

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

THE LEAGUE OF WOMEN VOTERS
OF FLORIDA, COMMON CAUSE; JOAN
ERWIN; ROLAND SANCHEZ-MEDINA,
JR.; J. STEELE OLMSTEAD; CHARLES
PETERS; OLIVER D. FINNIGAN;
SERENA CATHERINA BALDACCHINO;
and DUDLEY BATES,

Plaintiffs,

vs.

CASE NO. 2012-CA-2842

KENNETH W. DETZNER, in his official
capacity as Florida Secretary of
State; THE FLORIDA SENATE; ANDY
GARDINER, in his official capacity as
President of the Florida State
Senate; THE FLORIDA HOUSE OF
REPRESENTATIVES; and STEVE CRISAFULLI,
in his official capacity as Speaker
of the Florida House of Representatives,
and PAM BONDI, in her official capacity
as Attorney General of the State of
Florida,

Defendants.

_____ /

Volume 1, Pages 1 - 79

THE DEPOSITION OF: JOHN GUTHRIE
AT THE INSTANCE OF: The Plaintiffs
DATE: July 29, 2015
TIME: Commenced at 10:12 a.m.
adjourned at 12:30 p.m.
PLACE: Law Offices
301 South Bronough Street
Tallahassee, Florida
REPORTED BY: SARAH B. GILROY, RPR, CRR
sbrinkhoff@comcast.net
Notary Public
State of Florida

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

REPRESENTING THE PLAINTIFFS:

DAVID B. KING, ESQUIRE
dking@kbzwlaw.com
THOMAS A. ZEHNDER, ESQUIRE
tzehnder@kbzwlaw.com
VINCENT FALCONI, III, ESQUIRE - *Telephonic*
vfalcone@kbzwlaw.com
King, Blackwell, Zehnder & Wermuth
25 East Pine Street
Orlando, Florida 32081

REPRESENTING FLORIDA SENATE:

RAOUL G. CANTEROS, III, ESQUIRE
rcantero@whitecase.com
JASON N. ZAKIA, ESQUIRE
jzakia@whitecase.com
White & Case, LLP
Southeast Financial Center
200 South Biscayne Boulevard, Suite 4900
Miami, Florida 33131

REPRESENTING THE SECRETARY OF STATE:

GEORGE N. MEROS, JR., ESQUIRE
george.meros@gray-robinson.com
GrayRobinson
301 South Bronough Street, Suite 600
Tallahassee, Florida

I N D E X

2	<u>WITNESS</u>		PAGE NO.
3	JOHN GUTHRIE		
4	Direct Examination by Mr. King		4
4	Cross Examination by Mr. Atty	#	

EXHIBITS
(Exhibits attached hereto.)

NUMBER DESCRIPTION

12:17
12:17

8	No. 1	Senate's answers to interrogatories	36
	No. 2	Map 9030 with data	65
9	No. 3	Map 9018	66
	No. 4	Map 9022	66
10	No. 5	Correspondence with Mr. Shankle with a Word document	71
12	CERTIFICATE OF OATH		78
	CERTIFICATE OF REPORTER		79

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 The following deposition of JOHN GUTHRIE was taken on
2 oral examination, pursuant to notice, for purposes of
3 discovery, and for use as evidence, and for other uses
4 and purposes as may be permitted by the applicable and
5 governing rules. Reading and signing is not waived.

6 * * *

7 THE COURT REPORTER: Do you solemnly swear or
8 affirm the testimony you are about to give in this
9 cause will be the truth so help you God?

10 THE WITNESS: I do.

11 Thereupon,

12 JOHN GUTHRIE

13 the witness herein, having been first duly sworn, was
14 examined and testified as follows:

10:12 15 DIRECT EXAMINATION

10:12 16 BY MR. KING:

10:12 17 Q All right. Would you please state your name,
10:12 18 sir.

10:12 19 A My name is John Guthrie.

10:12 20 Q And Mr. Guthrie, if I ask you questions today
10:12 21 that are unclear to you, would you ask me to clarify
10:12 22 them so we make sure that we're both speaking on the
10:12 23 same wavelength?

10:12 24 A I will.

