

**STATE OF NEW MEXICO
COUNTY OF LEA
FIFTH JUDICIAL DISTRICT**

FILED
5th JUDICIAL DISTRICT COURT
Lea County
8/25/2023 9:12 PM
NELDA CUELLAR
CLERK OF THE COURT
Jazmin Yanez

**REPUBLICAN PARTY OF NEW MEXICO,
DAVID GALLEGOS, TIMOTHY JENNINGS,
DINAH VARGAS, MANUEL GONZALES, JR.
BOBBY AND DEE ANN KIMBRO, and
PEARL GARCIA,**

Plaintiffs,

v.

Cause No. D-506-CV-2022-00041

**MAGGIE TOULOUSE OLIVER, in her official capacity as
New Mexico Secretary of State, MICHELLE LUJAN
GRISHAM, in her official capacity as Governor of New
Mexico, HOWIE MORALES, in his official capacity as
New Mexico Lieutenant Governor and President of the
New Mexico Senate, MIMI STEWART, in her official
capacity as President Pro Tempore of the New Mexico
Senate, and JAVIER MARTINEZ, in his official capacity as
Speaker of the New Mexico House of Representatives,**

Defendants.

EXPERT REPORT OF BRIAN SANDEROFF

I. Expert Qualifications

Research & Polling, Inc. (RPI), was founded in 1986, and I have served as the President of RPI since its inception. RPI is the largest market research, demographic analysis, and public opinion polling corporation in New Mexico. We have 8 full-time employees and 30 professional interviewers. RPI specializes in public policy polling for New Mexico's most prominent organizations. I have supervised the administration of over 2,000 survey research studies. Included in many of the survey research studies were topics directly related to upcoming elections, including ballot issues and candidate preferences.

RPI has conducted all of the election polls for the Albuquerque Journal since 1986, including Primary, General, and special elections. Since 2002, I have been the political analyst for KOAT (local broadcast, Channel 7), providing live on-air and taped analysis of election results and topics.

The nationally recognized FiveThirtyEight website currently ranks RPI as only one of four polling organizations in the nation with an A+ accuracy rating for election polling.

Our major clients include New Mexico Administrative Office of the Courts, New Mexico State Legislature, Presbyterian Healthcare Services, PNM, University of New Mexico, Sandia National Laboratories, and Los Alamos National Laboratory.

We have provided redistricting and demographic analysis services on more than 180 occasions for various local and state government entities.

Redistricting experience for the New Mexico Legislature

I have participated in statewide redistricting efforts in New Mexico following every decennial census since 1981. In 1981-82, I played an active role in the redistricting process on behalf of the Governor's office, where I was employed at the time. Beginning in 1991 and for every redistricting cycle since then (2001, 2011 and 2021), RPI has contracted with the New Mexico Legislature to provide technical consulting services for redistricting. In 1991, I worked

on behalf of the Legislature to consult with the United States Department of Justice on obtaining pre-clearance for New Mexico's State Senate redistricting plan under Section 5 of the Voting Rights Act. In 2001 and 2011, I was also qualified as an expert witness in redistricting litigation, which is discussed in more detail below.

For the latest redistricting cycle, RPI was hired by the Legislative Council Service ("LCS") to deliver professional technical consulting services related to designing redistricting plans as requested, finalizing alternative redistricting plans, providing expert technical assistance, and assisting in preparation for committee hearings. RPI's contract with LCS began November 9, 2020 and ran until June 30, 2022. The agreement provides that, "[i]n performing services pursuant to this Agreement, the Contractor shall comply with the laws and policies of the LCS just as if the Contractor were a member of the LCS staff."

RPI also entered a *Memorandum of Understanding between the Citizen Redistricting Committee and Research and Polling, Inc.*, pursuant to which RPI agreed to assist the Citizen Redistricting Committee in performing its redistricting duties. RPI also agreed to refrain from consulting with or taking requests from legislators from July 2, 2021, to October 23, 2021.

As part of its consulting role in support of statewide redistricting, RPI develops and updates a partisan performance index that is used as the official index for all the redistricting plans prepared by the Legislature. The partisan performance index is based on the results of all statewide elections in New Mexico over the previous decade (the partisan performance index that was used for redistricting in 2021 included election results from 2012, 2014, 2016, 2018, and 2020), except any races in which the margin of victory was 20 points or greater. The RPI partisan performance index is widely used and has been relied upon in judicial decisions regarding redistricting.

Previous Expert Work

I have been qualified as an expert witness in state and federal courts for survey research, demographic analysis, and redistricting on over 40 occasions over the past 30 years. A detailed list of those cases is provided on my C.V., a copy of which is attached to this report. With respect to redistricting specifically, my experience serving as an expert is as follows. In 2001, I was qualified as an expert and provided deposition and trial testimony in *Michael Jepsen, et al. v. Rebecca Vigil-Giron*, in her official capacity as New Mexico Secretary of State, et al., First Judicial District Court, County of Santa Fe, D-101-CV-2001-02177. At issue in that case were New Mexico's redistricting plans for United States Congress and for the New Mexico State House of Representatives.

