

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

NORTH CAROLINA STATE)
CONFERENCE OF THE NAACP,)
et al.,)
Plaintiffs,)
vs.) Case No: 1:13-CV-658
)
PATRICK LLOYD MCCRORY, in his)
official capacity as the)
Governor of North Carolina,)
et al.,)
Defendants.)

LEAGUE OF WOMEN VOTERS OF)
NORTH CAROLINA, et al.,)
Plaintiffs,)
vs.) Case No: 1:13-CV-660
)
THE STATE OF NORTH CAROLINA,)
et al.,)
Defendants.)

UNITED STATES OF AMERICA,)
Plaintiff,)
vs.) Case No: 1:13-CV-861
)
THE STATE OF NORTH CAROLINA,)
et al.,)
Defendants.)

VIDEOTAPED DEPOSITION OF
THOMAS BROOKS HOFELLER, Ph.D.

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9:08 A.M.
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1 districts according to the Census, usually the
 2 same geography but not always exact, have
 3 adults -- adult counts that are in excess of a
 4 hundred percent of the counted adults and many,
 5 many more that are in excess of 95 and then
 6 90 percent. So this would indicate that there
 7 are people on the rolls who really aren't
 8 voters.

9 Q. And approximately how many people among the
 10 unmatched voters do you believe really aren't
 11 voters?

12 A. I don't think I made that calculation at this
 13 point. I would like more time to examine all
 14 this data. I came in the process rather late,
 15 and one thing I'm sure of is that what I found
 16 so far warrants a lot more examination. It's
 17 not something that is done at this point.

18 Q. But you don't presently have an opinion as to
 19 how many voters we're talking about?

20 A. I don't know the exact number. I know it would
 21 be a significant number. I mean, you can't
 22 have more than a hundred percent of the adults
 23 registered and not have a significant number of
 24 people on the voter rolls that shouldn't be
 25 there.

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1 Q. And how do you define "a significant number"?

2 A. Well, in my experience, I think of elections as
 3 being sometimes very close, so numbers of low
 4 magnitude are even important in some elections,
 5 but once again, I haven't made that actual
 6 examination so I'm not ready at this time to
 7 give you an answer to that question.

8 Q. Can you give me an estimate, 10 voters, a
 9 thousand voters, 10,000 voters?

10 A. I would -- if I had to make an estimate -- and
 11 I qualify that it's just because you asked --
 12 it would probably be in the hundreds of
 13 thousands.

14 Q. And how confident are you in that estimate?

15 A. I told you before I haven't made that
 16 calculation yet or that estimate. So this is
 17 just out of my experience in the past with
 18 voter rolls and elections and looking at this
 19 type of data.

20 Q. I believe you said you used the 2010
 21 decennial -- it's a word I always trip up on --
 22 Census results but my understanding is the
 23 registration information is from 2013.

24 Did you do anything to adjust for that?

25 A. I'm sorry. When I compared the registration of

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1 the voter districts, which are roughly the
 2 equivalent of precincts, I used the 2010
 3 registration numbers. Otherwise I would be
 4 making an apples and oranges comparison. I'm
 5 sorry if I confused you.

6 Q. I appreciate that clarification. Okay. Going
 7 back to the opinions that you just listed for
 8 me a little while ago, let's talk about the
 9 second one.

10 I think you said -- and, again, correct
 11 me if I'm wrong -- that the file contains a
 12 large number of college students, a significant
 13 number of whom voted in one election and never
 14 voted again.

15 Can you tell me the significance of
 16 that?

17 A. Well, in my mind, that would relate to -- in
 18 the case of college students, it could be an
 19 indication that they registered while they were
 20 in North Carolina in college, and they probably
 21 have left the state after graduation since the
 22 elections I looked at were presidential, and
 23 that's a four-year cycle.

24 Q. You know what, let's take a look at your
 25 report. I apologize. I have copies of this

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1 but they're not stapled. So I am going to hand
 2 out copies of this, but you guys will have to
 3 be responsible for keeping the pages in order.

4 MR. FARR: Should we get a stapler?

5 MS. FROST: That might be a good idea.
 6 Should we take a brief break to grab a stapler.

7 THE REPORTER: If you want to go off
 8 the record --

9 MS. FROST: Yeah, let's go off the
 10 record.

11 THE VIDEOGRAPHER: Going off record,
 12 9:24 a.m.
 13 (Brief Recess.)

14 THE VIDEOGRAPHER: Going back on record
 15 at 9:28 a.m.
 16 (WHEREUPON, Plaintiff's Exhibit 83 was
 17 marked for identification.)

18 BY MS. FROST:

19 Q. So, Dr. Hofeller, I have handed you a document
 20 that I've asked the court reporter to mark as
 21 Exhibit 83. Are you familiar with that
 22 document?

23 A. I am.

24 Q. And is that the declaration that you prepared
 25 in this matter?

20

1 report that shows that.
 2 Q. What chart is that?
 3 A. I don't have the charts in front of me so it
 4 would be pretty hard for me to -- it's towards
 5 the end of the charts.
 6 Q. Do you know what it's titled?
 7 A. No, I'm sorry. Although it might be -- no, go
 8 on.
 9 Q. I think I found it. Perhaps it's Table 19.
 10 A. I don't know. I can't see it.
 11 Q. Bear with me, there's a lot of tables, as you
 12 know?
 13 MR. FARR: Elisabeth, I am going to go
 14 get my copy that has the tables so maybe I can
 15 help you.
 16 MS. FROST: Okay. Perfect.
 17 I am handing you a document that I am
 18 going to ask the court reporter to mark as
 19 Exhibit 85.
 20 (WHEREUPON, Plaintiff's Exhibit 85 was
 21 marked for identification.)
 22 MR. FARR: Tom, be careful when you're
 23 quoting from the stats because you're not
 24 getting the numbers right. So just take your
 25 time and use this if you need it.

29

1 THE WITNESS: Okay.
 2 BY MS. FROST:
 3 Q. Do you recognize that document?
 4 A. I do.
 5 Q. And what is that document?
 6 A. It's Table 19. It's the statistics for
 7 presidential election years '72 through 2012,
 8 1972, and it reads across first the year of the
 9 election.
 10 The next column is the voting age
 11 population for that election.
 12 The next column is the number of
 13 persons on the registered voter file.
 14 The next column, which is the fourth
 15 column, is the percentage of the voting age
 16 population which was registered to vote.
 17 And the next table is the turnout in
 18 the election.
 19 And the next column is the percentage
 20 of those registered who turned out.
 21 I think that directly relates to the
 22 question that you previously asked me.
 23 Q. Sorry.
 24 A. I think that relates to the question you
 25 previously asked me.

30

1 Q. Okay. But there's no midterm elections on
 2 here, correct; it's only presidential
 3 elections?
 4 A. Yes.
 5 Q. Do you know if you examined the turnout for
 6 midterm elections?
 7 A. I did not.
 8 Q. And -- but you would agree that turnout is
 9 likely to be lower in the midterms; is that
 10 correct?
 11 A. It's been my observation over many, many years
 12 the turnout is significantly lower in midterm
 13 elections.
 14 Q. But you don't know specifically in
 15 North Carolina how much lower turnout was in
 16 the midterms in 2010?
 17 A. For purposes of this report, I did not look at
 18 it.
 19 Q. And there's only been one presidential election
 20 since the 2008 presidential election, correct?
 21 A. That's true.
 22 Q. And in conducting your analysis in which you
 23 determined -- and again, correct me if I'm
 24 wrong -- it's likely that a lot of these voters
 25 are no longer North Carolina voters. Did you

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1 take into account the fact that there's only
 2 been one presidential election since 2008?
 3 A. I did. I just thought it was a better
 4 comparison to take the numbers from people who
 5 voted either in 2010 or 2012 because some
 6 people may have voted in 2010 which was the
 7 off-year election and then not voted in 2012.
 8 Now, they might have moved out, too,
 9 but I thought looking at two general elections
 10 was more relevant.
 11 Q. And have you studied voting patterns and how
 12 likely -- specifically how likely voters are to
 13 turnout for election after election
 14 consistently?
 15 A. Not specifically. That would be another thing
 16 that I think would be worthy of analysis in
 17 this case.
 18 Q. But you did not do that to form your opinion?
 19 A. I did not.
 20 Q. Have you studied voting patterns of specific
 21 demographics and how consistently they vote?
 22 A. Not in terms of this report.
 23 Q. And would you be surprised to learn that some
 24 voters only ever turnout in presidential
 25 elections?