10:12 25 Q And is it okay for me to assume that you

10:12 1 understand the question, and we can rely on your
10:12 2 answer if you answer the question?

10:12 3 A Yes.

10:12 4 Q Thank you, sir. Any reason today is not a
10:12 5 good day for you to give a deposition? You're not on
10:12 6 medication or anything like that that would prevent
10:12 7 you from thinking clearly?

10:12 8 A No.

10:12 9 Q Okay. Now, what is your current occupation,
10:13 10 sir?

10:13 11 A I am retired.

10:13 12 Q All right. And when did you retire, sir?

10:13 13 A My last day of work was June 30, 2015.

10:13 14 Q And what position did you hold on June 30 when
10:13 15 you retired?

10:13 16 A I was the staff director of Senate
10:13 17 reapportionment.

10:13 18 Q And how long had you had that position?

10:13 19 A I was first appointed in -- on August 1st of
10:13 20 1989, so almost 26 years.

10:13 21 MR. CANTERO: That's my birthday.

10:13 22 BY MR. KING:

10:13 23 Q And Mr. Guthrie, had you been working
10:13 24 full-time on Senate reapportionment in 2015?

10:14 25 A During 2015 I did not have any committee

10:14 1 responsibilities with the Florida Senate other than
10:14 2 working with redistricting, which primarily was
10:14 3 helping the lawyers with -- with litigation support.

10:14 4 Q Did you -- in your work before you resigned,
10:14 5 did you do work on a proposed base map for the future
10:14 6 for the congressional redistricting?

10:14 7 A No. Can I clarify on just a word -- you use
10:14 8 the word "resigned" in your -- in your question.

10:15 9 Q I'm sorry.

10:15 10 A So my -- my resignation actually -- or when I
10:15 11 started retirement was on July 1, 2010. The state has
10:15 12 a program called Deferred Retirement Option Program,
10:15 13 where an employee retires early and then agrees that
10:15 14 they will work just five more years for a -- a Florida
10:15 15 Retirement System employer, and at the end of that
10:15 16 five years, retirement is mandatory.

10:15 17 So -- so my mandatory retirement date was June
10:15 18 30, 2015.

10:15 19 Q And that was essentially preordained since
10:15 20 2010?

10:15 21 A That is correct.

10:15 22 Q Do you have any plans to continue as a
10:15 23 consultant for the legislature in its efforts to
10:16 24 redistrict on the congressional side this fall?

10:16 25 A Not at this time.

10:16 1 Q You haven't been asked to do that?

10:16 2 A I have not.

10:16 3 Q Do you have any reason to believe that you
10:16 4 will be?

10:16 5 A No.

10:16 6 Q Would you do it if you were asked?

10:16 7 A I would need to think about that. I -- I
10:16 8 have -- I really have not thought that through.

10:16 9 Q Okay. Do you have any plans to act as a
10:16 10 consultant to the Senate during the redrawing of the
10:16 11 Senate maps this fall?

10:16 12 A No.

10:16 13 Q You haven't discussed that with anybody in the
10:16 14 Senate?

10:16 15 A The -- any -- I have had some conversations
10:16 16 with Mr. Cantero, but no communications with him or
10:17 17 the Senate about me working for either. I would be
10:17 18 barred -- let me hasten add, I am -- I am barred under
10:17 19 the deferred retirement program statute from working
10:17 20 for a Florida Retirement System employer for --
10:17 21 actually for a year.

10:17 22 If I work for a Florida Retirement System
10:17 23 employer during the first six months, that will -- I
10:17 24 will be required to refund five years' worth of
10:17 25 retirement benefits that went into my retirement

10:17 1 account. And then in the six months beyond that, if I
10:17 2 were to work for an FRS employer, month for month, I
10:17 3 would not be able to get both a retirement check and a
10:17 4 pay -- pay -- and pay.

10:17 5 Q So you wouldn't want to do that?

10:17 6 A So I -- yeah. I'm -- I'm not -- do not intend
10:18 7 to be employed by the state or a state agency for at
10:18 8 least a year.

10:18 9 Q Okay. Of course I suppose there are ways to
10:18 10 work for lawyers and stuff like that that you could
10:18 11 do; right?

