UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MISSOURI STATE CONFERENCE OF	)	
THE NATIONAL ASSOCIATION FOR	)	
THE ADVANCEMENT OF COLORED	)	
PEOPLE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Cause No. 4:14 CV 2077 RWS
	)	
FERGUSON-FLORISSANT SCHOOL	)	
DISTRICT, et al.,	)	
	)	
Defendants.	)	

STATEMENT OF UNCONTROVERTED MATERIAL FACTS IN SUPPORT OF DEFENDANT FERGUSON-FLORISSANT SCHOOL DISTRICT'S MOTION FOR SUMMARY JUDMENT MOTION FOR SUMMARY JUDGMENT

Election System

1. The Ferguson-Florissant School District ("District) is governed by a board of seven elected representatives. Exhibit A (Expert Report of Richard Engstrom, May 27, 2015), ¶7.

2. Each board member serves three year terms. Ex. A, ¶7.

3. In every election, either two or three seats are contested. In 2012, two seats were contested. In 2013, two seats were contested. In 2014, three seats were contested. Ex. A, ¶¶7, 19, 23, 27.

4. All board members are elected at-large. Ex. A, ¶7.

5. Each voter may cast a number of votes equal to the number of contested seats. Ex. A, ¶7.

6. Voters may only cast one vote per candidate. Ex. A, ¶7.

7. Voters in the District are not required to cast all of their votes. Ex. A, ¶7.

8. The candidates who receive the highest vote totals are elected. Ex. A, ¶7.

Overall Population

9.   In 1990, the overall population of the Ferguson-Florissant School District ("District") was 80,938. In 2010, the overall population was 68,663. This represents a loss of 12,275 persons or 15.17%. Exhibit B (Declaration of William Cooper, May 27, 2015) ¶22.

10.   In 1990, the single-race Black population was 19,783. In 2010, the single-race Black population was 35,860. This represents an increase of 16,077 persons or 81.27%. Ex. B ¶23.

11.   In 1990, the non-Hispanic White ("NH white") population was 59,995. In 2010, the NH white population was 29,581. This represents a decline of 30,414 persons or 81.27%. Ex. B ¶24.

12.   In 1990, single-race Blacks were 28.65% of the total population. In 2010, single-race Blacks were 52.23% of the total population. Ex. B ¶25.

13.   In 1990, NH whites were 74.12% of the total population. In 2010, NH whites were 43.08% of the total population. Ex. B ¶25.

14.   In 2010, Any Part (AP) Blacks were 36,967, or 53.85% of the total population. Ex. B pg. 8, figure 2.

15.   The AP Black classification counts as "Black" all persons who identified in 2010 Census as single-race Black and all persons who identified as more than one race and some part Black. The AP Black category includes persons who are some part Black and Hispanic. Ex. B pg. 6, n. 3.

16.   The 2010 total minority population in the District was 39,082, or 56.92% of the total population. The total minority population consists of all persons who are not single-race, non-Hispanic White. Ex. B pg. 8, figure 2.

Voting-Age Population

17.   In 2010, the District's voting-age population ("VAP") was 50,771. Ex. B pg. 10, figure 4.

18.   In 2010, 47.33% of the District's VAP (or 24,030) was single-race Black. Ex. B pg. 10, figure 4.

19.   In 2010, 48.19% of the District's VAP (or 24,466) was AP Black. Ex. B pg. 10, figure 4.

20.   In 2010, 48.95% of the District's VAP (or 24,852) was NH white. Ex. B pg. 10, figure 4.

21.   In 2010, there were 386 more NH white voters in the District than AP black voters. Ex. B pg. 10, figure 4.

22.   In 1990, 20.77% of the District's VAP (or 12,613) was AP Black. Ex. B pg. 10, figure 4.

23.   In 1990, 77.88% of the District's VAP (or 47,290) was NH white. Ex. B pg. 10, figure 4.

American Community Survey

24.   The Census Bureau administers an "ongoing survey" that provides "vital information on a yearly basis" about demographics in the United States. Exhibit C ("What is the American Community Survey?") The American Community Survey is the "premier source for detailed information about the American people and workforce." Exhibit D ("American Community Survey (ACS)").