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1 A. No.
 2 Q. And you're not suggesting that only college
 3 students and military personnel skip an
 4 election or two, are you?
 5 A. No.
 6 Q. Did you do this analysis looking at a larger
 7 span of elections or only starting with 2008
 8 and going forward?
 9 A. I just did 2008.
 10 Q. Why didn't you look at a larger span of
 11 elections?
 12 A. Again, it was a matter of time. I think it
 13 could be appropriate to go back and do the same
 14 examination at earlier times, but this is what
 15 I was able to do.
 16 Q. Are you aware of anyone who has ever done an
 17 analysis of and made a conclusion about whether
 18 or not a voter is likely to still reside in the
 19 state based on turnout over just a couple of
 20 elections?
 21 A. No.
 22 Q. Now, at the end -- let's go back to the report
 23 which I believe is Exhibit 83; is that right?
 24 MR. FARR: Yes.
 25 MS. FROST: Okay. Great.

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1 BY MS. FROST:
 2 Q. And do you see we were talking about paragraph
 3 51?
 4 A. Where do you want to be now?
 5 Q. So still paragraph 51.
 6 A. I see. Thank you.
 7 Q. And I'd like to draw your attention to the
 8 sentence sort of in the middle of that
 9 paragraph that starts -- let's see.
 10 "This indicates a significantly
 11 higher number of students who are
 12 registering once, voting once, and not
 13 again for the unmatched voter group."
 14 Do you see that sentence?
 15 A. I do.
 16 Q. And then the next one:
 17 "This signals a willingness to
 18 participate in the North Carolina
 19 election process once, perhaps in
 20 college or the military, and then,
 21 subsequently to vote in one's legal
 22 out-of-North Carolina residence."
 23 Do you see that sentence?
 24 A. Yes.
 25 Q. So is this one of the opinions that you're

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1 issuing in this matter that -- well, could you
 2 tell me how these sentences relate to your
 3 opinion? In your own words, what is the
 4 opinion that you're offering here?
 5 A. Okay. The unmatched files contain a
 6 significantly higher percentage of people of
 7 college age, a lot of which are located in zip
 8 codes where colleges are located or near to
 9 colleges, and they're a large proportion of
 10 this group.
 11 And, again, this is something that I
 12 would like to study further in this matter. I
 13 think it's an indication of where to
 14 investigate more on this that there are these
 15 registered voters who registered in 2007 and
 16 2008 for the 2008 general election cycle, so I
 17 would like to designate it, and who did not
 18 participate in two subsequent elections, the
 19 off-year election and the on-year election, if
 20 I could use that phrase.
 21 And this could indicate actually both a
 22 number of college students who are still not
 23 active voters in North Carolina and it -- also,
 24 of course, a number of other people, too, who
 25 are not active voters in North Carolina.

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1 So once again, if I had more time, I
 2 may break it down further and examine it
 3 further.
 4 Q. Well, let's breakdown now this sentence, this
 5 active-voters-in-North-Carolina concept. What
 6 do you mean by active voter?
 7 A. What I mean by an active voter is somebody who
 8 actually casts a ballot, goes to the polls and
 9 participates in the election at least by
 10 voting.
 11 Q. But just because someone doesn't vote in an
 12 off-year election, in a presidential election,
 13 that doesn't mean they're not going to vote in
 14 the next election.
 15 A. Well, I think -- certainly not exclusively, no.
 16 I think it bears further investigation.
 17 Q. So approximately how many of these voters do
 18 you believe are not going to cast a ballot in
 19 the next election?
 20 A. I'm not going to venture.
 21 Q. Have you done any analysis on that?
 22 A. No.
 23 Q. Are you aware of any analysis that any
 24 authority has done as to how likely a voter is
 25 to cast a ballot after they've sat out two

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1 elections?
 2 A. No, but I think it would be an interesting
 3 study. If it's been done, I'd like to see it.
 4 Q. And how many of these voters who did not cast a
 5 ballot in the midterm and the presidential do
 6 you believe have left the State of
 7 North Carolina?
 8 A. Once again, I don't think I could make an
 9 estimate of that.
 10 Q. And you've done no analysis into that either?
 11 A. No.
 12 Q. If we look back at paragraph 51, this concept
 13 of "one's legal out-of-North Carolina of
 14 residence," can you tell me what you meant by
 15 that phrase?
 16 A. What I meant -- actually there's probably a
 17 very legal term for that which is something
 18 that I would leave up to the attorneys, but I
 19 would say that your legal address is where you
 20 reside, and there are certainly tests for that.
 21 And if you come to North Carolina from
 22 out of state, probably your legal address was
 23 out of state when you came to North Carolina.
 24 Where it is then could be subject to change.
 25 Again, what I saw in this were

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1 indicators of a process occurring which needs
 2 more examination.
 3 Q. But you're not offering any opinion that any or
 4 all of these voters were not legally entitled
 5 to vote in North Carolina in 2008, are you?
 6 A. I think I'll leave the legal analysis of that
 7 for a later examination and for attorneys as a
 8 legal matter to decide.
 9 Q. And that's not presently part of your opinion?
 10 A. I'm sorry, I don't quite understand.
 11 Q. I just want to understand the opinions that
 12 you're offering in this declaration and I just
 13 want to make sure I understand that you are not
 14 offering an opinion as to whether or not these
 15 voters were legally entitled to vote in
 16 North Carolina in 2008 or, frankly, now at any
 17 time.
 18 A. Well, if they're on the registration roll,
 19 they're clearly eligible to vote unless there
 20 is some evidence that would show that they're
 21 not legally entitled to register, but I don't
 22 have that information.
 23 Q. And have you done any analysis to determine
 24 whether any of these voters have subsequently
 25 voted elsewhere?

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1 A. I have not.
 2 Q. Are you aware of any analysis?
 3 A. I think there was some testimony to that effect
 4 before the legislature earlier this year, but
 5 I'm not -- I haven't read that report.
 6 Q. If you haven't read that report, you're
 7 obviously not relying on it in your
 8 declaration.
 9 A. That's true.
 10 Q. Okay. Let's just back up a little, and let's
 11 just talk -- let's talk a little bit about
 12 these opinions and a little bit about your
 13 background.
 14 First, did you calculate a margin of
 15 error or determine competence intervals in
 16 relation to your opinions in this matter?
 17 A. These are not the type of statistical analyses
 18 which that would be appropriate for.
 19 Q. And why is that?
 20 A. Because when you think of margins of error and
 21 reliability, you're thinking more in terms of
 22 survey analysis or statistical analysis like
 23 correlations and such.
 24 This is hard data. The data are there.
 25 The error, if there's any, is that there are

