virus. Funded by Rice University, COVID-19 Initiative, 5/1/2020-12/31/2020. PI, \$45,300.

Election Day Vote Centers in Harris County, Texas. Funded by the Arnold Foundation, May 2019-December 2020, \$100,000.

Hurricane Harvey: Longitudinal Survey. Funded by the National Science Foundation, January 2018 – December 2021 (SBER1760292). Co-PI, \$200,000.

Urban Flooding: Identifying where it floods and evaluating remedies. May 2018-September 2019. Funded by the Kinder Institute, Ken Kennedy Institute and Office of Research, Rice University. Co-PI, \$74,450.

2016 City of Houston Citizen Survey, September 2016-January 2017. Funded by the City of Houston, \$23,500.

Vote by mail, September 2014-September 2015. Funded by The Pew Charitable Trusts, \$48,000.

Saturday Run-off Election Exit Poll Survey, City of Houston, October-November, 2013. \$4,000.

Prioritizing and selecting bridge management actions for heightened truck loads and natural hazards in light of funding allocation patterns. Funded by the National Science Foundation, September 2012-August, 2015. Co-Pl, \$1.2 million.

Phase 2, Development and enhancement of online storm risk calculator tool for public usage, City of Houston, Office of Public Safety and Homeland Security, November, 2012-June 2013. Co-PI, \$189,000.

NetSE: Large Urban-Scale Polymorphic Wireless Networks: Community-Driven Assessment, Design and Access. Funded by the National Science Foundation, September 2010-2013. Co-PI, \$1.9 million.

Development and enhancement of online storm risk calculator tool for public usage, City of Houston, Office of Public Safety and Homeland Security, January, 2011-June 2011. Co-PI, \$309,000.

Increasing turnout among the less engaged: A study of Election Day vote centers. Funded by The Pew Charitable Trusts, September, 2007-May, 2009. PI, \$260,000.

Independent Response of Complex Urban Infrastructures Subjected to Multiple Hazards, National Science Foundation, October 2007–October 2010. Co-PI, \$20,000.

Program evaluation, City of Houston, SAFEclear, traffic incident management program, July 2006-January 2008. PI, \$20,000.

Program evaluation, City of Houston, SAFEclear, traffic incident management program, February 2005-December 2005. PI, \$20,000.

Program Utilization Among Households Eligible for Head Start Enrollment, funded by the Harris County Department of Education, June, 2001. PI, \$15,000.

The Changing Structure of Federal Aid and the Politics of the Electoral Connection. Funded by the National Science Foundation, 2001-2002 (SES0095997). January 2001-January 2003. PI, \$230,000.

Greater Harris County 9-1-1 Emergency Network Data Archive and Analysis, January 2000-January 2001. PI, \$15,000.

Evaluation of Greater Harris County Emergency Network: Round II. Funded by the Greater Harris County Emergency Network, September, 1993-January, 1994. PI, \$5,000.

Evaluation of Greater Harris County 9-1-1 Emergency Network. Funded by the Greater Harris County Emergency Network, January 1992-July 1993. PI, \$5,000.

Selective Universalization of Domestic Public Policy. Funded by the National Science Foundation (SES8921109) 1990-1992. PI, \$185,000.

Contracting for Municipal Services. Funded by the U.S. Advisory Commission on Intergovernmental Relations. 1986-1990. PI.

The Fiscal Austerity and Urban Innovation Project. Funded by the U.S. Department of Housing and Urban Development. 1983-1985. PI.

Research Associate, Field Network Evaluation Study of the Reagan Domestic Program. Princeton Urban and Regional Center, Princeton University. Funded by the Ford Foundation. 1982-1984. PI.

Research Associate, Field Network Evaluation Study of the Community Development Block Grant: Round 8. Funded by the U.S. Department of Housing and Urban Development. Summer 1982. PI.

The Structural Character of Federal Grants-in-Aid. Funded by the U.S. Department of Housing and Urban Development. 1982-83. PI.

The Allocation of Federal Grants-in-Aid. Funded by the U.S. Advisory Commission on Intergovernmental Relations. 1979-1981. PI.

The Allocation of State-Local Aid: An Examination of Within State Variation. Funded by the U.S. Advisory Commission on Intergovernmental Relations. 1979-1981. PI.

Editorial Positions

Editorial board member, Journal of Election Technology and Systems, 2013-2016

Editorial board member, American Political Science Review, 2001-2007

Executive Committee, American Politics, American Political Science Review, 2004-2007

Editorial board member, American Journal of Political Science, 1994-1998

Editorial board member, Journal of Politics, 1994-1998

Editorial board member, Social Science Quarterly, 1993-present

Editorial board member, State and Local Government Review, 1987-1992

Editorial board member, Urban Affairs Review (formerly Urban Affairs Quarterly), 1996-2000

Referee, American Political Science Review, American Politics Quarterly, Journal of Urban Affairs, Urban Affairs Quarterly, <u>Publius</u>, National Science Foundation

Books

Perpetuating the Pork Barrel: Policy Subsystems and American Democracy, Cambridge University Press, 1995, with Kenneth N. Bickers.

Federal Domestic Outlays, 1983-1990. 1991. M.E. Sharp, with Kenneth N. Bickers

Urban Alternatives: Public and Private Markets in the Provision of Local Services. 1990 Pittsburgh Press.

Articles

"Recruiting Persons to Work the Polls," 2021. *Election Law Journal*, 30:315-326. With Colin Jones. https://www.liebertpub.com/doi/10.1089/eli.2020.0701.

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"Compositional effects of vote by mail elections," presented at VBMcon: A conference to discuss vote by mail election reform, Washington, D.C. June 20, 2019.

"Vote fraud and errant voting," invited presentation at the Department of Political Science, University of Nebraska, Lincoln, NE. April 25, 2013.

"Polling place practices," prepared for presentation at the Measure of Elections Conference, Massachusetts Institute of Technology, Boston, MA. June 18-19, 2012.

"Where, when and how we vote: Does it matter?" Presented at the Scottish National Election Commission, Strathclyde University, Glasgow, Scotland. November 12-15, 2010.

"The future of elections," presented at the Future of Governance Conference, Howard Baker Institute of Government, University of Tennessee, Knoxville, TN. October 14-15, 2010.

"Cost of elections," presented at the 2010 Meeting of the Midwest Political Science Association, Chicago, IL April 3-5, 2000. With Greg Vonnahme.

"Early voting and campaign news coverage," presented at the 2010 Meeting of the American Political Science Association, Washington, D.C. September 1-3, 2010.

"The cost of elections," prepared for The Pew Charitable Trusts. 2009. With Greg Vonnahme.

"The effects of early voting on congressional campaign expenditures." Presented at the 2009 Meeting of the Midwest Political Science Association, Chicago, IL. April 13-15, 2009. With Marvin McNeese.

"The effects of Election Day vote centers on voter experiences," presented at the 2008 Meeting of the Midwest Political Science Association, Chicago, IL. April 3-5, 2008. With Greg Vonnahme.

Professional Associations

President, Urban Subsection, American Political Science Association, 1999-2000 President, Southwest Political Science Association, 1997-1998 Chair, Nominations Committee, Southern Political Science Association, 1995 Nomination committee, Southern Political Science Association, 1993-1994 Executive Council, Southwest Political Science Association, 1992-1994 Chair, Nominations Committee, Southwest Political Science Association, 1993-1994 Section Head, State and Local Government, Southern Political Science Association Meetings, 1993 Section Head, State and Intergovernmental Relations, Midwest Political Science Association, 1992-Executive Board, Urban Politics Section, American Political Science Association, 1990-1992 Executive Board, Southwestern Political Science Association, 1985-1991, 1993-1994 Program Chair, Southwestern Political Science Association Annual Meetings, 1983 Section Head, Intergovernmental Relations, Southern Political Science Association Meetings, 1983

Ph.D. Thesis advisees

Albert Ellis, Ph.D. 1989. Associate Professor, University of Texas, Corpus Christi (deceased) Stephanie Post, Ph.D. 1998. Director, Center for Civic Engagement, Rice University Martin Johnson, Ph.D. 2002. Professor and Dean, Louisiana State University (deceased) Gavin Dillingham, Ph.D. 2004. Research Scientist, Houston Advanced Research Center Johanna Dunaway, Ph.D. 2006. Associate Professor, Texas A&M University Gregory Vonnahme, Ph.D. 2009. Assistant Professor, University of Missouri-Kansas City Marvin McNeese, Ph.D. 2015, Christian Bible University, Houston, TX Andrew Menger, Ph.D. 2017. Vanderbilt University, Nashville, TN Matthew Lamb, Ph.D. 2020. Austin Community College, Austin, TX

Teaching

Urban Politics (undergraduate) Public Policy (graduate and undergraduate) Bureaucracy and Public Policy Policy Implementation Federalism Political Behavior

Recent expert testimony

Expert Report in The League of Women Voters of Arkansas and Arkansas United et al v John Thurston in his official capacity as the Secretary of State of Arkansas, et al, CASE NO. 60CV-21-3138 [Voting rights case in the state of Arkansas] December, 2021-January, 2022.

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EXHIBIT 2

1 (Pages 1-4)

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	1				3
1	IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS	1		INDEX	
2	HOUSTON DIVISION	2			PAGE
3	VIRGINIA ELIZONDO,	3	Appearances		2
4	Plaintiff,	4	Stipulations		S
5	v.) Civil Action No. v.) 4:21-cv-01997	s			
6	SPRING BRANCH INDEPENDENT	6	WITNESS: ROB	ERT M. STEIN, Ph.D.	
7	SCHOOL DISTRICT, CHRIS	7			
11	KAREN PECK, JOSEF D. KLAM,		Examination by	v Mr. Crawford	6
8	J. CARTER BREED, in their)	8			_
9	official capacity as members) of the Board of Trustees of)	å	Signature and	Changes	85
10	Spring Branch ISD	10	Bonontonic Co	uninges stificato	97
11	Defendants. 5	1.7	Reporter's Cer	- Childre	°′
12	************	1.			
13	ORAL DEPOSITION OF	12			
14	ROBERT M. STEIN, Ph.D.	13			
15	FEBRUARY 9, 2022	14			
1.	(REPORTED REMOTELY)	15			
10		16			
17	ORAL DEPOSITION OF ROBERT M. STEIN, Ph.D.,	17			
18	produced as a witness at the instance of the Defendants,	18			
19	and duly sworn, was taken in the above-styled and	19			1
20	numbered cause on February 9, 2022, from 9:27 a.m. to	20			
21	11:31 a.m., before Dana Taylor, CSR in and for the	21			
22	State of Texas, reported remotely via Zdom by machine	22			
23	shorthand, pursuant to the Federal Rules of Civil	23			
24	Procedure and the provisions stated on the record or	24			
55	attached bereto	25			
–					
	2				4
1	A P P E A R A N C E S	1 2	NUMBER	EXHIBITS	PAGE
		3	Exhibit 1	Expert Report of	7
4	FOR THE PLAINTIFF:			Robert M. Stein, Ph.D.	
S	MR. BARRY ABRAMS	5	Exhibit 2	Email Dated February 7, 2022	23
6	717 Texas Avenue			with Attachments	
	Suite 1400	6	Exhibit 3	Color Nap	50
17	713-228-6606	7		SBISD000001	
8	713-228-6630 Fax	8	Exhibit 4	Demonstrative Spring Branch ISD Single-Member District	51
۱.	barry.abrams@blankrome.com	9		angre nemer crattict	
۳ ا	- and -	1.	Exhibit 5	"Partisanship, Structure, and	63
10		10		African American Education	
111	MK. MAKIIN GULANDO THE LAW OFFICE OF MARTIN GOLANDO. PLLC	11		Politics" by Kenneth J. Meier	
1	405 North Saint Mary's Street	12		and Amanda Rutherford	
12	Suite 700 San Antonio Texas 78205-2334		Exhibit 6	"The Impact of At-Large	69
13	210-892-8543	13		Elections on the Representation	
14		14		Susan Welch	
15	MR. CHARLES J. CRAWFORD	15	Exhibit 7	"At-Large Elections and	75
[ABERNATHY, ROEDER, BOYD & HULLETT, P.C.	16		Local Government" by	
17	1700 Redbud Boulevard Suite 300			Carolyn Abott and Asya Magazinnik	
18	McKinney, Texas 75069	17	Exhibit 8	Press Release "Republican Party	81
	214-544-4000	18		of Texas Doubles Down on Local	
19	ccrawford@abernathv-law.com	10		Elections	
20		20			
21		21			
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2 (Pages 5-8)