25.   The nationwide American Community Survey (ACS) is a critical element of the Census Bureau's reengineered decennial census program. Ex. C.

26.   The ACS data are released in 1-year, 3-year, and 5-year period estimates. Exhibit E ("When to Use 1-year, 3-year, or 5-year Estimates")

27.   Both Mr. Cooper and Dr. Jonathan Rodden relied on the 3-year ACS period estimates from 2011-2013. Exhibit F (Deposition of William Cooper) pg. 55:4-6; Ex. A ¶38.

28.   The ACS guidelines indicate that the 3-year survey is best used for "data for areas with populations of 20,000+." Ex. E.

29.   The 3-year ACS is more precise than the 1-year ACS but more current than the 5-year ACS. Ex. E.

30.   The District had a total population of 66,758 under the 2013 American Community Survey. Ex B pg. 41 (Exhibit D, Page 2 of 46).

31.   Mr. Cooper reported the NH White population at 27,587 or 41.3% of the population according to the 2013 ACS. Ex B pg. 43 (Exhibit D, Page 4 of 46).

32.   Mr. Cooper reported the single race black population at 34,955 or 52.4% according to the 2013 ACS. Ex B pg. 43 (Exhibit D, Page 4 of 46).

33.   Mr. Cooper reported the total voting age population in the District according to the 2011 – 2013 ACS was 49,679. Ex. F pg. 40:13-16.

34.   Mr. Cooper reported the single race black voting age population ("BVAP") was 24,313 according to the 2013 ACS. Ex. B pg. 45 (Exhibit D, Page 6 of 46).

35.   Mr. Cooper finds the single race-black VAP is 48.94% according to the 2013 ACS. Exhibit G (Supplemental Declaration of William S. Cooper, July 2, 2015) ¶7.

36.   Mr. Cooper finds the NH white VAP is 46.78% according to the 2013 ACS. Ex. G ¶7.

37.   Mr. Cooper reports the NH white VAP at 23,242 (*i.e.*, the total NH white VAP minus the total NH white VAP "Under 18 Years"). Ex. B pg. 45 (Exhibit D, Page 6 of 46)

38.   The Census Bureau states that the 2010 Census undercounts the minority population by 2.1% and over-counted the non-Hispanic white population by 0.8% nationwide. Exhibit H ("Census Bureau Releases Estimates of Undercount and Overcount in the 2010 Census")

39.   The Hispanic white VAP is 23,740 (47.24%). Ex. G ¶7.

40.   Mr. Cooper admitted that he did not calculate the AP black share of VAP for the 2011-2013 ACS. Ex. F pg. 41:17-42:2.

41.   The ACS does not publish estimates for the AP black category. Ex. F pg. 41:14-16.

42.   The ACS publishes estimates for those who identify as two or more races. Exhibit I (Deposition of Jonathan Rodden) pg. 311:18-312:8; Exhibit J (Supplemental Report of Jonathan Rodden, PhD and Jowei Chen, PhD: Assessment of Plaintiffs' Redistricting Proposals, July 2, 2015) pg. 3 (Table 1 & note).

43.   Dr. Rodden determined the number of people (regardless of age) who identified as two or more of any race. This information is available in the 2011-2013 ACS. Ex. I pg. 311:18-312:8; Ex. J pg. 3 (Table 1 & note).

44.   Dr. Rodden determined the number of people (regardless of age) who identified as two or more of any race with some part African American. This information is available in the 2011-2013 ACS. Dr. Rodden then calculated this number as a percentage of the number of people who identified as two or more of any race. Ex. I pg. 311:18-312:8; Ex. J pg. 3 (Table 1 & note).

