EXHIBIT F

Flores Supplemental Expert Report
My name is Henry Flores and I am over the age of eighteen (18) years. I have never been convicted of a crime and am fully competent to express the below opinions. The facts stated below are within my personal and professional knowledge and are true and correct.

Introduction

My name is Henry Flores and I have served as an expert witness in more than 50 voting rights cases since 1986. I received my PhD in Political Science specializing in American Politics, Public Administration, Political Theory, and Multivariate Statistical Analysis from the University of California, Santa Barbara in 1981. Currently, I am the Distinguished University Research Professor in the Institute of Public Administration, Politics and Public Policy and a Full Professor of International Relations and Political Science at St. Mary’s University in San Antonio, Texas. Attached as Exhibit 1 is my resume containing further details.

I was retained by Ms. Nina Perales, counsel for the Texas Latino Redistricting Task Force Plaintiffs, to determine whether there was racial purpose or intent in the redesign of HD 90 in Plan H358. I am being paid $150.00 per hour plus reasonable expenses for my work. This report supplements my previous reports submitted in this case.

My opinion is based upon a review of:

a. The materials on which I relied to prepare my report previously submitted in this case;

b. Maps and data packets for Texas State House District Plans H100, H283, H309 and H358.

c. video recording of the Texas House Redistricting Committee Field Hearing in Dallas held on June 6, 2013;


e. House and Senate Journals (showing when amendments were tabled or accepted)

f. Election results from the Texas Secretary of State

g. Various newspaper articles, law review articles and articles concerning Texas redistricting;

h. Interviews with various community leaders in Fort Worth, TX regarding the political dynamics of the Latino community in that city.

i. Correspondence between MALDEF, counsel for the Texas Latino Redistricting Task Force and Texas Senator Kel Seliger dated June 12 and 22, 2013.

j. The deposition in this case of Ft. Worth City Councilman Sal Espino, February 6, 2014.

Research Methodology

The research approach I utilized is guided by the factors set forth by the Supreme Court in Village of Arlington Heights v. Metropolitan Housing Dev. Corp., 429 U.S. 252 (1977). In that case, the U.S. Supreme Court pointed out that proving “racially discriminatory intent or purpose” is difficult but not impossible and “demands a sensitive inquiry into such circumstantial and direct evidence of intent as may be available.” See Arlington Heights 429 U. S. at 265-66.
In 2006, the U.S. Supreme Court declared that weakening Latino voting strength in a district that was poised to elect the Latino candidate of choice “bears the mark of intentional discrimination that could give rise to an equal protection violation.” *LULAC v Perry* 548 U. S. 440 (2006). The *LULAC* decision also identified evidence that supports a finding of racial intent.

I organized my analysis along the lines of the Court’s guidance in *Arlington Heights* and *LULAC v. Perry*:

- Direct Evidence of Intent
- Disparate Impact
- The Historical Background of the Decision
- Specific Sequence of Events Leading to the Challenged Act
- Departures From the Normal Procedural Sequence
- Departures From Normal Substantive Considerations
- Whether Latino voters were poised to elect their candidate of choice
- Whether Latinos were becoming more politically active
- Whether Latinos showed diminished electoral support for the incumbent
- Whether changes to the district reduced Latino voters’ ability to elect their candidate of choice
- Whether redistricters intentionally drew the district to have a nominal majority for political reasons, using race to create the impression of a Latino district.
- Whether there are enhancing activities that “bear the mark of intention discrimination” as discussed in *LULAC v Perry*.

Conclusions and Observations
In this particular case, specifically in the drawing of HD 90, I conclude that race was the predominant factor guiding the redistricters. They intentionally manipulated the Hispanic population numbers to create a district that reduced Hispanic citizens’ opportunity to elect a candidate of their choice and to shore up the re-election prospects of the incumbent.

**Specific Observations**

**Changes to HD 90 in Plan H358**

Plan H358 revises the boundaries of HD90 in the court-drawn interim Plan H309. Plan H358 accomplishes these changes to moving precincts and portions of precincts into and out of HD90. The result of the changes is to reduce the number of Latino registered voters and Latino electoral strength in HD90.