	5	7
1	PROCEEDINGS	1 summer, early spring. The early spring, late
2	FEBRUARY 9, 2022 - 9:27 A.M.	2 early late spring, early summer. Excuse me.
3	(Reported Remotely)	3 Q. Of 2021?
4	* * * *	4 A. 2021.
5	THE REPORTER: Today is February 9, 2022.	5 0 And what is your rate of compensation?
6	The time is annovimately 9.27 a.m.	6 A \$250 per hour
,	the cise is approximately 5.27 aim.	
	my name is bana taylor. My leas Car	Q. I have I have sent barry and bana copies of
ľ	Number is 6046. I will be administering the bath	o the exhibits I d like to use with you in your deposition
1,7	and reporting the deposition stenographically from	⁹ today. Do you have access to those?
	Mansfreld, Texas.	10 A. Yes, I do.
[¹¹	The witness is located in Houston, Texas.	11 Q. Perfect. The first exhibit I would like to
12	Will Counsel please state your appearances	12 talk to you about and mark is your report.
13	and any agreements for the record, and then I will swear	13 MR. CRAWFORD: And so, Dana, if you would
14	in the witness.	14 mark that as Exhibit 1.
15	MR. CRAWFORD: Sure. I'll start.	15 Barry, do you want to start these new,
16	Charles Crawford for the Defendants.	16 or do we want to start after the last number from your
17	And we'll take it pursuant to the federal	17 depositions? Do you have a preference?
18	rules.	18 NR. ABRAMS: I'm really indifferent.
19	MR. ABRAMS: Barry Abrams for the	19 I don't honestly recall where we left off. So I think
20	Plaintiff.	20 there will be few enough exhibits in this case that
21	I agree that we're taking it per the rules	21 maybe we can do it non witness on per grown of
22	AR COLANDOL North Colonda for the	22 unitraces
23	Naith Guando, Maith Guando (di Lie	
24		A MR. CRAWFORD: Perfect. Then we if just
24	And I agree with Barry.	24 make this Stein Deposition Exhibit 1.
[43	(Witness sworn.)	25 (Exhibit 1 identified.)
		
┢	6	8
1	6 ROBERT N. STEIN, Ph.D.,	8 Q. Dr. Stein, is Exhibit 1 a copy of your report
1 2	6 ROBERT M. STEIN, Ph.D., having been first duly sworn, testified as follows:	8 1 Q. Dr. Stein, is Exhibit 1 a copy of your report 2 in this case?
1 2 3	6 ROBERT N. STEIN, Ph.D., having been first duly sworn, testified as follows: EXAMINATION	8 1 Q. Dr. Stein, is Exhibit 1 a copy of your report 2 in this case? 3 A. Yes, it is.
1 2 3 4	6 ROBERT N. STEIN, Ph.D., having been first duly sworn, testified as follows: EXAMINATION BY NR. CRAWFORD:	8 1 Q. Dr. Stein, is Exhibit 1 a copy of your report 2 in this case? 3 A. Yes, it is. 4 Q. Is your resume attached to the report?
1 2 3 4 5	6 ROBERT N. STEIN, Ph.D., having been first duly sworn, testified as follows: EXAMINATION BY MR. CRAWFORD: Q. Good morning.	8 1 Q. Dr. Stein, is Exhibit 1 a copy of your report 2 in this case? 3 A. Yes, it is. 4 Q. Is your resume attached to the report? 5 A. Yes, it is.
1 2 3 4 5 6	6 ROBERT M. STEIN, Ph.D., having been first duly sworn, testified as follows: EXAMINATION BY MR. CRAWFORD: Q. Good morning. A. Good morning.	8 1 Q. Dr. Stein, is Exhibit 1 a copy of your report 2 in this case? 3 A. Yes, it is. 4 Q. Is your resume attached to the report? 5 A. Yes, it is. 6 Q. And does your resume adequately describe and
1 2 3 4 5 6 7	6 ROBERT M. STEIN, Ph.D., having been first duly sworn, testified as follows: EXAMINATION BY MR. CRAWFORD: Q. Good morning. A. Good morning. Q. Can you hear me okay?	8 1 Q. Dr. Stein, is Exhibit 1 a copy of your report 2 in this case? 3 A. Yes, it is. 4 Q. Is your resume attached to the report? 5 A. Yes, it is. 6 Q. And does your resume adequately describe and 7 list your qualifications to opine as an expert in this
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3 (Pages 9-12)

[Q	Г	
1	Whether Latinos or Hispanics are	11	LL
2	politically cohesive in the Spring Branch ISD school		oninion in this case?
3	board trustee elections and vote as a block for	3	A = A pumber of things of course T = to deal
4	Lating-preferred candidates or candidate.	4	with the last four points in revence order T reread
5	whether Hispanic or Latino voting-age	s	the literature on the scholarly literature on these
6	population in the Spring Branch ISD is sufficiently	6	issues that T the last four bullate T think on
,	large and geographically connact to constitute a],	Page halp me here 2
	majority of voting normalition in at least one or more	e	raye nerp me mere 3.
9	single-member districts under what I offer later on as	١	i requested to deal with these issues
10	an illustrative district plan	10	bulletes T anglesing T requested esterials and
11	And then the last four noints deal with	1,1	information from the Carine Breach TCD. I acquired
17	whether white Non-Micronnics yota sufficiently as a block	12	information from the Normin County alection
12	to anable them in the abconce of special circumstances	1 2	administration from the marris county election
14	like a special like a simple womban district to	14	auministrator s office.
15	defeat a minerity condiders the is a professed states of	15	And, where necessary, I read newspaper
10	the minority candidate who is a preferred choice of	16	accounts of the candidates running for office in the
12	the minority voter.	17	spring Branch ISD trustee school board trustee
10	whether single-member district elections	1.	elections.
18	or at-large elections enhance the proportional	10	Q. Dia you
19	representation of minority-preferred candidates on	20	A. On, I'm sorry.
20	elected legislative bodies, like a school board.	20	Q. Oh, go ahead.
21	whether taxing and spending practices	21	A. I also acquired data from the U.S. Bureau of
22	differ significantly between governments with	22	Census for demographic information.
23	single-member district representation and at-large	23	Q. Did you keep copies of the newspaper accounts
Z4	elections or representation.	24	that you just were referring to that you had reviewed?
25	And then, finally, whether legislative	25	A. I think one or two, yes.
_	10		12
1	10 bodies are more responsive to the preferences of	1	12 Q. Would you be able to locate those and provide
1 2	10 bodies are more responsive to the preferences of minority and nonminority voters in at-large or	1 2	12 Q. Would you be able to locate those and provide those to Barry to be able to provide to me?
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4 (Pages 13-16)

		
۱,	13	15
5	A. TES.	2 As T write in the report although T
	Q. what is your opinion?	3 T should be careful hore. T know the answerts in
4	A, were, as a said in my report, I think there is	
	statistically significant evidence of Facial polarized	+ lavor of at-large roms of representation. So 1 11
2	voting in the spring Branch ISD Independent School	S distinguish my answer by saying there have been
-	District trustee elections from 2015 to 2021.	o arguments or nypotneses, I should say, about the
('	Q. And, Dr. Stein, are you reading from the	A success of single-member district representation
	"Summary of Opinions" portion of your report on Page 3?	8 over at-large.
9	A. Yes.	9 Those advantages seem to flow from the
10	Q. Ckay.	10 Idea that single-member district representation has
11	A. I think that non-white (sic) Hispanics vote	11 disadvantages that are overcome by at-large. Those
12	sufficiently as a block to enable them, in the absence	12 disadvantages include excessive spending above demand.
13	of a single-member district form of representation, to	13 Sometimes we call this a pork barrel.
14	defeat minority voters, which would be the preferred	14 So single-member district representation
15	candidates of choice for those Hispanic voters.	15 leads single-member district representatives to increase
16	I also believe the geographic concentration	16 spending for their district at the expense of the
17	of Hispanics in the Spring Branch ISD district is	17 benefits to the whole district, a sort of
18	sufficient to constitute a majority of the voting-age	18 particularization, and a greater concern for the
19	population in at least one single-member district under	19 not for the many, but for the some.
20	what I offered as an illustrative seven-district plan.	20 Second, at-large forms of representation
21	Although, there may be more. I have not investigated	21 are thought to be able to represent what is known as
22	that. I only looked for the one.	22 the collective interest, the greater good of the
23	Regarding the literature and research,	23 district, over the the good of a particular segment
24	scholarly literature, I find strong evidence that	24 or geography.
25	-in-1- weather district forms of any second states do	25 The life answer a offer have and the on
23	single-member district forms of representation do do,	25 The fileratures 1 offer here and 1 m on
23	single-member district forms of representation do do, 14	16
1	in fact, enhance proportional representation of minority	16 1 Page 3 do not seem to conclusively there are mixed
1 2	in fact, enhance proportional representation of minority candidates on legislative bodies.	16 1 Page 3 do not seem to conclusively there are mixed 2 results, and there's even results that would support.
1 2 3	in fact, enhance proportional representation of minority candidates on legislative bodies. Single-member district representation	16 1 Page 3 do not seem to conclusively there are mixed 2 results, and there's even results that would support. 3 But to use the phrase the totality of the research and
1 2 3 4	in fact, enhance proportional representation do do, 14 in fact, enhance proportional representation of minority candidates on legislative bodies. Single-member district representation increases the likelihood that minority candidates will	16 1 Page 3 do not seem to conclusively there are mixed 2 results, and there's even results that would support. 3 But to use the phrase the totality of the research and 4 the and the best research and the most recent does
1 2 3 4 5	in fact, enhance proportional representation do do, 14 in fact, enhance proportional representation of minority candidates on legislative bodies. Single-member district representation increases the likelihood that minority candidates will contest that means run for positions on	16 1 Page 3 do not seem to conclusively there are mixed 2 results, and there's even results that would support. 3 But to use the phrase the totality of the research and 4 the and the best research and the most recent does 5 not seem to support those arguments in favor of at-large
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1 2 3 4 5 6 7	14 in fact, enhance proportional representation do do, 14 in fact, enhance proportional representation of minority candidates on legislative bodies. Single-member district representation increases the likelihood that minority candidates will contest that means run for positions on legislative bodies. And single-member district representation	16 1 Page 3 do not seem to conclusively there are mixed 2 results, and there's even results that would support. 3 But to use the phrase the totality of the research and 4 the and the best research and the most recent does 5 not seem to support those arguments in favor of at-large 6 over single-member district representation. 7 Q. And I note that you were very careful, at
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1 2 3 4 5 6 7 8 9 10 11 12	14 in fact, enhance proportional representation do do, 14 in fact, enhance proportional representation of minority candidates on legislative bodies. Single-member district representation increases the likelihood that minority candidates will contest that means run for positions on legislative bodies. And single-member district representation will produce policies, decisions of these legislative bodies, that are more responsive to minority voters and their policy preferences. THE WITNESS: And if I'm going too fast, Ms. Taylor, please just slow me down. I am working	16 1 Page 3 do not seem to conclusively there are mixed 2 results, and there's even results that would support. 3 But to use the phrase the totality of the research and 4 the and the best research and the most recent does 5 not seem to support those arguments in favor of at-large 6 over single-member district representation. 7 Q. And I note that you were very careful, at 8 the beginning of your answer, to say that these were 9 arguments in favor of at-large, not necessarily your 10 opinion about that. 11 So let me ask you. Do you agree or 12 disagree with the arguments that you've laid out for me?
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5 (Pages 17-20)