In 2011, I was qualified as an expert witness and provided deposition and trial testimony in *Brian F. Egolf, Jr., et al. v. Diana J. Duran et al.*, First Judicial District Court, County of Santa Fe, D-101-CV-2011-02942. I provided expert testimony on behalf of the New Mexico Legislature in connection with the litigation over redistricting plans for the New Mexico State House of Representatives, the State Senate, and the State Public Regulation Commission. Issues in that litigation ultimately were reviewed by the New Mexico Supreme Court, and upon remand to the trial court, the state Supreme Court suggested that the district court could use my services as a Rule 706 expert to assist the Court. The district court designated me as a 706 expert without any objection by any of the parties to the litigation.

Education and Early Career

I earned a B.A. in Political Science from the University of New Mexico in 1977. I was also a guest lecturer in the Political Science Department at UNM in 1985, where I taught an undergraduate 300 level course called Campaign Management.

Early in my career, I served in various positions in state government, with a focus on public policy development and agency management and administration. Those positions are

outlined in more detail in my C.V., a copy of which is attached to this report. From 1983 to 1986, I ran Sanderoff and Associates, a market research, demographic analysis, and public opinion polling company which was the precursor to RPI.

II. Scope of Expert Engagement

I was retained by counsel for the Legislative Defendants in this case to evaluate the political competitiveness of the congressional redistricting plan for New Mexico that was passed by the New Mexico Legislature in December 2021 and enacted into law. The plan is commonly referred to as “SB-1” and I will refer to it as such throughout this report.

III. Data and Materials Relied Upon

In carrying out this engagement and developing my opinions, I relied upon the following information and materials:

- Maps and data for SB-1, as available on the nmlegis.gov website
- RPI’s partisan performance index for New Mexico that was utilized during the New Mexico special redistricting session
- Election results for New Mexico congressional districts, 2002 through 2022
- The New Mexico Supreme Court’s Order of July 5, 2023
- Justice Elena Kagan’s dissenting opinion in *Rucho v. Common Cause*, 139 S. Ct. 2484 (2019)

I did not have any involvement in designing SB-1, nor did any RPI staffers. Nor did I or any RPI staffers have any communications with any legislators, legislative staff or consultants about the design effects, intent, or policies behind SB-1. My opinions regarding the political competitiveness of SB-1 are solely my own and were developed based only on the information and materials identified above, using my knowledge and expertise.

IV. Expert Opinions

Through my review and analysis of the materials identified above, I have reached the following opinions concerning the political competitiveness of SB-1:

1. SB-1 does not entrench the Democratic party in power.

In her dissent in the *Rucho* case, Justice Kagan set out a test for determining whether a particular districting plan constitutes an unconstitutional partisan gerrymander. The first of the three parts of Justice Kagan's test looks at whether "state officials' 'predominant purpose' in drawing a district's lines was to 'entrench [their party] in power' by diluting the votes of citizens favoring its rival." As defined in the Oxford English Dictionary, "entrenchment" means "establishing something firmly, especially so that change is difficult or impossible."

Under SB-1, Congressional District 2 ("CD 2") is a competitive district. The partisan performance measure for CD 2 under SB-1 is 53.0% Democrat and 47.0% Republican. Based on my experience, political consultants consider a district to be competitive if the gap between the average Democratic and Republican performance falls within a 54% to 46% range. So, in this case, the partisan average Democratic and Republican performance is narrower, at 53% to 47%, respectively. Other factors are taken into account to determine whether a race is competitive, such as the candidates' name recognition, favorability, the relative strength and quality of the candidates, and their ability to raise campaign funds, etc.

The highly competitive nature of CD 2 was demonstrated in the 2022 congressional election in New Mexico, which was conducted using the SB-1 map. In CD 2, the Republican candidate was Yvette Herrell, and the Democratic candidate was Gabe Vasquez. The race was extremely close. Candidate Vasquez ultimately won the election by just 1,350 votes out of 192,673 votes cast, or a margin of 0.7%. This very close outcome demonstrates that under SB-1, CD 2 can be won by either a Democrat or a Republican. Any time the margin of victory in an election falls within one percentage point, that race is considered a "toss up", in which the

winner is extremely vulnerable to being challenged and possibly defeated in the next general election cycle.

Therefore, while the Democratic performance of CD 2 increased under SB-1, and the Republican performance of CD 2 decreased under SB-1, CD 2 is by no means a “safe” Democratic district. By drawing CD 2 as a competitive, toss-up district that could be won by a candidate of either party, the Legislature did not entrench the Democratic party in power in CD 2.

2. Prior to SB-1, CD 2 was not a safe Republican district, but was a strong leaning Republican district.

Reviewing the actual congressional races that occurred in a given district over time (known as endogenous races) can shed additional light on the partisan strength of that district. Relying only on exogenous races, such as president or governor, to determine the relative partisan strength of a congressional district can risk missing the subtleties that occur at the local level, within the congressional elections. For example, the residential location of the candidates within the congressional district will impact voting behavior, whether a candidate lives in Las Cruces or Hobbs. Or whether the local candidate is well known or not. These types of factors have historically come into play in congressional elections in CD 2.