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1 probably people on the voter file who shouldn't
 2 be there.
 3 Q. Potentially there's also error in the data,
 4 correct?
 5 A. I'm sorry, I don't understand what you mean by
 6 "the data."
 7 Q. Well, I guess I need to understand what you
 8 mean by "the data." If I understood you
 9 correctly when we sat down in the beginning of
 10 this this morning, you said that you relied on
 11 an analysis done by the State Board of
 12 Elections in 2013.
 13 A. I did.
 14 Q. And I am going to hand you a document that I'm
 15 going to ask the court reporter to mark as
 16 Exhibit 86.
 17 (WHEREUPON, Plaintiff's Exhibit 86 was
 18 marked for identification.)
 19 BY MS. FROST:
 20 Q. Are you familiar with this document?
 21 MR. FARR: Take your time to read it,
 22 Tom.
 23 THE WITNESS: I am familiar with it,
 24 yes.
 25 BY MS. FROST:

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1 Q. Is this the April 2013 report upon which you
 2 relied?
 3 A. For the numbers of unmatched voters, yes.
 4 Q. And I believe you said you didn't do any
 5 independent analysis comparing the State's list
 6 of registered voters with the North Carolina
 7 DMV customer file; is that correct?
 8 A. Yes.
 9 Q. So what do you know about this April 2013
 10 report and the underlying study?
 11 A. It was a study performed by the staff of the
 12 State Board of Elections to match the voter
 13 file. I believe there's the date actually of
 14 the voter file to the DMV customer file.
 15 And it was done using different data
 16 items in both sets of data, and it was an
 17 iterative process which had I guess what I
 18 would call a cascade of matches as it went down
 19 and found more or less match points.
 20 Q. Do you know if the report was done at the
 21 request of anyone?
 22 A. I'm not sure I recall exactly who requested it
 23 this time.
 24 Q. Did you know at some point?
 25 A. I assumed that it was done at the request of

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1 the legislature, but I'm not certain, so...
 2 Q. Okay.
 3 A. I just haven't read it lately so I don't --
 4 Q. Was this the first report that the State Board
 5 of Elections prepared on this issue in 2012 or
 6 2013?
 7 MR. FARR: Tom, if Elisabeth is going
 8 to ask you some questions about this, I would
 9 like for you to read it.
 10 BY MS. FROST:
 11 Q. Do you want to take time to read it?
 12 A. Yes. It really speaks for itself.
 13 MS. FROST: Should we go off the record
 14 while he reads it?
 15 MR. FARR: I think so.
 16 THE VIDEOGRAPHER: Going off record at
 17 9:59 a.m.
 18 (Brief Recess.)
 19 THE VIDEOGRAPHER: Back on record at
 20 10:11 a.m.
 21 MS. FROST: Could the court reporter
 22 please read back the question before the break.
 23 (Record Read.)
 24 THE WITNESS: The answer is no.
 25 BY MS. FROST:

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1 Q. And did you examine the earlier reports?
 2 A. No.
 3 Q. Why not?
 4 A. I thought that this report was probably correct
 5 for this study.
 6 Q. And why did you think that?
 7 A. It was what I determined should be the base for
 8 the study. And what I was asked to do in
 9 this -- in this analysis was to queue off this
 10 report.
 11 Q. Do you have any reason to doubt the accuracy of
 12 the 2013 report?
 13 MR. FARR: You mean the April 2013
 14 report?
 15 MS. FROST: Correct.
 16 THE WITNESS: Accuracy in which way?
 17 I'm not sure I understand what you mean by
 18 accuracy, that they did the process right or
 19 that the results were right?
 20 BY MS. FROST:
 21 Q. Either.
 22 A. I would be extremely confident that what they
 23 said they did they actually did. It is -- it
 24 is as in all list-matching endeavors subject to
 25 some degree of error.

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1 Once again, I think if there were more
 2 time to go into it and more resources, it might
 3 be helpful to compare the voter file to other
 4 information which may indicate residence.
 5 Q. Okay. Who crafted the queries that are
 6 discussed in this report?
 7 A. I don't right recall the name of the person,
 8 but it was the person who leads I think the IT
 9 group within the State Board of Education --
 10 the State Board of Elections.
 11 Q. And who conducted the queries?
 12 A. The person, I have no idea.
 13 Q. Do you know how the searches were reviewed for
 14 accuracy?
 15 A. I assume that they were accurate. I'm not sure
 16 I know that.
 17 Q. And do you know how the data summarized in the
 18 report was reviewed for accuracy?
 19 A. I believe the report stated that the -- many of
 20 the results compared to the previous -- the
 21 previous reports.
 22 Q. But you didn't do that comparison?
 23 A. I did not.
 24 Q. And did you perform any analysis to determine
 25 the adequacy of the data for the purpose of

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1 MS. FROST: You can phone a friend.
 2 MR. FARR: Would it be Senator Bob
 3 Rucho and Representative David Lewis?
 4 THE WITNESS: Yes.
 5 BY MS. FROST:
 6 Q. Do you currently have any other means of
 7 employment beyond Geographic Strategies? I
 8 believe you answered this but I just want to
 9 clarify.
 10 A. Well, yes, this case.
 11 Q. And is that all?
 12 A. And we have several other -- well, one other
 13 case ongoing. I presently have, of course,
 14 income through Geographic Strategies and
 15 sometimes that involves other cases in other
 16 states, but again, as I just said, I'm heading
 17 towards retirement now so I'm not working full
 18 time, although it's a lot of time for not full
 19 time sometimes.
 20 Q. Sometimes it's hard to retire.
 21 A. Yes.
 22 Q. Now, this is not a redistricting case, correct?
 23 A. No, absolutely not.
 24 Q. So can you tell me what in your experience
 25 relates to the opinions in which you're giving

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1 in this case?
 2 A. Well, in my past work over the years, I have
 3 done some significant work in list targeting,
 4 list management and such. I was the director
 5 of the RNC's computer center for a number of
 6 years. I actually did some list work in
 7 California way back in the '70s. I worked for
 8 a company that does list work present -- then
 9 and presently in Northern Virginia.
 10 I've supervised and assisted in
 11 building voter list files and having them
 12 matched to other data cleaned up, standardized.
 13 One of the things you have to do with a lot of
 14 these lists to compare one to another is to
 15 standardize names and addresses so they'll
 16 match.
 17 I've had extensive experience in GIS
 18 having been intimately involved in the
 19 development of one of the very first
 20 redistricting systems in the '70s and then in
 21 assisting and coordinating with other
 22 developers in developing GIS systems
 23 specifically for use in redistricting.
 24 I at one time have programmed, although
 25 I'd have to say that my programming languages

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1 are not in such demand any more. Some new
 2 programmers don't even know what they are, but
 3 I'm familiar with databases, I'm familiar with
 4 data structures, I'm familiar with the problems
 5 handling data.
 6 Q. And I think -- sorry, I'm sorry to interrupt.
 7 A. I'm, of course, very familiar with the
 8 geography and the geographic -- the demographic
 9 characteristics of the State of North Carolina.
 10 I have extensive experience here. So those are
 11 some of the things I think I bring to the
 12 table.
 13 Q. Okay. Have you ever before served as an expert
 14 in list matching?
 15 A. No.
 16 Q. And specifically, just so I understand it, what
 17 is your specific experience in list matching?
 18 A. Again, supervising that process in -- in voter
 19 list matching. One of the problems that we
 20 often have in the use of lists in political
 21 data is matching different voter files together
 22 from different sources and matching them with
 23 other demographic data which is obtained
 24 through previous sources or future sources and
 25 also with consumer data and other data that are

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1 available.
 2 I'm familiar with the NCOS process and
 3 the death list process and how they work. For
 4 instance, in NCOA only certain vendors are
 5 actually -- can perform that process because
 6 they have to meet standards which are imposed
 7 by the postal service because they don't want a
 8 lot of mail misdirected.
 9 Q. So I heard you say you have supervised list
 10 matching. When have you done that?
 11 A. My last experience in doing that kind of
 12 matching was in the '90s.
 13 Q. And what was the purpose of the list matching
 14 then?
 15 A. Again, it was to enhance and enrich voter
 16 files.
 17 Q. So it wasn't to make conclusions about the
 18 electorate?
 19 A. I'm not sure what you mean by "conclusions
 20 about the electorate."
 21 A lot of the use of voter files in
 22 campaigns, in politics, is to draw conclusions
 23 about what data serves to target resources into
 24 campaigns. So I would say the answer to that
 25 question is that, yes, I've had that