17	19
1 that literature exists, and I'm I'm quite happy to	1 forms of representation increase increase or have no
2 to review it. But I, at this point, have not formed an	² effect on the election of minority candidates, and that
3 opinion about mixed systems. And there there are	³ literature is I think the core of it is at the top of
4 many of them. Our own City of Houston city council has	⁴ Page 11, if you can see that.
5 a mixed plan and has since 1981.	5 Q. Yes. And I'm going to
6 But I have not I want to be clear	6 A. And it's
7 here have not reviewed that literature, nor have	7 Q. I'm going to come back to those later because
8 I formed an opinion about the superiority, inferiority,	8 we're just going to work just so you know, I'm just
9 or or any of the issues I addressed here. I only	9 going to work through your report sequentially
10 looked at single-member versus at-large.	10 A. Sure.
11 Q. You mentioned the City of Houston in your	11 Q because it's easier for simple minds like
12 answer, and so that that leads me to ask this	12 me to do it that way. And so I'm going to come back
13 question. When you are looking at elections and	13 to some of these studies that you reference on Page 11.
14 systems, is there a difference between analyzing those	14 But these are primarily what you're
15 systems and elections with regard to cities versus	15 referencing, on Page 3, when you say "the scholarly
16 school districts?	16 literature"?
17 A. I am certain there is, but, again, except for	17 A. Yes.
18 the literature I reviewed, I my first focus was	18 Q. Perfect.
19 school districts, but there's no question that there	19 I want to turn quickly to Page 2 of your
20 have been and my literature review includes both	20 report, and you state, towards the bottom, that "I have
21 school districts and some studies on general purpose	21 also designed voting districts for municipal governments
22 municipal governments.	22 and school districts in Texas. I am currently designing
23 But I am not ready to opine whether or not	23 election districts for Lancaster ISD, Goose Creek ISD,
24 single-member district forms of representation and	24 and the City of Baytown."
25 at-large vary by form of government, school district	25 My question is are there any other school
18	20
1 and and general purpose governments. It was not the	1 districts for which you are designing election
2 scope of my work, which is not to say that I I	2 districts
3 couldn't have done that. I just did not. I was not	3 A. That I
4 asked to do that.	4 Q or that you have designed election districts
5 Q. I want to turn back to your report, and we're	5 for?
6 on Page 3, the fourth bullet point, the Summary of	6 A. Have or or currently? I'm sorry.
7 Opinions, and you discuss the scholarly literature.	7 Q. It's a two-part question.
8 You make reference to scholarly literature to conclude	8 A. Sure.
9 certain items.	9 Q. So both of them.
10 What scholarly literature are you referring	10 A. I I have done it for HISD; Houston Community
11 to specifically there?	11 College; Lone Star; San Jacinto. Give me a second.
12 A. In the first bullet?	12 I've just got to oh, Lyman County ISD, South Dakota.
13 Q. Or just when you say "There is strong"	13 And, to the best of my memory, that's it, and then the
14 A. Or all three?	14 ones I'm currently doing.
15 Q "evidence in the scholarly literature,"	15 Q. And does that entail actually drawing a map,
16 are there certain studies that you're specifically	16 like you've done in your report in our case?
17 referencing, and can you tell me what that what those	17 A. Let me clarify, yes, I first have I didn't
18 are?	18 draw a map here. I I worked with the map that I was
19 A. Sure. Yeah, I mean, the best way to answer	19 given. Needless to say, I was working with the precinct
20 that would be to go to page help me here Page 10.	20 or enrollment districts that are currently being used
21 And I tried to organize my review of the literature	21 for electing trustees.
22 around, I believe, at least three. Did minority	22 But to to your first, yes, I have drawn
23 representation in at-large districts increase did	23 maps. I think I use the word "design." I think
24 at-large excuse me.	24 your your language is maybe better. I I
25 Did at-large versus single-member district	25 constructed or drew maps, yes.

6 (Pages 21-24)

—	21		23
1	0. Is that normally the type of work that	1	expert report.
2	demographers do?	Z	Q. The next section of your of Page 3 is
3	A. I don't know. I and that's a fair question.	3	"Materials Reviewed." And you say that you consulted
4	The the short answer is I have worked with	4	the scholarly, peer-reviewed research on, and then you
5	demographers. I'm I'm not altogether certain what	5	list some bullet points.
6	exactly they do, except enrollment districts. But the	6	Is that the same research that you and
7	chart answer is I'm not certain but I would an I would	7	I were talking about just a moment aco, or is this a
8		8	different
9	assume so, yes.	9	A. Yes. it is.
10	Q. Who as opposed to analyzing electron data, what	10	0 = - hody of research?
11	design the district therealyon on draw the mane as	11	A. T'm sorry. I couldn't bear.
12	we've have talking here?	12	0. Or is this a different body of research?
13	we ve been taiking here:	13	A. No. no. This is what we had previously
14	A. werr, I w I aw lawring with, as as I w	14	nreviously discussed and T elaborate on later in the
15	discuises where experiments i work for an ine school	15	report
16	districts whose attorneys I work for, regarding futes	16	And then the last paragraph on page 3 save that
10	and requirements, voting rights, single-member	17	Q. And then the last paragraph on Page 5 says that
1/	districts, one person one vote.	1.	you have refree on election results provided by the
18	I've trained and taken courses on	10	Spring Branch 150 for trustee elections, data from the
19	geographical information systems. I have trained and	13	U.S. Bureau of the census, and Marris County's Election
20	actually served on the U.S. Bureau of Census advisory	20	Administrator office for my analysis of facially
21	board; so I'm pretty familiar with the data that is	21	polarized voting in SBISD's trustee elections."
22	provided there.	22	Do you see that reference?
23	And I believe I am knowledgeable about	23	A. Yes.
24	elections and election procedures, such that I can work	24	(Exhibit 2 identified.)
25	with the voting data provided by, in this case, county	125	Q. If you would, as the next exhibit, look at the
<u> </u>			
	22		24
1	and election administrators.	1	24 email from Barry to me, and it has attachments to it.
1 2	22 and election administrators. Q. Of the of the election districts that you've	1 2	24 email from Barry to me, and it has attachments to it. A. I I don't recall seeing that. I apologize.
1 2 3	22 and election administrators. Q. Of the of the election districts that you've designed for schools before, have they all been pure	1 2 3	24 email from Barry to me, and it has attachments to it. A. I I don't recall seeing that. I apologize. I'm sure I got it. I just don't have it at
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7 (Pages 25-28)

		_	
	25		27
1	well, you're going to ask me what it stands for; it's	1	· it.
2	the National Center for Education Statistics to	2	A. This was used for I'm parsing everything
3	acquire information on the racial makeup of schools and	3	together here. Give me just one second so I can tell
4	enrollment districts in Spring Branch. And that was	4	you.
5	used in my racial and ethnic segregation analysis on	5	These are the data that I I used for
6	Page 9. That was not included on the bottom of Page 3.	6	table number get this back up. Yeah, these are the
7	Q. Okay. Would you be able to print those	7	data I used for Table Number 1 on Page 8.
8	materials and send them to Barry so he could forward	8	Q. And if I am reading this correctly, the first
9	them to me?	9	three columns of the spreadsheet all came from the 2020
10	A. Yes, yeah.	10	census?
11	Q. Okay. Thank you.	11	A. Yes.
12	A. There's one yeah.	12	Q. And then do all the remaining columns come from
13	Q. If you need to finish an answer, please feel	13	the American Community Survey?
14	free.	14	A. That is correct.
15	A. There was one other piece of information I	15	Q. And that's the 2015 to 2019
16	acquired from Mr. Golando on the American Community	16	A. That is
17	Survey, on Page Number 8, and that's Table Number 1.	17	Q five-year ACS?
18	And I will well, that data's there. The source is	18	A. I believe all of the ch, I'm sorry. Yes,
19	the American Community Survey, and I should have put a	19	the first three columns are the census, and the
20	footnote in that for the website as well, which I will	20	remaining columns are from the American Community Census
21	do.	21	(sic) from 2015 to 2019.
22	Q. All right. And I had a couple of questions	22	Q. Is there a reason why you use the census for
23	about that, but I'll get to those later.	23	the first three columns and not for the remaining
24	Other than the what you've now told me	24	columns?
25	about, the additional information, is there any other	25	A. Citizen voting age population is not data
F			28
1	information that you're referring to, in Page 4 of your	1	collected in the census; whereas, citizen let me get
2	report, that's not included in the materials that Barry	2	that citizen voting age population is collected only
3	sent me the other day?	3	in the American Community Survey. It is not collected
4	A. I'm just double-checking to make certain, if	4	in the census.
5	you don't mind.	5	Q. And is there a 2020 American Community Survey,
6	Q. Sure.	6	or was the 2015 to 2019 the most recent data set that
1,	A. I want to make certain I didn't no. No.	7	you were able to use?
8	there is no other information.	8	A. It was the most recent that was available to us
وا	Q. Okay. Turning to Exhibit 2, which is Barry's	9	at the time.
10	email and the attachments, I just want to ask you what	10	Q. Is there a 2020 ACS?
11	the attachments are and what they what they mean and	11	A. I believe there is, but I am not certain it's
12	how you use them.	12	been released. I I just don't know. I honestly
13	A. Okav.	13	don't know.
14	0. And so the first one, the first attachment, I	14	Q. And then under your column that says
15	think, is labeled "Copy of SBISD Demonstrative Data."	15	"Hispanic CVAP" and CVAP stands for citizen voting
16	and it appears to be a chart. And it looks like this	16	age population; is that correct?
17	chart may have formed part of the basis of your chart on	17	A. Yes.
18	Page 8 of your report.	18	Q. And in your proposed District 1, you have a
19	A. Help me here.	19	52.8 percent Hispanic CVAP; is that correct?
20	0. Sure.	20	A. That's correct.
21	A. Are we talking about the the one that's	21	Q. And so that puts it over the 50 percent
22	"Special Tabulation of Citizen Voting Age Population"?	22	Gingles 1 threshold for an acceptable illustrative
23	Q. It's the one that	23	district, correct?
24	A. Yeah. I got it. That's it.	24	A. That is correct.
25	0. Yeah. So tell me what this is and how you used	25	Q. Next to the 52.8, you have a plus/minus of 5.9.