Plan H358 moves four whole election precincts into HD 90. Only one of the four precincts, Precinct 1120, contains a substantial voter registration (2,230 registered voters). The overwhelming majority of registered voters in Precinct 1120 are not Hispanic; the Spanish Surnamed Voter Registration (SSVR) in Precinct 1120 is 4.62%. Precinct 1120 encompasses an area known as the Como neighborhood. Cite to neighborhood map.\(^1\)

Plan H358 moves three whole election precincts out of HD 90. None contain a large number of registered voters.\(^2\)

Of note is the high number of split election precincts in HD90 in Plan H358. The plan splits ten precincts – more than the number of whole precincts affected by the plan. See Exhibit 2, RED375 for H358. The precinct splits are notable for two reasons. First, it is a traditional redistricting practice in Texas to avoid splitting

\(^1\) The other three precincts moved into HD90, Precincts 1062, 1434 and 1472 have 29, 4 and zero registered voters respectively.

\(^2\) Precincts 1674, 4565 and 4568 have zero, 35 and 53 registered voters respectively.
Second, election data is reported by the counties at the precinct level. Below the precinct level of geography, for blocks and block groups, data such as race is reported by the U.S. Census. The REDAPPL system also reports SSVR at the block level. The mapper of HD90 in H358 made most of the district’s changes on the block rather than the precinct level; this reveals a great deal of deliberation, planning and calculation in order to determine the final boundaries.

Overall, H358 moves approximately 4,397 people out of HD90 and moves approximately 4,653 people into HD90. The population moved out of HD90 is 44.2% Hispanic with an SSVR of 20.6%. The population moved into HD90 is 33.8% Hispanic with an SSVR of 8.49%. See Exhibit 5, RED340 comparing plans H358 and H309.

As a result of the changes, the total SSVR of HD90 drops from 51.1% to 50.1%. See Exhibits 6 and 7, RED202 reports for Plans H358 and H309. This is a significant drop in a state representative district where the last primary election (in 2012) was determined by 159 votes. Applying these SSVR percentages to the total registered voters, H358 removes approximately 155 Hispanic voters from HD90.

- **Direct Evidence of Racial Purpose**

  The legislative record reveals that the final changes to HD90 in H358 were made on the basis of race and for the purpose of bringing the SSVR in HD90 over 50%. On June 20, 2013, as the House considered Amendment 8 by Representative Lon Burnam (making changes to HD90), the Chairman of the House Select Committee on Redistricting, Drew Darby, moved to accept the amendment and made the following statement: “Members, Rep. Burnam has revised his amendment and it now keeps this

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3 The court-drawn interim plan for HD90 (H309) followed the Legislature’s enacted H283 and thus did not split any precincts; H283 also did not split precincts from H100. See Exhibits 3 and 4, RED-370 reports for Plan H283 and H309.
district a Hispanic district and brings the numbers back over 50 percent. That was the objection. I believe Rep. Geren is in favor of this amendment also. With that, I’d move to accept this amendment.\textsuperscript{4} Chairman Darby was apparently referring to a previous proposal by Representative Burnam (H328) that reduced the SSVR of HD90 to below 50%. See Exhibit 8, RED202 for H328. Chairman Darby’s statement, explaining that Amendment 8 made changes to bring the SSVR of HD90 above 50% -- in this case 50.1% -- indicates not only that the purpose of the change was racial but that the goal was to create a district with a number above 50% without regard for whether the changes reduced Hispanic voters’ ability to elect their preferred candidate.

- Disparate Impact

I reviewed the election analysis performed by Dr. Engstrom in his original reports in this case as well as the report he is filing concurrently with this report. The data generated by Dr. Engstrom indicated a high degree of racially polarized voting between Latinos and non-Latinos in Tarrant County.