First, it is worth noting that the congressional district boundaries of CD 2 from 2012 to 2020 are very similar to the boundaries from 2002 and 2010. In the 2011 congressional district litigation, the district judge adopted a “least change congressional plan.” Thus, the boundaries of CD 2 were very similar from 2002 to 2020.

Based upon the congressional district election history in the former CD 2 (2002 to 2020), this district was a strong leaning Republican congressional district, not a safe Republican district (see appendix 1 and appendix 2). Republican Steve Pearce was first elected to CD 2 in the 2002 General Election. He later stepped down from his congressional seat to run unsuccessfully in the

2008 US Senate race. He was then reelected to his congressional seat in 2010. He later stepped down again from his congressional district to run unsuccessfully in the 2018 Governor's race.

Despite Steve Pearce's inability to win two statewide election contests, he was extremely successful in winning all his congressional district races in CD 2. He was a hard-working incumbent candidate who was well-known throughout the district due to his long tenure in office, serving stints between 2003 and 2019. Steve Pearce prided himself on working closely with traditional Democratic constituencies such as Hispanic and Native American voters. As a result, he won his elections by large margins. The power of incumbency and the popularity of Steve Pearce contributed to his impressive election outcomes.

However, it is interesting to note, that the two times Steve Pearce stepped down to seek higher office, a Democrat won the election in CD 2. Specifically, in 2008, after Steve Pearce stepped down to run for U.S. Senate, Democrat Harry Teague won the election by a very comfortable margin. Then, in 2018, after Steve Pearce stepped down to run for Governor, Democrat Xochitl Torres Small won the election by 1.8 percentage points. Thus, once the playing field was leveled, and the powerful incumbent was no longer a factor, a Democrat candidate won the election on two occasions. It is worth noting, that once Steve Pearce sought to regain his congressional seat in 2010, he beat Harry Teague by a large margin. It is also worth noting that Democrat Xochitl Torres Small was defeated by Republican Yvette Herrell after serving one term.

To summarize, a review of the congressional election results in CD 2 between 2002 and 2020 illustrates that CD 2 was not a safe Republican district, but was a strong leaning Republican district, before it was changed to a competitive district under SB-1.

3. Under SB-1, all three of New Mexico's Congressional Districts became more politically competitive.

Any analysis to determine whether the political competitiveness of the three congressional districts increased, or not, should also include a review of the actual congressional races in the congressional districts over time. Again, this is because relying solely on exogenous races such as president or governor to determine the change in competitiveness of a congressional district can risk missing the subtleties that occur at the local level, within the congressional elections.

In CD 1, from 2012 to 2020 (see appendix 3), under the old district boundaries, there were five general elections and one special election to fill a vacancy. The Democratic candidate won those general elections by a wide margin, an average of 21.0%. In the 2022 general election, under the new district boundaries, the Democrat won the election by 11.5%, a significantly narrower margin of victory.

In CD 2, from 2012 to 2020 (see appendix 2), under the old district boundaries, there were five general elections in which the Republican candidate won 4 times. The average margin of victory was 16.4%. In the 2022 general election, under the new district boundaries, the Democrat won by less than one percent, thus the gap between the winning and losing candidate narrowed significantly, and the Democratic candidate won the election.

In CD 3 (see appendix 4), from 2012 to 2020, under the old district boundaries, there were five general elections. The Democratic candidate won all those elections by a wide margin, an average of 24.7%. In the 2022 general election, under the new district boundaries, the Democrat won the election by 16.4%, thus narrowing the margin of victory between the Democratic and Republican candidates.

Thus, for all three congressional districts, when one compares the average margin of victory from the old district boundaries (2012 to 2020 elections) to the new district boundaries (2022 election) the margin of victory narrows. (Chart 1)

Chart 1

GENERAL ELECTION FOR CONGRESSIONAL DISTRICT RACES			
Average % Margin of Victory			
"Old" Congressional District Boundaries vs. "New" Congressional District Boundaries			
Congressional District 1			
General Elections	District Boundaries	Margin of Victory (Mean)	Margin of Victory (Median)
2012 through 2020 {5 election cycles}	Old	21.0%	18.3%
2022 {1 election cycle}	New	11.5%	11.5%
Congressional District 2			
General Elections	District Boundaries	Margin of Victory (Mean)	Margin of Victory (Median)
2012 through 2020 {3 election cycles}	Old	16.4%	18.2
2022 {3 election cycle}	New	0.7%	0.7%
Congressional District 3			
General Elections	District Boundaries	Margin of Victory (Mean)	Margin of Victory (Median)
2012 through 2020 {5 election cycles}	Old	24.7%	24.8%
2022 {1 election cycle}	New	16.4%	16.4%
RESEARCH & POLLING, INC.			

4. Political party registration numbers are not meaningful predictors of partisan performance in elections, especially in Southeastern New Mexico.