45.   To determine the percentage of voting-age individuals who identified as AP black (which is not available in the 2011-2013 ACS), Dr. Rodden applied the percentage of all individuals who identified as AP black to the number of voting-age individuals who identified as two or more of any race. Ex. I pg. 311:18-312:8; Ex. J pg. 3 (Table 1 & note).

46.   Rodden's approach assumes that percentage of multiracial individuals who are AP black is the same for both the voting-age population and the total population. Exhibit K (Deposition of Colin Gordon) pg. 53:5-15.

47.   Plaintiffs' expert Dr. Colin Gordon endorsed this approach. Ex. K pg. 53:5-15.

48.   Under Dr. Rodden's analysis, the AP black share of the VAP is 51.0%. Ex. J pg. 3 (Table 1).

49.   Mr. Cooper admitted that if one considered the minority voting age population of all races and ethnicities, it would be above fifty percent. Ex. F pg. 72:25-73:3.

50.   Mr. Cooper's estimate of what he thought the AP BVAP was pursuant to the 2011-2013 ACS was 49.8%. Ex. F pg. 71:17-72:6.

51.   Mr. Cooper admits his estimate is "rough[]." Ex. F pg. 72:8.

Plaintiffs' Proposed Remedies

52.   None of Plaintiffs' experts analyzed the effectiveness of their two proposed districting plans. Ex. F pg. 79:21-80:3; Exhibit L (Deposition of Richard Engstrom) pg. 109:12-19.

53.   Mr. Cooper admits that he did not analyze the effectiveness of his plans. Ex. F pg. 79:21-80:3.

54.   Mr. Cooper admits that he defers to Dr. Engstrom Engstrom to determine the effectiveness of his Illustrative Plans 1 and 2. Ex. F pgs. 79:21-80:3, 84:16-24.

55.   Dr. Engstrom testified that it would be "too much to ask of [him]" to analyze "illustrative districts for viability or effectiveness or anything like that." Ex. L pg. 109:12-19.

56.   Plaintiffs proposed two districting plans created by Mr. Cooper. Ex. B pgs. 22, 24. Each plan contains seven districts, four of which contain a VAP that is more than 50% black. Ex. B pgs. 23, 25.

57.   In his analysis of whether Plaintiffs' proposed districting plans were effective, Dr. Rodden examined data from every contested election since 2000 involving African American candidates. Ex. J pgs. 7-10.

58.   Dr. Rodden created a "least-squares regression model" to determine whether there was a linear relationship between (1) the percentage of votes that were cast for African American candidates; and (2) the percentage of votes cast by African Americans in each precinct. Ex. J ¶13.

59.   Dr. Rodden derived an equation that estimates the percentage of votes that African American candidates as a function of the percentage of votes cast by African Americans in each precinct. Ex. J ¶13.

60.   For each contested election involving African Americans, Dr. Rodden plugged in his precinct-level estimates of African American votes into the equation, which showed the percentage of votes that the African American candidates would have received in each precinct. Ex. J pgs. 7-9.

61.   Each precinct belongs within one of the seven single-member districts in Plaintiffs'
       districting plans. Ex. J ¶7.

62.   By aggregating the data from all the precincts within a district, Dr. Rodden was able to
       demonstrate whether the African American candidates would have received more votes
       than their white counterparts within that district. Ex. J pg. 8.

63.   Dr. Rodden concluded that "[t]here is little reason to believe that chopping the School
       District up into smaller winner-take-all districts" would result in more African-American
       voters supporting African American candidates. Ex. J ¶17.

64.   Dr. Rodden further noted that diving the District into single-member districts might
       actually "hurt" African American candidates. Ex. J ¶18.

65.   Using a Gini coefficient, which measures statistical dispersion, Dr. Rodden analyzed the
       geographic distribution of votes for the candidate most-preferred by African American
       voters and the candidate most preferred by white voters.