Dr. Engstrom, utilizing court approved statistical techniques, evaluated 19 elections between 2006 and 2010. The nineteen elections included nine General, eight Democratic and two Republican Primary Elections. He performed bivariate and multivariate regression analyses utilizing EI for the bivariate elections. EI is the acronym for Ecological Inference Regression Technique which was developed by Dr. Gary King at Harvard University. The technique creates maximum-likelihood estimators of the relationship between two variables and is more accurate than regression techniques utilized in previous litigation research. The bivariate analyses were used to determine the degree of racial polarization between Non-Latinos and

\textsuperscript{4} Video of floor debate June 20, 2013, available at: http://www.house.state.tx.us/video-audio/chamber/83
Latinos while the multivariate technique was applied to elections that compared the voting patterns of Latinos, African Americans and Others (mainly Anglos). Thus the nineteen elections yielded 38 statistical results.

Dr. Engstrom found that all nine of the General Elections were racially polarized using both bivariate and multivariate techniques. Seven of the eight Democratic Primary Elections and one of the two Republican Primary Elections were racially polarized. Essentially, of the thirty-eight analyses performed by Dr. Engstrom only four (comprising two primary races) were found to not be racially polarized.

Dr. Engstrom further reviewed the 2012 Democratic Primary race for HD 90 which featured an Anglo candidate (Mr. Burnam) and a Latino candidate (Mr. Vasquez). Dr. Engstrom concluded that Latino voters preferred Mr. Vasquez and gave him 65.7% of their votes. African American support for Mr. Vasquez was 37.7% and Other support for Mr. Vasquez was 30.2%.

Dr. Engstrom’s findings demonstrate that voting is racially polarized in the General and Democratic Primary elections in Tarrant County and that in the 2012 Democratic Primary election for HD90, Latinos preferred the Latino candidate, Mr. Vasquez, and African Americans and Others preferred the Anglo candidate, Mr. Burnam. Based on these voting patterns, and the 159 vote-difference in the 2012 Democratic Primary election for HD90, even a small change in the Latino voting strength of HD90 can affect whether Latino voters are able to elect their preferred candidate in the Democratic Primary.

Looking at re-aggregated statewide elections, the changes made by H358 reduced the percent of votes cast for Latino candidates in HD90 in two recent Democratic Primary elections. I examined the percent vote in HD90 for Linda
Chavez-Thompson, who ran for Lt. Governor in the 2010 Democratic Primary and for Hector Uribe who ran for Land Commissioner in the 2010 Democratic Primary. Following the changes to HD90 made by Plan H358, the percent of votes cast for Ms. Chavez-Thompson decreased by .52% and the percent of votes cast for Mr. Uribe decreased by .74%. See Exhibits 9 and 10, RED225 reports for H358 and H309 (2010 Democratic Primary elections for Lt. Governor and Land Commissioner). The reduction in performance for Latino-preferred candidates in HD90 in H358 is consistent with the reduction in SSVR in the district. Although the change in vote percentages for Latino-preferred candidates is not dramatic, in the context of high polarization, the very thin majority of Latino registered voters and the recent, narrowly-won Primary election for HD90, the changes made by H358 are significant and reduce Latino voters’ ability to elect their preferred candidate.

- **The Historical Background of the Decision**

  Historically, Latinos in Ft. Worth experienced discrimination similar to that in other areas of Texas. However, in recent years, Latinos have increased their voter registration and turnout.

  Latinos in Ft. Worth live in two areas that are almost adjacent to each other, separated only by the Central Business District (CBD). The Near Northside community extends north and northwest and the Near Southside Latino community begins at the western edge of the CBD and extends southward. Although the entire city has a substantial Latino population, the geographic areas mentioned here are where the densest Hispanic concentrations reside.

  The Near Northside Latino residential area was the first one of the two settled and the original residents were vaqueros (Mexican cowboys) and leatherworkers who

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5 Dr. Engstrom’s August 2011 report in this case concludes that Ms. Chavez-Thompson and Mr. Uribe were the Latino preferred candidates in Tarrant County.
moved close to the Stockyards for employment and date to the latter part of the 19th century. The Near Southside Latino community is much younger, having moved to that area because of a burgeoning, now defunct, steel plant. Many of the original Southside Latino residents found work in the foundries. The Southside Latino community was politically active through union politics.