8 (Pages 29-32)

29	31
A That is connect	2 hasisally the data that is an additional over the state of the state
2 A. Mat is correct.	2 Dasically the data that informed my racial polarization
A District 1 within the margin of arrow that you've	A a tod where did you where information did you
5 listed could be helder 50 percent?	Such to come up with your chart?
S listed, could be below 50 percentr	
D A. TCS.	A. The data that I I'm hot certain repeat
concerning the vieneric Cup in Control Provide	7 chat again, please.
A They would have conducted cumous	Q. Sure. What data did you use to input into your
A. They would have conducted surveys.	10 The spreadsneet to create this?
	10 A. I ASKEG, AS I SATO I CHINK ON PAGE 3, FOR
12 surname based of do you know?	12 cm diden human humanlin lange
IZ A. NO, the my understanding and on this,	12 candidate, by year, by polling location.
13 I will have to I'd have to do more work. It is	13 Q. And, Ultimately, did the information in this
14 self-laentified.	14 spreadsneet, that we're looking at we're talking
15 Q. I'm sorry. I didn't	15 about, become part of Figures 1, 2, 3, and 4 on
16 A. Self-Identified. It's the result of a survey	16 Pages 5 through 7 of your report?
17 question asked.	17 A. I'm going to switch back and forth. I just
18 Q. Did you use the chart that we're referring to	18 want to make certain I'm yes, these are the ones for
19 for any other purpose than using it for Table 1 in your	19 Figures 1 through 4, yes.
20 report?	20 Q. Okay. Perfect.
21 A. No, I did not.	21 The next attachment to Barry's email, that
22 Q. And other than the 2020 census and the 2015 to	22 I'd like to ask you about, is entitled "Election Results
23 2019 ACS survey, did you rely on any other information	23 2015 to 2021."
24 or data to create this spreadsheet?	24 A. Okay. Yes.
25 A. This one here on that we're looking	25 Q. And like the prior one, this came on an Excel
30	32
1 Q. Yes.	1 spreadsheet, and I'd like to ask you, what did you use
1 Q. Yes. 2 A I'm looking at? No, I did not.	1 spreadsheet, and I'd like to ask you, what did you use 2 this for, and what data did you use to input to create
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9 (Pages 33-36)

	26
33 1 your spreadsheet?	1 A. No. I do not.
2 A. From the National Center for Education	2 0. You analyze. I believe, ten trustee elections,
3 Statistics. The website is in Footnote Number 2 on	3 in Spring Branch ISD, to form the basis of your opinion?
4 Page 9.	4 A. That's correct.
5 Q. And that's the one we talked about earlier?	5 Q. You did not analyze any exogenous elections.
6 A. Yes.	6 did you?
7 Q. And then the final attachment to Barry's	7 A. Say that again. Any?
8 email was entitled "Spring Branch Segregation ISD Data	8 Q. You did not analyze any exogenous elections,
9 Analysis 2."	9 did you? Non-Spring Branch elections?
10 A. Let me go back. Yes.	10 A. No, no.
11 Q. And if you could tell me what this is, how you	11 Q. why did you can you tell me why you did not
12 used it, and what you used to create it?	12 do that?
13 A. These are the calculations that I made. Let	13 A. It wasn't what was asked of me.
14 me go back to the report. And on Page 9, again, in	14 Q. The final paragraph, on Page 4 of your report,
15 Section 6, this formula for calculating racial	15 states that "The dominate races and ethnicities among
16 segregation or dispersion, those are the computed	16 Spring Branch ISD voters are white, the majority, and
17 scores for each of the schools and each of the	17 Hispanic, the minority."
18 enrollment districts in Spring Branch ISD.	18 Do you know the current percentages of
19 Q. All right. I think I'm ready to move on to	19 those two groups based on the 2020 census?
20 Page 4 of your report.	20 A. I think that's in as in total population or
21 A. Give me one second. Okay.	21 total voting age population?
22 Q, And this is the section entitled "Racially	22 Q. Well, that's a great question. I'm just trying
23 Polarized Voting in Spring Branch ISD." And your first	23 to refer it to the statement in your report. So what
24 paragraph states that you "used a definition of racially	24 were you referring to in your report when you say that
25 polarized voting as outlined in Thornburg versus Gingles	25 the dominate races among the voters are white, the
34	36
34 1 case to assess whether this condition existed in the	36 1 majority, and Hispanic, the minority? 2 A I think I was referring here to Section 6 of
34 1 case to assess whether this condition existed in the 2 Spring Branch ISD trustee elections between 2017 and 3 2021 "	36 1 majority, and Hispanic, the minority? 2 A. I think I was referring here to Section 6 of 3 my report, racial and ethnic segregation. And if I
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37 39 1 Page 5. at the very beginning of Page 5. you state. 1 Does that help? 2 "To measure the degree to which there is racially 2 Q. It does. 3 polarized voting in Spring Branch ISD trustee elections, A. Okav. 4 I regressed the proportion of persons," et cetera, Q. And I believe you say in your report, on 5 et cetera. ⁵ Page 5. that Hispanic surname candidates were identified 6 My question is what does "I regressed" 6 as the minority-preferred candidate, for purposes of 7 mean? 7 your figures, correct? A. It -- Footnote Number 1. It's a kind of A. Yes. 9 "ordinary least squares." Basically, it's a plot. Q. Did you take into consideration a white 10 Simply, along the -- what you'd call the Y -- well, 10 candidate with a Hispanic surname? For example, 11 the horizontal axis --11 Chris Gonzalez, who is the current board president of 12 Q. And so you'll understand, I'm a liberal arts 12 the Spring Branch trustees. How did you -- how did you 13 major, and so a lot of what you're going to say might be 13 compensate for somebody with a surname of Gonzalez that 14 is not Hispanic? 14 very simple to you, but is very --115 15 A. I understand. A. I don't know that I -- I apologize. Did you 16 Q. -- detailed to me. So help -- help the 16 say how did I compensate? 17 17 uninitiated. O. Sure. A. What I'm asking is simply this, given an 18 18 A. I'm not certain I'm understanding. 19 election -- let me -- let me re- -- I'm going to go back 19 O. well. I quess --20 20 up so you can see in the report. A. I know she's not -- I know Ms. Gonzalez has a It's a proportion of vote cast for the 21 21 Hispanic surname, and that's all I -- as my report 22 White candidate, the minority-preferred candidate, in 22 indicated, if the surname of the candidate was Hispanic, 23 this case Hispanic surname candidate, and the proportion 23 I assumed that they were the preferred candidate of the 24 of vote Hispanic and White in each precinct in each 24 Hispanic voter. I did not determine whether voters were 25 election for each candidate. 25 aware of Ms. Gonzalez's preferred ethnic identification. 38 40 So all I'm saving -- asking is, if I have a 0. So for purposes of your table -- figures in 2 Precinct 1, and it's 70 percent Hispanic, how many votes 2 your report, you considered Chris Gonzalez to be a 3 did the Hispanic-preferred candidate get in that 3 preferred Hispanic candidate? 4 precinct in that election. A. That is correct. Q. Okay. You kind of did this already, but I'm 5 My expectation is that there's a 6 relationship between the race or racial makeup of a 6 going to ask you, if you did it, to do it again. And 7 that is to walk me through Figures 1, 2, 3, and 4, your 7 voting precinct and their support for minority -- excuse 8 me -- for minority-preferred candidates. And if that 8 charts, and -- and just tell me what they mean, how to 9 relationship is significant and steep -- steep tells me 9 read them. 110 A. So, as I said before, what I'm trying to 10 how many units of racial makeup in the precinct are 11 related to how many unit changes in vote for the 11 ascertain is if the racial makeup of a voting precinct 12 is related to the support for the preferred -- excuse 12 minority-preferred candidate or the majority-White 13 me -- preferred minority candidate or the preferred 13 candidate. 14 majority racial group. 14 So that, if a line is steep and moving from 15 And what we do on the horizontal axis is 15 left to right, like in Figure 1, that tells me that, as 16 simply tell you what the racial makeup of each voting 16 the racial makeup of a precinct increases, that is 17 White, the share of vote in that precinct for the White 17 precinct was in each of the elections conducted between 18 2015 and 2017. That goes from, oh, you know, around 18 candidate goes up proportionately. 19 50 percent to 100 percent for Whites; obviously 119 The slope is simply the change in the 20 different for Hispanics. 20 racial makeup of a precinct to the change in the share I then identify the White or minority, in 21 21 of vote for the White or minority-preferred candidate. 22 this case Hispanic surname, candidate, and simply ask, 22 A slope of 1 would mean that, for every percentage 23 if the racial makeup of the precinct changes, how does 23 increase in the racial makeup of the voting precinct, 24 the vote share for candidates, by race, change. 24 there is an equal 1 percent increase in the share of 25 A slope. A slope is simply the change 25 vote for the white candidate; the same for the minority.

10 (Pages 37-40)

11 (Pages 41-44)

41	43
1 in the number of or share of vote for a candidate	1 we've changed same elections; same candidates; same
2 matched with a change in the proportion of vote, white	2 precincts. Only difference is I'm now asking what
³ or Hispanic.	3 about Hispanic voters in precincts and their support
4 A positive line, a line and positive	4 for white candidates, and the slope here is .99 996.
5 means it goes from the lower left-hand to the upper	5 It's negative. It means this is about total racial
6 right-hand corner. It tells me that there is a racially	6 polarization. Hispanic candidates will vote at
7 polarized pattern of voting. As there are more white or	7 increasingly lower rates for white candidates, almost
⁸ Hispanic people in the precinct voting, there will be	8 1 to 1.
⁹ more votes for the white or Hispanic candidate.	9 Q. Did you mean Hispanic voters? I think you said
10 The strength of that relationship, the	10 Hispanic candidates.
11 significance of the racial polarized, is measured by	11 A. Did I say voters, yes. I apologize.
12 that slope. And as I said before, if there's a	12 Hispanic voters in precincts will vote
13 1 percent change in the percent of people in the voting	13 against, or not for, the white candidate at almost a
14 precinct white and a 1 percent change in the proportion	14 perfect 1-to-1 relationship. 1 percent increase in the
15 of vote for the white candidate, that slope is 1. And	15 Hispanic share of vote in that precinct results in a
16 that is a positive, I would say. That's as extreme as	16 1 percent lower share of vote for the white candidate.
17 you can get for racial polarized voting.	17 I can you want me to I know you're
18 If it's negative, it slopes for	18 busy I didn't want to you were looking for
¹⁹ instance, in Figure 2, it slopes downward. That tells	19 something, and I didn't want to
20 me that, as the percent of Hispanic voters in the	20 Q. No.
21 precinct increases, the share of vote those voters give	21 A interrupt you.
22 to the white candidate goes down. And, again, as if	22 Q. Continue, please.
²³ it approaches 1, that's extreme racial polarized voting.	23 A. Figure 3 is the percent of white vote in each
24 So if you start with Number 1, you find	24 precinct regressed or displayed with the percent of
25 that white voters tend to vote for white candidates.	25 Hispanic candidate vote. So in a precinct with white
42	44
1 If you in my table figure, you can see the .856, in	1 voters, as the share of the precinct's white vote goes
2 the left-hand side of the figure.	2 up, the share of excuse me the share of vote cast
3 Q. Let's see. Yes, I do.	3 for the Hispanic candidate goes down, and there the
4 A. There's the slope, correlation, and P.	4 slope actually exceeds 1.
5 So .856 is gets very close to 1. There	5 So what does that mean? It means that, for
6 is a statistical test of significance. Is that slope	6 every 1 percent increase in the share of votes that are
7 significant or could it have happened just by chance?	7 White, there is a 1.06 percent drop in the share of vote
8 And the answer is 9901 can you see that, .014?	8 casts for Hispanic candidates. So that level of extreme
9 Q. Yes, sir.	9 polarization exceeds. It actually goes over the
10 A. That would mean that 99 times out of 100, if	10 1 percent change. There's even more drop in support
11 you saw this distribution, you would conclude it was	11 for Hispanic candidates as the precinct's share of
12 nonrandom. It would mean that only 1 time out of 99	12 White voters goes up. And that, of course, is negative.
13 would you say that that relationship was random, as if	13 Finally, Figure 4 is the percent of
14 you were just throwing darts at a dartboard. And it's a	14 Hispanic vote in each precinct and the share of vote for
15 very	15 each Hispanic candidate in that precinct. There, the
16 Q. And this Figure 1	16 slope exceeds 1. That means that, with a 1 percent
17 A. I'm sorry.	17 increase in the percent of vote Hispanic in each
18 Q. In this Figure 1 that we're talking about, are	18 precinct there is 1 13 or 13 percent more votes for
19 White candidates voting for White voters voting for	The precimee, chere is 1.15, of 15 percenc, wore votes for
20 White candidates?	19 the Hispanic candidate in that precinct.
	19 the Hispanic candidate in that precinct. 20 This suggests to me that White and Hispanic
21 A. Yes.	19 the Hispanic candidate in that precinct. 20 This suggests to me that White and Hispanic 21 voters are highly polarized when voting for candidates
 21 A. Yes. 22 Q. Is that what Figure 1 is showing? 	19 the Hispanic candidate in that precinct. 20 This suggests to me that white and Hispanic 21 voters are highly polarized when voting for candidates 22 who are white and Hispanic.
 21 A. Yes. 22 Q. Is that what Figure 1 is showing? 23 A. Yes. So there we find highly polarized it's 	 19 the Hispanic candidate in that precinct. 20 This suggests to me that white and Hispanic 21 voters are highly polarized when voting for candidates 22 who are white and Hispanic. 23 Q. Would you
 A. Yes. Q. Is that what Figure 1 is showing? A. Yes. So there we find highly polarized it's A. to tit you know, and .85 is is pretty high. 	19 the Hispanic candidate in that precinct. 20 This suggests to me that White and Hispanic 21 voters are highly polarized when voting for candidates 22 who are white and Hispanic. 23 Q. Would you 24 THE WITNESS: Can I indulge and just ask if

