

IN THE DISTRICT COURT OF WYANDOTTE COUNTY, KANSAS
CIVIL DEPARTMENT

FAITH RIVERA, et al,)
TOM ALONZO, et al,)
SUSAN FRICK, et al,)
 Plaintiffs,) Case No. 2022-CV-89
 v.)
SCOTT SCHWAB, et al,)
 Defendants.)

TRANSCRIPT OF PROCEEDINGS

PROCEEDINGS had before the HONORABLE BILL
KLAPPER, Judge of Division 6 of the District
Court of Wyandotte County, Kansas, on the 6th day
of April, 2022.

Volume II

APPEARANCES:

The Plaintiffs FAITH RIVERA, et al,
appeared by Henry J. Brewster, Attorney at Law,
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The Plaintiffs TOM ALONZO, et al, appeared
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The Defendants SCOTT SCHWAB and MICHAEL
ABBOTT appeared by Anthony Rupp & Clayton Kaiser,
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INDEX

WITNESS:

| | |
|---|-----|
| PATRICK MILLER | |
| Direct Examination by Mr. Brewster | 4 |
| Cross Examination by Mr. Kaiser | 58 |
| SHANNON PORTILLO | |
| Direct Examination by Ms. Brett | 105 |
| Plaintiff's demonstratives 4-8 admitted | 126 |

1 (On the record at 3:10 p.m.)

2 PATRICK MILLER,

3 having been first duly sworn,

4 was examined and testified as follows:

5 THE WITNESS: I do.

6 THE COURT: Back on the record in the same
7 case that we've been on the record in all along.
8 And we are now ready for the testimony of Patrick
9 Miller. I assume the Defense would probably like
10 to say something at this point.

11 MR. KAISER: The assumption is correct,
12 Your Honor. We would renew our earlier
13 objection under KSA 60-456, as well as certain
14 grounds of relevance, foundation, and speculative
15 with regard to Dr. Miller's testimony. And with
16 that said, we would just renew our earlier
17 motion.

18 THE COURT: Thank you. Hal, do you want
19 to respond to that in any way?

20 MR. BREWSTER: I believe Mr. Jones'
21 arguments from Monday are satisfactory, and we
22 adopt those all here.

23 THE COURT: All right. The Court finds
24 this a closer call, to be candid with you.
25 There's no doubt in my mind that Patrick is

1 certainly an expert in his field, and the
2 analysis that he has done here particularly as it
3 relates to Wyandotte County and I-70 being the
4 dividing line between those counties leads the
5 Court to believe that this is relevant testimony
6 to consider for the issue of certain racial
7 gerrymandering, perhaps partisan gerrymandering
8 as well. So the Court finds that the necessary
9 requirements that the testimony is based upon
10 sufficient facts or data, that it is a product of
11 reliable principles and methods, and reliably
12 applied to the principles, at least as results
13 from a review of his report. And Hal, if you
14 would ask to have him declared an expert if you
15 still want to after you actually lay foundation
16 for that.

17 MR. BREWSTER: Yes, sir.

18 THE COURT: Off we go.

19 DIRECT EXAMINATION

20 BY MR. BREWSTER:

21 Q. Good morning. Good afternoon. How are you?

22 A. Pretty good. How are you?

23 Q. Could you please state your name for the record?

24 A. Patrick Miller.

25 Q. And Dr. Miller, where are you employed?

1 A. I'm an Associate Professor of Political Science,
2 University of Kansas.

3 Q. Are you tenured?

4 A. Yes.

5 Q. Where do you live?

6 A. I live in Lawrence, Kansas.

7 Q. How long have you been on the faculty of KU?

8 A. Since August 2013.

9 Q. Given last night, I hate to ask this question,
10 but where did you do your graduate work?

11 A. I went to graduate school at the University of
12 North Carolina, Chapel Hill.

13 Q. And what did you study there?

14 A. Well, at UNC, I got my Masters Degree and
15 Doctorate in political science with specialties
16 in American politics and research methods. I
17 also earned a certification from the Odum
18 Institute.

19 Q. And since I skipped it, where did you go to
20 college?

21 A. The College of William & Mary in Virginia, where
22 I graduated with high honors.

23 Q. Did you develop any specific areas of expertise
24 as part of your academic training?

25 A. Yes.

1 Q. What would those be?

2 A. In my program, you generally picked an area of
3 study. Mine was American politics, so I had
4 broad training in that area. And it was
5 customary to have a second area in research
6 methods, which covered statistics and also
7 certain methodologies such as surveys and
8 experiments.

9 Q. Have you ever published a peer-reviewed article?

10 A. Yes.

11 Q. How many times?

12 A. I have published over 30 peer-reviewed
13 publications.

14 Q. How many times have you been cited by other
15 scholars in your field?

16 A. Roughly 1,000.

17 Q. Do you have any expertise in Kansas politics in
18 particular?

19 A. I do, yes.

20 Q. And can you describe those, please?

21 A. While I was at UNC, my Masters thesis was
22 actually on Kansas Republican primaries. This is
23 years before I ever thought I would end up in
24 Kansas. And I looked at the electoral dynamics
25 between moderate and conservative Republicans in

1 those primaries, looking at election results, for
2 example. After I came to KU, I certainly delved
3 into a study of Kansas politics, race,
4 partisanship, elections. I have published two
5 peer-reviewed publications on Kansas politics. I
6 am a Policy Fellow at the Docking Institute at
7 Fort Hays State University, where I'm also an
8 adjunct instructor in political science, where I
9 teach a course in Kansas politics.

10 Q. And have you ever been quoted in any media
11 sources about Kansas politics?

12 A. I have, yes. All the way from the BBC and other
13 international sources, New York Times, Washington
14 Post, down to our local small town Kansas
15 newspapers.

16 Q. What about race and its impacts on Kansas
17 politics? Are you expert in that as well?

18 A. I am, yes.

19 Q. And can you talk a little bit about why?

20 A. Sure. Well, given that I study American
21 politics, I think it's very hard to do that
22 without studying race. And race is a part of
23 everything that I publish, that I do, the data I
24 look at. And certainly when I examine and teach
25 about Kansas politics, race is a regular part of

1 that.

2 MR. BREWSTER: Your Honor, at this time,
3 Plaintiffs offer Dr. Patrick Miller as an expert
4 in the field of political science, the political
5 and racial geography of Kansas, and the history
6 of racial discrimination in Kansas.

7 THE COURT: Same objection?

8 MR. KAISER: Yes Your Honor.

9 THE COURT: All right. The Court finds
10 that he is an expert in those three fields and
11 should be allowed to testify about them.

12 MR. BREWSTER: Thank you, Your Honor. May
13 I proceed?

14 THE COURT: You may.

15 BY MR. BREWSTER:

16 Q. Dr. Miller, what were you asked do in this case
17 by the Plaintiffs?

18 A. I was asked to provide an analysis of the Kansas
19 congressional maps as they existed in the
20 previous decade from 2012 to 2020, and also as
21 they were adopted in the Adastra.

22 Q. And we'll talk a lot more about data as we go
23 along. But just briefly, what kind of data did
24 you gather and analyze in coming to the opinions
25 you offer in this case?

1 A. The bulk of the data that I used were US census
2 data, and also official election returns from the
3 state of Kansas. For various parts of my report,
4 such as talking about communities of interest, I
5 brought in data from local government or local
6 economic organizations as was necessary for my
7 analysis.

8 Q. As part of your analysis, did you examine Adastra
9 2 for adherence to the legislative committee's
10 redistricting guidelines?

11 A. I did, yes.

12 MR. BREWSTER: Your Honor, may I approach
13 the bench?

14 THE COURT: You may. Hal, please come and
15 go as you need to.

16 MR. BREWSTER: Yes, sir.

17 THE COURT: Unless Patrick objects at some
18 point.

19 MR. BREWSTER: Mr. Kaiser?

20 MR. KAISER: Yes.

21 MR. BREWSTER: I'm going to hand him his
22 report. It's unmarked. Is that --

23 MR. KAISER: No objection. Assuming --
24 no. Nothing.

25 THE COURT: All right. Is Tony trying to

1 confuse you?

2 MR. RUPP: I am. I always do that.

3 MR. BREWSTER: And Your Honor, I am the
4 technological kiss of death. Would you like an
5 analogue copy of the map I'm going to show, just
6 in case?

7 THE COURT: Thank you.

8 BY MR. BREWSTER:

9 Q. Okay. Dr. Miller, so let's talk about the
10 overall partisan makeup of the state of Kansas.
11 What is statewide partisan breakdown among Kansas
12 voters?

13 A. If we look at every statewide partisan election
14 from 2112 to 2020, which would be the life of
15 the most recent congressional map, we see that on
16 average, Republicans get 58% of the vote and
17 Democrats get 48% of the vote.

18 Q. What data did you use to arrive at that
19 conclusion?

20 A. Those were from additional election returns from
21 the state of Kansas.

22 MR. BREWSTER: All right. So Your Honor,
23 all of the maps we'll be using today are in PX
24 58, which is his report. We have separately
25 stamped each of them for ease of reference. They

1 are all in evidence at this point. So I'll be
2 displaying them if that's okay with you.

3 THE COURT: You certainly may publish
4 them. They've already been admitted into
5 evidence, and I think that's the same protocol,
6 Hal, you've been using with all your experts.

7 MR. BREWSTER: Yes, sir. Mitch, could we
8 get PX 61 and PX 62 side by side? Thank you.

9 BY MR. BREWSTER:

10 Q. Dr. Miller, first of all, what do these maps
11 show? Could you just orient the Court a little
12 bit to the maps here?

13 A. Sure. So on the left, this is map 3 from my
14 report. This is the two-party vote percentage by
15 precinct in the 2020 presidential election. So
16 the unit of geography that we are mapping is the
17 precinct. Of course, a red indicates a
18 Republican win for Donald Trump, a blue indicates
19 a Democratic win for Joe Biden in that race. The
20 darker the shading, then the stronger percentage
21 of win for the candidate in that party. The
22 areas in this map that are lighter indicate
23 precincts that were most closely divided, so
24 small Republican or Democratic win.

25 On the right, we see a map that takes that

1 two-party vote map and adjusts it for two things:
2 The first is acreage. So a precinct that is
3 smaller will contribute to the precinct standing
4 out more, being darker. The other is the raw
5 vote margin. So this is did a candidate win a
6 precinct by five votes, 50, or 500? So the
7 precincts that will be the darkest on this map
8 are the precincts that cover -- will be the
9 largest packed into smallest geographical space.
10 To give you an illustration of that, an example
11 of a very dark blue precinct might be one of our
12 majority minority precincts that we have here in
13 Wyandotte County. We have a number of precincts
14 that are 90% plus nonwhite, 90 plus percent
15 minority where Joe Biden won 85 or 90 percent of
16 the vote, sometimes by hundreds of votes. So
17 that darker blue will indicate the larger vote
18 margin packed into the smaller urban place.

19 Q. And why is the map on the left, PX 61, so red,
20 while the map on the right, PX 62, is not so red?

21 A. Well, on the left, we're simply seeing land. Not
22 necessarily anything that reflects the population
23 that's in that. To give you an illustration of
24 that, in Morton County, which is at the far
25 southwest corner of Kansas, there's a precinct

1 where Donald Trump won 100% of the vote, but only
2 eight people voted in that precinct. So it's a
3 margin of eight in a rather large geographical
4 space. So we see in the map on the right that
5 that precinct looks almost white, very light
6 shade of pink, it actually would be, to indicate
7 that it is a relatively small vote margin spread
8 out over a larger space.

9 Q. How has the political makeup of Kansas changed
10 over time, specifically within the last decade?

11 A. Sure. So we have had some changes in Kansas'
12 politics in the last decade. And it really
13 depends where you are geographically. In Kansas,
14 most of our rural communities have become more
15 Republican. In our urban communities,
16 particularly in the Johnson County area, we've
17 seen them becoming more Democratic. That's
18 really a reflection of realignments amongst
19 voters in the electorate, particularly education
20 lines amongst whites.

21 Q. So where would you say Democrats' voting base can
22 be found in Kansas?

23 A. In Kansas, Democratic voters are generally found
24 in suburban and urban areas, whereas Republican
25 voters are generally found in larger

1 concentrations in our ex-urban and rural
2 communities.

3 Q. Let's look at map one of your report, which is on
4 page 8, PX 59. Dr. Miller, can you walk the
5 Court through what this map is depicting?

6 A. Sure. So this is the -- this is mapping the
7 county-level election results in every Kansas
8 gubernatorial election from 2002 to 2018.
9 Obviously, blue is indicating a Democratic win,
10 red a Republican win, and in 2002, we had two
11 counties that were high. In the 2002 race, which
12 is Kathleen Sebelius' first victory in Kansas
13 governorship, we see that -- I believe she won
14 about 52% of the vote. And she assembled a
15 coalition that included large swaths of rural
16 Kansas and some of our urban areas. Sedgwick
17 County, for example, but not Johnson County.
18 Over time, we can see the blue concentrating more
19 in our larger populations, higher population
20 density counties, the red spreading out more
21 towards rural Kansas. That culminates in 2018,
22 where we have Kelly winning the Governorship but
23 winning relatively few counties. She is winning
24 the large population urban towns, whereas the
25 rural Kansas, most counties are actually voting

1 Republican.

2 Q. So just to make sure I understand this right,
3 2002 and 2006. Is this working? Let's see. I
4 told you I had the kiss of death. All right.
5 We're not going to try that. Try again? Nope.
6 Okay. Just to understand this, 2002 and 2006
7 represent Democratic statewide coalitions --
8 winning coalitions. Correct?

9 A. Correct.

10 Q. And 2018 is the same thing. It just looks a
11 little bit different these days.

12 A. Yes.

13 Q. Okay. Focussing for a moment on CD3
14 specifically, how did the partisan composition of
15 CD3 change over the last decade?

16 A. Sure. I have statistics on that in my report.

17 Q. You want to look at page 37?

18 A. I'm not sure it's on page 37.

19 Q. It's not?

20 A. No. I'll find it.

21 Q. Should be the end of the first paragraph of 37.

22 A. Oh. I was looking more at the table. 37.

23 Right. So Congressional District 3 is an
24 interesting district. So given that I was asked
25 to analyze the maps, it made sense to look at the

1 district over the course of the map from 2012 to
2 2020, which led me to then look at all 16 of the
3 statewide partisan races during that decade. In
4 Congressional District 3, which I believe is what
5 you were asking about, we see that over the
6 course of the last decade, the 3rd District had a
7 49.1% average Republican performance and a 48.1%
8 average Democratic performance. So on average,
9 it's one-point Republican advantage in that
10 district. I think we're all aware that Johnson
11 County in particular has changed. And so if we
12 look at the first part of the decade, which I
13 dichotomize as 2012 to 2016, we see what rounds
14 to essentially a 52 to 45% Republican advantage
15 in the district. But in the two most recent
16 elections, in 2018 and 2020, that flips over to
17 rounding again, a 52 to 45% Democratic advantage
18 in the district. So it has gotten bluer over the
19 course of the decade, even though on balance,
20 there was a slight Republican advantage in the
21 district over the course of a decade.

22 Q. Switching gears, Professor, I want to talk a
23 little bit about race in Kansas. On page 13 of
24 your report, you say, quote, race is a
25 foundational element of Kansas politics. What do

1 you mean by that?

2 A. By that I simply mean that race is central. It
3 is important, and it has been so since the
4 territorial days of Kansas. Anyone who is
5 familiar with the history of our state would be
6 aware of why we were settled, bleeding Kansas,
7 Quantrill's raid. But I think it's also
8 important to recognize that even after statehood,
9 we have a long history in our state of racial
10 discrimination, unfortunately, much of that
11 state-sanctioned discrimination, and much of it
12 carved in specifically at Wyandotte County. To
13 me, that simply means there's an important
14 history there that can help us understand
15 politics today in a greater context.