The median family income for Fort Worth, TX as of 2009 was $54,404 -- below the state median of $56,607. Forty-five percent (45%) (44% in Texas) of all Anglo households had incomes of more than $60,000 as of 2009 this compares to 22% of Blacks (28% in Texas) and 24% of Latinos (26% in Texas). At the other end of the income scale 64% of Latino households had incomes of less than $50,000 (65% in Texas); 37% for Anglo (48% in Texas); 68% for Blacks (61% in Texas). As the income data indicate there are wide gaps between Anglos, Latinos and African Americans in the levels of median income for households in Fort Worth.

According to information derived from interviews with several Latino community activists, the tracking of Latino students into vocational education programs only ended one or two generations ago. In addition, because of residential patterns, until recently the public schools in Tarrant County have been racially identifiable. For example, the largest high school in the Latino community, the Green B. Trimble Technical High School (in the approximate middle of HD90 is), has a student population that is 76.2% Hispanic, 20.6% African American and 2.2% White. The student body of this school has been identified as 70% economically disadvantaged and 47% are considered at-risk. This school purports to train its

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7 Two of the interviewees graduated from Technical High School in Fort Worth which was solely technical and vocational in the late 1950s and 1960s. It is now known as Green B. Trimble Technical High School. See, [http://fortworthisd.org/departments/aaservices/pdf/2007_SIP.pdf](http://fortworthisd.org/departments/aaservices/pdf/2007_SIP.pdf)
students for vocational careers. Another high school located within HD90 is Northside High School which has a student population that is 94.9% Hispanic, 2.4% White and 2% African American. More than 68% of the Northside student body is eligible for the district’s free lunch program.\(^8\) Similarly concentrated enrollment patterns are common throughout Tarrant County.

Following conversion to single member districts in the late 1970’s, Latinos were able to elect their preferred candidates to seats on the City Council and the local school board. Prior to that time, at-large elections and candidate slating organizations limited Latino political power in the community.

In many respects, Fort Worth, Texas is a community that is socially and economically segregated. Many Latinos reside, shop, and attend social gatherings in certain areas that are associated with their residential patterns and income levels. However, the Latino community has increased its registration and voting recent years. In the court-drawn interim plan H309, Latino voters in HD90 increased their registration from 47.3% in 2008, to 47.9% in 2010, to 51.1% in 2012. See Exhibit 7, RED202 reports for H309 (2008-2012). Although Representative Lon Burnam, who is Anglo, ran unopposed in the Democratic Primary in HD90 since he defeated a Latino opponent in his first run in 1996, in 2012 Mr. Burnam faced a Latino challenger in the Democratic Primary. See Exhibit 11, Secretary of State Historical Election Results for HD90.

- **Specific Sequence of Events Leading to the Challenged Act**

  The 2011 redistricting plan for the Texas House of Representatives, Plan H283, was signed into law by Governor Perry on June 7, 2011. With respect to HD90, the Legislature added additional Latino neighborhoods that were previously

outside the boundaries of HD90 (such as the City of Sansom Park and the area south of Echo Heights) and, as a result, raised SSVR of the district from 45% to 47.9%.\footnote{The 2010 non-suspense SSVR for HD90 in H283 was 50.1%.}

See Exhibit 12, Ft. Worth Neighborhood map; see also Exhibits 13 and 14, RED202 for H283 and H100.

In February of 2012, the U.S. District Court for the Western District of Texas ordered the interim redistricting plan H309 into effect. The court-drawn interim plan did not make changes to the configuration of districts in Tarrant County. H309 was used for the 2012 election cycle and by that time, the total SSVR for HD90 had risen to 51.1%.

In 2013, the Texas Legislature once again took up redistricting. The Legislature adopted the court-drawn interim congressional redistricting plan without changes. However, the Legislature made a number of changes to H309 which resulted in the adoption of Plan H358.

The changes to HD90 made by Plan H358 were sponsored by Representative Lon Burnam and followed his closely-contested Democratic Primary of 2012 where he defeated a Latino challenger by only 159 votes. In the 2013 legislative process, Mr. Burnam first proposed Plan H328 which reduced the total SSVR of HD90 from 51.1% to 48.2%. See Exhibit 7 and 6, RED202 reports for H309 and H328. According to the floor debates on H358, Mr. Burnam apparently then responded to concerns about his plan’s reduction of SSVR by submitting a revised plan with 50.1% total SSVR.\footnote{Video of Texas House floor debate June 20, 2013, available at: http://www.house.state.tx.us/video-audio/chamber/83}

The sequence of events leading up to the adoption of H358 show that HD90 was changed in response to the incumbent’s near defeat in his party primary election and
that the plan to change HD90 was revised to make sure the district contained at least a nominal majority of Latino voters.