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1 experience.
 2 Q. And that was in the 1990s?
 3 A. Well, but also I've been in intimate contact
 4 with in particular the RNC's IT people and,
 5 again, keeping contact with some of the vendors
 6 around DC and discussing these issues because
 7 they relate directly to redistricting data and
 8 matching of redistricting data to geography.
 9 Big problem in redistricting is updating
 10 elections.
 11 Q. But have you yourself been involved in list
 12 matching since the 1990s?
 13 A. Again, it depends on what you -- how you define
 14 involvement.
 15 Q. Well, I'm just -- I'm actually just following
 16 up on your response.
 17 So I heard you to say -- actually could
 18 we scroll back so I get it right.
 19 (Discussion held off the record.)
 20 BY MS. FROST:
 21 Q. So the question I asked was I heard you say you
 22 supervised list matching -- sorry.
 23 The question I asked was about
 24 supervising -- the last time you supervised
 25 list matching and you said that was in the

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1 1990s. So was that an accurate statement?
 2 A. That was in the mid '90s but --
 3 Q. And that was the last -- I'm sorry.
 4 MR. FARR: Wait.
 5 Go ahead, Tom.
 6 THE WITNESS: But I've had extensive
 7 discussions both with people inside the
 8 political community and outside, vendors who do
 9 a lot of other matching about the processes
 10 that could be used and the procedures that
 11 could be used to match these types of files.
 12 So I've kept abreast of what is possible in
 13 terms of working with lists and I consider that
 14 to be part of my required knowledge base
 15 ongoing.
 16 BY MS. FROST:
 17 Q. But have you --
 18 A. For instance, it plays into micro targeting and
 19 other such activities, so that's why I keep
 20 abreast of it.
 21 Q. Have you yourself supervised or done any list
 22 matching since the 1990s?
 23 A. Not -- no.
 24 Q. And I believe you said that you're very
 25 familiar with the demographic characteristics

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1 of North Carolina; is that correct?
 2 A. At least as to how it pertains to
 3 redistricting, which is fairly detailed.
 4 Q. Have you ever been qualified as an expert in
 5 the demographic characteristics of
 6 North Carolina?
 7 MR. FARR: I'll just object to the form
 8 of the question.
 9 MS. FROST: That's fine. You can
 10 answer.
 11 MR. FARR: If you can answer that, Tom,
 12 go ahead.
 13 THE WITNESS: I don't really understand
 14 the question. Maybe you could rephrase it a
 15 different way.
 16 BY MS. FROST:
 17 Q. Have you ever -- strike that.
 18 In this particular case, how did your
 19 expertise in the demographics of North Carolina
 20 come into play?
 21 A. Well, once again, many of the charts that were
 22 run deal with the demographics, the racial
 23 political and registration demographics of the
 24 state, some at the state level, some at the
 25 county level, and as you can see from my

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1 report, a lot of it pertains to the use of
 2 registration data and Census data. Those sets
 3 of data are intimately related to the
 4 redistricting process.
 5 Q. But if I understood you correctly, this is --
 6 the data that you used was data that you got
 7 from the legislative information services and
 8 Census data and registration data from the
 9 State Board of Elections, correct?
 10 A. Well, just by example, I spent a year and a
 11 half as staff director of the US House
 12 Subcommittee on the Census. I got into the
 13 intimate workings of the Census, particularly
 14 Census adjustment and how the Census was taken.
 15 I don't take the Census. I don't
 16 develop the data, but I am a very heavy user of
 17 it in that it's part, again, of the knowledge
 18 set that I need to do my job.
 19 The same is true for precinct result --
 20 precinct election history results. The same is
 21 true for registration data. And that data,
 22 including lists, feed right into that.
 23 So it's in my testimony -- well, never
 24 mind, that's enough.
 25 Q. I'm just trying to understand what part of your

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1 opinion is based on your experience with the
 2 demographics of North Carolina as opposed to
 3 the underlying data that you receive from other
 4 entities that you then relied upon.
 5 A. I think in the case of this report, the
 6 conclusions I reach are a result of what I saw
 7 in the data that was compiled. I might not
 8 have been able to compile all of it if I didn't
 9 know where to look.
 10 Q. And I think you said this, but I just want to
 11 make sure. In Exhibit 87, your resume that you
 12 have in front of you, all of the cases in which
 13 you've served as an expert witness either at
 14 deposition or testifying in court, are those
 15 listed here?
 16 A. To the best of my recollection. I've tried to
 17 be very thorough about it.
 18 MS. FROST: What time is it?
 19 THE REPORTER: 10:52.
 20 MR. FARR: I suggest we take a break
 21 pretty quickly.
 22 MS. FROST: I think it's a good time to
 23 take a break.
 24 THE VIDEOGRAPHER: Going off record at
 25 10:53 a.m.

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1 It's also helpful when you have it in
 2 redistricting because that represents the body
 3 of voters who are more likely to vote in
 4 elections, and, of course, if you have that
 5 information over a time span, that combined
 6 with other data can be a very powerful tool in
 7 not wasting money essentially.
 8 Q. Well, when have you done that?
 9 A. Well, I've done it -- again, I don't understand
 10 the scope of your question when you say when
 11 have I done it.
 12 Do you mean by that have I taken this
 13 file and that file and written a piece of
 14 software to match them together or have I
 15 supervised people in doing that?
 16 Q. I guess -- well, let's take it bit by bit.
 17 A. It's just too --
 18 Q. In your prior expert witness work, have you
 19 ever written a report or given testimony
 20 analyzing voter turnout?
 21 A. Not that I remember.
 22 Q. And in your prior expert work --
 23 A. But --
 24 Q. Okay, but, please finish.
 25 A. Once again, turnout data is very integral to

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1 (Brief Recess.)
 2 THE VIDEOGRAPHER: We're back on record
 3 at 11:09 a.m.
 4 BY MS. FROST:
 5 Q. Dr. Hofeller, do you have any prior experience
 6 analyzing the effects of voter identification
 7 laws?
 8 A. No.
 9 Q. Do you have any prior experience specifically
 10 analyzing voter turnout?
 11 A. Could you ask that question a little more
 12 specifically?
 13 Q. What do you think -- what is the term -- does
 14 the term "voter turnout" mean something to you?
 15 A. Of course.
 16 Q. And have you in your work ever analyzed voter
 17 turnout?
 18 A. Yes.
 19 Q. And in what context?
 20 A. One of the major components of registration
 21 list development is the collection of the
 22 persons who actually came to the polls in each
 23 election to try and develop patterns for people
 24 to target campaign resources. So that data is
 25 very helpful.