12 (Pages 45-48)

45	47
	1 The regression technique is the same but
A close to an town stand our life to take a short bootb	2 The regression technique is the same, but
2 close to an hour. Would you like to take a short break?	2 1 nad only a universe of, 1 think 1 think about 75
5 THE WITNESS: If it's if it's all right.	s election contest precincts. Inat's not a lot of cases.
4 I don't	4 It's sufficient to make statistical inferences and
5 MR. CRAWFORD: It is perfectly fine. why	5 and parametric statistics around 30. In fact, exactly
6 don't we take I've got 10:28. Do you want to take	6 30 is about what you need.
7 five minutes?	7 And so I had, obviously, twice a little
8 THE WITNESS: That'll be fine. Thank you.	8 more than twice 30 observations. So the inference
9 (Break from 10:28 to 10:34.)	9 ecological inference wasn't necessary in estimating
10 Q. (BY MR. CRAWFORD) Before we left off, we were	10 polarization. The data, how can I say, speak for
11 talking about your analysis of racial polarization and	11 itself.
12 the four figures in your report.	12 Q. You did not run an EI analysis as a
13 Would you agree that your method of	13 confirmation or double-check?
14 assessing racially golarized voting in Spring Branch ISD	14 A. No, I did not.
15 elections combines all ten of the contests that you	15 0. Did you perform any racially polarized election
16 avamined into one overall analysis rather than an	16 analysis using CVAP or Spanish surname registered
17 election by election relation analysis; rather than an	17 voters as twoically done in these cases?
	18 A Vac I man we wanted to know the racial
	10 A. les. I weak, we wanted to know the factor
19 Q. Can we determine, from your reported analysis,	20 desugados ten de sus a stiet a discussed de sa
20 which specific election contests were polarized and to	20 haputation that is we I think I discussed it on
21 what degree?	21 help me here. I'll find it. It's on page give me a
22 A. Yes.	22 second.
23 Q. How would we do that?	23 On Page 4 we identify the racial and
24 A. So take a look at Figure 4.	24 ethnic membership of each registered voter in each
	25 election year, of course, in each election precipit.
25 Q. Okay.	as creetion year of courses in each creetion processing
25 Q. Okay. 46	48
 25 Q. Okay. 46 1 A. If you look at the points those are the 	48 1 using Imai and Khana's. This is the EI approach, I
 23 Q. Okay. 46 1 A. If you look at the points those are the 2 percentages you can see that some are closer and some 	48 1 using Imai and Khana's. This is the EI approach, I 2 believe, you're reporting or referring to. And,
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13 (Pages 49-52)

49	51
1 I have read, I consider this the best practice.	1 And then, as Exhibit 4, I'd like to mark
2 Q. And why do you consider it best practice?	² just a bigger copy of the map from your report. This
3 A. Well, it's a long explanation, and I apologize.	³ was a page from a document filed by the Plaintiff in the
4 Having taught having taught this in my survey	4 case, and it just simply replicates your map and your
5 research class, I believe it does two things. It	⁵ Table Number 1. I did this because I might want to draw
6 leverages a lot of information. It leverages the	6 on it, and it's kind of bigger. But it should be the
7 surname of a person. It leverages where they live,	7 same table and map that's in your report.
8 and that the research about how people choose where	8 (Exhibit 4 identified.)
9 they live tells you a lot about who they are, Democrats,	9 Q. And so the first question I have for you is
10 Republicans, African Americans, and Hispanics.	10 Exhibit 3, which is the colored map, is this the map
11 So I am how can I say? convinced,	11 of the middle school attendance zones that you're
12 not so much by the Barreto article, but by the	12 referring to that you based your table your
13 Imai and Khana paper. And I've taken some time to	13 demonstrative map off of?
14 talk to Imai and Khana about this for other research	14 A. Yes.
15 that I have conducted, and I'm convinced that it is the	15 Q. And I believe you've already told me this, and
16 most exact means of measuring racial without, of course,	16 so just confirm that you have. But you got where did
17 surveying the voter themselves.	17 you get the 52.8 percent Hispanic citizen voting age
18 Q. Anything else you'd like to add to	18 population for your District 1?
19 A. NO.	19 A. Mr. Golando had shared that with me from the
20 Q that answer?	20 ACS.
21 Okay. Great. Then let's now turn to your	21 Q. Okay. And we've already talked about that in
22 proposed illustrative district, and that is on Page 8 of	22 fair detail?
23 your report.	23 A. (Nods head.)
24 A. Yeah.	24 Q. Any other information that went into providing
25 0 And Page 8 has a table. Table 1, and then.	25 that number of 52.8 percent?
25 Q. And fuge o has a cable i lable si and sheni	
	52
1 below it, a demonstrative map of a single-member	52 1 A. No.
1 below it, a demonstrative map of a single-member 2 district.	52 1 A. No. 2 Q. Okay. Also looking at Table 1 and I'll just
50 1 below it, a demonstrative map of a single-member 2 district. 3 My first question is what did you do to	52 1 A. No. 2 Q. Okay. Also looking at Table 1 and I'll just 3 use District 1 as the example you have a voting age
50 1 below it, a demonstrative map of a single-member 2 district. 3 My first question is what did you do to 4 create the map?	52 1 A. No. 2 Q. Okay. Also looking at Table 1 and I'll just 3 use District 1 as the example you have a voting age 4 population of 18,782, and a citizen voting age
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<u> </u>		
.	53	55
	A T don't know T have not looked at that data	Q. But you have not attempted to draw any other
	A. I don't know. I have not notked at that data.	approximation and the one that is on Page 8 of your
	of your Highanic population for your man did you use	
	Hispanic surname data?	5 0 nicht?
6	A. This data, which comes from the ACS, would have	$\hat{\mathbf{b}}$ A No T have not
7	used self-reported Hispanic identification. That's my	7 0 Did you did you take into account or respect
8	understanding of the ACS and data I've used in the past.	B census blocks when you were creating your illustrative
9	0. If you if you could tell me, what is	9 man7
10	"raking"?	10 A. No. I did not.
11	A. (No response.)	11 0. Did race predominate in your creation of
12	Q. Raking, r-a-k-i-n-g.	12 District 1 of your illustrative map? Was that the
13	A. In what I'm sorry. I don't know, Raking	13 predominate factor vou considered, race?
14	leaves? Raking data?	14 A. That's a hard guestion. I I don't want
15	Q. No. In terms of constructing illustrative	15 to be evasive. Let me let me say exactly what I
16	districts, are you familiar with the process known as	16 attempted to do.
17	"raking"?	17 Because I was doing racial polarized voting
18	A. I am not. I'm not certain. I'm I'm	¹⁸ based on seven districts, it seemed logical to use those
19	familiar with it in very different survey research	¹⁹ seven districts as the initial illustrative or
20	contexts.	20 demonstrative. So the only consideration I gave was
21	Q. And another phrase it may go by maybe this	21 what are the current district boundaries.
22	will sound more familiar is "iterative proportional	22 I'll give you an example. I did not look
23	fitting." Are you familiar with that?	23 for one person, one vote. I don't know if these are
24	A. I I have heard the term, but I couldn't give	24 if they meet that one the Baker Baker Carr, like
25	уош a definitive def no.	25 every district has to be within a top-to-bottom
	54	56
1	54 Q. Okay.	56 1 10 percent.
1 2	54 Q. Okay. A. I wouldn't feel comfortable.	56 1 10 percent. 2 I simply said, if you were to create a
1 2 3	54 Q. Okay. A. I wouldn't feel comfortable. Q. And you did not use that method or analysis in	56 1 10 percent. 2 I simply said, if you were to create a 3 district map from the current voting locations, what
1 2 3 4	54 Q. Okay. A. I wouldn't feel comfortable. Q. And you did not use that method or analysis in creating your illustrative district?	56 1 10 percent. 2 I simply said, if you were to create a 3 district map from the current voting locations, what 4 would it look like; could there actually have been a
1 2 3 4 5	54 Q. Okay. A. I wouldn't feel comfortable. Q. And you did not use that method or analysis in creating your illustrative district? A. NO.	56 1 10 percent. 2 I simply said, if you were to create a 3 district map from the current voting locations, what 4 would it look like; could there actually have been a 5 majority/minority? I did not attempt to do any other
1 2 3 4 5 6	54 Q. Okay. A. I wouldn't feel comfortable. Q. And you did not use that method or analysis in creating your illustrative district? A. No. Q. Do you understand the term "traditional	56 1 10 percent. 2 I simply said, if you were to create a 3 district map from the current voting locations, what 4 would it look like; could there actually have been a 5 majority/minority? I did not attempt to do any other 6 drawings or use other criteria.
1 2 3 4 5 6 7	54 Q. Okay. A. I wouldn't feel comfortable. Q. And you did not use that method or analysis in creating your illustrative district? A. NO. Q. Do you understand the term "traditional districting principles"?	56 1 10 percent. 2 I simply said, if you were to create a 3 district map from the current voting locations, what 4 would it look like; could there actually have been a 5 majority/minority? I did not attempt to do any other 6 drawings or use other criteria. 7 Q. Okay. So I would like you to have in front
1 2 3 4 5 6 7 8	54 Q. Okay. A. I wouldn't feel comfortable. Q. And you did not use that method or analysis in creating your illustrative district? A. No. Q. Do you understand the term "traditional districting principles"? A. Not I mean, the it makes perfect sense	56 1 10 percent. 2 I simply said, if you were to create a 3 district map from the current voting locations, what 4 would it look like; could there actually have been a 5 majority/minority? I did not attempt to do any other 6 drawings or use other criteria. 7 Q. Okay. So I would like you to have in front 8 of you, if you're able to, both the colored map of the
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	54 Q. Okay. A. I wouldn't feel comfortable. Q. And you did not use that method or analysis in creating your illustrative district? A. No. Q. Do you understand the term "traditional districting principles"? A. Not I mean, the it makes perfect sense to me, but I don't know what you're referring I mean, I don't know what those conditions would be. Q. Okay. In creating your map, the demonstrative district, did you respect neighborhoods and subdivisions? Did you try to keep those intact? A. No. I took the districts that currently exist for the purposes of conducting elections for trustee elections. I have to say that was the sole criteria; that is, the districts enrollment districts corresponded to the voting places. And as I said I think we call this a demonstrative or illustrative district map there might be other I think I said in my report there are it doesn't preclude other district plans, other configurations that could be done following other practices I would have used in drawing district	56 1 10 percent. 2 I simply said, if you were to create a 3 district map from the current voting locations, what 4 would it look like; could there actually have been a 5 majority/minority? I did not attempt to do any other 6 drawings or use other criteria. 7 Q. Okay. So I would like you to have in front 8 of you, if you're able to, both the colored map of the 9 district boundaries and either the map from your report 10 or Exhibit 4, whichever is easier for you to refer to. 11 A. I've got my the map from my report. 12 Q. Okay. And I note that, although your 13 illustrative map is similar to the attendance districts 14 in Exhibit 3, they're they're not exactly the same. 15 Would you agree with that? 16 A. I I have to check that. I had thought they 17 were exactly the same. They may deviate a little, but 18 I I 19 Q. All right. 20 A. The answer is I don't know. 21 Q. Okay. So, for example, I'm going to draw on 22 my copy of the map and hopefully you're able to see 23 this. This is why in person is so much more fun than 24 Zoom.
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	54 Q. Okay. A. I wouldn't feel comfortable. Q. And you did not use that method or analysis in creating your illustrative district? A. No. Q. Do you understand the term "traditional districting principles"? A. Not I mean, the it makes perfect sense to me, but I don't know what you're referring I mean, I don't know what those conditions would be. Q. Okay. In creating your map, the demonstrative district, did you respect neighborhoods and subdivisions? Did you try to keep those intact? A. No. I took the districts that currently exist for the purposes of conducting elections for trustee elections. I have to say that was the sole criteria; that is, the districts enrollment districts corresponded to the voting places. And as I said I think we call this a demonstrative or illustrative district map there might be other I think I said in my report there are it doesn't preclude other district plans, other configurations that could be done following other practices I would have used in drawing district boundaries have used in drawing district	56 1 10 percent. 2 I simply said, if you were to create a 3 district map from the current voting locations, what 4 would it look like; could there actually have been a 5 majority/minority? I did not attempt to do any other 6 drawings or use other criteria. 7 Q. Okay. So I would like you to have in front 8 of you, if you're able to, both the colored map of the 9 district boundaries and either the map from your report 10 or Exhibit 4, whichever is easier for you to refer to. 11 A. I've got my the map from my report. 12 Q. Okay. And I note that, although your 13 illustrative map is similar to the attendance districts 14 in Exhibit 3, they're they're not exactly the same. 15 Would you agree with that? 16 A. I I have to check that. I had thought they 17 were exactly the same. They may deviate a little, but 18 I I 19 Q. All right. 20 A. The answer is I don't know. 21 Q. Okay. So, for example, I'm going to draw on 22 my copy of the map and hopefully you're able to see 23 this. This is why in person is so much more fun than 24 Zoom. 25 I have drawn a circle between District 1