- Departures From the Normal Procedural Sequence

The Legislature’s adoption of changes to HD90 included departures from the normal procedural sequence because it did not allow for consideration in committee, public notice, or an opportunity for public comment. The changes to HD90 were made as a House floor amendment to the redistricting bill on June 20, 2013. Known as Amendment 8, the changes to HD90 were offered by Mr. Burnam, adopted that day and made part of what was ultimately passed in the House as Plan H358. The changes to HD90 were offered after the Texas House Select Committee on Redistricting finished holding hearings on redistricting and after the committee had finished its consideration of redistricting proposals.\(^{11}\) The Texas Senate approved Plan H358 without changes on June 23, 2013, after the Senate Select Committee on Redistricting had finished its own hearings.\(^{12}\) As a result, there was no opportunity for members of the public to comment on the changes to HD90 when the plan was being considered in the House; because of the general agreement that each chamber endorses the other chamber’s redistricting plans, there was no meaningful opportunity for public comment on the House plan in the Senate.\(^{13}\)

- Departures From Normal Substantive Considerations

\(^{11}\) The House Select Committee on Redistricting held its meetings between May 31 and June 18, 2013 ([http://www.capitol.state.tx.us/Committees/MeetingsByCmte.aspx?Leg=83&Chamber=H&CmteCode=C085](http://www.capitol.state.tx.us/Committees/MeetingsByCmte.aspx?Leg=83&Chamber=H&CmteCode=C085)).


\(^{13}\) The Texas Latino Redistricting Task Force wrote a letter on June 22, 2013 urging Chairmen Darby and Seliger not to include changes to HD90 in the House redistricting plan but the changes had by that time already been adopted in the House. See Exhibit 15, June 22, 2013 letter to the Honorable Kel Seliger and the Honorable Drew Darby from the Texas Latino Redistricting Task Force.
The Legislature departed from normal substantive considerations when it made changes to HD90, a Latino opportunity district under the federal Voting Rights Act, which reduced Latino voting strength and made it more difficult for Latinos to elect their preferred candidates. During the 2013 Session, House Redistricting Chairman Darby announced that he would not accept amendments unless they were in accordance with the Voting Rights Act.\(^\text{14}\) The Legislature departed from this criterion when it adopted the changes to HD90.

The Legislature further departed from traditional redistricting criteria when it adopted changes to HD90 that split ten election precincts and relied on block level data to craft the boundaries of HD90.

Finally, the Legislature departed from traditional redistricting criteria when it elevated the creation of a bare-majority 50.1\% SSVR in the new HD90 over consideration of whether or not Latino voters were disadvantaged by the changes to HD90 proposed in Amendment 8.

- **Thwarting the Emergence of a Latino Electorate in HD90**

  The Legislature’s changes to HD90 in H358 decreased the ability of Latino voters to elect their candidate of choice just as they were exercising greater political strength and had recently supported a candidate who was not the incumbent. As explained above, Representative Lon Burnam won election to office initially in 1996. Mr. Burnam did not receive a challenger from within his party until the 2012 Democratic Primary when Mr. Carlos Vasquez ran against him. Mr. Burnam beat Mr. Vasquez receiving 2,073 votes to 1,914 -- a vote margin of 159.

  In the 2012 Democratic Primary Election, Latinos preferred Carlos Vasquez over incumbent Lon Burnam. Although the Latino-preferred candidate lost the election,

the margin of 159 votes shows that Latinos were poised to elect their candidate of choice in HD90.