In reviewing the New Mexico Supreme Court’s July 5 Order, I noted that the Court directed the district court to consider (among other things) “evidence comparing the relevant congressional district’s voter registration percentage/data, regarding the individual plaintiffs’ party affiliation under the challenged congressional maps, as well as the same source of data under the prior maps.” N.M. Supreme Court Order, July 5, 2023 at para. 7.¹

¹ On August 25, 2023, as this report was being finalized, the New Mexico Supreme Court issued an Amended Order that does not include any mention of voter registration data. However, I have kept this discussion in my report in case it is useful to the Court.

In general, and specifically in New Mexico, political party registration is often not a reliable or meaningful predictor of partisan performance and election outcomes. There are many reasons for this. A good example to demonstrate that voter registration statistics, by party affiliation, are not a good indicator of partisan performance is to look at the Democratic performance in the presidential elections from 2000 to 2020 compared to the percentage of registered Democrats over a similar time. As the accompanying chart shows (Chart 2), in 2000 and 2004, New Mexico was a battleground state in the presidential elections, where a tiny margin determined the outcome of the races. Then, since 2008, the Democratic presidential candidates have won by large margins. This shows how New Mexico is trending more Democratic over time. But, during that same time, the percentage of registered Democrats in New Mexico declined significantly, while the percentage of registered Republicans remained roughly constant (Chart 3).

Chart 2

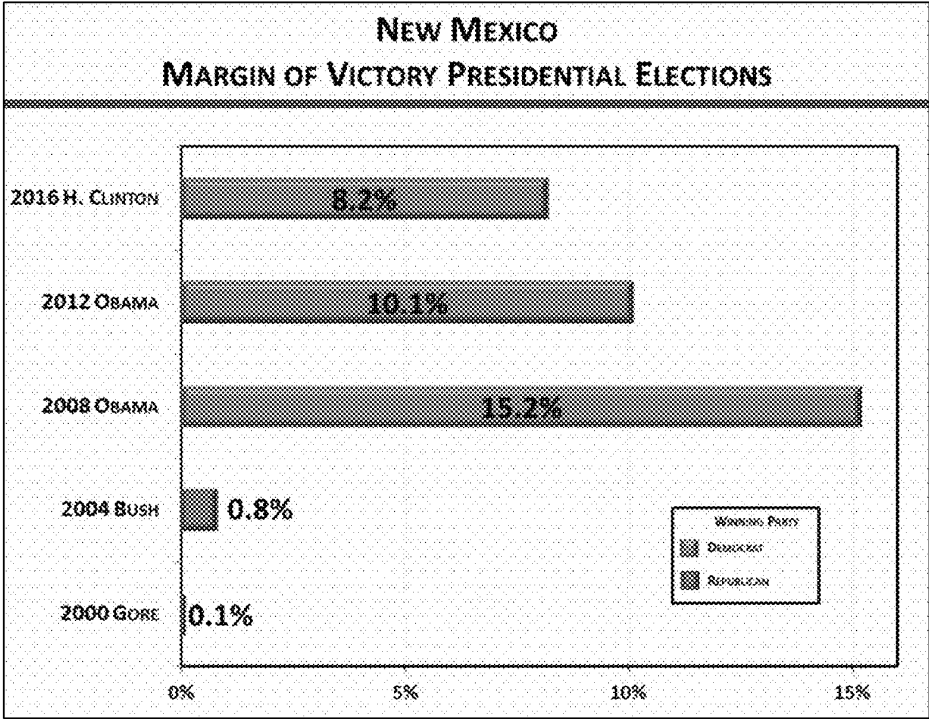
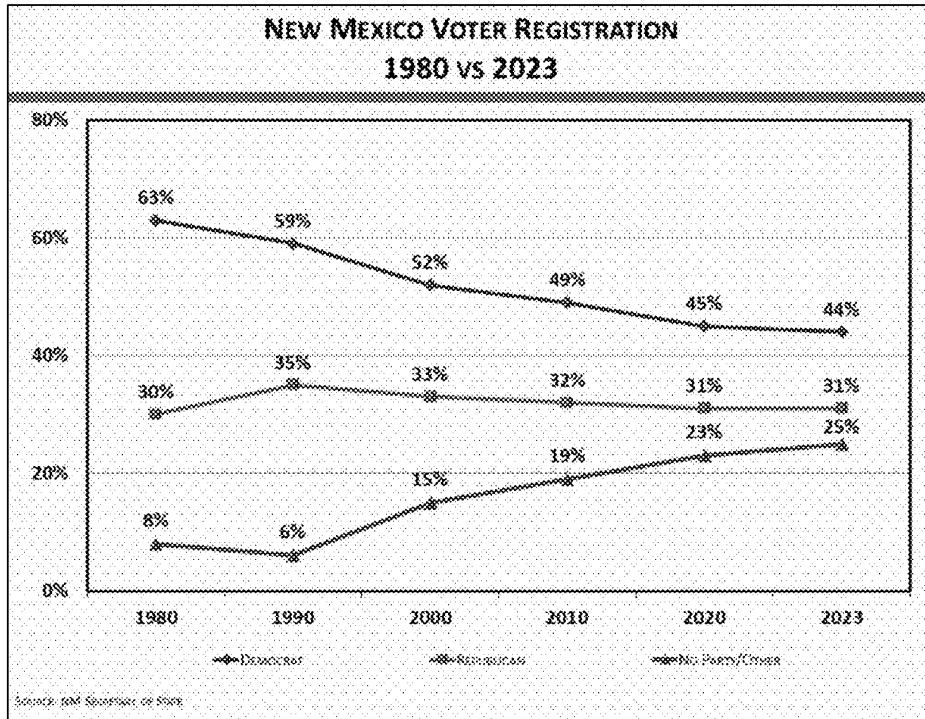