16 Q. At a high level, how has the racial composition
17 of Kansas changed over the last 10 years?

18 A. So in the 2020 census, Kansas is roughly 25%
19 minority. So when I say minority, I'm saying
20 anyone in a racial or ethnic minority group,
21 Hispanic, African American, Asian American, or
22 Native American. In the last decade, we actually
23 saw in the census, regarding the 2010 census to
24 the 2020 census, a decline of, I believe, about
25 100,000 persons in Kansas who identified as

1 non-Hispanic white. Yet during that decade, our
2 population as a state actually grew by about 3%,
3 which tells us that the growth we've had in the
4 last decade is really due to our minority
5 population.

6 Q. And just to further quantify those figures, the
7 100,000 -- that's roughly equivalent to 4.3%.
8 Correct?

9 A. Yes. I believe that figure is in my report.
10 Yes.

11 Q. And what was the overall growth rate of Kansas
12 from 2010 to 2020?

13 A. It was a 3% growth rate.

14 Q. Is it safe to say, Professor, that the entirety
15 of the growth of Kansas' population has come from
16 its racial minorities over the last 10 years?

17 A. Yes. I think that would be a reasonable
18 conclusion. Also, we've seen reflected in media
19 coverage of that.

20 Q. Can we pull up PX 63, please, which is map 5 of
21 your report on page 14. Dr. Miller, looking at
22 this report, can you describe where racial --
23 where Kansas' racial minority populations are
24 located?

25 A. Sure. So in this map, we are looking at the

1 minority population percentage by VTD, which we
2 can make up again as precinct, and this is in the
3 2020 census. Here, minority population is a
4 reflection of the African American, plus the
5 Hispanic, plus Native American, plus Asian
6 population. The darker the shade of green, the
7 higher the percentage minority population in the
8 VTD. And so there are certain patterns here that
9 stand out. We certainly have concentrations of
10 diversity in our urban areas, Wyandotte County,
11 Johnson County, Topeka, Lawrence, Wichita,
12 Manhattan, all evident. We can see some of our
13 Native American reservations stand out in the
14 Jackson County area. The Potawatomi Prairie
15 Band's reservation is pretty clear on the map.
16 We also have in southwest Kansas a pocket of
17 diversity that really is due to our Hispanic
18 population, which in that region leans more
19 towards recent immigrants. Pretty low electoral
20 participation. But there is that pocket of
21 diversity there.

22 Q. And I want to now turn to the history that you
23 mentioned a little bit earlier about racial
24 violence in Kansas, and I want to focus
25 specifically on Wyandotte County. I want to ask

1 you about the work of Professor Brent Campney
2 that you cite in your report. Can you very
3 briefly talk about what Professor Campney -- his
4 studies show?

5 A. Sure. So Professor Campney -- he is a history
6 professor, I believe, in Texas who did his
7 graduate work at KU before I got there. And his
8 research was really looking at the history of
9 racial violence in the state. And he looked at
10 that, I believe, from about 1861 to I think the
11 late 1920s. And what he did is he looked at
12 historical newspaper reports from the era, which
13 I would just say -- and he has a lot of
14 quotations from these articles, and these
15 articles are often very explicit in a way that
16 might be shocking to us in 2022. Very explicit
17 about the role of race in violent actions, in
18 mobbings and lynchings. And so he looked at
19 those articles, and he found approximately 250
20 cases of racially-motivated violence including, I
21 think, about 20 here in Wyandotte County, where
22 they seemed to focus in this county around
23 reinforcing residential segregation.

24 Q. And just to -- not to belabor this point, but in
25 your report, I found this fascinating. In

1 Wyandotte County alone, Professor Campney showed
2 20 -- 19 lynchings? Is that correct?

3 A. I'm not sure it was 19 lynchings. To my
4 recollection, it was possibly -- those were the
5 number of incidents in the county. I believe
6 statewide, there were something like 19
7 lynchings.

8 Q. Thank you for the correction. Sorry about that.
9 And I want to pull up PX 104 Mitch, please.
10 Before we jump into this map, could you please
11 describe for the Court what HOLC stands for?

12 A. That is the Homeowners Loan Corporation.

13 Q. And what does HOLC do? What did it do?

14 A. HOLC was a new deal Federal agency that was
15 charged with expanding homeownership and
16 stabilizing homeownership in the 1930s. It felt
17 that the best way to do this in the context of
18 the time was to map American cities and give
19 sections of the cities grades, A, B, C, and D. A
20 D grade, they deemed as hazardous, and these were
21 areas where they recommended that lenders not
22 give out mortgages, or to do so very, very
23 judiciously. In their ratings, they factored in
24 race explicitly, the appearance of property, sale
25 values, and so we generally see that if there is

1 a community that they identify there was a
2 presence of African Americans or Hispanics, it
3 was given a D grade.

4 Q. And just because this map is old and a little bit
5 difficult, I just want to trace -- is this the
6 Kansas, Missouri border here?

7 A. It is, yes.

8 Q. And this would be then the Kansas River here?

9 A. Yes.

10 Q. Okay. So here, right where I'm indicating on PX
11 104 would be Wyandotte County, essentially.
12 Correct?

13 A. Yes, that's correct.

14 Q. Okay. And where does I-70 currently run? Do you
15 know?

16 A. I do.

17 Q. And I'm going to trace, because I also know. Is
18 it right here?

19 A. Yes. So once you get past Armourdale, it's a
20 little bit further north of there, but you got it
21 right.

22 Q. I got it basically right? Great. So just to be
23 clear, so the record is clear, basically I'm
24 tracing right between all the red lines that HOLC
25 drew out in Wyandotte County. Correct?

1 A. Yes. So what eventually became the line that
2 Interstate 70 takes does bisect those red
3 neighborhoods, which are -- have a minority
4 presence.

5 Q. And I don't want to belabor this point. You
6 brought up Armourdale. So these reds are the D
7 grades. Is that right?

8 A. Yes.

9 Q. Okay. And I just want to read really quickly
10 table three on page 19. It says Armourdale, D7,
11 40% black. Right? Are you on page 19? I'm
12 sorry. I went a little fast.

13 A. Sorry. Thought it might be on the screen. All
14 right. I'm on page 19 now.

15 Q. So if you look at D7.

16 A. Yes.

17 Q. And that 40. What does that 40 represent?

18 A. The 40 represents the estimate of the HOLC
19 graders as to what the black population in the
20 neighborhood was.

21 Q. And then that is correspondence to Armourdale.
22 Correct?

23 A. We're looking at -- what was the section again?

24 Q. D7.

25 A. D7? Yes. So I indicate that as along the Kansas

1 River, north of Armourdale.

2 Q. And then looking down at, say, D12, which is
3 Argentine --

4 A. Yes.

5 Q. That's 25% black. Correct?

6 A. Yes, that's correct.

7 Q. What does it say -- first of all, what do the
8 quotations in this table mean?

9 A. So when HOLC graded these neighborhoods, they
10 graded -- call them report cards or different
11 names in history, and these were provided to
12 banks and other lenders so that they would know
13 which neighborhoods not to loan to. And this
14 eventually actually gave us the term redlining.
15 And so what I pulled out here is the mapping
16 inequality database at the University of Richmond
17 actually has digitized a lot of this, and so you
18 can see the pictures of their reports. So that's
19 where I got, looking at the report, the
20 percentage of black that they noted and also
21 certain quotations from that.

22 Q. And so if it's in quotations in table 3, it's
23 directly from newspaper articles or HOLC itself?

24 A. From HOLC itself. If it's a quotation in table
25 3, then that is a direct quotation from the

1 Federal government's rating.

2 Q. And so do you recognize Argentine and Armourdale
3 as some of the neighborhoods that are split
4 by Adastra 2?

5 A. Yes. That has been something that's recorded.
6 Yes.

7 Q. Okay. Great. Thank you. You can take that
8 down, Mitch. Thank you so much. Turning briefly
9 to education segregation, what can you tell about
10 educational segregation, specifically in
11 Wyandotte?

12 A. Sure. So in the 1800s, the legislature waffled
13 on this a bit. We had at first outlawed
14 segregation. Then when we had an influx of
15 African Americans into the state after the Civil
16 War, the legislature, in reaction to that,
17 legalized racial segregation, I believe in
18 elementary schools and cities of the first class,
19 which I believe was cities of populations over
20 15,000 from my report.

21 So in Wyandotte County, elementary
22 education was segregated by 1890. High school
23 education was not particularly widespread at that
24 point in time. In 1904, there was an incident of
25 racial violence at a high school here in

1 Wyandotte County. In response to that, in 1905,
2 the legislature passed a bill signed by the
3 Governor at the time which specifically provided
4 for the segregation of high school education in
5 Wyandotte only. And then once that legislation
6 was passed, high school education here was
7 immediately segregated.

8 Q. Let's turn to the maps at issue here at this
9 case. So let's take a look at the 2012 map,
10 which is PX 66. And I'm putting -- PX 66
11 actually encompasses both, so that's good -- the
12 2012 map and the Adastra 2 map. So starting with
13 the top part of PX 66, what would you describe
14 the partisan composition of Districts 2 and 3 in
15 this map?

16 A. Just to be clear, in the 2012 map.

17 Q. Yes, sir.

18 A. So let me refer back to my table so I can
19 actually put some data on that for you.

20 Q. I think you might be looking for -- is it table 4
21 on page 27?

22 A. I believe so, but I lost -- seem to have
23 misplaced 27. Apologize for taking your time up
24 here.

25 THE COURT: If you don't mind, Patrick, I

1 have two copies of this. Counsel provided me
2 one, so use that one if no one has any objection
3 to that.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: You're welcome.

6 THE WITNESS: Just so I can bring my data
7 into this, looking at Congressional District 3,
8 as I said, in the 2012 plan, this is a district
9 that, over the course of a decade, have an
10 average Republican performance of 41.1% and
11 average Democrat performance of 48.1%, so a very
12 closely divided district that, as noted, became
13 bluer over the course of the decade.

14 The 2nd District is a district with a more
15 pronounced Republican advantage. Over the course
16 of the decade, this was -- if we round a 55% to
17 42% Republican advantage in the district. And in
18 this district, we don't have much of a pronounced
19 shift over the course of time. It's relatively
20 stable in its partisanship.

21 Q. Sticking with the 2012 map, what communities of
22 interest do you feel are reflected in the 2012
23 map?

24 A. Sure. So if we look at the Kansas City area, for
25 example, in the third district, we certainly have

1 a district that, because it takes in the entirety
2 of wyandotte and Johnson Counties, it is
3 preserving that core of the Kansas City metro
4 area on the Kansas side and all of the ways those
5 two communities are interrelated.

6 The 3rd District is also keeping intact
7 the pockets of diversity that we have in
8 wyandotte and Johnson County. For example, in
9 the most recent census, there are about as many
10 Hispanics in wyandotte as there are in Johnson.
11 And so we see them unified in one common district
12 here. Moving west, the second district is
13 generally an eastern Kansas district with
14 northeastern Kansas and southeastern Kansas. It
15 unifies Lawrence and Topeka. It also unifies the
16 four Native American reservations with, I would
17 also note, Haskell Indian Nations University in
18 Lawrence. So keeping those pockets of Native
19 American population together.

20 The 4th District, the core of that is
21 generally the Wichita metro area, though it does
22 fan out into some more rural counties with a
23 population generally under 10,000. And then the
24 1st District is generally a more rural district.
25 Manhattan is its largest city. And it's worth

1 noting it keeps the Manhattan metro area intact,
2 but it is generally a district that serves the
3 more rural communities of western and central
4 Kansas.

5 Q. So sticking now with the 2012 map which you've
6 just used as a baseline, let's talk a little bit
7 about what the legislature did in creating the
8 map at the bottom. Okay?

9 A. Okay.

10 Q. So Mitch, can we bring up PX 58, page 28, table
11 6? Okay. And I'm going to stand over here so
12 you can know what to highlight. But Mitch, can
13 you highlight this row here? And this row here.
14 Dr. Miller, what does table 6 from your report
15 tell the court?

16 A. Sure. So what I did in this is I used 2020
17 census data, and I grouped it by different racial
18 categories. So the white percentage is the
19 non-Hispanic white alone percentage in the
20 district, and then, of course, we have our
21 representation of the minority populations in the
22 district. And we see in this table that under
23 the 2012 plan, the 3rd District was actually the
24 most racially diverse district in Kansas, in the
25 sense that it had the lowest non-Hispanic white

1 alone populations, and then we see in the Adastra
2 2 plan, looking again at the same census data, it
3 becomes whiter, and in fact, it becomes the least
4 racially diverse district in Kansas. So I
5 believe what I say in my report is the change to
6 the district in the Adastra 2 plan really just
7 whitewashes the district.

8 Q. So just to make sure we understand, because this
9 is little counterintuitive, the lower the number
10 in the first column, the more diverse the
11 district.

12 A. Yes. Just because that first column is the
13 non-Hispanic white alone population.

14 Q. Okay. So what did -- you said it becomes from
15 the most to least, but what specifically
16 percentage-wise did they do?

17 A. So in the 2012 plan, the 3rd District ended the
18 decade at 67.6% non-Hispanic white alone. So
19 math in my head, that is 32.4%, I believe,
20 minority. And then in the Adastra 2 plan, that
21 shoots up 75% white. They're increasing that
22 white population 7.4%, to the point where the
23 district is now just 25% minority.

24 Q. Dr. Miller, so CD3, if I'm reading this
25 correctly, under the old plan, has a similar

1 proportion of minorities to CD2 in the new plan.
2 Is that right?

3 A. That would be correct. CD3 in the old plan was
4 67.6%, and CD2 in the new plan is 69.8%.

5 Q. So given that data -- you were here for opening
6 statements yesterday. Right?

7 A. I was, yes.

8 Q. And I heard them say something to the effect of
9 same, same. Same percentage. What's your
10 reaction to that?

11 A. My reaction is that that's only part of the
12 story. So this is an awesome and necessary piece
13 of data to have, but it really lacks the context
14 that shows us what is happening in that 2nd
15 District even though it becomes more racially
16 diverse. So what we see, really, if we examine
17 the plan is that we have this disproportionately
18 minority section of northern Wyandotte, and if
19 that northern section of Wyandotte is removed,
20 113,000 people -- it is two-thirds of the county
21 population, and it's 71% minority. In contrast
22 to that southern part that's preserved in the 3rd
23 District, which I believe is about 52% white --
24 majority white. So this disproportionately
25 minority section of Wyandotte County in the north

1 is removed from the 3rd, it's put in the 2nd,
2 which does make the 2nd more racially diverse,
3 but the district actually gets more Republican in
4 the remath. And in fact, the district is so
5 Republican as a district, I'm very comfortable
6 characterizing it safely Republican and one where
7 those minority Kansans in northern Wyandotte
8 County -- they border on electoral irrelevance in
9 the district.

10 Q. Now, I want to get a little bit of statistics.
11 This is not a memory test. So if you could refer
12 to page 34, I'm going to be asking some questions
13 about the data there. With regard to the part of
14 Wyandotte County that was removed from CD3 and
15 placed in CD2, what was the racial composition of
16 that part of the county?

17 A. So again, referring back to my report, that
18 northern part of the county was, if we round, 29%
19 white, so would then it would be be 71% minority.

20 Q. And what about the parts of southern Johnson
21 County that stay in Bluestem, are removed from
22 CD3? What's the racial composition of that part
23 of Johnson County?

24 A. I'm not sure that's a statistic I precisely
25 calculated, but if we do look in the report -- so

1 for example, at what I would see as map 16 or map
2 17 that show that racial diversity in Johnson
3 County, those are generally quite white, mostly
4 majority white areas.

5 Q. After adding or after moving these -- the
6 northern portion of Wyandotte out of CD3, who was
7 moved into CD3 by the legislature?