14 (Pages 53-56)

15	(Pages	57-60)
	-	

E7	50
J.	JJ 1 chart that the Spring Forest Niddle School is highly
2 und district / that has, like, a little jut in it. Are	2 chart, that the spring porest moure school is inging
2 you able to see what I m talking about?	
A. Yes, I do. I do.	A D The Coming Forest Middle School that has
4 Q. Okay. And that does not appear on the district	4 Q. The spring Porest Middle School that has
> boundary. That's a change from the normal attendance	5.42 percent write and .50 percent Hispanic.
boundary to your proposed map.	6 A. Well, again, the what you mayoe I should
And so my question is can you explain to me	7 go back and make clear what 1 mean by disparity or
⁸ why you have that little jut in your proposed district?	8 nighty segregated.
9 A. I can't. Those were maps that were shared	9 So if you have a district that currently
10 with with me by Mr. Golando, and they may have	10 has go up to Page 9 Page 9, middle paragraph,
11 reflected a slight change in the makeup, the deviation	11 "The dissimilarity index captures how proportional
12 from the current enrollment districts. I had not	12 Hispanics and Whites are distributed across the
13 noticed that before.	13 district."
14 Q. Okay. And then similarly, between your	14 So if Spring Branch ISD is composed of
15 Districts 5 and 6, there's a little jut, you know,	15 26.7 percent White and 59.2 Hispanic, that's the
16 a little kind of carve-out that is not as part of the	16 baseline from which you would expect to see the
17 regular attendance boundaries. Can you explain why?	17 distribution deviate. And what I've noticed is that
18 A. Again, I assume that that was a change that	18 there's a significant deviation from that proportional
19 Mr. Golando had made to adjust boundaries for the	19 distribution. There's some districts that and
20 demonstrative plan.	20 schools, some enrollment districts that are more and
21 Q. Okay. And can you explain why your proposed	21 some less.
22 District 6 is the only proposed district that is both	22 What constitutes the degree of
23 north and south of I-10?	23 dissimilarity is a judgment that I drew from the
A. No, I can't, other than it seemed to follow the	24 literature, and anything around .3 to .6 is moderate,
25 houndaries of encollment districts	25 anything above .6, in the dissimilarity indexes are,
125 Doundaries of enformeric discrices.	
58	60
58 0. Did you do anything to check to confirm that	60 1 in some cases at the school level, .69 and .59. So yes.
58 Q. Did you do anything to check to confirm that 2 your proposed District 1 will, in fact, have the effect	60 1 in some cases at the school level, .69 and .59. So yes. 2 To your question, is Spring Forest
58 Q. Did you do anything to check to confirm that 2 your proposed District 1 will, in fact, have the effect 3 of allowing Hispanic voters to elect the trustee of	60 1 in some cases at the school level, .69 and .59. So yes. 2 To your question, is Spring Forest 3 significantly dissimilar or or segregated, I'd say
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58 Q. Did you do anything to check to confirm that 2 your proposed District 1 will, in fact, have the effect 3 of allowing Hispanic voters to elect the trustee of 4 their choice? 5 A. Other than the majority voting age population,	60 1 in some cases at the school level, .69 and .59. So yes. 2 To your question, is Spring Forest 3 significantly dissimilar or or segregated, I'd say 4 so. Those indexes are are pretty high and not, 5 again, due to what I will call chance, but to some force
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61 63 Q. The first question I have for you, after you 1 MR. CRAWFORD: Oh. Exhibit 5. 2 cite a number of the studies, you say, "several studies 2 THE REPORTER: Okay. 3 have reported null findings," n-u-1-1. What do you mean 3 MR. CRAWFORD: Thank you. 4 by "null findings"? 4 (Exhibit 5 identified.) 5 A. There was no significant effect between the 5 Q. Dr. Stein, do you have that? 6 form of representation and the proportion of minority б A. Let me get it up. 7 7 representatives on these representative bodies. No Q. Sure. 8 relationship. No positive; no negative; no significant 8 A. Give me one second. I had it up, and I'm 9 relationship. Null means you reject the null hypothesis 9 trying to -- what's the word here? And you're referring 10 that there is -- you accept the null hypothesis that 10 to the Meier and Rutherford? 11 there's no -- no relationship here. 11 0. Meier and Rutherford. 12 Q. And then in Footnote 4, you note that, 12 A. Well, I can't find it. Give me a second. 13 "The authors qualify their null findings by noting 13 I know I had it a second ago, and I apologize. 14 that Hispanics may be able to profit from at-large 14 Q. Oh, no problem. You're doing a great job. 15 districting when they are a majority of the population." 115 A. I got it. I got it. 16 116 Do you agree with that statement? Q. Okay. I'd like to ask you a couple of 17 A. Do I agree that -- that they wrote that, or 17 questions about this article. The first page -- first 18 that I agree with --18 of all, this is the article that you're referring to in Q. I guess, first, do you agree that they wrote 19 your report? 19 20 it, and, second, do you agree with their conclusion? 20 A. Yes. 21 21 A. Yes, it's their conclusion. I think that I Q. Okay. The first page of the report, which is 22 would say that that is probably true, in the literature, 22 Page 265, towards the bottom of the left-hand column of 23 yes. Yes, I would agree with the statement. 23 the page, states that "African Americans actually do 24 Q. Based on the --24 better in at-large systems. Although this minority 25 A. Excuse me. 25 group has been disadvantaged by at-large districts 62 64 1 30 years ago, they have since overcome these hurdles and 1 Q. No, no problem. 2 now appear to be better off under this type of electoral 2 Based on the population trends in 3 structure in the case of school board elections." 3 Spring Branch from, say, you know, the 2010 census to Are you aware of this finding by Meier and 4 the 2020 census, the Hispanic population is growing in 4 5 Rutherford? 5 Spring Branch, correct? A. Yes. A. I -- I don't want to be evasive, but I don't 6 7 know that. I mean, if you said that to me -- I have 7 Q. Do you agree or disagree with it? A. I think that that is -- I think that the --8 8 not looked at the growth in Hispanic population in 9 that their explanation, which comes in later, I agree 9 Spring Branch. Honestly, I just don't know. 110 Q. So you don't -- you don't know, one way or the 10 with. This is not the full explanation for what's going 11 on. 11 other, whether Hispanics will be the majority population 12 Q. I'd like to turn to the next page of the 12 in Spring Branch in the near future? 13 article, Page 266, the -- the second full paragraph 13 A. I would -- I could not make that judgment at 14 this time. 14 on the left-hand column, beginning with the word 15 Q. You reference a study by Meier and Rutherford 15 "Other studies." 16 and a study by Welch and Karnig for the proposition that 16 A. GOT it. Q. Okay. This says that "Other studies question 17 "Two studies have reported a negative relationship 17 18 between single-member district elections and minority 18 the detrimental impact of at-large elections on 19 descriptive representation, either disputing the 19 representation." 20 Do you see that reference? 20 negative impact on minorities in general or suggesting 21 that the impact has disappeared over time," citing 21 A. Yes. 22 MacManus and but see Davidson. 22 MR. CRAWFORD: I would like Dana to mark as 23 23 Exhibit 4 a copy of the Meier and Rutherford article. "Other studies find that no impact of 24 THE REPORTER: I believe we did the 24 electoral structure include Fraga and Elis's 2009 25 examination of Latino representation in school districts 25 black-and-white map as Exhibit 4.