Chart 3



There are numerous reasons for this phenomenon. First, many conservative Democrats switched to the Republican Party over time. Second, many young people decline to state a political party affiliation when they register to vote, but they often vote for Democratic candidates. Third, some registered Republicans moved out of the state or died and were replaced by conservative Democrats who changed their registration to Republican. Therefore, political party registration is often not a reliable or meaningful predictor of partisan performance and election outcomes.

Dated: August 25, 2023

By: *Brian Sanderoff*
Brian Sanderoff

Brian Sanderoff
Curriculum Vitae

Address

Office:
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505-821-5454
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Education

University of New Mexico, B.A. Political Science

University of New Mexico, Attended Graduate School,
Political Science Department

Guest Lecturer

Taught an undergraduate 300 level course in Political Science Department of the University of New Mexico called *Campaign Management* (1985)

Professional Experience

April 1986-Present

President of Research & Polling, Inc.

Brian Sanderoff has been the political pollster/election analyst for the *Albuquerque Journal* for 37 years and for KOAT TV for over 20 years.

Research & Polling, Inc. has provided redistricting services on more than 180 occasions for New Mexico's congressional districts, state legislative districts, Public Regulation Commission Districts, Public Education Commission Districts, as well as county commission, city council, and school board districts throughout the state.

Research & Polling Inc. is the largest market research, demographic analysis, and public opinion polling corporation in New Mexico. Research & Polling has 8 full-time employees and 30 professional interviewers. Research & Polling specializes in public policy polling and litigation support including change of venue surveys. Brian Sanderoff has supervised the administration of over 2,000 survey research studies. Brian Sanderoff's major clients include New Mexico Administrative Office of the Courts, New Mexico State Legislature, Presbyterian Healthcare Services, PNM, University of New Mexico, and Sandia National Laboratories and Los Alamos National Laboratory. Research & Polling has provided demographic analysis services on more than 100 occasions for various local and state government entities.

*January 1983
To March 1986*

President of Sanderoff and Associates

A market research, demographic analysis and public opinion polling company in Albuquerque, New Mexico. Sanderoff and Associates specialized in serving government agencies at the city, county, and state level.

Professional Experience *(continued)*

*November 1978
To December 1982*

State Government service as a public policy director.
Positions held include:

Director, Management Analysis Division, Department of Finance Administration.

Responsible for administering this division of state government. The Management Analysis Division identified troubled areas in state government and recommended means to improve the management and operations of the agencies.

Director, Governor's Office of Community Affairs.

Responsible for improving the management and administration of this agency which delivered services throughout the State of New Mexico.

Director, Human Rights Commission.

Responsible for improving the management and administration of this agency which ruled on discrimination cases.

Chairman, Commission of Children and Youth.

Was the first chairman of the Governor's Commission on Children and Youth. The purpose of this commission was to establish a coordinating body within the executive branch to deal with children's issues that were inter-departmental in nature. As chairman of this commission, Sanderoff worked closely with many cabinet departments and division directors to implement pilot programs and to more efficiently administer children's programs which were interdisciplinary in nature.

Aide to the Governor, Governor's Office

Expert Witness Experience, 1992-Present

Brian Sanderoff has qualified as an expert witness in both state and federal district courts for survey research, demographic analysis, and redistricting on over 40 occasions in the past thirty years.

Art Bustos, As Personal Representative of the Estate of Edgar Garcia, and Selena Rodrigues, Individually, and as Next Friend of Ileana Rodriguez and Sophia Garcia, Minors vs. Caza Operating, LLC and Azteca Manufacturing, Inc. f/k/a Azteca Fabrication and Banta Oilfield Services, Inc. 4th Judicial District Court, County of San Miguel, State of New Mexico, #D-412-CV-2017-00592, 2019

El Encanto, Inc., d/b/a Bueno Foods, and Hatch Chile Association v. Hatch Chile Company, Inc. United States Patent and Trademark Office, Opposition Proceeding #91223190, 2017

Robert Pidcock v. Albuquerque Public School District and Governing Board of the Central New Mexico Community District. 2nd Judicial District Court, County of Bernalillo, State of New Mexico. #D-202-CV-2016-01002

Phillip Patrick Baca, Mary Molina Mescall v. Richard J. Berry in his official capacity as Mayor of Albuquerque. United States District Court for the District of New Mexico. #1:13-CV-0076 WJ/WPL, 2013

Brian F. Egolf Jr., et al. v. Diana J. Duran et al. Remand by the New Mexico State Supreme Court to the District Court for New Mexico State House of Representatives Redistricting, 1st Judicial District Court, County of Santa Fe, State of New Mexico, 2012. Appointed by the New Mexico District Court as a 706 Expert to aid the District Court in addressing New Mexico Supreme Court issues. #D-101-CV-2011-02942