66.   Dr. Rodden found that, in 2015, the candidate most preferred by African Americans had
       support that was more geographically dispersed than her opponent, who was the
       candidate most preferred by white voters. Ex. J ¶¶18-22.

67.   After examining every contested election since 2000, Dr. Rodden concluded that, with a
       few exceptions, African Americans tended to have more geographically-dispersed
       support than white candidates. Ex. J pgs. 13-14 (Figures 3 & 4).

68.   Dr. Rodden noted that one of Plaintiffs' districting plans contains a district in which two
       incumbent board members reside. Ex. J ¶25.

69.   These two board members were both preferred by African Americans in their respective
       elections. Ex. A pg. 19.

70.   These board members are both African American. Ex. J ¶25.

71.   Dr. Engstrom authored a law review article entitled "Cumulative and Limited Voting:
       Minority Electoral Opportunities and More." Ex. L pg. 98:15-99:3; Exhibit M
       ("Cumulative and Limited Voting: Minority Electoral Opportunities and More"). In the
       article, Dr. Engstrom wrote that at-large elections "provide the largest group of voters an
       opportunity to determine the winners of all of the seats." Ex. L pg. 100:12-17; Ex. M pg.
       101.

72.   Dr. David Kimball, another expert for Plaintiff, testified that if blacks were a majority,
       they could potentially determine the winners of all of the seats.

73.   Dr. Kimball further testified that "majority" could be of either total population or voting
       age population. Exhibit O (Deposition of David Kimball) pg. 61:15-20.

74. Dr. Kimball's expert report cites to an article entitled, "The Context Matters: The Effects of Single-Member Versus At-Large Districts on City Council Diversity." Exhibit P (Expert Report of David C. Kimball) pg. 6 n. 5; Exhibit Q ("The Context Matters: The Effects of Single-Member versus At-Large Districts on City Council Diversity").

75. Dr. Kimball agreed with the statement in the article that "if a group composes a majority of the city population in a majoritarian, at-large system, the group may be able to win all of the council seats." Ex. O pg. 62:19-63:6.

76. Dr. Kimball agreed that if a group holds a majority, districts might even decrease the group's representation on the city council. Ex. O pg. 62:19-63:6.

Election History - 2000

77. In 2000, five candidates ran for two seats. Exhibit R (Official Results, Ferguson School District, Tuesday, April 4, 2000). Michael Hirsch received 4,406 votes; Gregory Fulton received 1,490 votes; Paul Charney received 1,222 votes; Gwendolyn Thomas received 3,413 votes; Les Lentz received 1,939 votes; and Anthony Smith received 1,554 votes. Ex. R. Hirsch and Thomas were elected.

78. Thomas received the highest percentage of African American votes (33.99%). Exhibit S (Dr. Rodden's EI analysis). Hirsch received the second-highest percentage of African American votes (18.71%). Ex. S. Hirsch received the highest percentage of white votes (34.12%). Ex. S. Thomas received the second-highest percentage of white votes (18.88%).

79. Whites cast 53% of votes for Thomas and Hirsch. Ex. S. African Americans cast 52.7% of votes for Hirsch and Thomas. Ex. S.

80. Thomas is African American. Ex. I, pg. 250:3-5.

Election History - 2001

81. In 2001, four candidates ran for three seats. Exhibit T (Official Results, Ferguson School District, Tuesday, April 3, 2001). Jeanne Garofalo received 3,680 votes; Leslie Hogshead received 3,229 votes; Felicia Butler received 2,374 votes; and Les Lentz received 1,716 votes. Ex. T. Garofalo and Hogshead were elected.

82. Butler received the highest percentage of African American votes (40.54%). Hogshead received the second-highest percentage of African American votes (19.73%). Garofalo received the highest percentage of white votes (35.06%). Hogshead received the second-highest percentage of white votes (32.20%).