16 (Pages 61-64)

17 (Pages 65-68)

65	67
1 in California."	1 representation producing the effect he sees.
2 A. Yes, sir.	2 Q. On the same page on the right-hand side of
3 Q. Are you aware of those studies?	3 the paper, the first full paragraph talks about, "The
4 A. Yes.	4 literature has also ignored one fundamental element of
5 Q. Do you dispute the findings of those studies?	5 U.S. elections, the role of partisanship."
6 A. No, no. I I'm aware of them. I don't	6 And I won't read the whole paragraph for
7 I think they my characterization in my report if	7 you, but I'd ask you to read it and just ask, do you
⁸ I could go to that	8 agree with the statements that he's making in that
9 Q. Please do.	9 paragraph?
10 A for a second is this hold on.	10 A. Yes, yes.
11 On Page 11 of my report	11 Q. What about Spring Branch ISD elections? Did
12 Q. Yes, sir.	12 you look into the role of partisanship in the outcome of
13 A second paragraph, so I the Meier and	13 SBISD elections?
14 Rutherford, Welch and Karnig, and I'd I'd even	14 A. No, I did not.
15 include the Cole paper, the MacManus paper, which show	15 Q. Further down the page, same page 266, it's
16 no result.	16 the last full paragraph, and it begins with, "Although
17 There are two factors that explain what	17 framed as a way."
18 I would call the lack of unanimity in this field, right.	18 A. Yes.
19 I mean, the if you look at the totality of research,	19 Q. The second sentence of that paragraph reads,
20 although it the balance is single-member districts	20 "The low turnout of nonpartisan school board elections
21 do tend to promote minority representation, there are	21 held in the spring has meant an electorate dominated by
22 a good number of papers that show not.	22 those with a direct interest in schools, primarily
23 So I offer the explanation that there are	23 parents and teachers."
24 two explanations, I think, in the literature. I think	24 Do you agree with that statement?
25 even Ken points this out, Ken and Ms. Rutherford. One	25 A. Yes. I mean, I think that yes. I don't
66	68
66 I is that the nature of electoral reform on minority	68 1 think there's any yes, I do agree with this
66 1 is that the nature of electoral reform on minority 2 representation is contingent. And the other, to be very	68 1 think there's any yes, I do agree with this 2 statement.
66 1 is that the nature of electoral reform on minority 2 representation is contingent. And the other, to be very 3 simple and blunt, is that the quality of the research	68 1 think there's any yes, I do agree with this 2 statement. 3 Q. And is that is that a good or a bad thing,
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18 (Pages 69-72)

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1	2 375	1	/1
,	Q. 273.	,	showed that, along the major types of electoral
	A. 275. Right- of left-hand column?	ļ ,	aquitable in district that ours at large elections
	Q. Lett-nand column.	[]	equitable in district than pure at-range electrons,
	A. Okay. And the	ן י	but most equitable in mixed systems."
	Q. The last full paragraph, beginning "One open	2	And she cites a Taebel article, from 1978,
o ques	tion."		that, "like MacManus, found that Hispanics were best
	A. Got it.	1	represented in mixed systems."
8	Q. And it's the very last sentence. And rather	8	And she cites welch and Karnig, 1978, for
9 than	reread it again, I'll just ask you if you agree	9	finding "that structure makes hardly any difference for
10 with	that statement?	10	Hispanic representation."
11	A. I'd agree with it.	μ	So my first question to you is are you
12	(Exhibit 6 identified.)	12	familiar with these three studies?
13	Q. I'd like to mark, as Exhibit 6, the next	13	A. Yes. I mean, I I can't tell you I've read
14 arti	cle that I sent you in advance from Susan Welch.	14	the papers recently, but and I did not read them for
15	A. Yes. Give me one second.	15	this report. But I am I know of the I know about
16	Q. No problem.	16	that work, yes.
17	A. I've got to close one. I'm just running out	17	Q. And do you know do you agree or disagree
18 of -	- okay. I'm ready.	18	with their conclusions, as stated in Dr. Welch's
19	Q. Okay. Are you familiar with Susan Welch?	19	article?
20	A. Yes, very, very familiar with her.	20	A. I don't disagree with their findings. I mean,
21	Q. You kind of smiled and and like you have a	21	whether they're generalizable to the 21st century, to
22 good	relationship?	22	the contemporary situation in Spring Branch, I have not
23	A. I I've known her, I suspect, longer than	23	made a conclusion.
24 I met	t Susan Welch when I started graduate school. I	24	Q. Okay. And just so we're clear, when we're
25 won't	t tell you when that was, but a long I've known	25	talking "mixed system," we're talking about a system
	70	\square	72
1 her a	long time, yes.	1	that has one or more at-large positions and one or more
2	0. And she is she a professor at the University	2	single-member positions, correct?
3 of Ne	braska?	3	A. That's correct, yes.
4	A. No. She she's a retired emeritus from the	4	Q. Okay. So if we were to accept the results
5 Unive	ersity Pennsylvania State. She was at Nebraska	5	of these studies as being accurate, would a mixed
6 when	she wrote that paper.	6	Spring Branch ISD system be more equitable to Hispanics
7	0. Okay. And the article that I have given you	7	than a pure single-member system?
8 15 62	led "The Impact of At-Large Elections on the	8	MR. ABRANS: Objection to the form of the
9 Benre	sentation of Blacks and Hispanics." And this	9	question.
10 2002	contly is from the lournel of Politics from 1990	10	A. You know. I just you know, it's a fair
appai	And the report that you gite in your	11	question: one that should be studied. I did not.
12	t on Page 11 is welch and Karnig 1978 Do you	12	I can't form an opinion for the Spring Branch ISD.
13 kmm	if this subject for an undate of that 1978 study?	13	O. Fair enough.
14	A The strict of is an update of that 1970 stody?	14	Turning to Page 1065 of Dr. Welch's
15	A. It It's a year, it's the word update	15	article.
16 and	and - Cumber englished was	16	A. 260?
17	- and a further analysis, yes.	17	0. 1065.
18	Q, AND I U THE LU ASK YOU JUST & TEW QUESTIONS	18	A. ch, 1065?
19	, some of the statements that Dr. weith made in her	19	Q. Yes, sir.
20 artic	THE THE THE PAGE I G THE LU ASK YOU QUESTIONS	20	A. Yes. I'm there.
21 21	. IS ON FAGE 1955 OF THE AFTICLE.	21	Q. And I think she is simply reiterating what
22	A. UKAY. I TO OT THAT PAGE.	22	she stated on the page that we were just looking at.
23	Q. OKAY. AND THE COP OF THE THE TOP PARAGRAPH "The finding concerning of the top paragraph."	23	Under the heading "Hispanic Representation." the first
24 says	The renderings concerning election structures and	24	full paragraph, last sentence. she states. "Hispanics
25 H1SP2	unc representation are, nowever, less clear cut."	25	appear to do somewhat better in cities with both
123	ADD TREE SHE CITES THE MACMANNS 1370 SUULY.		••

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19 (Pages 73-76)

	73	75
1	at-large and district elections than in either of	1 (Exhibit 7 identified.)
Z	the pure types."	2 Q. And, Dr. Stein, I'd ask if you could get that
3	Do you see that reference?	3 in front of you?
4	A. Yes.	4 A. Let me get that up. Give me one second. I've
5	Q. And your answer, on whether you agree or	5 just got I've got so many okay. I'm just about
6	disagree, would be the same as we just discussed before?	6 I had to close the welch and I think it's no.
7	A. Yes. I'm it's not a question I you know,	7 I've got I'm sorry. I keep opening up the Meier and
8	it's a it's a fair question, but it is not one that	8 Rutherford one. I'll get it. Give me just a second.
9	I looked at for this the purposes of this report and	9 Wait a minute. Where is it? Oh, you added that. That
10	case.	10 was the one that in the second
lu	0. Turning to Page 1067 of her report.	11 Q. Yes, sir. Yes, sir, that was the one.
12	A. 1067. got it.	12 A. Yeah, I've got all these attachments, and that
13	0. Yes. The paragraph that begins "Another	13 was in Barry's second attachment. There it is. I got
14	complicating factor."	14 it.
15	A. Got it.	15 Q. Great. And I'm going to I'm going to ask
16	0. Okay. About a little bit more than halfway	16 you a question about this article, and I'm going to
17	down the naragraph, she states, "In Texas, on the other	17 refer it to something you stated on Page 9 of your
18	band Highanic representation is guite high (83) in	18 report.
10	manu, mispante representation is quite migh (105) in	19 A. Okav.
20	Do you know where the set that from these	20 0. So it's going to be kind of a compare and
21	nentiatize?	21 contrast. And so T would like you to look at the
57	A No T do not	22 Abott article and go to Page 726.
23	A. NO, I do not.	23 A. Got it.
24	Q. You re not in a position to either agree of	24 O. And there is a highlighted paragraph on that
25		25 page on the right-hand column. And rather than read it.
Ľ,	A. NO, I YOU KINW, I Wall LO DE VELY CICAL	76
۱.	/4	1 T would just ask you to read it to yourself, and let me
;	are near-reviewed, but I have no idea where that data	2 know after you've had a chance to do that.
	are peer-reviewed, but I have no fuel where that data	
,	And on a similar question on Page 1072 of her	4 0 0kay, and you've had a chance to read what
	Q. And on a shartar question on rage 20/2 of her	5 Abott said in that naragranh?
2	A Vac T'm there	6 A (Nods head.)
	A. Tes, I in undere.	7 0. On Page 9 of your report, the next the last
6	etates "Gwenell district elections do not promote more	8 full paragraph on that page, you cite, Researchers,
	states, overall, district electrons do not promote more	9 Abott and our other author from the 2020 study. Is this
10	And then chinning a centence the cave	10 the report that you're referring to in your report?
11	"We found that small Hispanic nonulations are hest	11 A. Let me just quickly read it.
5	represented in mixed elections "	12 O. Sure.
1,2	Do you have any comment on those findings?	13 A. VAC.
1.2	A No. I more again I'm not questioning her	14 O Okay And you say that short and some other
1.5	A. NO. I weak, again, I w not questioning her	15 researchers, but we're talking about the Abott report
16	making a judgment	16 "identify dissimilarity index scores below .3 as
1,7	n. page 11 of your report also discusses a report	17 indicating low levels of segregation3 to .6 as
1.	c. raye is of your report also discusses a report	18 moderate levels of segregation, and .6 and above as
	There name the starts with an M	19 high levels of segregation. SRISD's dissimilarity
10	A Managinnik	
19		20 index score at the school level is .694 and .596 at
19 20 21	O. Magazinnik?	20 index score at the school level is .694 and .596 at 21 the enrollment zone level."
19 20 21 22	Q. Magazinnik? A. We both will make the same mistake.	20 index score at the school level is .694 and .596 at 21 the enrollment zone level." 22 Did I read that correctly?
19 20 21 22 22	Q. Magazinnik? A. we both will make the same mistake. Q. Okay. I would ask pana to mark, as Exhibit 7.	20 index score at the school level is .694 and .596 at 21 the enrollment zone level." 22 Did I read that correctly? 23 A. Yes.
19 20 21 22 23 24	 Q. Magazinnik? A. we both will make the same mistake. Q. Okay. I would ask Dana to mark, as Exhibit 7, a copy of the Abott and the name we can't pronounce 	 20 index score at the school level is .694 and .596 at 21 the enrollment zone level." 22 Did I read that correctly? 23 A. Yes. 24 Q. Okay. So with the current Spanish surname

20 (Pages 77-80)