8 A. The legislature then moved in the entirety of
9 Miami County, which had been partially in the
10 district before, as well as Franklin and Anderson
11 Counties. And those three counties are -- I
12 believe in looking at the report, each of them is
13 roughly about, I believe, 90 -- 90% white. So
14 very white counties were moved in, while a very
15 minority-heavy section of Wyandotte was removed.

16 Q. In fact, just to emphasize these numbers, they
17 moved out a 71% minority portion of Wyandotte.
18 Right?

19 A. Correct.

20 Q. And they moved in, in the case of Anderson
21 County, a 93% white county. Is that right?

22 A. That's correct.

23 Q. Okay. And you sort of articulated where we're
24 going, but -- can I see PX 74 and 76 side by
25 side, please? So these are maps 16 and 18 from

1 your report on page 34 and 36. Could you just
2 tell the Court what these show briefly, as
3 between the 2012 plan and the Adastra 2 plan?

4 A. Sure. So on the left, in map 16, we have the 3rd
5 District as it existed in the 2012 plan, and we
6 can see, obviously, Wyandotte County as a
7 majority minority county. We have diversity in
8 the county. We also have a fair amount of
9 diversity in Johnson County. Certainly
10 especially with regard to African Americans in
11 certain parts of the county inside 435, but also
12 Hispanics and Asians in the county as well. And
13 we see that in the 2012 plan, that diversity in
14 the Kansas City metro is unified into one
15 district. What we see over on map 18 -- this is
16 focussing in on Wyandotte. The black line is
17 the -- in the Adastra 2 plan, it is the new
18 district line between --

19 Q. This line here?

20 A. Yes. District 2 on the north and District 3 on
21 the bottom. Again, this roughly follows
22 Interstate 70, which -- in my report, I talk
23 about the racial significance of that and the
24 Kansas River. So what we're seeing here is that
25 -- two things. So I think we've established

1 already that that northern part that is removed
2 is disproportionately minority, 71% minority,
3 whereas the part on the south that is kept in the
4 district is actually majority white, so it is
5 cracking the county along racial lines in that
6 regard. But we also see that it is dividing
7 minority-heavy communities from each other. And
8 that southern part, even though it is majority
9 white, we do have some pockets of diversity that
10 now find themselves separated, looking at those
11 areas in the southeastern part of the county.
12 Rosedale, for example, or Argentine. They are
13 now separated from the northern part of the
14 county that is more racially diverse.

15 Q. Thank you, Professor. And so switching now,
16 staying with CD3 but switching from race to
17 partisanship, can I get PX 77 and 79? These are
18 maps 19 and 21 respectively from Dr. Miller's
19 report. And so Dr. Miller, sort of similar maps,
20 but what are we seeing here instead? Different
21 colors, right?

22 A. Yes. So just to establish what we're looking at,
23 this is a similar map to what I talked about when
24 we adjusted that traditional red, blue map for
25 acreage and vote margin. So what we're seeing in

1 both maps is a reflection of the precincts in the
2 3rd District in the 2020 presidential election.
3 Again, blue being a Democratic win, red being a
4 Republican win. The darker the shade, the larger
5 the margin in a smaller geographical area. As I
6 talk about in the report, race and partisanship
7 go hand in hand. I think it's very suspect to
8 talk about them as different constructs, in fact.
9 Especially when comes to our minority Kansans and
10 how they vote. So it's no surprise that we see
11 an overlap, especially in Wyandotte, between
12 where the minority residents live and where
13 Democrats are doing better. That's where we find
14 those 90% minority precincts that are giving Joe
15 Biden 85 to 90% of the vote. And so on the left,
16 we see that Democratic-performing precincts which
17 again, in Wyandotte, will generally be more
18 diverse, are merged with Johnson County, where we
19 do see a pocket of Democratic strength,
20 particularly in and around 435.

21 On the right, this is the Adastra 2 plan.
22 And we can see in Wyandotte County again that new
23 district line generally along Interstate 70 and
24 the Kansas River that is taking out of the 3rd
25 District that majority minority section that is

1 also more Democratic-performing.

2 Q. Let's take those down, Mitch. And this will be
3 the last District 3 maps I show. Two more. Can
4 I get PX 71 and PX 77 side by side? So these are
5 a little bit different. Right, Professor?

6 A. Yes, they are.

7 Q. Okay. So can you tell me what this arrow is over
8 here?

9 A. Yes. So the arrow is orienting us towards the
10 north. What we're looking at here, just to
11 expand on that, is really the 3rd District area
12 that eastern Kansas, Kansas City metro -- we're
13 looking at it from the northwest. Just imagine
14 you're flying in from Denver.

15 Q. Excellent. So the black lines here represent
16 what?

17 A. Oh, those are the district lines. On the left,
18 the black lines are the district lines in the
19 2012 plan.

20 Q. And the gold lines over here?

21 A. Over here in gold are the district lines in the
22 Adastra 2 plan.

23 Q. Okay. What are the funny-looking purple things?

24 A. So what we are mapping here -- what I'm mapping
25 here is at the census tract level in the 2020

1 census, we're mapping population density. So the
2 taller the bar or sky scraper, whatever you'd
3 like to use, the taller the bar, the more densely
4 populated the census tracks. So what we see is
5 in the 2012 plan, we have that area of densely
6 populated census tracks in Wyandotte and Johnson
7 that are unified in the 3rd District, of course,
8 with a more sparsely-populated area in Miami
9 County that needed to be added to reach the
10 population target.

11 On the right, we see that if we look at
12 Wyandotte and Johnson Counties, the district line
13 is now cutting through the heart of that
14 densely-populated area in Wyandotte, again, along
15 Interstate 70 and the Kansas River.

16 Q. Thank you, Professor.

17 A. I also like to add that it's bringing the 3rd
18 District down to the south and the southwest into
19 three counties that are far less densely
20 populated.

21 Q. You say in your report that this split we've been
22 talking about to Wyandotte reduces it to, quote,
23 practical electoral irrelevance. What do you
24 mean by that?

25 A. What I'm referring to is what's really happening

1 to those minority Kansans in the northern section
2 of Wyandotte County that find themselves cracked
3 from the remainder of the county, taken out of
4 the 3rd District, and now subsumed in the 2nd.
5 As I've already discussed, adding them to the 2nd
6 District does, in fact, make the 2nd District
7 more diverse. But that district is, in fact, so
8 Republican-leaning that I think we could fairly
9 characterize it as a pretty safely Republican
10 district. It is a district where these
11 Democratic-leaning minority voters really don't
12 have much of a credible chance to impact
13 congressional elections.

14 Q. And we've heard this said by the Defense counsel
15 a couple times, but you would agree that after
16 the 2020 census, due to population growth,
17 Wyandotte and Johnson together are too large for
18 one congressional district. Right?

19 A. That's correct.

20 Q. Okay. By how many people?

21 A. If we were to say that we wanted to build a
22 district that was just Wyandotte and Johnson, I
23 believe they would have been about 45,000 people
24 over the population target.

25 Q. 45,000. And just as a quick reminder, how many

1 people does Adastr 2 remove from Wyandotte?

2 A. It removes about 113,000 in the northern part of
3 the county, while adding in about 55,000 in those
4 three counties to the south and southwest.

5 Q. So is it the case that Wyandotte and Johnson
6 Counties could have been kept together in a
7 single district by removing about 45,000 people
8 from either Wyandotte or Johnson County?

9 A. Yes.

10 Q. Had the legislature attempted to adhere to the
11 legislative redistricting criteria, how would you
12 have expected CD3 to be configured?

13 A. Well, thinking about the criteria, the different
14 criteria, particularly what would constitute a
15 compact district, also, the directive to not have
16 the effect of diluting minority voters and also
17 communities of interest in the counties, I think
18 the most logical approach would have been to keep
19 Wyandotte County whole and then to take that
20 excess population, the extra 45,000 from Johnson.
21 So I would have expected a more compact 3rd
22 District that contracts in from its lines in the
23 previous decade only in Wyandotte and Johnson,
24 and really preserving that minority voting
25 strength in the county as well, as well as the

1 community -- minority voting share in the
2 district, as well as the community of interest
3 that unites both of those counties.

4 Q. And what if the legislature had attempted to
5 adhere to the redistricting criteria and also
6 keep Johnson County whole instead of Wyandotte?
7 How would that -- if that was the criteria, how
8 would you have expected CD3 to be configured in
9 that arrangement?

10 A. So just to make sure I'm understanding, you're
11 saying adhere to the guidelines, but keep Johnson
12 County intact. Don't cut Johnson County.

13 Q. Yes, sir.

14 A. Well, if that is what the legislature had chosen
15 to do, then thinking again about community of
16 interest, it would have been logical to bring the
17 district up into Wyandotte County. But then we
18 still have to remove 45,000 people. And I think
19 at that point, you have to think about how
20 destructive that split is. If you remove 45,000
21 people from Wyandotte County, you're removing 26%
22 of the county's population. So one in every four
23 Wyandotte residents. If you remove that 45,000,
24 conversely, from Johnson County, which for the
25 sake of this question, we're keeping whole,

1 that's only 7% of the county's population.

2 Q. So is this what you mean in your report on page
3 31 when you talk about a, quote, less destructive
4 split?

5 A. Yes. That's one element of it, in terms of the
6 absolute percentage of the county's population
7 that's been removed. But I would also add to
8 that that if we are taking that -- again, if
9 we're approaching this and saying keep Johnson
10 and Wyandotte whole and remove from one, if we're
11 removing that 45,000 from Wyandotte, because of
12 the diversity of the county and also just the
13 terrain of the county -- we're talking about
14 removing a more diverse, a more minority-heavy
15 45,000 that is more urban. Conversely, if we
16 were to say let's take that 45,000 from Johnson
17 anywhere on the borders, western or southern,
18 we're going to be talking about a more heavily
19 white rural part of the county.

20 Q. Putting party and race aside for just a moment,
21 what are the communities of interest that exist
22 between Wyandotte and Johnson Counties?

23 A. Sure. And I go at some length in my report to
24 talk about that. I think first, we should look
25 at what is unifying the counties as a whole. And

1 in this case, I think as another witness in the
2 case pointed out, Wyandotte County is a little
3 special in that regard nationally, because it has
4 a county government -- unified county government
5 that covers almost all the county, and that is
6 something that is rare to find in the United
7 States. Marion County Indianapolis I think would
8 be another rare exception of that. So if we are
9 to divide Wyandotte County, and particularly
10 bringing that into Kansas City, Kansas, we're
11 talking about dividing the unified local
12 government. So that's one thing.

13 Beyond that, in my report, we think about
14 the types of communities of interest that are
15 often talked about in redistricting debates.
16 Economic communities of interest are one of
17 those. To me, my favorite fact in that, looking
18 at census data, is the workforce patterns, for
19 example. The census shows us that among people
20 who hold jobs in Wyandotte County, the plurality
21 of them actually live in Johnson County. Let's
22 put that a different way. There are more Johnson
23 County residents working in Wyandotte than there
24 are Wyandotte residents who work in Wyandotte.
25 And that is a relationship that you do not see

1 Wyandotte and Johnson share with other
2 surrounding counties: Leavenworth, Miami,
3 Franklin.

4 There are also a variety of other ways the
5 two counties are unified or recognized as
6 similar. Look at the public transportation
7 systems, for example. You look at the fact that
8 neither county is recognized as a rural
9 opportunity zone by the state, whereas the other
10 three counties added in are. You can look at
11 initiatives like the CORE4 Initiative or I think
12 the First Suburbs Coalition that attempt to deal
13 with common political issues. You can look at
14 issues like storm water management or the
15 attempts to build economic corridors that cross
16 the county lines. There are just so many ways in
17 which you have those two counties integrated and
18 recognized as common.

19 Q. So you just spoke a little bit about the job
20 overlap between Johnson and Wyandotte. Does a
21 similar overlap exist between Wyandotte and, say,
22 Miami, Franklin, or Anderson Counties?

23 A. No. Certainly not to that extent.

24 Q. So switching now Congressional District 2, if we
25 can pull up PX 68, which is map 10 of your

1 report, let's take a closer look at CD2 at this
2 map. And you already testified a little bit
3 about the sort of shape and who's in it, but what
4 sort of communities of interest are sort of
5 shown, depicted in CD2?

6 A. Sure. So again, as I talk about in my report,
7 there is this connection between Lawrence and
8 Topeka, again looking at some of the workforce
9 patterns, you know, looking at Lawrence often
10 being called or referred to as bedroom community
11 for Topeka, also some growing attempts to
12 politically coordinate between the counties on
13 some issues between Shawnee and Douglas County.
14 Lawrence and Topeka are unified in this version
15 of CD2 in the 2012 plan, which I think is
16 important. And another thing I talked about is
17 the unification of centers of Native American
18 population. We see that this version of the plan
19 has all four Native American reservations, plus
20 the concentration of Native Americans in Lawrence
21 who are associated with Haskell Indian Nations
22 University. They all unified in one district.

23 Q. And again, these purple bars represent sort of
24 population clusters? Is that right? And
25 density?

1 A. Yes.

2 Q. Okay. So just to look at this, we have Manhattan
3 in the first. Right?

4 A. Yes. That's correct.

5 Q. But we have Topeka, Lawrence, and the environs of
6 Kansas City, Kansas in two.

7 A. Yes. Those taller bars to the northeast of
8 Lawrence would be Leavenworth.

9 Q. And then you have in CD3 sort of the entirety of
10 Kansas City, Kansas. Correct?

11 A. Yes. What looks kind of like the Empire State
12 Building is that concentration of population in
13 Wyandotte and Johnson.

14 Q. Now, can we pull up PX 69? Now, this is Adastra
15 2.

16 A. That's correct.

17 Q. And now let's look at the same population
18 clusters we had before. Right? So we had
19 Manhattan in one. Right?

20 A. Yes.

21 Q. Lawrence in one.

22 A. Yes.

23 Q. Topeka in two.

24 A. Yes.

25 Q. Kansas City metro area in two.

1 A. Part of it, yes.

2 Q. And then split with the third. Right?

3 A. Yes.

4 Q. Where did you make up this morning professor?

5 A. Well, I woke up in Lawrence, which in the old map
6 was in the 2nd District, but my home would be in
7 the 1st District.

8 Q. So how many congressional districts did you cross
9 this morning on your way to court?

10 A. Three. Well, three in the new map. In the old
11 map, just two. I live 35 miles from here.

12 Q. How did the partisan composition of CD2 change
13 between the old and the new map?

14 A. The partisan composition of CD2. So the district
15 got a little bit more Republican. Just to put
16 the number on that for you, I'd like to reference
17 those. In the -- if we look over the lifetime of
18 the district of CD2, 2012 to 2020 --

19 Q. And which way are you looking right now?

20 A. Oh. This is table 4 in my report. We see again,
21 looking at those 16 partisan statewide elections,
22 this was a district that, if we round, was a 55
23 to 42 Republican district. So a 13-point
24 Republican advantage. Under the Adastral 2 plan,
25 it actually became a little bit more Republican.

1 Again, let's round and make this simple. That
2 goes to a 56% Republican district to a 41%
3 Republican district. So that's now a 15-point
4 Republican advantage.

5 Q. And switching now to Congressional District 1 --
6 and we'll do 1 and 4, and then we'll sort of be
7 done walking through these, obviously. So we
8 could pull up PX 68.

9 A. Can I also add --

10 Q. You can add whatever you'd like, Professor.

11 A. On that last point, I do want to clarify, right?
12 Because we've recognized that the 2nd District
13 gets more diverse, but yet we're also saying it
14 gets more Republican. I really want to talk
15 about how that's possible if we're adding in the
16 71% minority section of Wyandotte County. As
17 someone who has watched Kansas politics for an
18 incredibly long time, I have been aware, as I
19 talk about in the report, that in Lawrence, we
20 have a lower population than Wyandotte, but we
21 vote at a higher rate than Wyandotte. And so
22 this trade in the 2nd District in the Adastra 2
23 plan, bringing out Lawrence and putting in
24 northern Wyandotte is a mathematically favorable
25 trade for Republican performance in the district.