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1 the redistricting process. So indeed in some
 2 cases it might have turned up that we had
 3 analyzed political characteristics by turnout
 4 rather than by actual registration, and that --
 5 when it's available also goes into
 6 redistricting databases.
 7 So once again, turnout is an integral
 8 part. I understand the concept and I
 9 understand uses of it, if that helps.
 10 Q. You said this may have happened. Can you give
 11 me specific examples of when this happened in
 12 your work?
 13 A. I don't remember all of the databases that have
 14 been built for all of the redistrictings that
 15 I've been involved in. Those databases consist
 16 of an extremely long list of data elements. If
 17 you went into columns of the base data that's
 18 used in any state, there may be literally
 19 hundreds of different pieces of information
 20 summarized for each unit of geography and,
 21 where available, that is always something that
 22 we like to compile, if we can get it.
 23 Q. And your redistricting -- your experience in
 24 relation to redistricting, how is this directly
 25 related to your opinion about unmatched voters

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1 in this case?
 2 A. Well, once again, the demographics and voting
 3 statistics are an integral part of
 4 redistricting. Anybody who has any experience
 5 in redistricting that's worth hiring
 6 understands all these relationships and is
 7 prepared to apply this information at any point
 8 in the redistricting process, including that
 9 process where you're defending a plan against a
 10 challenge or challenging a plan that somebody
 11 else drew.
 12 So in this particular report, I'd like
 13 to characterize what I'm dealing with as what's
 14 called hard data. They are facts. They're not
 15 generated by what we would normally call a
 16 statistical analysis. Of course, that's a word
 17 that covers many different things.
 18 So the conclusions that I've drawn in
 19 this report relate directly to the experience
 20 that I've gained in GIS systems and list work
 21 and demographics. We couldn't draw coherent,
 22 legal legislative and congressional and
 23 sometimes local districts without understanding
 24 all these facts and being able to use them.
 25 Q. Have you ever before analyzed unmatched voters?

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1 A. Could you be more specific in that question,
 2 please?
 3 Q. Well, your report talks a lot about unmatched
 4 voters. What do you mean by unmatched voters?
 5 A. Unmatched -- it depends unmatched to what.
 6 Unmatched voters -- what I meant by unmatched
 7 voters were the voters on the North Carolina
 8 voter registration file which the State Board
 9 of Elections used to match against the
 10 Department of Motor Vehicles customer file to
 11 try and ascertain how many voters had driver's
 12 licenses or who they thought could likely have
 13 driver's licenses.
 14 Q. Have you ever conducted a similar analysis to
 15 the one you have done in this case?
 16 A. I would have to say the specific analysis that
 17 I've done in this case, the answer would have
 18 to be no, but, once again, I qualify that by
 19 saying that all these concepts are used kind of
 20 on a daily basis on redistricting.
 21 So there's nothing in here -- there's
 22 nothing in this process that I used which is
 23 not familiar to me in my work in other cases.
 24 Q. Does your resume list all of the
 25 publications -- all of your publications from

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1 the last ten years?
 2 A. Yes.
 3 Q. And which publications are relevant to your
 4 work in this case?
 5 A. I'm not sure I have any publications in the
 6 last ten years.
 7 Q. Of the publications listed on your resume,
 8 which of those are relevant to your work in
 9 this case?
 10 A. I don't really recall any that are relevant.
 11 Q. Do you want to take a quick look? It's
 12 Exhibit 87.
 13 A. Yes. I'm sorry. Well, no because compactness
 14 is not a factor in this case except from the
 15 fact that the -- a lot of the processes which
 16 are involved in computing compactness relate to
 17 distances, some of them, and geography and GIS,
 18 but other than that, I would say aside from
 19 reports and affidavits that I've done in these
 20 cases which you may or may not consider to be
 21 publications.
 22 Q. So which specific reports or affidavits have
 23 you prepared that are relevant to your analysis
 24 in this case?
 25 A. Probably a whole list of -- the whole list of

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1 cases that I've been in for for redistricting.
 2 Do you want to go through all the cases?
 3 Q. No, we don't have to do that.
 4 A. Okay.
 5 Q. Let's look at your declaration again. When
 6 were you first contacted about this case? It
 7 may or may not be in the declaration. I just
 8 want to make sure you have it in front of you.
 9 A. Okay. Well, I have to look at the declaration.
 10 I'm not sure I stated it in the declaration.
 11 Q. Okay.
 12 A. I believe the first time I discussed this
 13 matter with counsel was probably back in
 14 November, December.
 15 Q. And what was the gist of that discussion in
 16 November, December?
 17 A. What sort of things that might be relevant to
 18 look at with regard to the defense of the case.
 19 Q. And what sort of things did you discuss that
 20 might be relevant to look at with regard to the
 21 defense of the case?
 22 A. I discussed the fact that there needed to be a
 23 lot of analysis done on the information that
 24 was available. Somebody really needed to start
 25 doing it.

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1 Q. So did you start doing it?
 2 A. No.
 3 Q. When did you start doing it?
 4 A. I believe that was -- and you all can correct
 5 me -- I think sometime in February really.
 6 Q. And why didn't you do any analysis between
 7 November and February?
 8 A. Because I wasn't retained to do.
 9 Q. So you were first retained in February?
 10 A. I believe so.
 11 Q. And how much time did you spend on your
 12 analysis once you began that work?
 13 A. Again, I'd have to go back and look at my
 14 billing records to know this.
 15 MS. FROST: We'd request those also be
 16 produced.
 17 BY MS. FROST:
 18 Q. Do you have a rough estimate as to how much
 19 time you spent on your analysis in this case?
 20 A. And I just rather key off of facts than give an
 21 estimate.
 22 Q. You have no recollection of how much time you
 23 spent on your analysis in this case?
 24 A. I have to say there are a lot of things going
 25 on in my life during this period of time, too,

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1 so whenever I work on the case, I put down the
 2 hours on a calendar and submit them. And I
 3 guess I would -- if lawyers agree that it's
 4 relevant, I'll be glad to provide them or they
 5 can provide them.
 6 Q. And when did you conclude the analysis that's
 7 summarized in your declaration?
 8 A. April 25, 2014.
 9 Q. So the day that it's signed?
 10 A. Yes.
 11 Q. And have you done any further work on this case
 12 since that date?
 13 A. Other than reviewing documents in preparation
 14 for this deposition?
 15 Q. Well, how much time did you spend reviewing
 16 documents in preparation for this document?
 17 A. Oh, I would say maybe 30 -- no more than
 18 30 hours.
 19 Q. And did you --
 20 A. Probably less than that.
 21 Q. Have you done any other work since you signed
 22 your report in this case?
 23 A. Could you ask that question more specifically.
 24 Q. Sure. I apologize.
 25 Have you done any further work on this

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1 case since the day that you signed your
 2 declaration other than preparing for this
 3 deposition?
 4 A. You know, maybe an hour but nothing of any
 5 significance.
 6 Q. Do you remember what that hour was spent doing?
 7 A. No. I just maybe was looking at several things
 8 like the reports.
 9 Q. What do you mean by the reports?
 10 A. The tables.
 11 Q. I'm sorry. Do you mean the tables to your
 12 report?
 13 A. Right.
 14 Q. Have you reviewed the other expert reports
 15 produced in this matter?
 16 A. No.
 17 Q. And at this point do you have any intention to
 18 do any more work in this -- for this case?
 19 A. Well, that will be up to the client to decide
 20 whether they want me to do it or not. I think
 21 there's a considerable body of work that needs
 22 to be done on many of the studies that I
 23 undertook.
 24 Again, there wasn't sufficient time, I
 25 think, to dig down deeper into the information.