·····	
77	79
2 properties around actual coming granch TSD 2021 based	T then you continue with the sentence.
3 election voters halow 6 percent would you agree that	And my question, on the front end, is what
A Spring Branch TSD is in the category that the authors	A A Tt it's sitis and southing and of source
5 identify as low on lating eligible voters and high on	5 mural districts and special districts
6 segregation?	6 0 T thought that might be what it moant but T
	7 wasn't positivo
8 0 Do you sares the conclusion in that case	
Q with the conclusion in that case in the case of	A. I approprize for the jargon.
10 Chring Branch that "reference such the corefully	9 Q. And then the next paragraph on this page, you
10 spring branch, that reformers bught to carefully	11 successful the research on spending and taxing among
12 this cat of advance conditions"?	12 governments with different modes of representation
	12 presumes that the higher levels of spending governments
15 A. I m not certain what they meant by carefully	13 in jurisdictions with single-member district
14 consider moving forward with conversion. What I would	14 representation is both inerticient and nonrepresentative
IS delleve you would want to be careful about is drawing	15 of the preferences of the full community."
to those districts to take into consideration the range of	16 Do you agree with that presumption?
17 concentration of Hispanic voters.	17 A. The literature has always yes, I I think
18 I think you would not necessarily be	18 the characterization of the literature has been that
19 cautious about making the conversion. I would be	19 Single and at-large differ because of this what we call
20 careful about how to make that conversion and be more	20 pork barrel spending hypothesis. I don't agree with
21 careful about drawing those districts.	21 that being true, but I think the literature has been
22 Q. Turning to Page 12 of your report, Section 9 of	22 dominated by that working hypothesis.
23 your report deals with "The taxing and spending policies	23 Q. And when you say "pork barrel spending," that
24 of governments with at-large and single-member district	24 would be for single-member districts, correct?
25 representation " correct?	125 A That is correct.
78	80
78 1 A. Yes.	80 1 Q. Okay. Page 14 of your report. And I note that
78 1 A. Yes. 2 Q. Do you how are Spring Branch ISD's Title I	80 1 Q. Okay. Page 14 of your report. And I note that 2 your report is only 15 pages long; so we're doing great.
78 1 A. Yes. 2 Q. Do you how are Spring Branch ISD's Title I 3 funds affected by its having an at-large system?	80 1 Q. Okay. Page 14 of your report. And I note that 2 your report is only 15 pages long; so we're doing great. 3 The first full paragraph begins with
78 1 A. Yes. 2 Q. Do you how are Spring Branch ISD'S Title I 3 funds affected by its having an at-large system? 4 A. I don't know.	80 1 Q. Okay. Page 14 of your report. And I note that 2 your report is only 15 pages long; so we're doing great. 3 The first full paragraph begins with 4 "A great number of minority school board members," and
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21 (Pages 81-84)

<u> </u>		-	
1	Lating representation how that corresponds with the	1	83
5	available nool in the state?	,	were you aware of that?
2	A No T do not	2	A. Yes, I was aware of the Harris of HISD, in
	A. NO, I do NOL.		particular, and I've known about Cypress-Fairbanks.
	Q. All Fight. I just have a few follow-up	4	And I should reveal to you that I have worked for
2	questions, not from your report. We are now finished.	2	Cypress-Fairbanks before, both on bond elections and
6	Are you aware of the increase in	0	redistricting.
1	partisanship playing a role in school board elections?	1	Q. And then the next two paragraphs, of the
8	A. I am aware of news coverage of that, yes, and	8	press release, have statements from the Republican Party
9	I am aware of anecdotes like our I mean, I've read	9	Chairman Matt Rinaldi and the Republican Vice Chair
10	accounts of that in the news, yes.	10	Cat Parks.
11	Q. SO I'd like Dana to mark, as Exhibit 8, our	11	Are you aware of the statements that these
12	final exhibit, which is a Press Release from the	12	two leaders of the Republican Party of Texas have made
13	Republican Party of Texas.	13	regarding school board elections?
14	A. I've seen it. Yes, I know I've got it right	14	A. Not until I read this press release, no.
15	here.	15	Q. Are you familiar with the Chris Earnest
16	(Exhibit 8 identified.)	16	election for the Spring Branch board?
17	Q. First of all, before I before I showed this	17	A. No, I'm not, I mean, other than what I've done
18	to you, were you familiar with this press release?	18	in my report. I mean, he's he's a data point, yes,
19	A. No, no. I just read news accounts.	19	but I no, I don't know anything about the campaign.
20	Q. Okay. And this is a	20	Q. Okay. So you're not aware, one way or the
21	A. The press I don't I've not seen the	21	other, whether the partisanship, that was expressed
22	press release before, no.	22	by the GOP in the press release, played a role in the
23	Q. Great. So this is a press release from the	23	election of Mr. Earnest?
24	Republican Party of Texas, dated December 6, 2021. And	24	A. No, I am not aware of that.
25	the first paragraph of the press release reads, "As part	25	MR. CRAWFORD: Dr. Stein, I think that's
	82		84
1	of a growing commitment to advance conservative	1	all I have today. I really appreciate your time.
2	principles on a local level, the Republican Party of	2	THE WITNESS: Thank you so much. It was a
3	Texas, RPT, announced Monday an initiative to play a	3	pleasure. I hope I didn't talk too fast, Ms. Taylor.
4	greater role in nonpartisan races and ballot	4	MR. CRAWFORD: You were wonderful.
5	propositions. As part of this initiative, the RPT	5	MR. ABRAMS: Plaintiff will reserve its
6	announced the creation of a Local Government Committee	6	questions until later.
7	composed of RPT Executive Committee members and local	7	(Per the Federal Rules of Civil Procedure,
8	GOP leaders. The committee will assist county parties	8	signature was requested by the deponent
9	in electing conservative candidates in often-overlooked	9	or a party before the deposition was
10	school board and municipal elections."	10	completed.)
11	were you aware that the Republican Party of	11	(End of proceedings at 11:31.)
12	Texas was has this new commitment and new initiative?	12	
13	A. I had read about it in the newspapers, yes.	13	
14	Q, And the next sentence of the press release	14	
15	notes that "The Texas GOP has celebrated major successes	15	
16	in recent nonpartisan races."	16	
17	Is that a true statement, to your	17	
18	know]edge?	18	
19	A. I I don't know that to be true, but I think	19	
20	it the short answer is I don't know if it's true.	20	
21	I don't know.	21	
22	Q. And part of what of the successes they list	22	
23	in the press release is that "GOP-supported challengers	23	
23 24	in the press release is that "GOP-supported challengers unseated three long-time incumbents in Cypress-Fairbanks	23 24	

Case 4:21-cv-01997 Document 43-2 Filed on 04/20/22 in TXSD Page 23 of 25

22 (Pages 85-88)

85	87
1 WITNESS NAME: ROBERT M. STEIN, Ph.D.	1 IN THE UNITED STATES DISTRICT COURT
2 DATE OF DEPOSITION: FEBRUARY 9, 2022	FOR THE SOUTHERN DISTRICT OF TEXAS
3 CHANGES AND STONATURE	2 ROUSTON DIVISION
	S VIRGINIA ELIZONDO,
r PAGE/LINE CHANGE KEASON	4 Plaintiff,
3) Civil Action No.
6	5 v.) 4:21-cv-01997
7	
8	SCHOOL DISTRICT. CHRIS
9	7 GONZALEZ, PAM GOODSON,)
10	KAREN PECK, JOSEF D. KLAM,)
11	8 MINDA CAESAR, CHRIS EARNEST,)
12	J. CARTER BREED, IN THEIR) 9 official canacity as members)
	of the Board of Trustees of)
	10 Spring Branch ISD)
14)
15	11 Defendants.)
16	13 REPORTER'S CERTIFICATION
17	14 ORAL DEPOSITION
18	15 OF ROBERT N. STEIN, Ph.D.
19	16 FEBRUARY 9, 2022
20	17 (REPORTED REMOTELY)
	19 I, Dana A. Taylor, Certified Shorthand Reporter in
21	20 and for the State of Texas, hereby certify to the
22	21 following:
23	22 That the witness, ROBERT M. STEIN, Ph.D., was duly 23 sworn by the officer and that the transcript of the oral
24	24 deposition is a true record of the testimony given by
25	25 the witness;
86	88
86 1 I, ROBERT M. STEIN, Ph.D., have read the foregoing	88 1 That the deposition was submitted on
86 1 I, ROBERT M. STEIN, Ph.D., have read the foregoing 2 deposition and hereby affix my signature that same is	88 1 That the deposition was submitted on 2 March 1st, 2022, to the attorney for the
86 1 I, ROBERT M. STEIN, Ph.D., have read the foregoing 2 deposition and hereby affix my signature that same is 3 true and correct, except as noted above.	88 1 That the deposition was submitted on 2 March 1st, 2022, to the attorney for the 3 witness for examination, signature, and return to me by
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1	FOR THE PLAINTIFF:	
2	MR. MARTIN GOLANDO	
	THE LAW OFFICE OF MARTIN GOLANDO, PLLC	
3	405 North Saint Mary's Street, Suite 700	
	San Antonio, Texas 78205-2334	
4	210-892-8543	
	Time used: (0:00)	
5		
6	FOR THE DEFENDANTS:	1
7	MR. CHARLES J. CRAWFORD	1
	ABERNATHY, ROEDER, BOYD & HULLETT, P.C.	
8	1700 Redbud Boulevard, Suite 300	
	NcKinney, Texas 75069	
9	214-544-4000, 214-544-4040 Fax	
	ccrawfordGabernathy-law.com	
10	Time used: (1:58)	
11	That \$690.55 is the deposition officer's charges	
12	to the Defendants for preparing the original deposition	
13	transcript and any copies of exhibits;	
14	I further certify that I am neither counsel for,	
15	related to, nor employed by any of the parties or	ł
16	attorneys in the action in which this proceeding was	ł
17	taken, and further that I am not financially or	ł
18	otherwise interested in the outcome of this action.	L
19	Certified to by me this 1st day of March, 2022.	
20	· · · - •	T
21	/s/ Dana Taylor	ł
	DANA TAYLOR, TEXAS CSR 6048	L
22	Expiration Date: 04/30/23	
	STORMY JACKSON REPORTING	
23	FIT REGISTRATION NO. 610	
-	1518 Clear Creek Drive	
24	Allen, lexas /2002	
23	scormyrpreduciook.com	

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23 (Pages 89-89)



IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

VIRGINIA ELIZONDO,	
	§
Plaintiff,	§
	§
VS.	§
	§
SPRING BRANCH INDEPENDENT	§
SCHOOL DISTRICT, CHRIS	§
GONZALEZ, PAM GOODSON, KAREN	§
PECK, JOSEF D. KLAM, MINDA	§
CAESAR, CHRIS EARNEST, J.	§
CARTER BREED, in their official	§
capacity as members of the Board of	§
Trustees of Spring Branch ISD	
	§
Defendants.	§

Civil Action No. 4:21-cv-01997

ORDER GRANTING SUMMARY JUDGMENT

The Court has considered Defendants Spring Branch Independent School District and the members of its Board of Trustees in their official capacities' Motion for Summary Judgment, any response and reply, the evidence and the pleadings on file.

The Court finds the motion has merit and GRANTS the motion in its entirety. It is, therefore, ORDERED that all causes of action asserted in Plaintiff's current live pleading [Dkt. 3] are hereby DISMISSED as a matter of law.

Signed on _____, 2022.

United States District Judge