1 That's really what facilitates making the
2 district simultaneously more racially diverse and
3 somewhat more Republican.

4 Q. And how did CD1, turning now -- are we good to
5 turn to CD1?

6 A. Yes.

7 Q. Okay. Great. How did CD1 change from 2012 to
8 Adastra 2?

9 A. Just to clarify, you're asking in terms of the
10 partisan performance.

11 A. First of all, let's ask about who moved. We
12 talked a little bit about this, but what cities
13 were moved?

14 A. For Congressional District 1, the big change here
15 is -- I don't know if you want to pull up --

16 Q. Wait one second. Did you --

17 A. Do you want to switch over to the Adastra 2?

18 Q. Yes. Can we pull up PX 69? Thank you.

19 A. Okay. So if we're looking at Congressional
20 District 1, which again, is western to central, I
21 guess now eastern Kansas in the Adastra 2 plan,
22 the biggest change is bringing Lawrence into the
23 district and the territory that's required in
24 order to accomplish that with contiguity.
25 Lawrence now becomes the largest city in the

1 district. Manhattan is the second. We do see it
2 losing some territory -- a little bit of
3 territory to the 4th District in Pawnee County.
4 We also see the loss of some territory. Geary
5 County in Junction City, for example, in
6 Congressional District 2.

7 Q. Can you pull up PX 90, Michigan? So we talked
8 about Lawrence moving in here. What does this
9 map show the Court?

10 A. So this is focussing in on Douglas County, and
11 this is again looking at 2020 presidential
12 election with the red blue map adjusted for vote
13 margin and acreage. And what you're really
14 seeing, if you can just ignore the black lines
15 for a second -- we see this ball of blue, and
16 that's us in Lawrence. Strong Democratic margins
17 packed into a tighter urban space. And then if
18 we look at the black line that is the district
19 line in the Adastra 2 map -- and so we are seeing
20 the 1st District in Adastra 2 dip down into
21 Douglas County, removing the city of Lawrence,
22 which is about 80% of the population of the
23 county, and leaving the remaining 20% in
24 Congressional District 2 connected on the eastern
25 side of the county. I believe that's one -- one

1 census tracker or one voting district. I'm not
2 recalling which one this second. But that narrow
3 contention between Eudora and Tonganoxie.

4 Q. That's this right here?

5 A. Yes. That is one area -- like one voting
6 district right there.

7 Q. And just while we're on this point, this one
8 voting district right here is all that connects
9 Adastra 2, District 2 in that area. Correct?

10 A. That's correct.

11 Q. Okay. One voting district.

12 A. Yes.

13 Q. Okay. And just to go back to the blue real
14 quick, I mean, what strikes me with this is it
15 basically took a scalpel and cut out the blue.
16 Correct?

17 A. That would be a fair characterization. It is a
18 pretty precise scooping or slicing, pick your
19 term, of the city of Lawrence out of the county.

20 Q. What does this map Adastra 2 do to the
21 communities of interest in CD2 -- and 1? Sorry.

22 A. Okay. So what does Adastra 2 do to communities
23 of interest in CD2.

24 Q. I'm sorry. In CD1.

25 A. Oh, in CD1.

1 Q. Yes.

2 A. Okay. Well, in CD1, under the 2012 plan, you
3 know, this is mostly a district that is serving
4 our more rural communities in western and central
5 Kansas, you know, which have some very unique
6 issues that are facing them that are not shared
7 by urban centers like Manhattan or Lawrence. If
8 we think population decline with some of these
9 counties losing over 10% of their population,
10 versus, say, Lawrence or Manhattan, which are
11 growing. If we think about the dependence on
12 agriculture as an industry in those areas, we
13 think about the wind industry. There are a
14 variety -- or broadband. There are variety of
15 concerns that are more unique to our rural
16 communities that -- even though Manhattan was the
17 largest city in the district, it is a district
18 that's more oriented towards those rural
19 communities.

20 In the Adastra 2 plan, because we are
21 bringing in Lawrence now to be the largest city
22 in the district, it's really a two-way dilution.
23 We are diluting the voice of our more rural
24 communities, but we're also diluting Lawrence and
25 Topeka. I think as I wrote in the report, my

1 assessment is that it's an incoherent district
2 that serves neither interest.

3 Q. And you heard from the Defense counsel both
4 during openings and through some of their
5 examinations about this idea of keeping KSU and
6 KU in the same district, in the big first.

7 A. I did remember that, yes.

8 Q. What is your reaction to that?

9 A. Couple things. First, they referred to them as
10 research universities, which is a reference to a
11 kind of not meaningless, but rather arcane
12 characterization of R-1 versus R-2 universities
13 from the Carnegie rankings, I believe, which is
14 really just a reflection of how many doctoral
15 programs you have and grant money you get. You
16 know, Dartmouth University sometimes is R-1 or
17 not. It's very prestigious. And other
18 prestigious universities like American or William
19 & Mary, where I went, are not considered R-1 even
20 though their faculty are very productive on
21 research and they bring in a lot of grant
22 dollars. So I don't think that distinction of
23 them as research universities is that
24 particularly important, nor would I say it
25 really is to a lot of faculty. I think it is an

1 admirable goal, absolutely, to keep KU and Kansas
2 State in the same district. But I would say that
3 if we want to serve a community of interest that
4 is universities, we could go further. Right? I
5 mean, as the Bluestem plan, which I think we'll
6 talk about at some point does, it brings in
7 Emporia State University, which is a third Regent
8 University. And it would bring half of Regent
9 University into the district.

10 It is also the way that that map is
11 constructed, that Adastra 2 plan to merge
12 Lawrence and -- and to merge Lawrence and
13 Manhattan to the two universities is destructive
14 to the other surrounding communities of interest.
15 As I talked about, for example, connecting those
16 two in the way that they did required separating
17 Native American reservations from each other. So
18 I think if you want to say that the universities
19 are a community of interest and serve them, you
20 could do that in a way where you're not
21 destructive to surrounding communities of
22 interest and where you actually put more
23 universities, including Washburn, which sits
24 right in between Kansas State and KU. It's not
25 in the 2nd District in the Adastra -- it's not in

1 the 1st District in the Adastra 2 plan. You
2 could unify all that in a less destructive and
3 cleaner way.

4 Q. Just one final question. You mentioned Bluestem,
5 which is PX 67. Can we bring that up quickly?
6 So you've talked a lot about this already,
7 Dr. Miller, but I just want to ask you a few
8 questions, and I'll sit down.

9 A. Okay.

10 Q. What does this map achieve, in your opinion?

11 A. So I think Bluestem is an example of a map that
12 really reflects how beautifully simple it should
13 be to redistrict Kansas in a way that adheres to
14 the redistricting guidelines. You know, Kansas
15 is not one of those states where we have to make
16 ugly tradeoffs that some states might think about
17 in order to achieve redistricting goals. We can
18 make fairly compact districts that preserve
19 communities of interest and don't dilute minority
20 voters. And that is exactly what we see in this
21 map. We see a third district that -- eyeball
22 test that. Visually inspect that. That is a
23 compact district that contracts from where it had
24 been. Pulls in on that urban core, unites
25 Wyandotte and the bulk of Johnson and does not

1 conclude minority votes. In fact, it further
2 strengthens minority votes because the part of
3 Johnson that's being removed is more heavily
4 white.

5 Look at the 1st District, for example.
6 This is a district that is unifying the voice of
7 our more rural communities. You know, take an
8 issue, for example. The counties in Kansas that
9 are losing population the fastest and so are
10 dealing with issues like preserving your economy,
11 preserving your towns, keeping your young people,
12 or a disproportionately aging population, they're
13 in southeast Kansas and western Kansas.
14 Especially southwest Kansas. So it unites those
15 rural voices. And we are an urban state. Half
16 of Kansans live in four counties. It is very
17 easy, by mixing urban and rural areas, to drown
18 out the voices of our rural Kansans. So that's
19 what District 1 is achieving.

20 District 4 is a district that really is
21 pulling in more compactly. Again, just visually
22 inspect that. More compactly on the Wichita
23 metro. And District 2 is really focussed on the
24 population centers in northeastern Kansas, and it
25 unifies the communities of interest that I've

1 identified. We have Lawrence and Topeka unified.
2 We have the Manhattan metro, which is Geary,
3 Riley, and Potawatomi counties unified in one
4 district. We have military and military-related
5 populations and veterans in Junction City and
6 Leavenworth united in one district, and we also
7 have a district that unites our pockets of Native
8 American population, the four reservations plus
9 Haskell, as well as bring in a number of our
10 universities. Kansas State, Washburn, KU, Ottawa
11 University, Benedictine and Atchison. I think
12 this is an illustration of what is possible to
13 achieve to satisfy the redistricting guidelines
14 in a way that I think is relatively clean.

15 Q. Last two questions. I know you mentioned this is
16 a League of Women Voters map. Is that right?

17 A. Yes, that's correct.

18 Q. Who actually introduced the map in the house --
19 or redistricting committee?

20 A. The map was introduced by Representative Chris
21 Croft from the 8th District. He is generally
22 recognized as a quite conservative Republican,
23 and he represents part of southern Johnson
24 County.

25 MR. BREWSTER: No further questions.

1 THE COURT: Thank you.

2 MR. KAISER: May it please the Court?

3 THE COURT: Ready to go?

4 THE WITNESS: Yes, Your Honor. I'm trying
5 to fix my pages here.

6 THE COURT: Get organized, and you let us
7 know when you're ready to go. Give us a moment
8 if you would, please, counsel.

9 THE WITNESS: Yes, sir. I think I have my
10 document together.

11 THE COURT: I'll leave it right here. If
12 you need it, just grab it. Ready to go?

13 THE WITNESS: I am, yes.

14 THE COURT: All right.

15 CROSS EXAMINATION

16 BY MR. KAISER:

17 Q. Good afternoon, Dr. Miller.

18 A. Good afternoon.

19 Q. I want to start by laying out sort of the lay of
20 the land here. Isn't it true that roughly every
21 10 years or so, the congressional boundaries in
22 the state must be redrawn. Correct?

23 A. I believe it's every 10 years, yes.

24 Q. And that's because of population change from one
25 census period to another. Correct?

1 A. Yes. And then the need to make those numbers
2 align with population targets given the number of
3 district in the state. Yes.

4 Q. And Kansas was not immune from this this last
5 year, in which they had to redraw their 2012 to
6 2020 congressional districts. Correct?

7 A. That's correct. I believe every state with two
8 or more districts has had to do a degree of
9 redrawing.

10 Q. And there are a number of ways in which a state
11 could choose to draw its boundaries. Correct?

12 A. Yes.

13 Q. For instance, some states have a nonpartisan
14 independent commission draw their maps?

15 A. If we're talking about the mechanism or who
16 redraws the maps, yes, that's correct.

17 Q. Some, like, Ohio, have partisan committees that
18 redraw the maps.

19 A. Yes.

20 Q. Kansas has not elected to do that though, has it?

21 A. No. In Kansas, our process is for the two
22 chambers of the legislature to pass a map and for
23 the Governor to then have the veto right over
24 that.

25 Q. And then on the backside of that, if there's a

1 super majority in both houses, then they can, I
2 guess, have another check on the Governor's veto.
3 Correct?

4 A. Yes.

5 Q. And currently, the state Senate is comprised of
6 40 Senators. Correct?

7 A. Yes.

8 Q. In the house, there's 125 representatives.
9 Correct?

10 A. Yes.

11 Q. In our representative democracy, isn't it held
12 that each Senator and representative is called
13 upon to both know and represent their
14 constituents. Correct?

15 A. In theory, yes.

16 Q. That's what our representative democracy -- it's
17 based on that notion. Correct?

18 A. It's one -- yes. It's one of those principles of
19 a representative democracy. Yes.

20 Q. And as we sit here today, do you believe that you
21 know the constituents better in any Senate or
22 House district better than the Senator or
23 representative that's charged with representing
24 those constituents?

25 A. I would not characterize my knowledge in that

1 way. I would say that my knowledge is about
2 communities in Kansas, patterns of race, patterns
3 of political preferences. There may be ways I
4 have some knowledge that legislators don't have,
5 but I'm sure they have a lot more knowledge of
6 the people and more unique things about their
7 districts than I might have in many cases.

8 Q. Likewise, with regard to the political geography
9 of a particular Senate or House district, do you
10 believe that you know that political geography
11 better than the Senator or representative that's
12 charged with representing that district?

13 A. I would say I know that geography pretty well.
14 I've not undertaken any attempt to compare my
15 knowledge to them.

16 Q. And then with respect to communities of interest,
17 do you believe that you know those communities of
18 interest in any Senate or House district better
19 than the Senators or representatives charged with
20 representing those districts?

21 A. Again, I have knowledge about communities of
22 interest, as I have talked about, but I have made
23 no attempt to compare my knowledge of those to
24 any member of the legislature.

25 Q. Now, before we get into your report, I want to go

1 over just a few procedural things and
2 specifically sort of your capacity here today as
3 an expert. You do not hold yourself out as an
4 expert in the Kansas Constitution, do you?

5 A. No, I do not.

6 Q. Nor do you view yourself as an expert in the
7 history of the Kansas Constitution?

8 A. No, I would not. I have some knowledge about it,
9 but I would not call myself an expert in the
10 history of the Constitution.

11 Q. And I believe you discussed with Mr. Brewster
12 your background in both research and survey
13 methodology. Is that correct?

14 A. Yes, we did.

15 Q. And you did not perform any surveys in preparing
16 your report for this case, did you?

17 A. No. I was not asked to do that.

18 Q. And this case centers upon Aداstra 2, which
19 the -- both the Kansas House and Senate passed.
20 Correct?

21 A. Yes. It's part of the case. We're also talking
22 about the map from the last decade. But yes,
23 Aداstra 2 is certainly part of what we're talking
24 about here.

25 Q. And prior to our deposition two weeks ago, I

1 think, from today, had you reviewed the map
2 packet that had been created by the KRD regarding
3 Adastra 2?

4 A. I had not. The first time that I saw that map
5 packet was when you presented it to me when I was
6 asked to conduct my own analysis. I analyzed the
7 map. I didn't analyze that particular packet.
8 But I certainly was able to reproduce the map and
9 to do my analysis of it.

10 Q. And when you say reproduce and create your own
11 analysis, isn't it true that -- well, let me take
12 a step back. Didn't you -- or among other
13 sources, didn't you use Dave's Redistricting in
14 performing your analysis?

15 A. Yes. Dave's Redistricting integrates official
16 census data with official state of Kansas
17 election returns. It is a reputable website that
18 is used in peer-reviewed research. It's a
19 mapping tool online that's used in peer-reviewed
20 research. Certainly used in teaching. I have
21 been using it since it debuted in, I believe,
22 2008 or 2009. So when I was asked to analyze the
23 map, it is naturally where I went.

24 Q. Now, I want to turn our attention to the
25 guidelines, which I understand, I guess, was sort

1 of the basis for a large portion of your report.
2 Is that correct?

3 A. I did make extensive references to the
4 guidelines, yes.

5 Q. And as a political science professor in the state
6 of Kansas, I presume that you have read the
7 Kansas Constitution. Correct?

8 A. Yes, I have read the Kansas Constitution.

9 Q. And isn't it true that the guidelines that we'll
10 be discussing here and that you discussed in your
11 report -- they are not captured explicitly
12 anywhere in the Kansas Constitution.

13 A. If -- just to clarify, if you're asking if the
14 Kansas Constitution mentions redistricting
15 guidelines? Is that the question?

16 Q. No. The guidelines that are set forth or
17 promulgated in the revisers of statutes
18 guidelines -- those, you're not going to find
19 explicitly stated in our state Constitution like
20 they may be stated in other Constitutions.
21 Correct?