83. Whites cast 35% of votes for Butler and Hogshead. Ex. S. African Americans cast 44.4% of votes for Garofalo and Hogshead. Ex. S.

84.   Butler is African American. Ex. I, pg. 250:8-9.

Election History - 2002

85.   In 2002, six candidates ran for three seats. Doris Graham received 3,388 votes; Nancy Knorr received 3,206 votes; Felicia Butler received 2,610 votes; Lawrence Morie received 2,522 votes; Brian Fletcher received 3,378 votes; and James Clark received 3,093 votes. Exhibit U (Official Results, Ferguson School District, Tuesday, April 2, 2002). Graham, Fletcher, and Clark were elected. Ex. U.

86.   Graham received the highest percentage of African-American votes (31.86%). Ex. S. Butler received the second-highest percentage of African American votes (25.07%). Ex. S. Clark received the third-highest percentage of African American votes (12.56%). Ex. S. Fletcher received the highest percentage of white votes (22.00%). Ex. S. Knorr received the second-highest percentage of white votes (18.03%). Ex. S. Clark received the third-highest percentage of white votes (17.83%). Ex. S.

87.   Whites cast 43% of votes for Graham, Butler and Clark. Ex. S. African Americans cast 36.9% of votes for Fletcher, Knorr, and Clark. Ex. S.

88.   Graham and Butler are African American. Ex. I, pg. 250:12-15.

Election History - 2003

89.   In 2003, three candidates ran for two seats. Nancy Knorr received 3,584 votes; Gwen Thomas received 2,102 votes; and Les Lentz received 1,995 votes. Exhibit V (Official Results, Ferguson School District, Tuesday, April 8, 2003). Knorr and Thomas were elected.

90.   Thomas received the highest percentage of African-American votes (53.96%). Ex. S. Knorr received the second-highest percentage of African American votes (30.19%). Ex. S. Knorr received the highest percentage of white votes (52.09%). Ex. S. Lentz received the second-highest percentage of white votes (28.42%). Ex. S.

91.   Whites cast 71.6% of votes for Thomas and Knorr. Ex. S. African Americans cast 46.1% of votes for Knorr and Lentz. Ex. S.

92.   Thomas is African American. Ex. I, pg. 250:3-5.

Election History - 2004

93.   In 2004, five candidates ran for two seats. Jeanne Garofalo received 3,232 votes; Tommie Van received 1,571 votes; Ingrid McClendon received 1,302 votes; Pernell Witherspoon received 676 votes; and Leslie Hogshead received 2,400 votes. Exhibit W

(Official Results, Ferguson School District, Tuesday, April 6, 2004). Garofalo and Hogshead were elected.

94.   Van received the highest percentage of African-American votes (28.71%). Ex. S. McLendon received the second-highest percentage of African American votes (28.29%). Ex. S. Garofalo received the highest percentage of white votes (39.31%). Ex. S. Hogshead received the second-highest percentage of white votes (30.79%). Ex. S.

95.   Whites cast 21.2% of votes for Van and McLendon. Ex. S. African Americans cast 27.6% of votes for Garofalo and Hogshead. Ex. S.

96.   Van and McClendon are African-American. Ex. I, pg. 250:16-19.

Election History – 2005

97.   The 2005 election was uncontested. Graham, Fletcher, and Clark all retained their seats. Exhibit X (Report of Jonathan Rodden, PhD, May 27, 2015) pg. ¶62.

98.   Graham is African American. Ex. I, pg. 250:12-15.

Election History - 2006

99.   In 2006, five candidates ran for two seats. Nancy Knorr received 1,303 votes; Paul Schroeder received 2,954 votes; John Knowles received 1,959 votes; Pat Washington received 944 votes; and Gwendolyn Thomas received 1,122 votes. Exhibit Y (Official Results, Ferguson School District, Tuesday, April 4, 2006). Schroeder and Knowles were elected.