The rising SSVR in HD90 demonstrates that Latinos were becoming more politically active. Latino voters’ lack of support for Representative Burnam in the Democratic Primary presented the possibility that Representative Burnam would lose the next Primary if challenged by another Latino candidate. In H358, by moving a high-population non-Latino precinct into HD90, reducing the SSVR and reducing the political performance of Latino-preferred candidates, the Legislature worked to shore up Representative Burnam’s incumbency in the face of low Latino support in the Primary. Finally, the Legislature intentionally drew HD90 to have a nominal majority for political reasons, using race, in the form of a bare 50.1% SSVR, to create the impression of a Latino district without regard for the diminished ability of Latinos to elect their preferred candidate.

- **Whether there are enhancing activities that “bear the mark of intention discrimination”**

In the 2014 Democratic Primary Election, Representative Burnam faces another Latino challenger: Ramon Romero. Mr. Romero has served on the Fort Worth Zoning Commission and City Plan Commission, and narrowly lost a 2012 runoff contest for Fort Worth City Council District 8. In this race, Representative Burnam’s campaign has placed automated phone calls, also known as “robocalls,” in Spanish to voters’ homes. The calls state:

Nuestra oficina ha recibido reportes de un intento defraude por su voto en su área. Ha llegado a nuestra atención que gente en camisetas azules están yendo a sus casas sin solicitar preguntando asistencia con su papeleta para votar por correo. Después de esta visita las papeletas se han reportado servidas o con información incorrectamente. Favor de escuchar

16 An audio file containing a recording of the call is available at ftp://maldef.org/TaskForceDocs/
prudentemente y siga estos pasos para asegurar que no roben su voto. Si una persona llega a su puerta y les pregunta que firme cualquier documento, no lo firme. Si lo hace puede ser que han robado su voto. Si recibe su papeleta para votar por correo no se lo dé a nadie, si lo hace puede ser que han robado su voto. Su voto es su voz, no deje que nadie se lo quite. Favor de llamar la campaña de Lon Burnam a 817-924-2008 para reportar estos incidentes. Gracias.

The Spanish in the calls is not grammatically correct but the translation is essentially:

Our office has received reports of an effort to commit voter fraud in your area. It has come to our attention that people in blue shirts are going to your houses without being invited asking to help with your mail ballot. After this visit the ballots have been reported to be sent in incorrectly or sent in with incorrect information. Please listen carefully and follow these steps to assure that they don’t steal your vote. If a person arrives at your door and asks you to sign a document, don’t sign it. If you do it, it is possible your vote has been stolen. If you receive your mail ballot, don’t give it to anyone. If you do it, it is possible your vote has been stolen. Your vote is your voice, don’t let anyone take it away. Please call the campaign of Lon Burnam at 817-924-2008 to report these incidents. Thank you.

Volunteers for the Romero campaign wear blue shirts. See Exhibit 16, photos of Romero campaign workers. The robocall does not advise voters to call the Tarrant County Elections office or the Texas Attorney General to report incidents of attempted voter fraud or violations of the Election Code.

In my opinion, the language of the phone calls has the potential to intimidate Spanish-speaking voters into not voting or not communicating with campaign workers who visit their homes before Election Day. Given that Spanish-speaking voters in HD90 are likely to be Latino, and campaign volunteers visiting Spanish-speaking homes are interested in turning out the Latino vote, I believe the robocalls from the Burnam campaign are likely to have the effect of reducing turnout among Spanish-speaking Latino voters, particularly elderly and home-bound voters who depend on voting by mail.
Conclusion

Given the racially polarized nature of the electorate in HD 90, the legacy of racism within the community, the increasingly powerful Latino electorate, the narrow margin of votes in the 2012 Democratic Primary and the manner in which HD 90 was reconfigured by the Legislature in 2013, I have reached the following conclusion: The changes to HD 90 in 2013 were made with discriminatory racial purpose. The changes were made to reduce Latino voting strength in HD 90 with the intention of giving the incumbent an electoral advantage over a Latino-preferred candidate in the 2014 Primary Election. The changes reduce the strength of the Latino vote and reduce Latino voters’ opportunity to elect their candidate of choice. Finally, the minute, complex and deliberate efforts involved in splitting precincts to draw the new boundaries of HD90 and its creation as a 50.1% SSVR district further reinforces my opinion that the district was drawn with discriminatory racial purpose.
Respectfully submitted,

[Signature]

Henry Flores, Ph.D.
Consultant