Brian F. Egolf Jr., et al. v. Diana J. Duran et al. New Mexico State House of Representatives Redistricting, 1st Judicial District Court, County of Santa Fe, State of New Mexico, 2011-2012 #D-101-CV-2011-02942

Brian F. Egolf Jr., et al. v. Diana J. Duran et al. New Mexico State Senate Redistricting, 1st Judicial District Court, County of Santa Fe, State of New Mexico, 2011-2012 #D-101-CV-2011-02942

Brian F. Egolf Jr., et al. v. Diana J. Duran et al. New Mexico State Public Regulation Commission Redistricting, 1st Judicial District Court, County of Santa Fe, State of New Mexico, 2011-2012 #D-101-CV-2011-02942

Michael Archuleta (ACLU) et al. v City of Albuquerque et al. 2nd Judicial District Court, County of Bernalillo, State of New Mexico, 2011 #CV 2011-5792 (city council redistricting)

Ernest S. Mondragon, Gonsalo Arenas, Veronica Arenas, Scott Limbourne, Michael Cardenas, Jessica Cardenas and Medardo Vigil v. New Mexico Gas Company. State of New Mexico, County of Taos, Eighth District Judicial Court, 2011. # D-0820-CV-2011-00106

Ray and Cathy Collins et al v. America West Airlines Inc. d/b/a US Airways, Ever-Ready Oil Co., Inc d/b/a Chevron Redi-Mart, et al., 4th Judicial District Court, County of San Miguel, State of New Mexico, Change of Venue Hearing, June 2011 #D-412-CV-2006-00627

John Ivan Sutter, MD, PA, individually and on behalf of all others similarly situated v. Horizon Blue Cross Blue Shield of New Jersey, Superior Court of New Jersey, Essex County, State of New Jersey, Settlement Value Survey, #ESX-L-3685-02, February 2010

Expert Witness Experience, 1992-Present (continued)

Ray and Cathy Collins et al v. America West Airlines Inc. d/b/a US Airways, et al., 4th Judicial District Court, County of San Miguel, State of New Mexico, Change of Venue Survey (Affidavit Only) #D-412-CV-2006-00627

State of New Mexico v. Jessica Livingston, 4th Judicial District Court, County of San Miguel, State of New Mexico, Change of Venue Hearing #CR02007 00250, January 2009

U.S. v. Larry Lujan, Federal District Court, State of New Mexico, Southern Division, Comparison of Demographic Profile of Jury Wheel and Jury Pool Population vs. Adult Population (Census Data) USDC NM 05-CR-00924, September 2008.

State of New Mexico v. Jerry Fuller, 9th Judicial District Court, County of Roosevelt, State of New Mexico, Change of Venue Hearing #CR2005 00047, April 2006.

USA v. Cisneros, Federal District Court, State of Arizona, Comparison of Demographic Profile of Jury Wheel Population vs. Adult Population (Census Data) #CR 03-0730-PHX-SRB (Docket 1141), November 2005.

State of New Mexico v. Zachariah Craig, 13th Judicial District Court, County of Sandoval, State of New Mexico, Change of Venue Hearing #D-1333-CR-200100155, June 2005.

Johnny Bierner, et al. v. Cortez Gas Co., et al., 7th Judicial District Court, County of Sierra, State of New Mexico, Change of Venue Hearing # D-0721-CV-2001-0076, January 2005.

Robert Harshbarger as the Personal Representative of the Estate of Shawn H. Harshbarger v. The Regents of the University of California, Johnson Controls Northern New Mexico, L.L.C., and Johnson Controls World Services, Inc., 1st Judicial District Court, County of Rio Arriba, State of New Mexico, Change of Venue Hearing # D-0117-CV-2002-02073, September 2003.

Gilbert Armijo and Maria Casaus v. Wal-Mart Stores, Inc., a Delaware corporation, Sam's Club, an operating segment of Wal-Mart Stores, Inc., First Judicial District, County of Rio Arriba, State of New Mexico, Survey Research (Face-to-Face Interviews), Hearing # D-0117-CV-200002211, May 2003.

Frankie Pasquale v. Omkar Tiku, M.D., Second Judicial District Court, County of Bernalillo, State of New Mexico, Hearing # CV 2001-07418, April 2003.

State of New Mexico and State of New Mexico ex rel Patricia Madrid v. General Electric, et al., Federal District Court, Change of Venue Hearing # CV 99-1254 BSJ/DJS & # CV 99-1118 BSJ/LFG, October 2002 (Affidavit Only).

State of New Mexico v. Ruben Flores, 5th Judicial District Court, County of Lea, State of New Mexico, Change of Venue Hearing # CR 99-028, July 2002.

Michael Jepsen, et al. v. Rebecca Vigil-Giron, in her official capacity as New Mexico Secretary of State, et al., 1st Judicial District Court, County of Santa Fe, State of New Mexico, # D0101 CV 2001 02177 (Consolidated), Redistricting of United States Congress, Redistricting of New Mexico State House of Representatives, December 2001.