100.   Thomas received the highest percentage of African-American votes (28.21%). Ex. S. Washington received the second-highest percentage of African American votes (25.11%). Ex. S. Schroeder received the highest percentage of white votes (37.96%). Ex. S. Knowles received the second-highest percentage of white votes (27.03%). Ex. S.

101.   Whites cast 19% of votes for Thomas and Washington. Ex. S. African Americans cast 29.4% of votes for Schroeder and Knowles. Ex. S.

102.   Thomas and Washington are African-American. Ex. I, pg. 250:20-22.

Election History – 2007

103.   Charles Henson was appointed to fill out the remaining term of Garofalo, who resigned in December 2006. Exhibit Z ("New member joins school board.") Henson is African American. Ex. Z.

104.   The 2007 election was uncontested. Ex. X ¶60. Neither Hogshead nor Henson drew any challengers.

9

Election History – 2008

105. The 2008 election was uncontested. Graham, Fletcher, and Clark all retained their seats. Exhibit X (Report of Jonathan Rodden, PhD, May 27, 2015) pg. ¶62.

106. Graham is African American. Ex. I, pg. 250:12-15.

Election History - 2009

107. In 2009, three candidates ran for two seats. Paul Schroeder received 3,233 votes; John Knowles received 3,123 votes; and Gregory Heise received 1,216 votes. Exhibit AA (Official Results, Ferguson School District, Tuesday, April 7, 2009). Schroeder and Knowles were elected.

108. Knowles received the highest percentage of African-American votes (47.66%). Ex. S. Schroeder received the second-highest percentage of African American votes (35.12%). Ex. S. Schroeder received the highest percentage of white votes (44.21%). Ex. S. Knowles received the second-highest percentage of white votes (36.49%). Ex. S.

109. Whites cast 80.7% of votes for Knowles and Schroeder. Ex. S. African Americans cast 82.7% of votes for Schroeder and Knowles. Ex. S.

Election History – 2010

110. The 2010 election was uncontested. Ex. X ¶71. Neither Hogshead nor Henson drew any challengers.

111. Henson is African American. Ex. Z.

Election History - 2011

112. In 2011, nine candidates ran for three seats. Doris Graham received 2,795 votes; Vanessa Hawkins received 2,890 votes; Brian Ebert received 2,667 votes; Les Lentz received 1,027 votes; Paul Morris received 3,305 votes; Joseph Hosea received 566 votes; Robert Chabot received 3,080 votes; Chris Martinez received 4,598 votes; and James Clark received 2,257 votes. Exhibit BB (Official Results, Ferguson School District, Tuesday, April 5, 2011). Martinez, Morris, and Chabot were elected. Ex. U.

113. Graham received the highest percentage of African-American votes (24.1%). Ex. A pg. 17 (Table 1). Hawkins received the second-highest percentage of African American votes (21.5%). Ex. A pg. 17 (Table 1). Clark received the third-highest percentage of African American votes (13.5%). Ex. A pg. 17 (Table 1). Martinez received the highest percentage of white votes (24.90%). Ex. A pg. 17 (Table 1). Morris received the second-highest percentage of white votes (16.10%). Ex. A pg. 17 (Table 1). Chabot received the third-highest percentage of white votes (15.60%). Ex. A pg. 17 (Table 1).

114.   African Americans cast approximately 60% of their votes for Graham, Hawkins, and Clark, but cast the remaining 40% of their votes among six other candidates. Ex. A pg. 17 (Table 1).

115.   Whites cast 21.5% of votes for Graham, Butler and Clark. Ex. S. African Americans cast 25% of votes for Martinez, Morris, and Chabot. Ex. S.

116.   Graham and Hawkins are African American. Ex. I, pg. 250:23-251:1.

Election History - 2012

117.   In 2012, three candidates ran for two seats. Brian Ebert received 2,809 votes; Paul Schroeder received 2,566 votes; and Barbara Morris received 1,988. Exhibit CC (Official Results, Ferguson School District, Tuesday, April 3, 2012). Ebert and Schroeder were elected.