22 A. The guidelines themselves, no, are to my
23 knowledge not in the Kansas Constitution. They
24 may be implicitly in the Kansas Constitution in
25 some way, but I would leave that up to a Court to

1 decide.

2 Q. And isn't it true that there are a number of
3 states that have adopted guidelines like the ones
4 that have promulgated here in their state
5 Constitutions?

6 A. I believe that is correct, yes.

7 Q. For instance, Missouri has that, don't they?

8 A. Particularly about Missouri, I am not precisely
9 sure. I'm not sure.

10 Q. And in addition to capturing or enshrining these
11 guidelines in a state Constitution, states have
12 also passed statutes that specifically explicitly
13 cover these guideline principles that are set
14 forth in the guidelines that you cited in your
15 report. Correct?

16 MR. BREWSTER: I would just object to the
17 whole line of questioning as both outside the
18 scope of direct and also calling for legal
19 conclusions.

20 THE COURT: Counsel, what do you say to
21 that?

22 MR. KAISER: He's being proffered as an
23 expert in political science, and he's got a 70 to
24 80-page report that covers a wide range of
25 topics, most of the which is related to the

1 guidelines, and I'm trying to set the foundation
2 for what affect that should have or what he
3 believes they should have in this court as both
4 an expert -- or I guess as an expert as he's
5 testifying here today.

6 THE COURT: Counsel, it seems to me that
7 the guidelines have become quite a big issue in
8 this case, and so I'll allow this line of
9 questioning up to a point.

10 MR. KAISER: Yes, sir.

11 THE COURT: And you renew your objection,
12 Hal, if you think we're past that point.

13 MR. BREWSTER: Yes, sir.

14 THE COURT: Your objection is overruled.

15 MR. BREWSTER: Thank you, sir.

16 THE COURT: You're welcome.

17 BY MR. KAISER:

18 Q. Just to round out that idea, are you aware of
19 state legislatures adopting through the statutory
20 process guidelines similar to the ones set forth
21 here in Kansas?

22 A. I'm certainly aware of state legislatures
23 adopting statutes around redistricting.
24 Precisely, if the guidelines are adopted in a
25 statute, rather than, say, providing some

1 mechanism for those to be created, I'm not
2 precisely sure of that. That's not something I
3 ever looked at.

4 Q. Now, I want to talk a little bit about the
5 history of the guidelines that are at the center
6 of your report here. And what is your
7 understanding of who adopted or enacted these
8 guidelines?

9 A. I think as we talked about or has been discussed,
10 there was a joint committee of the House and
11 Senate that adopted guidelines, and they were
12 also adopted by a house committee.

13 Q. I take it from that testimony that you do not
14 believe that the Senate redistricting committee
15 formally adopted these guidelines. Is that
16 correct?

17 A. I believe that is the case, yes.

18 Q. Okay. And did you know that before or after you
19 drafted your report?

20 A. I'm really not sure. I mean, I did a review of
21 the history of what happens. It's -- I'm sure
22 it's something I knew before. Like the timeline
23 of what fact went in my head and when, not
24 exactly sure.

25 Q. Fair enough. Now, I want to unpack these

1 congressional redistricting principles that you
2 cite in your report and that are sort of as the
3 Judge said, at the center of this case. Jamie,
4 will you please pull up Defendant's Exhibit
5 1001? And go to page two, please. Thank you.
6 You can leave right there at one.

7 Now starting with paragraph 1, it says
8 building blocks are county lines in VTDS. I
9 understand -- I think I understand what county
10 lines are. VTDS, I believe, based on your
11 earlier testimony -- is you could use precincts
12 as sort of another way to describe VTDS. Is that
13 correct?

14 A. Yes. VTDS sometimes are called voter tabulation
15 districts. Sometimes they're called voting
16 tabulation districts. But they're units of
17 geography. It's where vote are actually cast and
18 they very heavily overlap with what we in Kansas
19 call precincts.

20 Q. Now, I believe I saw you in here yesterday. But
21 were you here during Dr. Chen's testimony?

22 A. No, I was not.

23 Q. Okay. Dr. Chen talked about the importance, in
24 his opinion, of VTDS and not splitting those.
25 Looking at the guidelines here in 1001, do you

1 agree with me that there's nowhere in here that
2 says you shall not split VTDs?

3 A. That is not exactly what it said. But I think
4 the implication of this, if we're saying that
5 counties and VTDs are the building blocks, then I
6 think there is an implication that we want to
7 orient ourselves towards keeping those units
8 whole when possible and minimizing not just
9 splits, but the impact of those splits. So I
10 think that becomes a question of then how you
11 would choose to interpret that. But if you're
12 asking if it literally says you cannot split a
13 VTD, no.

14 Q. If you scroll down just a little bit, Jamie,
15 please, down to 4D. And as you alluded to there,
16 Dr. Miller, it says that counties and VTDs will
17 be the building blocks, but 4D goes on even
18 further to say that whole counties should be in
19 the same congressional district. So the
20 guidelines specifically deal with county splits,
21 but they do not specifically deal with VTD
22 splits. Is that correct?

23 A. I would agree there is that extra emphasis in 4D,
24 saying as it said that whole counties should be
25 kept in the same congressional district to the

1 extent possible. Yes. We do not have the
2 additional language about VTDs, if that's the
3 question.

4 Q. And aren't -- isn't it true that there are
5 roughly 40 or 4,240 VTDs in the entire state?

6 A. The exact number, I do not have committed to
7 memory, but that sounds in the ballpark correct,
8 yes.

9 Q. So I believe there's 19 splits under Adastra 2,
10 so that's roughly 99 point something percent of
11 precincts in the state that are not cut or split
12 in any way. Correct?

13 A. Not having a calculator in my head, the exact
14 percentage, I'm going to trust you on that.
15 But it would not -- in the grand scheme of
16 things, it's not that many that would be split
17 apparently, yes. Though you know, that's
18 still -- if we think about, say, the impact of
19 that, as has been testified, that can create
20 issues in terms of the administration of an
21 election and possibly voters being given the
22 incorrect ballot. Again, I want to put that in
23 context, that it's -- splitting one VTD does
24 create the possibility of worse case scenario,
25 voters not having their vote recognized, and it

1 does complicate the administration of elections.
2 I just want to add context to that.

3 Q. Absolutely. And to add a little bit more
4 context, isn't it true that there are a number of
5 VTDS that don't actually have people that vote
6 inside those VTDS. Correct?

7 A. That's correct. Throughout the state, there are
8 a number of -- well, these precincts that are
9 often referred to sometimes as enclave precincts
10 that don't have anybody in them. Tend to be
11 small geographically. Those do exist, yes.

12 Q. And what is the purpose of having a VTD /precinct
13 that there's no one that votes inside of it?

14 A. We talked about that at my deposition. And I
15 have never -- and asked election officials this
16 over time. Never really got a good answer for
17 that. I have heard speculation as to different
18 reasons. You know, years ago when I may have had
19 this conversation with one election official,
20 possibly for future population growth, another
21 for, well, parts of a city -- a city, for
22 example, can have irregular lines that nobody
23 lives -- but the precise exact reason, if there
24 is one -- I can just tell you they exist.

25 Q. And there's nothing in statute that sets forth

1 the exact number of VTDs that have to exist in
2 the state -- or precincts -- is there?

3 A. Not that I'm aware of. But there may be some
4 kind of state law that has some say on that. If
5 we think about the number of VTDs or precincts,
6 talk about it in that term, it is something of
7 which there is some discretion of local election
8 administration. Really the goal of trying to not
9 have some precincts that are huge in size and
10 others very small, if we can create some equity
11 in that, make election administration easier.
12 But not being a lawyer, I'm not quite sure if
13 there is something somewhere in the state statute
14 that might impact that.

15 Q. Fair to say that the VTD /precinct process in the
16 state of Kansas is largely driven by counties.
17 Correct?

18 A. That is my understanding. I believe that there
19 is some kind of communication or consultation --
20 I'm not really sure how to characterize that --
21 with state government. But yes, it is something
22 that is more of a local government matter.

23 Q. Now moving on here to factor two -- will you
24 scroll up a little bit, Jamie? Just a little bit
25 more.

1 MR. RUPP: I think you've gone to the
2 first page.

3 MR. KAISER: I'm sorry. On to factor two
4 here. It says districts are to be nearly as
5 equal to 734,470 as practicable. In your
6 estimation, there is no issue under factor
7 two under Adastra 2, is there?

8 A. No. To my understanding, that's not been raised
9 as an issue. No. Population -- if we're just
10 looking at population equity, that's not
11 something that has been brought up as an issue.

12 Q. Now, moving here to factor 3, it says that the
13 redistricting plans will have neither the purpose
14 nor the effect of diluting minority voting
15 strength. Now, starting with that first piece,
16 in your report, you do not claim that anyone in
17 the legislature had the purpose of diluting
18 minority vote, do you?

19 A. What I would say to that -- I'm not in their
20 heads. I cannot -- I'm not Counselor Troi from
21 Star Trek, as much as I would like to be
22 sometimes, reading minds. That may be a Data
23 reference. But I don't -- I'm not in their heads
24 to know if there was some intention that was in
25 their head that was not communicated. I think as

1 I have testified, there is this strong overlap of
2 race and partisanship. So that we should
3 recognize though that if we are intending to
4 dilute Democratic votes, that you are -- you are
5 diluting minority votes in many communities.
6 It's very difficult to separate those two things.
7 But no, I don't have any knowledge of any
8 legislators explicitly saying purely on the basis
9 of race that they want to dilute those votes.

10 Q. And you raise a good point, doctor. Is there
11 anything in the guidelines that you see that say
12 that partisanship or politics cannot be
13 considered in the process?

14 A. As an explicit statement, no. But again, I will
15 point out that race and partisanship do go hand
16 in hand, and I think speaking of them as if they
17 are two separate things is really an artificial
18 division. So to have of a debate about
19 partisanship in redistricting and to not bring
20 race into that, I don't think is an accurate or a
21 fair debate. You have to recognize that
22 connection, which is then how we get to the point
23 of talking about vote dilution in Wyandotte
24 County in particular if we're saying we took out
25 these 113,000 people because they are Democrats.

1 well, given the overlap of race in a 71% minority
2 section part of the county, that really seems
3 like an incomplete statement or an incomplete
4 debate. We have to recognize that really, race
5 is why that is such a Democratic part of the
6 county and then recognize when you're diluting
7 those minority -- those Democratic votes in
8 wyandotte, you're having the affect of diluting
9 minority voters.

10 Q. Indirect, it came out that, I believe, that it's
11 your belief that the entire county of wyandotte
12 and the entire county of Johnson can no longer be
13 in the same congressional district. Is that
14 correct?

15 A. Yes. They would together be about 45,000 people
16 too populous for one district given guideline
17 two.

18 Q. And following up on that line of questioning that
19 you had during your direct, is it your position
20 that there is no way in which wyandotte could be
21 split and joined with Johnson County? Stated
22 differently, is it your position that the only
23 way in which you could divide Johnson and
24 wyandotte is if you kept wyandotte in whole and
25 then split some portion of Johnson?

1 A. I mean, if the question is is that the only
2 divide that can be done, I mean, there are
3 multiple divides that can be done, but we have to
4 take into account the context. And what I was
5 referring to in the direct with Mr. Brewster was
6 if we were going to take that combination --
7 let's again start with the premise of saying we
8 want to keep Wyandotte and Johnson and only those
9 two counties in one of the districts. So we have
10 to cut from somewhere. We then start talking
11 about context. As we said, if we take that
12 45,000 from Wyandotte, we are removing 26% of
13 the county's population, versus just 7% of
14 Johnson's. If we remove that population from
15 Wyandotte, we are taking more diverse population
16 as opposed to taking a district that is more --
17 taking a population that is more white if we
18 remove it from Johnson. And again, we're asked
19 to think about the minority voting strength in
20 the guidelines. If we think about different
21 communities of interest in the district of which
22 one that we talked about was urban versus rural
23 in the deposition. If we take that population
24 from Johnson, we're talking about a more rural
25 and ex-urban population, versus if we take it

1 from wyandotte, we're talking about a more
2 suburban to urban population, given how far you
3 have to come into the county. So I think if we
4 bring context into that, we would see how
5 removing that 45,000 from wyandotte really is far
6 more destructive to wyandotte itself, to the
7 commonalities that it does have with Johnson
8 County, but also to minority voting strength.

9 Q. So if I understand correctly, simply dividing
10 wyandotte County and keeping Johnson County
11 completely intact, you don't believe that
12 necessarily constitutes a violation of one of
13 the guidelines in the guide -- or in the
14 guidelines we're discussing here.

15 A. I believe there would be concerns with the
16 guidelines, actually. If we look at the
17 population distribution, for example, in
18 wyandotte County, there are a few census tracks
19 or precincts in the county, more so census
20 tracks, particularly in the western part of the
21 county, which are whiter or more white or less
22 diverse. But to get to that 45,000 goal, we have
23 to take a cut further east into wyandotte, which
24 brings us into more minority-heavy precincts. So
25 to me, that raises an issue with point three,

1 about diluting minority voting strength. As
2 opposed to if we look at what the population
3 looks like on the western or southern end of
4 Johnson County. And to me as well, as I've
5 stated, and as I wrote in the report, I mean,
6 there would be issues, I believe, with
7 communities of interest given that Wyandotte is a
8 more suburbanized and urban county, taking that
9 45,000 out of the county means you're taking out
10 more urbanized suburban populations versus, as I
11 said in Johnson County, if we're removing along
12 the western or southern end, it is a more
13 ex-urban and in some parts rural population. So
14 to me, that speaks to you have a pocket of
15 population in Wyandotte and Johnson that is
16 highly dense, highly urbanized. That district
17 could compact in on that, and that raises
18 concerns for me about perhaps even compactness,
19 depending upon how that cut was done, but
20 certainly communities of interest.

21 Q. Now, looking it at, I guess, sort of a working
22 definition for dilution of minority voting
23 strength, would you agree with me that a standard
24 is not set forth in the guidelines to determine
25 whether or not that factor is met?

1 A. I would agree that it is certainly does not give
2 us anything more than what we see in point three,
3 where it says the purpose or the effect of
4 diluting minority voting strength. So certainly,
5 it doesn't define that or tell us how to measure
6 that, necessarily, which is why it's very
7 important to bring in that additional information
8 about context as I've done, where we can look at
9 in the Adastra 2 plan where we are moving that
10 71% minority section of Wyandotte and subsuming
11 them into this district that is so incredibly
12 Republican that, as I said, they're practically
13 irrelevant there. So we can bring data to that.
14 We can bring context to that, even though all we
15 have from the guidelines is point 3.

16 Q. Based on your reliance on context, I take it
17 there's not a per se rule for determining
18 whether or not dilution has occurred as under the
19 guidelines. Is that correct?

20 A. That's correct. All the guidelines give us is
21 point 3. And I have agreed with you that it does
22 not then give us a precise definition. It does
23 not then tell us how to measure that, which is
24 why that knowledge of the context and what we can
25 measure with race and partisanship of a district

1 is really critical for that interpreting map.

2 Q. One line of questions that Mr. Brewster had with
3 you was this idea of moving a minority population
4 from one congressional district to another in
5 roughly the same proportion. Do you remember
6 that conversation?

7 A. I do remember that, yes.

8 Q. And do you believe that doing that, or if a plan
9 has that affect, does that constitute a per say
10 violation of guideline number three?