Martha Chapman, et al. v. El Paso Energy Corporation, a Foreign Corporation, El Paso Natural Gas Company, a Foreign Corporation, and John Cole, 5th Judicial District Court, County of Eddy, State of New Mexico, Change of Venue Hearing # CV 2001-62, September 2001.

Expert Witness Experience, 1992-Present (continued)

Delfina Archuleta & Rio Grande Café, Inc., v. Beneficial Standard Life Insurance, Company, Franklin Life Insurance Company, Usg Annuity & Life Company, American Life and Casualty Insurance Company, A/k/a Conseco Annuity Assurance Company, Joe A. Casados, Ronald J. Casados, Elsie A. Casados, and Camille Koehler, 1st Judicial District Court, County of Rio Arriba, State of New Mexico, Change of Venue Hearing # D-0117-CV0200000651, August 2001.

State of New Mexico v. Paul Payne; 5th Judicial District Court, County of Lea, State of New Mexico, Change of Venue Hearing, Case # CR99-0319G, March 2001.

Levi Garcia and Roger Rodriguez v. University of California, Los Alamos National Laboratories, Louis Schulte, and John and Jane Does I-X; 1st Judicial District Court, State of New Mexico, Change of Venue Survey, Case # D-D-0117-CV-9900563, February 2001.

State of New Mexico v. John Price, 5th Judicial District Court, County of Lea, State of New Mexico, Change of Venue Hearing # 99-318 C, December 2000.

State of New Mexico v. Jeffrey Taylor, 13th Judicial District Court, County of Sandoval, State of New Mexico, Change of Venue Hearing, February 2000.

Citadel v. Trumper, et al., District of New Mexico, #99-CV00922, August 1999.

James E. Schwiner v. Regents of the University of California DBA Los Alamos National Laboratory, 1st Judicial District Court, County of Rio Arriba, State of New Mexico, Change of Venue Hearing RA # 97-2120C, November 1998.

David Luhan and Pablo Lopez v. Albuquerque Metropolitan Arroyo Flood Control Authority District et al., USDC, CIV # 98-704 LH/RLP, August 1998.

State of New Mexico v. Shawn Popeleski, 7th Judicial District Court, County of Torrance, State of New Mexico, Change of Venue Hearing CR # 97-100 TOR, September 1998.

State of New Mexico v. Shawn Popeleski, 7th Judicial District Court, County of Torrance, State of New Mexico, Change of Venue Hearing CR # 97-100 TOR, June 1998.

Saberhagen v. Random House, et al., District of New Mexico, Trademark/Brand Confusion Survey, #98-CV01183, September 1998.

Cheesecake Factory, Inc. v. The Cheesecake Factory, District of New Mexico, Trademark/Brand Confusion Survey, #97-CV00187, February 1997.

State of New Mexico v. Roy Buchner, 7th Judicial District Court, County of Torrance, State of New Mexico, Change of Venue Hearing CR # 96-066 TOR, September 1997.

State of New Mexico v. Shaun Wilkins, 7th Judicial District Court, County of Torrance, State of New Mexico, Change of Venue Hearing CR # 96-92 TOR, May 1997.

United States v. Jason De La Torre, USDC, Criminal Case # 95-538 MV, May 1997, Demographic analysis, Survey Research, Voter File analysis (statewide).

United States v. Jason De La Torre, USDC, Criminal Case # 95-538 MV, February 1997, Demographic analysis, Survey Research, Voter File analysis (statewide).

Expert Witness Experience, 1992-Present (continued)

Aragon v. University of California Los Alamos National Laboratory, 1st Judicial District Court, County of Rio Arriba, State of New Mexico/# RA-95-2387, October 1996, Change of Venue Survey (Los Alamos, Taos, Rio Arriba, Santa Fe, San Miguel, Bernalillo, Chaves, Doña Ana Counties).

State of New Mexico v. Gordon House, July 1994, First Retrial, Change of Venue Survey, (Taos, Doña Ana Counties).

State of New Mexico v. Gordon House, March 1995, Second Retrial, Change of Venue Survey, (Taos, Doña Ana Counties), Media Analysis.

Docket # 93-218-T.C. Before the New Mexico State Corporation Commission. Expansion of the US West Albuquerque Metro calling area. October 1993, Market Research Study (Bernalillo County, Belen, Peña Blanca, Acoma, Laguna and Estancia).

Revo v. the New Mexico Disciplinary Board, et al. USDC CIV # 92-764 JB/RWM, December 1992, Federal District Court, Public Opinion Poll regarding Lawyer Direct Mail Advertising.

United States v. Cibola County, et al. USDC CIV # 93-1134 SC/LFG, Public Opinion Poll (Cibola County).