118.   Morris received the highest percentage of African-American votes (51.90%). Ex. A pg. 18. Schroeder received the second-highest percentage of African American votes (25.00%). Ex. A pg. 18. Ebert received the highest percentage of white votes (46.3%). Ex. A pg. 18. Schroeder received the second-highest percentage of white votes (40.9%). Ex. A pg. 18.

119.   Whites cast 53.7% of votes for Morris and Schroeder. Ex. A pg. 18. African Americans cast 48.1% of votes for Ebert and Schroeder. Ex. A pg. 18.

120.   Barbara Morris is African American. Ex. I, pg. 251:4-6.

Election History - 2013

121.   In 2013, four candidates ran for two seats. Charles Henson received 2,109 votes; Leslie Hogshead received 2,475 votes; Keith Brown received 2,234 votes; and Larry Thomas received 875. Exhibit DD (Official Results, Ferguson School District, Tuesday, April 2, 2013). Hogshead and Brown were elected.

122.   Henson received the highest percentage of African-American votes (43.70%). Ex. A pg. 18. Hogshead received the second-highest percentage of African American votes (24.2%). Ex. A pg. 18. Hogshead received the highest percentage of white votes (37.2%). Ex. A pg. 18. Brown received the second-highest percentage of white votes (33.9%). Ex. A pg. 18.

123.   Whites cast 54.2% of votes for Henson and Hogshead. Ex. A pg. 18. African Americans cast 44.4% of votes for Hogshead and Brown. Ex. A pg. 18.

124.   Henson is African American. Ex. Z.

Election History - 2014

125. In 2014, eight candidates ran for two seats. Rob Chabot received 2,898 votes; Paul Morris received 2,516 votes; LaWanda Wallace received 590 votes; Kimberly Benz received 2,231 votes, F. Willis Johnson, Jr. received 2,118 votes; Donna Paulette-Thurman received 2,733 votes; James Savala received 2,425 votes; and Larry Thomas received 568 votes. Exhibit EE (Official Results, Ferguson School District, Tuesday, April 8, 2014). Chabot, Paulette-Thurman, and Morris were elected.

126. Paulette-Thurman received the highest percentage of African-American votes (26.1%). Ex. A pg. 19. Savala received the second-highest percentage of African American votes (24.7%). Ex. A pg. 19. Johnson received the third-highest percentage of African American votes (24.5%). Ex. A pg. 19. Chabot received the highest percentage of white votes (29.0%). Ex. A pg. 19. Morris received the second-highest percentage of white votes (25.8%). Ex. A pg. 19. Benz received the third-highest percentage of white votes (22.0%). Ex. A pg. 19.

127. African Americans cast approximately 75% of their votes for three candidates (Paulette-Thurman, Savala, and Johnson) but spread the remaining 25% of their votes among five other candidates. Ex. A pg. 19.

128. Whites cast 18.2% of votes for Paulette-Thurman, Savala, and Johnson. Ex. A pg. 18. African Americans cast 11.3% of votes for Chabot, Morris, and Benz. Ex. A pg. 18.

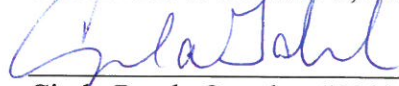129. Paulette-Thurman, Johnson, and Savala are African American. Ex. I, pg. 251:12-14.

Election History - 2015

130. In 2015, five candidates ran for two seats. Brian Ebert received 4,697 votes; Roger Hines received 2,728 votes; Donna Dameron received 1,711 votes; Michael Person received 1,146 votes; and Courtney Graves received 5,279 votes. Exhibit EE (Official Results, Ferguson School District, Tuesday, April 7, 2015). Graves and Ebert were elected.