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1 So if the clients are wanting to have it done
 2 and wanting to have me do it, then I guess I'll
 3 do it.
 4 Q. But has that been decided yet as far as you
 5 know?
 6 A. Not formally, no.
 7 Q. You believe -- do you believe you will be doing
 8 more work on this case?
 9 A. Well, you know, if we go to trial, I would
 10 imagine that I would probably testify at trial
 11 and there may be further reports, but you asked
 12 the specific question have I actually done it.
 13 I expect to do more, but that's always up to
 14 the client.
 15 Q. Do you think further work on this case would
 16 change any of your opinions in your
 17 declaration?
 18 A. It could, yes.
 19 Q. In what way?
 20 A. Well, again, I might -- I might probably
 21 strengthen some of my opinions on some of the
 22 matters I looked at. I think that would
 23 probably be it.
 24 Again, I don't think we have a full
 25 handle on the analysis of the database, but

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1 Q. Can you tell me sitting here today what your
 2 conclusion that it's not difficult for college
 3 age students to get an identification from the
 4 DMV, what is that based on?
 5 A. It's based on the fact that it isn't difficult
 6 for them to go to a DMV office and get an ID.
 7 Q. But did you survey college students to
 8 determine this?
 9 A. Did I survey them, you mean in like a random
 10 sample survey?
 11 Q. Sure.
 12 A. No.
 13 Q. What did you do to determine this?
 14 A. Well, I determined that the percentage of
 15 people that are near to a DMV office and the
 16 fact that they could get those voter IDs isn't
 17 unreasonable to go that kind of distance
 18 particularly for college students.
 19 Q. Why particularly for college students?
 20 A. Well, I would think that they would have
 21 friends who could take them to the office, many
 22 of them drive, a lot of them don't have cars at
 23 college but some of them do, and they could --
 24 they could get those IDs.
 25 Q. Of course if they're on the unmatched DMV file,

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1 they don't have a North Carolina driver's
 2 license, correct?
 3 A. Or an ID, neither. Of course they may have
 4 another driver's license, too.
 5 Q. Have you conducted any analysis as to whether
 6 or not individuals who appear on the unmatched
 7 voter list are more or less likely to have
 8 access to private transportation to travel to a
 9 DMV?
 10 A. No.
 11 Q. Have you conducted any analysis into whether
 12 the individuals who appear on the unmatched
 13 voter lists are likely to have access to public
 14 transportation to travel to the nearest DMV?
 15 A. No.
 16 Q. And there aren't bus routes or any other
 17 indications about public transportation on any
 18 of the maps that you produced, are there?
 19 A. No.
 20 Q. And assuming there is public transportation
 21 available, have you conducted any analysis into
 22 how long it might take someone to travel via
 23 public transportation to a DMV that could be as
 24 far as 10 or 13 miles away?
 25 A. I'm sorry, could you ask that again.

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1 Q. Have you conducted any analysis to determine
 2 how long it might take someone to travel via
 3 public transportation to a DMV that could be as
 4 far as 10 or 13 miles away?
 5 A. No.
 6 Q. Let's talk a little bit about the geocoding.
 7 Can you turn to paragraph 52 of your
 8 report, please. I'd like to draw your
 9 attention to the first line of that paragraph
 10 which reads:
 11 "At my request, additional data
 12 fields were added to the unmatched 318K
 13 and 203K files."
 14 Do you see that?
 15 A. I do.
 16 Q. Who did you make that request to?
 17 A. Legislative services IT group.
 18 Q. Anyone specifically in the legislative services
 19 IT group?
 20 A. Dan Frey.
 21 Q. And what specifically did you request?
 22 A. I requested -- well, I asked if and then
 23 requested that they geocode the voter file, the
 24 unmatched voter file.
 25 Q. And what is Mr. Frey's background in geocoding?

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1 A. You'd have to ask Mr. Frey that.
 2 Q. So you don't know?
 3 A. There's a -- there's a piece of software that's
 4 resident on their computer that does that
 5 geocoding, and it's been developed by companies
 6 that sell that software and it's used for other
 7 geocoding also in the state. I have no reason
 8 to believe that he would not know how to apply
 9 a list of names to that file.
 10 Q. Do you know how often he's used that?
 11 A. No. You'd have to ask him.
 12 Q. And did you say, I'm sorry, it's a specific
 13 software program?
 14 A. There's a series of programs. One of the
 15 things that you have to do is you have to
 16 normalize the addresses.
 17 Q. What does that mean?
 18 A. Again, as I explained way earlier in my
 19 deposition, one of the challenges in address
 20 matching is that from source to source, the
 21 format of those addresses can be different. It
 22 can be S-T, S-T-R, S-T-R-E-E-T, it can be West,
 23 it can be W, it can be N, it could be North.
 24 And there are, again, software programs
 25 that turn those addresses into a standard

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1 format that's used by list vendors to match
 2 those addresses.
 3 Q. So did Mr. Frey normalize the addresses?
 4 A. Yes.
 5 Q. And what did he use to do that?
 6 A. Again, another piece of software.
 7 Q. What kind of software?
 8 A. Well, I don't know. You'll have to ask
 9 Mr. Frey.
 10 Q. Then what's the next step after normalizing the
 11 address?
 12 A. Then you run the file against a geocoding
 13 software which determines where that address is
 14 located. So there's a file of addresses for
 15 the State of North Carolina, known addresses,
 16 that contains the geocode for those files.
 17 Q. And what geocoding software did Mr. Frey use?
 18 A. Again, I can't tell you the name right off.
 19 Q. Did you do anything to check to make sure that
 20 Mr. Frey's geocoding work was accurate?
 21 A. My recollection is I believe we also ran
 22 similar comparisons against the file at the
 23 State Board of Elections, too, but I'm not
 24 precisely sure.
 25 Q. And how did that -- did that answer my

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1 question? How did that -- how is that a check
 2 on whether Mr. Frey's geocoding work was
 3 accurate?
 4 A. The -- the way to check it precisely would be
 5 to have another organization run the same
 6 geocoding and see what the results were and how
 7 they compared.
 8 Q. So the only way to check it?
 9 A. Well, unless you're going to take a sample of
 10 the records and go into the geocodes and see
 11 what percent match.
 12 Q. Did you do that?
 13 A. Well, but that would be the same thing that he
 14 would have done.
 15 Q. Do you know if he did that?
 16 A. I doubt it. I think he had confidence in the
 17 State's software to geocode. They've been
 18 using it for general use.
 19 Q. Okay. Let's look at paragraph 52 of your
 20 declaration again. If you could turn -- it's
 21 the sentence that starts on the bottom of 11
 22 and goes over to 12. The one that reads:
 23 "For those voters for whom a
 24 geocode could not be accurately
 25 determined (about 89 percent of the

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1 file)."
 2 Is that an accurate statement?
 3 A. No. Actually that's 11 percent. 89 percent
 4 was the match rate.
 5 Q. And for those 11 percent, you simply use the
 6 centroid of the precinct to which they were
 7 assigned?
 8 A. Yes.
 9 Q. And why couldn't those 11 percent be matched or
 10 be given accurate geocoding?
 11 A. Well, first of all, they may not have had an
 12 address that was geocodable. This is something
 13 that is done all the time. We do it -- we do
 14 it at the RNC. I've had it done before.
 15 And there are a lot of addresses that
 16 are outside of the area that has geocodes:
 17 Post office boxes, rural routes, you know,
 18 third house down from such and such street.
 19 They're mostly -- mainly rural.
 20 Q. And how wide or long is the widest or longest
 21 precinct in North Carolina in miles?
 22 A. I have no idea.
 23 Q. Okay. Let's turn to paragraph 57.
 24 If I'm reading this paragraph
 25 correctly, you talk about a process for

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1 determining each voter's nearest DMV office; is
 2 that correct?
 3 A. Yes.
 4 Q. Can you explain how that process works?
 5 A. I think it would be actually better if we used
 6 one of the maps that I --
 7 Q. Well, let's first talk about the process
 8 because I think you can do that without the
 9 maps.
 10 A. I'll do my best.
 11 Q. Did you write an algorithm?
 12 A. I didn't write it, no.
 13 Q. But an algorithm was used?
 14 A. An algorithm was used.
 15 Q. Who wrote the algorithm?
 16 A. I got the algorithm through our -- I had the
 17 work done through Dan Frey, and I think he may
 18 have used functions within their mapping
 19 software to do this.
 20 Q. And how much experience does Dan Frey have
 21 writing -- this is a bounding algorithm; is
 22 that correct?
 23 A. He didn't write it. I'm not sure he wrote it.
 24 Q. Do you know who wrote it?
 25 A. No. You would have to ask Dan.