11 A. As we talked about -- and that was in the context
12 of what was happening to northern Wyandotte
13 County -- we have a section of the county, just
14 to restate the facts, that is two-thirds of
15 the county population, is 113,000 people just
16 about. It is 71% minority. It is being removed
17 from District 3 and put into District 2, which as
18 we have seen, does get more racially diverse, but
19 that's where context comes in. In District 3, if
20 those voters are in District 3, they have a
21 reasonable chance to impact the election outcome,
22 but in District 2, this is a significantly --
23 much more Republican district. It's one of those
24 districts that you would look at and say that
25 this is pretty safely Republican. There's no

1 real debate about whether District 2 is
2 competitive. Minority Kansans are strongly
3 Democratic. So we're talking about putting them
4 into a district that is more racially diverse but
5 more Republican. In fact, so Republican that a
6 Democrat can likely never win it. To me, that is
7 -- in the context of what's happening, that is a
8 story of vote dilution, yes.

9 Q. Would you agree that moving northwest Wyandotte
10 into a -- or -- strike that. Do you believe that
11 communities in northwest Wyandotte have a greater
12 community of interest with those in southern
13 Johnson County than they do with, let's say,
14 communities in Shawnee, Topeka?

15 A. So -- and we're just speaking about, to clarify,
16 the northwest corner of Wyandotte County?

17 Q. Yes.

18 A. That is a whiter, more white, less diverse --
19 parts of that -- of the county, though you don't
20 have to go too far east to hit a more diverse
21 section of the county. Certainly I think there
22 are -- I mean, League of Unified Government, for
23 example. There are interests that are, I think,
24 quite unique in that sense to Wyandotte County,
25 such that a split from the county is going to

1 create a unique local issue. I think there are
2 some similarities with, say, the far southern
3 part of Johnson County if we're thinking about
4 both being a little bit northwest Wyandotte
5 County, a little bit less diverse, southern
6 Johnson County, certainly less diverse. Some
7 similarities in terms of that ex-urban element.
8 But if that's what's going on there, I mean,
9 first I would also say that you can't -- it's not
10 really possible to take 45,000 out of Wyandotte
11 County and just confine that to the northwestern
12 part of the county. You're going to have to go
13 into the central part of the county. Right? So
14 it's kind of -- you could take the map and it's
15 not enough, and that's going to bring us to a
16 more diverse area, which I think is the real
17 practical question there of what that bigger
18 split would be.

19 Q. And sort of consistent with what we were talking
20 about earlier is that you use in your analysis
21 race and party, or Democratic Party are almost
22 synonymous. Correct?

23 A. There is an incredibly strong overlap. And we
24 see that in Kansas with -- I mean, we have
25 evidence of racial polarization in our voting

1 patterns. We certainly, as we saw in my report,
2 I brought in, for example, the Fox AP voter
3 analysis survey, where we see that 60% of whites
4 looking at the 2020 presidential and Senate
5 election, about 60% of whites preferred
6 Republicans, about 60 percent of minorities as a
7 whole preferred Democrats. Unfortunately, in
8 Kansas, we don't often have a lot of surveys that
9 break apart in particular African Americans and
10 Hispanics. Really, that raises issues with how
11 reliable reporting numbers in the subgroups
12 becomes, which is why I believe the Fox AP poll
13 just reported white and nonwhite. But as I said
14 before, look at the precincts that we have here
15 in Wyandotte that are less than 10% non-Hispanic
16 white. They're 90 plus percent African American
17 and Hispanic, usually. They are super
18 Democratic. And by that, I mean they're giving
19 85 to 90% of their vote to Democratic candidates
20 in most instances. So synonymous says they're
21 the exact same. Of course, we would never say
22 that there is a perfect overlap in there. There
23 is a small number of African Americans, for
24 example, who do vote Republican, but it is very
25 small. But the overlap is quite substantial.

1 Q. And with the racial polarization, it's not a
2 one-way street. I mean, obviously, one part of
3 the equation looks at the minority vote, but the
4 only part of the equation also looks at the white
5 vote. Correct?

6 A. Yes. You want to see the voting patterns as
7 opposed to one another. Yes.

8 Q. And as you alluded to, in a state like Kansas,
9 where there isn't, I guess, very granular exit
10 poll information, the value of a Fox exit poll is
11 limited because we don't know where those exit
12 polls are being performed. Correct?

13 A. No, I would not agree with that. With those
14 kinds of surveys, it is not necessarily important
15 if we are looking at the analysis of the survey
16 to be able to then say we are -- the surveys are
17 based on a random sampling. Let's back up and
18 talk about that. With a random sample, we know
19 that we are getting a cross section of people
20 from across the state. So there are going to be
21 people in different counties, different
22 geographies, different types of communities, and
23 that is a statewide sample. We cannot use any
24 statewide exit poll or any statewide poll to then
25 make an inference about a particular county.

1 That's an ecological inference problem. It can
2 only speak to the entire state as a whole. So
3 there certainly is utility in that if we know
4 it's a random sample, it is a cross section of
5 the state racially and geographically. But as I
6 said, the problem then becomes if we're going to
7 take a small section of that -- take Hispanics
8 for example. I believe, recalling from memory --
9 I could look it up -- they're over 15%, perhaps
10 18% of the state's population, but they're only
11 about 5% of the electorate. When you have a
12 group in a survey that is that small, 5%, really
13 confidently generating estimates of vote patterns
14 within that one group becomes complicated from a
15 lack of reliability perspective, which is why I
16 believe the Fox AP poll simply reported white
17 versus nonwhite. So I would disagree that that
18 kind of survey is not useful. It is absolutely
19 useful because we know that it is distributed
20 across the population.

21 Q. And looking here at the third congressional
22 district, it's your position that Representative
23 Davids is the minority candidate of choice.
24 Correct?

25 A. As the Democratic candidate, she would be the

1 candidate that minority Kansasans would generally
2 be voting for, yes.

3 Q. And if she were to prevail under the Adastra 2
4 plan in the upcoming election, how would that
5 affect your minority dilution claim?

6 A. I think there would still be a question of
7 minority dilution, regardless of what happens to
8 Sharice Davids. And I don't mean -- I can't make
9 a confident prediction for you what's going to
10 happen to Sharice Davids. Especially given what
11 that district looks liked under the Adastra 2
12 plan and how it's changed. Districts like that
13 where you do see change make it very hard to make
14 a confident prediction. I make a comparison
15 here. A lot of southern white districts,
16 minority white southern rural districts started
17 to get more Republican in the 1990s, and that
18 realignment to now being very, very Republican
19 took the better part of 20 years. It wasn't
20 until 2014, for example, when Democrats really
21 lost their last rural white southern district.
22 And in that intervening 20 years, those districts
23 were often battlegrounds. I'm thinking, for
24 example, of the 1st District of Mississippi. The
25 Democrats actually held for quite some period of

1 time, I think around 2008, that you would never
2 imagine them holding today. Those areas that are
3 changing make it very hard to make a competent
4 prediction, as opposed to say the first, the
5 second and the fourth that we know have the
6 stronger Republican lean, and they're quite
7 stable. So the question of Sharice Davids aside,
8 I don't think we can really deal with what
9 happens to her in any confident way. Even if she
10 were to win reelection in the 3rd District under
11 the Adastral 2 plan, there is still absolutely a
12 question of minority vote dilution because that
13 doesn't change what's happening to northern
14 Wyandotte County. We're still dealing with
15 113,000 Wyandotte residents who are 71% minority
16 being removed from the district and put into a
17 district where they're basically irrelevant most
18 of the time. You know, there is still the
19 question then of what happens to the 3rd in that
20 case. Do you still have some minority population
21 left in the 3rd. It is weaker. It has less
22 influence.

23 So even if she were to win, which is a
24 hypothetical, we still have the same issues we're
25 dealing with in the 2nd and the 3rd of vote

1 dilutions.

2 Q. And the factor three there -- that's looking at
3 the ability of minorities to elect their
4 candidate of choice. Correct?

5 A. I believe that is part of that debate, yes. Not
6 being a lawyer, I cannot exactly characterize for
7 you how, say, some of the Federal courts might
8 speak about that. But I think as part of that
9 debate as well, we should also be talking about
10 the context and the story of what's happening to
11 those voters. As we talked about, getting in
12 northern wyandotte.

13 Q. And you said part of it. The other part is
14 looking at the crossover between the nonminority
15 voters with the minority voters. Correct?

16 A. The voting patterns among whites is an important
17 part of that, yes.

18 Q. And for your report in this case, you did not
19 attempt to quantify that crossover, did you?

20 A. No. Nor do we have any data that I'm aware of
21 that tells us how white voters in Johnson County
22 are voting. I think it is entirely possible,
23 based upon the voting patterns in Johnson County,
24 that white voters are still voting Republican
25 given that we do have that pocket of minority

1 voters in the county. We just don't have the
2 data at the county level to talk about it. We
3 have it at the statewide level.

4 Q. Even if we had that data, do we have a standard
5 to know whether or not sufficient crossover
6 voting is occurring to prevent dilution of a
7 minority vote?

8 MR. BREWSTER: Objection. Calls for a
9 legal conclusion.

10 THE COURT: What's your response?

11 MR. KAISER: Response is, Your Honor,
12 again, my understanding for why we have
13 Dr. Miller here is to provide some guidance,
14 standard for this Court to apply in determining
15 whether or not this plan is
16 unconstitutional under the State Constitution.
17 And so I'm attempting to see are there such
18 standards that Dr. Miller can offer to this
19 Court? Because as it stands now, it's our
20 position, obviously, that there are not. And so
21 that is the point of that questioning.

22 THE COURT: Appreciate that, but doesn't
23 it call for a legal conclusion on his part?

24 MR. KAISER: I'm asking him as a political
25 scientist, Your Honor, if there is a standard

1 within his field that he utilizes to determine
2 whether or not a factor like factor three is
3 satisfying.

4 THE COURT: A much better question. So
5 objection sustained. And you can continue down
6 the path. Just ask your question differently.

7 MR. KAISER: Yes, Your Honor.

8 BY MR. KAISER:

9 Q. In your field as a political scientist, is there
10 a standard that you're aware of and that you
11 apply in determining whether or not dilution of
12 minority voting has occurred?

13 A. I think we do have standards, yes. I'm not even
14 sure if standards is the right way to necessarily
15 phrase that. And again, I can't -- not being a
16 lawyer, I can't approach this from, say, a legal
17 perspective, or you say if it's the case, that
18 here's a test and so forth. But in my field,
19 context is very important to understanding what
20 is happening, especially when it comes to race.
21 Especially if you look at the study of race from
22 an academic perspective. It is an area where the
23 best, the ideal data you would love to have is
24 often really a challenge. Take, for example, the
25 fact that we don't have data on how whites in

1 Johnson County are voting. So in my field in
2 political science, when we think about the study
3 of race, context -- we can call it a standard if
4 you want. If you are able to tell a story about
5 what is happening with the politics of race in a
6 community in a district in a state that we would
7 look at that as a story, as evidence that one
8 could submit for peer-reviewed research that
9 could be cited. I'll put it to you this way: If
10 I wanted to write for whatever outlet might be
11 interested a book chapter, a journal article, but
12 let's say if I wanted to write for my field a
13 story about vote dilution in the Adastra 2 plan,
14 and I approached it the same way that I did in my
15 report. I would be very competent submitting
16 that for peer-review and research. And I believe
17 that given how we do study race in my field, the
18 limitations of data would be recognized. And
19 that could then mean something that could then go
20 on to be cited. And the study of race has a lot
21 of case studies. It has a lot of research, if we
22 look at the study of race, that is far more even
23 qualitative than what I did. I brought data
24 into this. So in engaging with the word
25 standard, I'm not really quite sure I want to say

1 it that way, but it was my approach for people in
2 my field as a social scientist, as a political
3 scientist from talking about this issue, was it
4 something that I think would be acceptable in my
5 field? Yes.

6 Q. But as you sit here today as a social scientist,
7 as a political scientist, you are unaware of a
8 standard that they -- that political science or
9 social scientists use to measure dilution of
10 minority voting strength in Kansas.

11 A. I mean, if you want to pull this into standard, I
12 think the standard would be following the norms
13 of research and logic, would be the standard. We
14 would reject research -- in the peer-review
15 process, we would reject research where the
16 process that led to it or the data that led to it
17 is faulty, or where the logic is faulty. If we
18 want to call that a standard, we can call that a
19 standard. If my argument was not logical, if my
20 argument had faulted or flawed data, then it will
21 be rejected by my peers for the peer review
22 research. But I do not feel that what I did in
23 this report is something that will be rejected.

24 Q. You're not aware of a formula in your field right
25 now that measures dilution of minority voting.

1 A. A formula. To really answer that question, I
2 would probably have to go back and do a more
3 thorough literature review. There has been a
4 fair amount of literature on voting rights in
5 vote dilution since the 1960s. Someone may have
6 proposed something. I don't claim to have an
7 encyclopedia in my head of everything. But
8 again, I would come back to the point of what
9 would be acceptable research in my field, and
10 approaching it the way that I did where I can
11 marshall data to tell a logical story would
12 certainly be accepted.

13 Q. Now moving on here to factor 4A, contiguity is
14 not an issue in this case. Correct?

15 A. I believe that's correct. It's not an issue to
16 me, and I've not heard of it as being an issue
17 for anybody.

18 Q. And compactness is listed there. My
19 understanding is that there are a number of, I
20 guess, methodologies or formulas that people have
21 applied to, I guess, determine compactness. Is
22 that correct?

23 A. Yes. I remember -- when I teach about this to my
24 students, it's been a while since I've given this
25 lecture, but I think there are over 30 different

1 formulas that have been proposed. Some are more
2 common like Polsby-Popper, but there are a
3 variety of different formulas, some of which are
4 modifications. The idea of the space of a
5 district, as opposed to the space of a circle,
6 but there are a variety of formulas to that, yes.
7 If you choose to approach it in a formulaic way.
8 It would also be certainly acceptable in my field
9 to look at that from -- I guess we'll call it an
10 eyeball test perspective. Look at the face
11 validity of it. And I think there is a reason
12 why, in political science and to my knowledge of
13 court rulings, there is a reason why we talk
14 about the shapes of districts as irregular
15 districts, as odd, or why we sometimes give them
16 funny names, like the Bullwinkle District or the
17 sword of Zoro District that used to exist in
18 Louisiana. So there are those formulaic
19 approaches, but there is also that face validity
20 eyeball approach to assessing compactness.

21 Q. Jamie, if you would, please pull up Defense
22 Exhibit 1002? And then if you would, scroll down
23 two or three pages, please, until you get to --
24 there you go. Right there. One of my -- in
25 reading your report, obviously one of the major

1 critiques is how Wyandotte County is split in
2 Adastra 2. Correct?

3 A. Yes. I do talk about the fact that the county is
4 split and what that means, but also the racial
5 and partisan implications of this split. Again,
6 with the northern part that's in District 2 being
7 71% minority, that green part in District 3 being
8 majority white.

9 Q. And that transition from the green to the purple
10 -- that largely follows the Kansas River and
11 I-70. Correct?

12 A. That's correct. Yes.

13 Q. And aren't natural boundaries typically used
14 when, I guess, drawing or redrawing
15 representative or congressional boundaries?

16 A. They can be one consideration that different
17 states might take into consideration. Mountains,
18 rivers, and in my home state of Virginia, the
19 Chesapeake Bay. Yes, that is one of the
20 standards that can often be employed.

21 Q. And part of the logic, at least as far as I
22 understand, is that as I drive over the Kansas
23 River in the morning, I look down, I don't see
24 any neighborhoods. Correct? There's no
25 communities of interest necessarily that line the

1 river. Rather, it's just sort of an area that's
2 a boundary, and you may have folks on the left
3 and the right, but you obviously don't have
4 people that span that river unless there's some
5 sort of barge community. Correct?