Appendix 1:

CD 2: 2002-2010

Median Spread: 12.51

Mean Spread: 14.79

2010: 169,762

- Democrat – Harry Teague, 44.60%, 75,709
- Republican – Steve Pearce, 55.40%, 94,053
- Spread: 10.8

2008: 231,552

- Democrat – Harry Teague, 55.96%, 129,572
- Republican – Edward Tinsley, 44.04%, 101,980
- Spread: 11.29

2006: 155,739

- Democrat – Albert Kissling, 40.53%, 63,119
- Republican – Steve Pearce, 59.47%, 92,620
- C. Dean Burke (write-in) - 135
- Spread: 18.94

2004: 216,790

- Democrat – Gary King, 39.80%, 86,292
- Republican – Steve Pearce, 60.20%, 130,498
- Spread: 20.4

2002: 141,628

- Democrat – John Arthur Smith, 43.72%, 61,916
- Republican – Steve Pearce, 56.23%, 79,631
- Pdraig Lynch (write-in), 0%, 39
- Geroge Dewey (write-in), 0%, 43
- Spread: 12.51

Appendix 2:

CD 2: 2012-2020

Median Spread: 18.2

Mean Spread: 16.4

2012: 225,515

- Democrat – Evelyn Madrid Erhard, 40.9%, 92,162
- Republican – Steve Pearce, 59.1%, 133,180
- Independent- Jack McGrann , .0%, 173
- Spread: 18.2

2014: 147,708

- Democrat – Roxanne Lara, 35.5%, 52,499
- Republican – Steve Pearce, 64.4%, 95,209
- Republican (write-in) – Jack McGrann, 0% 69
- Spread: 29

2016: 228,817

- Democrat – Merrie Lee Soules, 37.2%, 85,232
- Republican – Steve Pearce, 62.7%, 143,515
- Republican (write-in) – Jack McGrann, 0% 70
- Spread: 25.5

2018: 199,373

- Democrat – Xochitl Torres Small, 50.9%, 101,489
- Republican – Yvette Herrell, 49.0%, 97,767
- Independent - Steve Jones – 0%, 117
- Spread: 1.9

2020: 264,829

- Democrat – Xochitl Torres Small, 46.3%, 122,546
- Republican – Yvette Herrell, 53.7%, 142,283
- Spread: 7.4

2022: 192,673

- Democrat – Gabe Vasquez, 50.3%, 96,986
- Republican - Yvette Herrell, 49.6%, 95,636
- Democrat (write-in) - Eliseo Luna – 0%, 51
- Spread: 0.7

Appendix 3:

CD 1: 2012-2020

2012-2020 Median Spread: 18.3

2012-2020 Mean Spread: 20.98

2012: 275,855

- Democrat – Michelle Lujan Grisham, 59.1%, 162,924
- Republican – Janice Arnold Jones, 40.8%, 112,472
- Green Party – Jeanna Pahls, .0%, 459
- Spread: 18.3

2014: 180,032

- Democrat – Michelle Lujan Grisham, 58.6%, 105,474
- Republican – Michael Frese, 41.4%, 74,558
- Spread: 17.2

2016: 277,967

- Democrat – Michelle Lujan Grisham, 65.1%, 181,088
- Republican – Richard Priem, 34.9%, 96,879
- Spread: 30.2

2018: 249,162

- Democrat – Deb Haaland, 59.1%, 147,336
- Republican – Janice Arnold Jones, 36.3%, 90,507
- Libertarian – Lloyd Princeton, 4.5%, 11,319
- Spread: 22.8

2020: 321,209

- Democrat – Deb Haaland, 58.2%, 186,953
- Republican – Michelle Garcia Holmes, 41.8%, 134,337
- Spread: 16.4

2021: 132,217 (Special Election)

- Democrat – Melanie Stansbury, 60.4%, 79,838
- Republican – Mark Moores, 35.6%, 47,111
- Independent - Aubrey Dunn, 2.7%, 3534
- Libertarian – Chris Manning, 1.3%, 1734
- Spread: 24.8

2022: 280,671

- Democrat – Melanie Stansbury, 55.7%, 156,462
- Republican – Michelle Garcia Holmes, 44.2%, 124,151
- Independent -Victoria Gonzales, 0%, 58
- Spread: 11.5

Appendix 4:

CD 3: 2012-2020

2012-2020 Median Spread: 24.8

2012-2020 Mean Spread: 24.74

2012: 264,719

- Democrat – Ben Ray Lujan, 63.1%, 167,103
- Republican – Jefferson Byrd, 36.9%, 97,616
- Spread: 26.2

2014: 184,076

- Democrat – Ben Ray Lujan – 61.5%, 113,249
- Republican – Jefferson Byrd – 38.4%, 70,775
- Republican (write-in) Thomas Hook – 0%, 52
- Spread: 23.1

2016: 273,342

- Democrat – Ben Ray Lujan, 62.4%, 170,612
- Republican – Michael Romero, 37.6%, 102,730
- Spread: 24.8

2018: 244,893

- Democrat – Ben Ray Lujan, 63.4%, 155,201
- Republican – Jerald McFall, 31.2%, 76,427
- Libertarian – Chris Manning, 5.4%, 13,265
- Spread: 32.2

2020: 317,448

- Democrat – Teresa Leger Fernandez, 58.7%, 186,282
- Republican – Alexis Johnson, 41.3%, 131,166
- Spread: 17.4

2022: 230,782

- Democrat – Teresa Leger Fernandez, 58.2%, 134,217
- Republican – Alexis Johnson, 41.8%, 96,565
- Spread: 16.4