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1 Q. Did you run tests on that algorithm?
 2 A. I had a map produced which demonstrated where
 3 the addresses were and where the bounding
 4 polygons were and where the DMV office were,
 5 and in my judgment it was done correctly.
 6 Otherwise the maps would have been bad.
 7 Q. Did you look at the maps -- the maps you
 8 produced are PDFs, correct?
 9 A. I'm sorry. PDFs?
 10 Q. PDFs.
 11 A. Oh, yes. Well, some of the maps may have been
 12 in another electronic format. They were
 13 printed out for me by -- by Dan Frey and
 14 Raleigh, Raleigh being the first name.
 15 MR. FARR: Raleigh Myers.
 16 THE WITNESS: Raleigh Myers. So some
 17 of them may not have been produced in PDF
 18 printout format. There might have been another
 19 format they were printed out in.
 20 So they printed them out on their --
 21 actually it's an ink jet, wide ink jet printer.
 22 We don't have plotters any more. And this is
 23 so that I could see both at a state level and
 24 at a more detail level what the results look
 25 like actually mapped.

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1 BY MS. FROST:
 2 Q. Did you review any maps other than the PDFs
 3 that you produced?
 4 A. Again, I said it may not have been a PDF.
 5 Q. That's what I'm asking you. Did you review
 6 any --
 7 A. I reviewed the maps.
 8 Q. In what format did you review the maps?
 9 A. Paper format.
 10 Q. And just by visually inspecting them?
 11 A. Certainly. You would know immediately if
 12 something was amiss.
 13 Q. Let's look at paragraph 67 of your report. And
 14 I'd like to draw your attention to the last
 15 sentence of that paragraph where you say:
 16 "In my opinion, placement and hours
 17 of operation of the one-stop centers was
 18 designed to favor the Democrats in the
 19 2012 General Election."
 20 Do you see that sentence?
 21 A. I do.
 22 Q. What's that opinion based on?
 23 A. It's based on my examination of the maps where
 24 the one-stop centers are placed on maps where
 25 the political election results are used as a

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1 thematic. It's based on my case analysis of
 2 Wake County.
 3 Q. Did you do any analysis of the relationship
 4 between population density and early voting
 5 locations?
 6 A. None directly. We did have the -- the voter --
 7 the population density and the voter density
 8 for the Wake County study and also we had it
 9 for the counties that did not have one-stop
 10 Sunday centers and those that did.
 11 Q. And did you draw any conclusions from --
 12 A. I did not make a calculation of density, but it
 13 could be done from those numbers.
 14 Q. Do you have an opinion as to whether there are
 15 more early voting locations located in places
 16 where the population is denser?
 17 A. Well, obviously if you look at the state as a
 18 whole, a lot of the counties that have one
 19 center or very few centers are much smaller
 20 counties so I think density would track -- the
 21 number of centers would track with the size of
 22 the population.
 23 Q. And in reaching your opinion, did you consider
 24 the possibility that the placement and hours of
 25 the one-stop centers were designed to serve the

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1 most voters in the most efficient way rather
 2 than to favor Democratic voters?
 3 A. There were -- in my case study of Wake, there
 4 were many, many more non-Hispanic white areas
 5 and Republican areas that were much farther
 6 away from one-stop centers.
 7 Q. So is that -- does that mean, no, you did not
 8 consider the possibility that the placement and
 9 hours of the one-stop centers were designed to
 10 serve the most voters in the most efficient
 11 way?
 12 A. Not directly, no.
 13 Q. And why not?
 14 A. I think, once again, a factor of time.
 15 Q. How confident are you in your conclusion that
 16 the placement of one-stop voting locations was
 17 designed to favor the Democrats in the 2012
 18 general election?
 19 A. I'm confident of it.
 20 Q. Very confident?
 21 A. On a scale of?
 22 Q. On a scale of 1 to 10 with 1 being least
 23 confident and 10 being most confident.
 24 A. I think I'll just stick to my answer that I
 25 haven't made that study to enable me to

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1 speculate at that conclusion.
 2 Q. So does that mean your opinion is speculation?
 3 A. No. I think what you want to -- me to say is
 4 to speculate on the confidence level of that
 5 study.
 6 I said I'm confident that my conclusion
 7 is correct and I'll leave it at that.
 8 Q. But you can't tell me how confident you are of
 9 that conclusion?
 10 A. Once again, there are many, many issues
 11 involved in this case and the analysis of the
 12 file that need additional study done of them.
 13 Q. That's right. There are many, many additional
 14 things that you did not study, correct?
 15 A. There are many additional things that I would
 16 like to study. I had a limited time in which
 17 to do it.
 18 Q. And you didn't study those things?
 19 A. Some things I did study I'd like to study in
 20 more depth. Some things I didn't get a chance
 21 to study. So it would be an ongoing process of
 22 digging deeper into this list or into the
 23 placement of the centers and drawing more
 24 information up and making conclusions on that
 25 information.

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1 Q. So you cannot exclude the possibility that the
 2 early voting and one-stop centers were placed
 3 with the intent to serve the most voters in the
 4 most efficient way rather than to favor the
 5 Democrats?
 6 A. I can't rule off -- rule out the conclusion
 7 that that might have been true in some areas,
 8 yes.
 9 Q. And is it your position that if a group
 10 affiliated with a political party -- in this
 11 case the county boards which were at that time
 12 mostly Democrats -- make decisions that have
 13 the result of affecting one group more than
 14 another, that's strong evidence that the body
 15 making the decisions intended to favor or
 16 disfavor a group of voters?
 17 A. That's a long question.
 18 Q. I'll break it down for you.
 19 A. Okay.
 20 Q. The way I understand your opinion -- and again
 21 in paragraph 67, "In my opinion, placement and
 22 hours of operation of the one-stop centers was
 23 designed to favor the Democrats in the 2012
 24 general election," correct? That's your
 25 statement of your opinion?

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1 A. Yes.
 2 Q. And do you have any evidence other than
 3 affects-based evidence that the placement of
 4 these centers was designed to favor the
 5 Democrats?
 6 A. I certainly wasn't privy to the deliberations
 7 that may have gone on in some of the counties
 8 where decisions were challenged.
 9 I would note that to the best of my
 10 knowledge -- and I may be wrong -- that almost
 11 all of the county boards were controlled by
 12 Democrats.
 13 Q. And you believe that that is evidence that
 14 allows you to make -- to draw the conclusion
 15 and offer the opinion that the placement of
 16 these centers was designed to favor Democrats?
 17 A. I'm sorry, I don't understand what you mean by
 18 that.
 19 Q. The fact that the county boards were majority
 20 Democrat at the time.
 21 A. I think that the data is what I would base my
 22 opinion on primarily.
 23 Q. Let's look at paragraph 71 of your report. Do
 24 you see the first sentence "The placement and
 25 operating hours of the Wake County one-stop

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1 centers represented a clear advantage to
 2 Democratic and African American voters"?
 3 A. Yes.
 4 Q. And are you basing that opinion that Democratic
 5 and African American voters had a clear
 6 advantage on your discussion of the amount of
 7 hours that these centers were open in the same
 8 paragraph? Let me break that down.
 9 In the paragraph you see where it
 10 says -- paragraph 72, you see where it says
 11 "The group of centers open for 120 plus hours
 12 has a 2010 total adult population of 286,401
 13 within three miles"? Do you see that?
 14 A. Yes.
 15 Q. And then the next sentence, "While the group of
 16 centers open 82 hours has an equivalent adult
 17 population of 160,257 within three miles," do
 18 you see that?
 19 A. Yes.
 20 Q. So what -- how do these statements relate to
 21 your opinion? Why do you think these
 22 statements are significant?
 23 A. The data that I was using was the demographic
 24 analysis of those two types of voting centers
 25 which were open on Sunday and which were not

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1 open on Sunday.
 2 Q. Can you check again because I'm not sure this
 3 paragraph is about open on Sunday.
 4 A. Okay. Well, it's the number of hours.
 5 Q. So this difference in hours, is that what you
 6 use to draw your -- to conclude --
 7 A. Yes, the difference in hours.
 8 Q. And I'm sorry, let me just finish my sentence.
 9 Is the difference in hours what you use
 10 to conclude that the placement and operating
 11 hours of the Wake County one-stop centers
 12 represented a clear advantage to Democratic and
 13 African American voters?
 14 A. That and the tables -- the Table 15, the nature
 15 of the population that were in those three-mile
 16 circles.
 17 Q. What I'm trying to understand is isn't it
 18 logical to have extended hours if you're
 19 serving more than -- 100,000 more people at a
 20 center?
 21 A. Not necessarily. I mean it certainly would
 22 have a degree of logic, yes, but having the
 23 hours of availability open to all voters for
 24 the same times would also be a fairer way to do
 25 it.