6 A. I mean, I think the point is do people live in
7 the river. I don't think anybody does.

8 Q. At least long.

9 A. Yeah. At least not long. I think the point is
10 not do people actually physically live in the
11 river, but what do the communities look like on
12 both sides, for example. And I might bring the
13 discussion back to race, for example. If we look
14 at how the county is split in this map, again,
15 following Interstate 70 and the Kansas River, you
16 have really two issues with race that I think are
17 irrelevant to the fact of is anybody in the river
18 or not. You have the division into a 71%
19 minority section and a majority white section on
20 the bottom, but you also have the separation of
21 minority-heavy neighbors from each other. The
22 particularly in that green section on the
23 southeastern side closer to the Missouri state
24 line. Those more minority-heavy neighborhoods
25 there are finding themselves separated from the

1 minority-heavy neighborhoods further north into
2 Armourdale, up into downtown Kansas City, Kansas.
3 So that is absolutely an issue that's beyond just
4 where does the river flow. The line that is used
5 and the river itself divide those neighborhoods
6 from each other. And I think given the directive
7 to think about minority voting stream, that is a
8 consequential division.

9 Q. Dividing along a major interstate system or river
10 -- that in and of itself is not something that
11 you view as evidence of either racial or partisan
12 gerrymandering, is it?

13 A. Again, you have to bring context into that. I
14 mean, come back to my report, for example.
15 Interstate 70 is constructed in the county in the
16 1950s. And we know even at that point in time,
17 it carries racial symbolism. It is a racial
18 dividing line. Even at that point in time, the
19 more white, the less diverse census tracts were
20 often found to the south of Interstate 70. The
21 more diverse census tracts on the north. As I
22 say in my report, certainly the county has
23 diversified over time, but Interstate 70 remains
24 racially divisive today. We see here an example
25 of party using the interstate to create this

1 political boundary to separate the county into a
2 majority white section and a 71% minority
3 section. Stopping that discussion at just where
4 does the interstate run, without then bringing
5 into the symbolism and the mean of how it was
6 constructed, where it was constructed, how it
7 reinforced racial scars in the community, and
8 then the dividing line that it has been since
9 then between whites and nonwhites, but also
10 between minority neighborhoods, you have to bring
11 that into the discussion to really understand the
12 context. It's not just where the concrete ends.

13 Q. One thing I just want to clarify real quick,
14 Doctor, on the racial scars comment -- again,
15 that was in the report. Again, did you make any
16 attempt in your report to survey or quantify or
17 to figure out how many in Wyandotte are aware of
18 these scars that you discuss in your report?

19 A. Again, I did not conduct a survey -- an
20 independent survey for this. I was not asked to
21 do that. The survey data that I bring in is from
22 that Fox AP survey. But certainly, I do bring
23 into the report peer-reviewed research that talks
24 about race in the county, about segregation in
25 the county. I bring in the history of Interstate

1 70. And so I think from the research that I'm
2 bringing in, the symbolism of the highway, where
3 it was built, the divide that it created, both
4 between whites and nonwhites and amongst minority
5 communities themselves, to me, that's fairly
6 evident.

7 MR. KAISER: Jamie, can you -- do you have
8 the capability of bringing up three separate
9 documents? 1,000 --

10 MR. BREWSTER: Your Honor, I'm sorry to
11 interrupt Mr. Kaiser. But the witness has now
12 been on the stand for over two hours. I'm just
13 wondering how long Mr. Kaiser intends to go, or
14 if we need a break.

15 MR. KAISER: I think probably about 15
16 minutes. I can take a break now if you need a
17 comfort break, Dr. Miller, or we can keep going.

18 THE WITNESS: Your Honor, am I allowed to
19 run to the restroom very quickly for one minute?

20 THE COURT: You can actually do it very
21 slowly, Patrick. I think everybody would like a
22 break. Why don't we do that? Why don't you go
23 do that right now? And then counsel, you stick
24 with me for a minute off the record.

25 (Discussion held off the record and

1 out of the hearing of the court reporter.)

2 THE COURT: Back on the record in the same
3 case with the same people. And we are going to,
4 hopefully finish cross examination of Patrick
5 before very long. And when you are ready to
6 presume.

7 MR. KAISER: Thank you, Your Honor.

8 THE COURT: You're welcome.

9 BY MR. KAISER:

10 Q. Just switching now here to the communities of
11 interest, isn't it true, Doctor, that the
12 guidelines do not set forth a formula for
13 calculating which communities of interest are
14 most important?

15 A. I would agree that there is not an expression of
16 a formula, but as I said in the deposition, I do
17 think that there is some suggestion of certain
18 communities of interest that are mentioned,
19 looking at the report in 4B. I did say at the
20 time that there is a suggestion that certain of
21 those communities of interest might be elevated
22 because of other redistricting guidelines. In
23 particular, race in three with dilution of
24 minority voting strength. And I remember we also
25 had a discussion about what larger socioeconomic

1 units meant, and we talked about that meaning
2 metro areas or something else. So I'll agree
3 there's not a formula, but I -- I would disagree
4 there's no suggestion of certain things perhaps
5 being elevated.

6 Q. You'd agree with me -- or scratch that. Isn't it
7 true that there is -- that the listed communities
8 of interest, some of them are, I guess, as
9 Dr. Rodden put it yesterday, squishy?

10 A. So I would agree that when we think about a
11 community of interest, it's not like we have a
12 ruler and we're going to measure it in that
13 sense. But when we think about communities of
14 interest, we have certain dimensions that we're
15 looking at, race, economics. We certainly
16 have -- if we're familiar with redistricting and
17 how it works across states, we have certainly a
18 recognition of certain things like economic
19 patterns, like employment patterns, like
20 commuting pattern, to name some things that are
21 commonly used. And I certainly think that we can
22 bring numbers into that. It's not all subjective
23 and qualitative. For example, we can quantify
24 workforce patterns between Wyandotte and Johnson.
25 So I do agree with that ruler analogy.

1 Q. Isn't it true though that nothing -- you
2 mentioned in your report, as well as here today
3 that -- you had cited a number of economic
4 interest. There's nothing in the guidelines that
5 says economic interests are to trump social or
6 cultural or racial or ethnic interests. Correct?

7 A. Again, just referring back to the point that I
8 made back to our deposition discussion, we do see
9 that mention of counties in Kansas as being part
10 of economic social larger -- larger socioeconomic
11 units. Long day for me as well. So again, I do
12 think there is some suggestion of certain things
13 perhaps being elevated in the guidelines.

14 Q. And then moving down here to 4C, isn't it true
15 that there is not a definition for what core of
16 congressional boundaries means.

17 A. I would agree that the guidelines don't tell us
18 precisely how to define that, but I do think we
19 can bring some common sense into that about, for
20 example, as again we discussed in the deposition,
21 where do most people seem to live in the
22 district. Might be something we can bring into
23 that.

24 Q. But looking solely at where someone lives, I
25 mean, that could be one measure. Another measure

1 could be county lines. Correct?

2 A. I think if -- county lines might be relevant if
3 we were to say, you know, maybe we have a --
4 trying to even think of something comparable
5 here. If we have one county that's dominating --
6 I mean, let's just pick an extreme -- 95% of a
7 district. And then there's a little bit of some
8 other counties added. Then that might be part of
9 that analysis. But it's not necessarily
10 something I would go to in defining poor
11 necessarily, beyond saying that certain counties
12 are where more people live.

13 MR. KAISER: I have nothing further, Your
14 Honor. Thank you.

15 THE COURT: Thank you. Hal?

16 MR. BREWSTER: No redirect. You're
17 welcome, Your Honor.

18 THE COURT: That was my expression of
19 gratitude. I'm assuming somebody else is
20 here under a subpoena.

21 MR. BREWSTER: He is not.

22 THE COURT: And so free to go, can't
23 imagine he wants to stay, even to watch. But if
24 he does, he can. No one's recalling him?

25 MR. KAISER: Yes.

1 THE COURT: Thank you so much, Patrick.
2 Appreciate your testimony today. All right.

3 (Pause in the proceedings.)

4 MS. BRETT: Your Honor, the Plaintiffs are
5 going to call Shannon Portillo. And mercifully,
6 we will make Ms. Portillo the last witness of
7 the day.

8 THE COURT: That is not necessari -- Ms.
9 Portillo, come kind of close where you see in my
10 eyes and I yours, and hold on just for a second.
11 I do not mean to be rude. Sharon, depending on
12 the schedule, if you have another witness, we may
13 well be able to put he or she on. So don't run
14 them off if they want to stay. I'm just trying
15 to inject realism into this.

16 Let me tell you this, because this is
17 important to all of you. So this is kind of a
18 way station to get us to the Supreme Court. But
19 this will have the stamp of all of us on it. And
20 I am sure that you all take a great deal of pride
21 in your work and want it to be reflected in what
22 you presented at District Court. I feel exactly
23 the same way. And I want to make sure I'm giving
24 everybody a fair hearing.

25 Raise your right hand for me, please,

1 ma'am.

2 SHANNON PORTILLO,
3 having been first duly sworn,
4 was examined and testified as follows:

5 THE WITNESS: I do.

6 THE COURT: All right. Please be careful
7 getting up there.

8 DIRECT EXAMINATION

9 BY MS. BRETT:

10 Q. Good afternoon, Ms. Portillo. Could you please
11 state your name for the record?

12 A. Shannon Portillo.

13 Q. And where do you live?

14 A. In Lawrence, Kansas.

15 Q. In what county is Lawrence?

16 A. Douglas County.

17 Q. How long have you lived in Kansas?

18 A. I originally moved to Kansas in 1994 and was here
19 until I finished my Ph.D. in 2008, and then I
20 came back in 2013 and have been in Lawrence, in
21 Douglas County, since 2013.

22 Q. And what is your current profession?

23 A. I'm the Associate Dean for Academic Affairs for
24 KU's Edwards Campus and School of Professional
25 Studies, and I'm a Professor in the School Public

1 Affairs Administration, and I'm County
2 Commissioner in Douglas County.

3 Q. So first, I want to talk about your role with KU.
4 What do you do as an Associate Dean?

5 A. In my role, I work with our Edwards campus, which
6 is our suburban Kansas City campus in Overland
7 Park, Kansas. And most of my work is in
8 collaboration with community colleges in the
9 Kansas City metro area. So I work on transfer
10 pathways between community colleges into our
11 undergraduate programs at the Edwards campus. I
12 also run our honors program and diversity,
13 equity, and inclusion aspects of our campus, as
14 well as some academic units that report to me.

15 Q. And which community collections in the KC metro
16 area do you work with?

17 A. The Johnson County Community College is right
18 down the street from us. That's one of our
19 primary partners. But I also work with Kansas
20 City, Kansas Community College, and then on the
21 Missouri side, the Metropolitan Community College
22 system. And Donnelly College isn't a community
23 college, but we have a lot of transfer students.

24 Q. Where is it located?

25 A. Kansas City, Kansas.

1 Q. And what about your role as Douglas County
2 Commissioner. What does that involve?

3 A. As a county commissioner, our main focus is
4 really around health issues within the county, as
5 well as affordable housing issues, making sure
6 that we have roads, bridges, infrastructure taken
7 care of within the county and then social safety
8 net issues.

9 Q. And what part of Douglas County do you represent?

10 A. I represent the 3rd District of Douglas County,
11 which is the western portion of the city of
12 Lawrence. And then my county --or my district is
13 the largest geographically, because I have the
14 rural parts of the county from the northernmost
15 portion of our county, all the way to the
16 southern edge of our county.

17 Q. I'm calling up a demonstrative exhibit. I think
18 we're up to demonstrative 8 at this point, but
19 I'm sure that will get corrected if I'm wrong on
20 that. So I want to walk you through what this
21 shows here. So what do you understand this to
22 be?

23 A. That kind of pink coral color -- that's my county
24 commission district. And that's the western part
25 of our county.

1 Q. Okay. So is this area here -- this is what makes
2 up Douglas County?

3 A. The entirety. The green, the purple, and the
4 (unintelligible) Douglas County.

5 Q. Okay. Your district is District 3, and then
6 there's District 2, which looks to be on the east
7 side of the county, but going up here as well,
8 and then there's District 1 in purple. Is that
9 right?

10 A. Yes. And District 1 is completely within the
11 city of Lawrence. District 3 and District 2 both
12 have rural portions, as well as portions of
13 the city.

14 Q. Is the city boundary represented on this map?

15 A. Yes. It's the yellow line.

16 Q. Okay. So it's the yellow line going around here.
17 So you said your district, District 3, cuts into
18 part of the city of Lawrence, and then it also
19 includes the western rural part of the county as
20 well.

21 A. Yes.

22 Q. And what do you understand this heavier black
23 line to be?

24 A. So that's the Adastra 2 map, where it divides the
25 congressional districts.

1 Q. So from the looks of this map, what does the
2 Adastra 2 map do to your county commission
3 district?

4 A. Unfortunately, it cuts my county commission
5 district and puts part of it into the big 1st
6 District and keeps the remainder of it in the
7 second district.

8 Q. What does that mean for your work as a Douglas
9 County Commissioner?

10 A. It makes my work harder as a Douglas County
11 Commissioner because when we think of advocacy up
12 to our Federal representatives, there are now two
13 congressional representatives, whereas currently,
14 my community is completely contained within the
15 second congressional district. But it also makes
16 it really hard because the more urban part of my
17 district is going into a more rural congressional
18 district, and the rural part of my county
19 commission district is going into a more urban --
20 or staying in more urban congressional districts.

21 Q. I believe when I asked you earlier what your work
22 as county commissioner involves, you started to
23 tell me about some of the issues that you work
24 on. So you work on social safety net, I think
25 you said?

1 A. Yes. And so some of that has to do with making
2 sure that we're advocating for resources from the
3 Federal government, thinking about things like
4 the American Rescue Plan dollars and how those
5 are coming into our community. Our county has a
6 joint public health department with the city of
7 Lawrence that is responsible for the entire
8 county.

9 Q. So we can take this down. Thank you. So do you
10 work on issues -- distinct issues for the city of
11 Lawrence, versus the rest of the county
12 commission district that you represent?

13 A. No. Our county has issues that are countywide.
14 So I mentioned that we have a joint health
15 department between the city of Lawrence and
16 Douglas County that is responsible for health
17 orders for the whole county and health-related
18 issues for the county. We have a joint city,
19 county planning commission because we do planning
20 from a countywide perspective. Our 2040 plan is
21 a plan for the county as a whole when it comes to
22 thinking about land use, zoning, and the growth
23 of our community. So the cities within the
24 county of Douglas County are expanding, not in my
25 district but the 2nd District, Eudora, is a

1 really quickly expanding municipality. And even
2 in my district, we're looking at potential growth
3 areas within the urban growth area in our county
4 that may be added to the city of Lawrence in the
5 future.

6 Q. So how does congressional representation for your
7 county that you represent impact your ability to
8 carry out that 2040 plan?

9 A. I think that the congressional representation
10 piece really has to do with advocacy for
11 resources at the Federal level, making sure that
12 we're getting attention as a community. So some
13 of that has to do with -- these are all
14 countywide issues. We're thinking about
15 broadband expansion and infrastructure. These
16 are things that we handle at the county level and
17 they're not really divided between different
18 aspects of our county.

19 Q. You drove here today to testify from Lawrence.
20 Correct?

21 A. I did.

22 Q. About how long did that take you?

23 A. That took me about 40 minutes.

24 Q. So what's the relationship between Lawrence and
25 the metro KC area?

1 A. There's a really strong relationship. A lot of
2 folks who live in Douglas County commute to
3 Kansas City. I'm one of those people. My
4 neighborhood where I represent kind of on the
5 western part of our county, we have a lot of
6 folks who commute to Kansas City, Topeka. So
7 being in Lawrence is a really nice in between
8 space. But I would say that we have a strong
9 relationship with the Kansas City metro area,
10 just from a cultural perspective where people go
11 to dinner, where they go for entertainment, and a
12 lot of economic aspects of people commuting and
13 shopping. Things like that.

14 Q. What's the relationship of Lawrence to the
15 current Congressional District 1?

16 A. There isn't much of a relationship between
17 Lawrence and kind of the current Congressional
18 District 1. I'd say even -- you mentioned
19 driving distance. The other end of the 1st
20 Congressional District is six hours away and in a
21 different time zone, so there isn't much of a
22 kind of cultural aspect or broad economic aspect
23 with Congressional District 1.