131. Graves received the highest percentage of African-American votes (52.4%). Ex. A pg. 19. Hines received the second-highest percentage of African American votes (12.3%). Ex. A pg. 19. Ebert received the highest percentage of white votes (43.0%). Ex. A pg. 19. Graves received the second-highest percentage of white votes (21.4%). Ex. A pg. 19.

132. Graves received 21.4% of white votes. Ex. A pg. 19. The two African American candidates received a combined 25.7% of white votes. Ex. A pg. 19.

133. Whites cast 42.27% of votes for Graves and Hines. Ex. A pg. 19. African Americans cast 62.2% of votes for Ebert and Graves. Ex. A pg. 19.

134. Graves, Person, and Hines are African American. Ex. K ¶47.

135. Dr. Engstrom admitted in his deposition that he did not know to what extent the filing of this action influenced voters. Ex. L pg. 65:5-6.

136. Graves encouraged voters to exercise their right to "bullet vote." Ex. I pg. 157:27-158:7.

137. Dr. Engstrom testified that ecological inference ("EI") analysis is "preferable" to other forms of analysis, such as homogenous precinct analysis. Ex. L pg. 39:2-22.

138. Dr. Engstrom testified that the results of his EI analysis were "so close" to Dr. Rodden's that they are interchangeable. Ex. L pg. 42:4-5.

139. In 12 exogenous elections analyzed by Dr. Rodden, the African American candidate prevailed in every election, often by extremely large margins. These elections included high-turnout November presidential elections, November off-year elections, February presidential primaries, and August primaries with very low turnout. In even the narrow contests, the African American candidates prevailed. Exhibit GG (Supplemental Report of Jonathan Rodden, Phd: Bloc Voting and Cohesion, July 2, 2015) at pg. 14.

Respectfully submitted,

CROTZER & ORMSBY, LLC

Cindy Reeds Ormsby, #50986
Angela Gabel, #58227
130 S. Bemiston, Ste. 602
Clayton, MO 63105
(314) 726-3040
(314) 726-5120 (fax)
cormsby@crotzerormsby.com
agabel@crotzerormsby.com

FLOYD, PFLUEGER & RINGER, P.S.

s/ John A. Safarli*
John Armen Safarli, *pro hac vice*
200 W. Thomas St., Ste. 500
Seattle, WA 98119
(206) 441-4455
(206) 441-8484 (fax)
jsafarli@floyd-ringer.com

*Attorneys for Defendant Ferguson-
Florissant School District*

*Pursuant to Local Rule 2.11, the filing attorney verifies that a signed original exists with the original signatures of the attorneys.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he is a person of such age and discretion as to be competent to serve papers. It is further certified that on September 30, 2015, the undersigned electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following CM/ECF participant(s):

Anthony E. Rothert
Andrew J. McNulty
Jessie M. Steffan
ACLU of Missouri Foundation
454 Whittier Street
St. Louis, MO 63108
Phone: 314-652-3114
Fax: 314-652-3112
trothert@aclu-mo.org
andrew.joseph.mcnulty@gmail.com
jsteffan@aclu-mo.org
Counsel for Plaintiffs

Dale Ho
Julie A. Ebenstein
Sophia Lin Lakin
ACLU Voting Rights Project
125 Broad Street, 18th Floor
New York, NY 10004
Phone: 212-549-2686
dale.ho@aclu.org
jebenstein@aclu.org
slakin@aclu.org
Counsel for Plaintiffs

M. Laughlin McDonald
ACLU Voting Rights Project
2700 International Tower
229 Peachtree Street, N.E.
Atlanta, GA 30303
Phone: 404-500-1235
lmcdonald@aclu.org
Counsel for Plaintiffs

Gillian R. Wilcox
ACLU of Missouri
3601 Main St.
Kansas City, MO 64111
gwilcox@aclu-mo.org
Counsel for Plaintiffs

Dated this 30th day of September, 2015.

s/ John A. Safarli
John A. Safarli, *pro hac vice*