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1 Q. So did you do any analysis of voters who were
 2 in the areas where there were less hours of --
 3 where the centers were opened for less hours
 4 and determine that they were unable to cast
 5 their votes -- strike that.
 6 Did you do any analysis of comparing
 7 and contrasting voter access in the centers
 8 with more hours versus less hours?
 9 MR. FARR: Objection to the form.
 10 THE WITNESS: Ask it again. Sorry.
 11 BY MS. FROST:
 12 Q. Did you do any analysis to determine whether
 13 voters who were served by centers that were
 14 open for less amount of hours suffered in any
 15 way as a result?
 16 MR. FARR: Objection to the form.
 17 THE WITNESS: I don't understand what
 18 you mean by "suffered."
 19 BY MS. FROST:
 20 Q. Do you have any evidence that voters who lived
 21 in areas that were served by centers that were
 22 open for less hours were unable to cast their
 23 votes because of the hours that the centers
 24 were open?
 25 A. One of the things that I think needs more

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1 examination were the actual uses of Sunday
 2 voting centers.
 3 Q. Okay. Again, we're not talking about Sunday
 4 voting centers.
 5 A. I mean of voting centers. I'm sorry. Of
 6 voting centers. My conclusion here is based on
 7 the politics and the demographics of the two
 8 groups.
 9 Q. So you did no analysis of the actual uses of
 10 these voting centers?
 11 A. How many people voted in them?
 12 Q. Any analysis -- you just used the term "actual
 13 uses" so I'm using your term because I presume
 14 you know what that means.
 15 Did you do any analysis of the actual
 16 uses of these voting centers?
 17 A. If to say how many people of what type voted at
 18 what center, I did not.
 19 Q. Okay. Did you do any analysis of actual uses
 20 in any way that you would define that term of
 21 "these voting centers"?
 22 A. By individual?
 23 Q. By voters.
 24 A. No.
 25 Q. So you don't know whether the extended hours

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1 really favor voters in the nearby areas or if
 2 they simply make the voting process more
 3 efficient?
 4 MR. FARR: Objection to form.
 5 THE WITNESS: I'm not sure I agree with
 6 your premise there. Try and ask that a
 7 different way.
 8 BY MS. FROST:
 9 Q. I'll just move on.
 10 A. Okay.
 11 Q. Let's look at paragraph 78 of your report, the
 12 second to last sentence. Do you see where you
 13 say "The state clearly has a rational basis to
 14 take measures to protect the election process
 15 and the accuracy of the voter file"?
 16 A. Yes.
 17 Q. Can you explain to me by "measures to protect
 18 the" -- can you explain to me what you mean by
 19 "measures to protect the election process"?
 20 A. Measures to keep as accurate a voter file as
 21 possible, and -- and measures, to make sure
 22 that people who both are not supposed to vote
 23 don't vote and that people who are supposed to
 24 vote get to vote.
 25 Q. And do you -- are you aware of any evidence of

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1 declaration here.
 2 A. Let me read it.
 3 Q. Sure.
 4 A. Thank you. Okay.
 5 Q. And then starting at the very end of page 16
 6 there's a sentence that reads:
 7 "The method for removing voters
 8 from the voter registration rolls is
 9 convoluted and dependent on positive
 10 actions taken by the actual registrants
 11 or on returned mail which may never be
 12 returned as undeliverable at the
 13 registered address."
 14 Do you see that sentence?
 15 A. I do.
 16 Q. So you use the word "convoluted" with respect
 17 to the method for removing voters, and I'm
 18 wondering if you could explain your
 19 understanding of that method and why you feel
 20 it's convoluted.
 21 A. I'm not sure I can recite the actual method but
 22 it involves multiple post cards, it involves
 23 some contact or lack of contact with the
 24 offices.
 25 Of course, I think the system is

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1 designed primarily to keep voters on the rolls,
 2 I don't contest that, but it's highly -- it's
 3 highly dependent upon letters or cards mailed
 4 out to voters and their return as undeliverable
 5 or their actual delivery to the people
 6 involved, and it seems to me in my opinion that
 7 it's fairly complex. So I'll leave it at that.
 8 Q. Okay. Is it your understanding -- do any of
 9 the issues involved in this lawsuit relate to
 10 the removal -- the method for removing voters?
 11 MR. FARR: Objection, but you can
 12 answer.
 13 THE WITNESS: I certainly believe that
 14 it could be a factor in the fact that many
 15 VTDS, for instance, have registrations in them
 16 that exceed their populations of adults, and
 17 those names still appear to be on the voting
 18 file.
 19 So if the method of removing them,
 20 among other methods, involves this process, it
 21 allows the voter file to be maintained in a
 22 method that it probably has a large number of
 23 people on it who are not active, don't live
 24 here, don't live where they're registered,
 25 moved to other states.

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1 So I think the comparison to the
 2 demographics has to lead you to a conclusion
 3 that there's -- there's a lot of excess names
 4 on the file that are not voters.
 5 BY MR. COOPER:
 6 Q. And has North Carolina taken any actions that
 7 you're aware of in the last year to address
 8 that issue?
 9 A. I'm not sure I can address that. I think best
 10 addressed to witnesses you have from the State
 11 Board of Elections.
 12 Q. So you're not -- as you're sitting here, you're
 13 not aware of anything that they've done that in
 14 your view addresses that issue?
 15 A. Well, I know they've done things like go to the
 16 NCOA, they've gone to the I guess -- I guess
 17 for lack of a better euphemism they call it the
 18 death file, and those are powerful tools if you
 19 can actually match them to the people at those
 20 addresses, but if you can't, then it doesn't do
 21 any good if the people haven't turned in those
 22 post cards to the postal service.
 23 So I think they're making an effort,
 24 but it still leaves them with a system which
 25 is, I think, more designed to keep people on

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1 the system rather than get them off in favor
 2 of, you know, making sure no one's cut out.
 3 There's also a challenge method for that.
 4 Q. Are you aware of any action that the
 5 legislature has taken to address the issue that
 6 you've identified regarding the voter rolls?
 7 A. Well, of course they've passed the Voter ID Act
 8 which is why we're here in part and at least
 9 that will have a lot of people on file, but
 10 they may not vote because they don't have the
 11 proper identification.
 12 I really don't know what the
 13 legislature specifically has passed or not
 14 passed that's different.
 15 Q. Are you aware of any voters who should not be
 16 on the file -- let me strike that.
 17 Are you aware of any election fraud
 18 that has taken place as a result of the voter
 19 file including individuals that are no longer
 20 eligible?
 21 A. That really wasn't part of my study. Anything
 22 I would say would be really hearsay.
 23 Q. So I mean, do you know of anything that would
 24 lead you to believe that?
 25 A. Personally?

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