24 Q. So any conceivable common interest between the
25 city of Lawrence and the western part of the

1 state?

2 A. We're all Kansans, and I think that that matters,
3 but I don't think there's a unique kind of
4 cultural relationship between the 1st
5 Congressional District and the city of Lawrence.

6 Q. What about between Lawrence and Manhattan,
7 Kansas? Any common interest there?

8 A. We're both college towns. I think that matters.
9 But I would say that we're also pretty unique
10 college towns. So Lawrence, as a city, is about
11 94,000 people. We're much more than just the
12 university. Like I mentioned, we have folks who
13 commute to Kansas City on a daily basis. We have
14 people who are commuting to Topeka. We have a
15 really strong relationship with the metro area.
16 Manhattan is a bit more kind of isolated as a
17 college community, so I would say it's probably
18 dominated a bit more by the university in that
19 space.

20 Q. Is Lawrence currently in the same congressional
21 district as Manhattan?

22 A. It is not.

23 Q. Would that change under the Adastra 2 map?

24 A. It would. Lawrence and Manhattan would be in the
25 same congressional district.

1 Q. The University of Kansas is in Lawrence. Correct?

2 A. It is, yes.

3 Q. Okay.

4 A. So is Haskell Indian Nations University. And
5 Baker University is in Douglas County, but it
6 would stay in the 2nd Congressional District.

7 Q. And Kansas State University is in Manhattan.

8 A. It is.

9 Q. Okay. Have KU and K State been in the same
10 district previously?

11 A. They have.

12 Q. Were you aware of any requests that were made
13 during this congressional redistricting cycle to
14 put the K State and KU community back in the same
15 congressional district?

16 A. I wasn't aware of any requests.

17 Q. Can you think of a reason for doing that?

18 A. I can't, really. I mean, we are both college
19 towns. I think that there are young voters in
20 both of those areas, but I think there are also
21 reasons to keep us separate. So a big part of
22 what big research one universities do is a lot of
23 research, and a lot of that is Federally funded.
24 So having a representative who can advocate for
25 research funds for each university is probably

1 more helpful to the state than having a single
2 representative who is arguing for research funds
3 for two big research one universities.

4 Q. So it sounds like some commonalities, some
5 differences.

6 A. Yes.

7 Q. But to be clear, is the city of Lawrence
8 equivalent to the University of Kansas?

9 A. It is not. The city of Lawrence is much more
10 than the University of Kansas.

11 Q. Okay. I want to just conclude by having you talk
12 about the impact of the enacted plan, of the
13 Adastra 2 map. First, I want to ask what affect
14 do you think the enacted map will have on the
15 administration of elections in Douglas County?

16 A. I think it will make the administration of
17 elections more complicated. In some just really
18 basic administrative functions, it would be
19 harder for our County Clerk to deal with all
20 that, but also from the voter education aspect of
21 helping voters understand why our county is
22 divided and how these different kind of ballots
23 are taking place, who their representatives are,
24 I think it would be a more complicated voter
25 education.

1 Q. And in your perspective as a county commissioner,
2 what do you think this map does to the political
3 voice of the community that you represent?

4 A. I think it dilutes the political voices all
5 around. The more urban part of my district is
6 now in a very rural congressional district, and
7 so I think it's harder for folks in that urban
8 part of my district to get attention from their
9 representative in Congress because their
10 interests are different and their voices are
11 drowned out. They're mostly Democrats in a very
12 Republican -- in a very urban area within a very
13 rural Republican congressional district. I think
14 the more rural parts of my district are also
15 drowned out because now, they're separated from
16 the major population center within the county,
17 and so they may not get as much attention from
18 the representative in the congressional second.

19 MS. BRETT: That's all I have for now,
20 Your Honor.

21 THE COURT: Thank you.

22 MR. RUPP: Thank you for your service. I
23 have no questions.

24 THE COURT: Commissioner, thank you for
25 your testimony today. You're free to go or stay

1 if you wish. I -- we may be wrapping up, or
2 there may be one more witness if you want to
3 stay.

4 THE WITNESS: Thank you.

5 THE COURT: Yes, ma'am. That went so
6 well, let's try one more.

7 MS. BRETT: I actually think we're going
8 to call it for today, Your Honor.

9 THE COURT: No, Sharon. We are not. Go
10 get one more witness. I'm just kidding. Okay.
11 Let's have a brief pow wow about tomorrow.

12 (Discussion held off the record and
13 out of the hearing of the court reporter.)

14 THE COURT: Anything else for the record?

15 MR. RUPP: I think we filed a motion on
16 cumulative experts. I think I may want to take
17 that up.

18 THE COURT: How about if we do that in the
19 morning?

20 MR. RUPP: We can do that.

21 THE COURT: That all right?

22 MR. RUPP: Yes.

23 THE COURT: Well, unless it affects --

24 MR. RUPP: It does affect -- I'm going to
25 suggest -- I mean, as we indicated, we thought

1 that six experts was too many, ought to have
2 three. We've now gone through four. They're all
3 saying the same thing. And so I'm going to
4 suggest they not come back.

5 THE COURT: All right. Let's do that.

6 MR. WOODS: Can I just mention one thing?

7 THE COURT: Yes, Curtis.

8 MR WOODS: We're a separate case. We get
9 our own expert, flat out. He can't object to us
10 having our own expert.

11 THE COURT: Well, I think he can object.

12 MR. WOODS: And secondly --

13 THE COURT: It might not work.

14 MR. WOODS: Well, he can, but it's not
15 well-founded because we're a separate case.

16 THE COURT: I understand completely.

17 MR. WOODS: We only have one. Secondly,
18 as what frequently happens in consolidated cases,
19 there's overlap. And I can represent to you
20 today that I've cut out a lot of my questioning
21 of our expert in light of what's come in already.
22 There may be a little bit of overlap, but not
23 much. And what I'll be asking him is really
24 stuff that hasn't come up yet. There may be a
25 little overlap on communities of interest, but

1 not much. So I just wanted to alert you to that.

2 THE COURT: Thank you. Yes, ma'am?

3 MS. BRETT: And we have one more expert to
4 put on tomorrow. I would like my colleague Mark
5 Gaber to speak to that point as he will be taking
6 the witness.

7 MR. GABER: Dr. Collingwood actually -- I
8 think if your has read his report, does an
9 entirely different type of analysis than anything
10 that's been discussed by any of the other
11 experts. It's a racially-polarized voting
12 analysis with psychological inference. Something
13 that no other expert has done in this case. I
14 think there actually is little to no overlap in
15 his report.

16 THE COURT: Thank you. Tony, I don't know
17 that you really got to express yours in the
18 detail that you wanted to. If you didn't, please
19 do. If you did, then the Court will make a
20 ruling.

21 MR. RUPP: I can do it in one minute.
22 Your Honor, there are two issues in this case:
23 Race and partisanship. They are essentially -- I
24 mean, we've overworked those issues at this point
25 in time. These folks aren't going to say

1 anything -- the topics are exactly the same.
2 The basic comment of Dr. Collingwood, for
3 example, is exactly the same as Dr. Miller, that
4 Democrats and race are synonymous and that you
5 can't reduce the -- you have to protect
6 Democrats, and you have to protect racial
7 minorities. And I think we've heard a lot of
8 that already, and I think we've heard enough of
9 that already. I think the record is complete.

10 THE COURT: Thank you. All right.
11 Curtis, that gives you another chance, unless
12 you've told me what you wanted me to know.

13 MR. WOODS: I told you what I needed to,
14 Judge.

15 THE COURT: Thank you. Tell me your name
16 again, counsel. I'm sorry.

17 MR. GABER: Mark Gaber.

18 THE COURT: Mark. All right. Mark, did
19 you tell me what you wanted me to know?

20 MR. GABER: Yes, Your Honor.

21 THE COURT: Okay. So a couple of things
22 that the Court needs to keep in mind here. And
23 we keep discussing that. And that is despite the
24 fact that this Court feels pretty educated about
25 what the experts have had to say, the Court must

1 note that each one of the experts that has
2 testified has had a different component. Has
3 there been overlap? Most assuredly. How can
4 there not be some overlap? Having said that, the
5 Court appreciates the fact that the Supreme Court
6 is going to review this, and they may be
7 interested in some of the opinions of both
8 Dr. Collingwood and -- is it Dr. Smith?

9 MR. WOODS: Professor Smith.

10 THE COURT: Professor Smith. Because they
11 do give a different perspective to some extent.
12 I will note what Curtis has said, that at this
13 juncture, the Frick Plaintiffs have not called
14 any experts, any witnesses either, and they
15 certainly have the right to present testimony as
16 it relates more to Douglas County, as opposed to
17 Wyandotte County in the two consolidated cases
18 here. So the Court is trying to balance those
19 interests to the best of its ability. And at
20 this point in time, Tony, I'm going to deny your
21 motion, saying that each independent expert is
22 providing some new information and that Douglas
23 County has a right to call their own experts.

24 Having said that, should the testimony
25 become cumulative to the point of an objection, I

1 would anticipate either you or Gary making that
2 objection because I think our other colleague is
3 done, is he not? Is he going to have any of the
4 other experts that --

5 MR. RUPP: No. I think on experts, it's
6 down -- on their experts, it's down to us. We're
7 hoping that Clayton is still around to do some of
8 ours.

9 THE COURT: Well, I am hopeful that that
10 is the case as well Clayton.

11 MR. KAISER: Thank you.

12 THE COURT: So we'll see how everything
13 goes here. All right. So that takes care, I
14 hope -- well, it takes care, whether there's
15 satisfaction or not, of the issue of experts.
16 What else do we need to talk about on the record?

17 MR. Johnson: Your Honor, I intended to
18 have two of my Plaintiffs -- two of our
19 Plaintiffs testify. I just found out one of them
20 has a medical treatment tomorrow and is
21 unavailable. That's Mr. Lea, spelled L-E-A. And
22 if we go to Monday, as I think it sounds quite
23 likely, he will be available Monday. If we do
24 not go to Monday, then I would ask the Court's
25 indulgence in having him testify by declaration,

1 because that is what our option will be.

2 THE COURT: Tony, what do you say to the
3 declaration part?

4 MR. RUPP: Well, I guess it depends on
5 what he's going to say in the declaration. But
6 as a general proposition, you know, if it is
7 pretty much what the other declarations have said
8 and we've agreed upon that where they live type
9 of stuff, I'm certainly not going to object to
10 that. What political party they're in --

11 MR. JOHNSON: It won't be a lot more than
12 that.

13 MR. RUPP: Send me the declaration and I
14 suspect we'll agree to it. And likewise, we're
15 pretty easy to work with, in terms of doing
16 something when we have time. So that sort of
17 thing.

18 THE COURT: You have been very easy to
19 work with, and I thanked you all numerous times
20 and will continue to do so. We'll work out those
21 logistics, Mark, should we need to do so. And
22 counsel, is there any chance in the world that
23 we're going to finish tomorrow? It seems utterly
24 impossible to me at this juncture.

25 MS. BRETT: Yeah. I think it depends.

1 But I think we're hopeful. I think we're
2 hopeful. I'm the eternal optimist here, so I'll
3 say there's a chance we could finish tomorrow,
4 and we would like to if we can.

5 THE COURT: Okay.

6 MR. JOHNSON: Your Honor, your question
7 was whether the Plaintiffs will finish tomorrow.
8 I think that's a possibility. Whether the
9 Defense finish tomorrow, I think that's an
10 impossibility.

11 MR. RUPP: We have three experts.

12 THE COURT: Absolutely. At this juncture,
13 I'm planning on we're having another day of trial
14 on the 11th. I'm just hopeful we can get it all
15 in by then.

16 (Pause in the proceedings.)

17 THE COURT: Any more official stuff?

18 MS. BRETT: One thing. There's a few
19 different demonstratives used by both Defendants
20 and the Plaintiffs today.

21 THE COURT: All right.

22 MS. BRETT: If there's an objection to
23 moving those into evidence.

24 MR. RUPP: None.

25 MS. BRETT: Then we'd like to move those

1 into evidence.

2 MR. RUPP: You might identify by number.

3 MS. BRETT: I think today was
4 demonstrative 4, 5, 6, 7, and 8 if I'm
5 remembering correctly.

6 THE COURT: Okay. Any objection 4 through
7 8 cumulatively, Tony?

8 MR. RUPP: Because I don't have the
9 exhibit list in front of me, I'm -- I think 4
10 through 8, as I recall -- they would be admitted
11 subject to the same objection as to all of the --
12 all of the expert stuff on the Plaintiff's side.
13 So subject to the Daubert objection -- I guess we
14 do need to formally object, but recognize that
15 it's consistent with the prior rulings of the
16 Court.

17 THE COURT: I think all of them have been
18 blowups of the exhibits in your expert reports,
19 if I recall.

20 MS. BRETT: For the most part, with the
21 exception of, I believe, the map that was just
22 used in Commissioner Portillo's testimony and --
23 and one of the Warshaw demonstratives, which we
24 can provide a copy to Defense counsel.

25 MR. RUPP: Our only objection is the

1 renewed Daubert. We're not -- from that
2 perspective.

3 MR. AYERS: Do you have a copy of
4 the Warshaw demonstrative?

5 MS. BRETT: Yes. We can get you one via
6 email.

7 MR. AYERS: Okay. Before we leave the
8 courtroom?

9 MS. BRETT: Oh. I don't know that I have
10 a physical copy, but we can email it to you.

11 MR. AYERS: That'd be awesome.

12 THE COURT: So you will provide all of
13 those if they haven't already received them to
14 the Defense, and the Court admits 4 through 8
15 over the objection of the Defendant, as far as
16 relevance because of a Daubert question.
17 Although I don't think that Jennifer Tebow's map
18 probably had anything to do with expert
19 testimony.

20 MR. RUPP: Oh, I agree with that.

21 THE COURT: So I will remove that one from
22 the Daubert objection. And perhaps you're
23 removing it even from an objection. But it's --

24 MR. RUPP: There's no objection to it at
25 all.

1 THE COURT: All right. Perfect. So 4
2 through 8 is admitted. Gary, I know you've been
3 trying to get Tony's attention. Have you got
4 something you need to put on the record here?

5 MR. AYERS: No.

6 MR. RUPP: I think we're just trying to
7 find out more about the afternoon schedule. So
8 it's more housekeeping.

9 THE COURT: All right. So I am about to
10 conclude the record but not stop with listening
11 to what everyone has to say. Anything else for
12 the record?

13 MS. BRETT: Nothing else for the record,
14 Your Honor.

15 MR. RUPP: None.

16 MR. JOHNSON: None.

17 (Court adjourned at 5:53 p.m.)
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C E R T I F I C A T E

STATE OF KANSAS)
)
 COUNTY OF WYANDOTTE) ss:

I, Tamara Diane Ross, a Certified Court Reporter for the State of Kansas and the regularly appointed, qualified and acting official reporter for the 29th Judicial District of the State of Kansas, do hereby certify that, as such official reporter, I was present at and reported the above and foregoing proceedings in Case No. 2022-CV-89, Faith Rivera, et al, Tom Alonzo, et al, Susan Frick, et al, Plaintiffs, v. Scott Schwab, et al, Defendants, heard on April 5th, 2022 before the Honorable Bill Klapper, Judge of Division 6 of said Court.

I further certify that a transcript of my shorthand notes was prepared and that the foregoing transcript, consisting of 128 pages, is a true transcript of my notes, all to the best of my knowledge and ability.

SIGNED AND ELECTRONICALLY FILED WITH THE
 CLERK OF THE DISTRICT COURT OF WYANDOTTE COUNTY,
 KANSAS, this 6th day of April, 2022.

/s/ Tamara Diane Ross
 Tamara Diane Ross, RMR, RPR, CSR No. 1736