10:18 12 A There may be, yes.

10:18 13 Q Did you -- who did you leave as the new staff
10:18 14 director for Senate reapportionment, to your
10:18 15 knowledge? Has that appointment been made?

10:18 16 A I -- I have heard that --

10:18 17 MR. CANTERO: If it's secondhand knowledge,
10:18 18 you don't know.

10:18 19 BY MR. KING:

10:18 20 Q Well, I would be interested in you telling me
10:18 21 what you've heard as who the staff director for Senate
10:18 22 reapportionment is going to be.

10:18 23 A I have heard that Jay Ferrin -- I do not think
10:18 24 that appointment was made contemporaneous with my
10:18 25 departure, but I have heard that -- that Jay Ferrin is

10:19 1 now serving in the capacity as staff director.

10:19 2 Q Okay. And before you left, did you discuss a
10:19 3 proposal for a new Senate map for the fall for the
10:19 4 anticipated redistricting process this fall? Have you
10:19 5 had any of those kind of discussions with Mr. Ferrin?

10:19 6 A At the time I left, I did not anticipate a --
10:19 7 any redo of a Senate plan this fall.

10:19 8 Q So you haven't had any discussions with
10:19 9 Mr. Ferrin about a redo of the Senate plan?

10:19 10 A I've had conversations with counsel.

10:19 11 Q I'm not asking you about --

10:19 12 MR. CANTERO: He's asking about Jay Ferrin.

10:19 13 BY MR. KING:

10:19 14 Q -- conversations with counsel.

10:19 15 MR. CANTERO: He's asking about Jay Ferrin.

10:20 16 If you remember.

10:20 17 A Well, I -- I do not -- I have heard from
10:20 18 Senate counsel --

10:20 19 MR. CANTERO: Don't say what you've heard from
10:20 20 Senate counsel.

10:20 21 THE WITNESS: Well, then, I'm really stuck
10:20 22 here.

10:20 23 MR. CANTERO: His question is whether you
10:20 24 have --

10:20 25 MR. KING: Had conversations with Jay Ferrin.

10:20 1 MR. CANTERO: Outside the presence of counsel.

10:20 2 THE WITNESS: Yes.

10:20 3 BY MR. KING:

10:20 4 Q Thank you. And tell me what you and
10:20 5 Mr. Ferrin talked about.

10:20 6 A We talked about direction that I had gotten
10:21 7 from Senate counsel.

10:21 8 Q And what did you tell Mr. Ferrin?

10:21 9 MR. CANTERO: If it talks about direction you
10:21 10 got, don't answer it, if it's about communications
10:21 11 with lawyers.

10:21 12 A I have no answer to that question.

10:21 13 BY MR. KING:

10:21 14 Q So all you did was pass along to Mr. Ferrin
10:21 15 instructions about the new directions of the map that
10:21 16 you got from counsel?

10:21 17 MR. CANTERO: You can answer.

10:21 18 BY MR. KING:

10:21 19 Q Can you answer the question, sir?

10:22 20 MR. CANTERO: If it concerns --

10:22 21 A I --

10:22 22 MR. CANTERO: -- substance of --

10:22 23 A I --

10:22 24 MR. CANTERO: -- conversation with lawyers --

10:22 25 A I really cannot go down this path without, in

10:22 1 my mind, violating communications entrusted to me by
10:22 2 counsel.

10:22 3 BY MR. KING:

10:22 4 Q I'm not asking you to do that. I simply just
10:22 5 asked you the question, was all you did just pass on
10:22 6 information that you received from counsel to
10:22 7 Mr. Ferrin? I'm not asking you about what the
10:22 8 information was.

10:22 9 A What I communicated to Mr. Ferrin was the
10:23 10 assignment that I heard from counsel and something
10:23 11 about what I was doing to follow that direction.

10:23 12 Q And when you say it was something that you
10:23 13 were doing, is that something, some technique or
10:23 14 approach that you thought he ought to take?

10:23 15 A No.

10:23 16 Q Okay. It was just -- again, it was just
10:23 17 something you had learned from counsel?

10:23 18 A Yes.

10:23 19 Q Okay. Now, you were the staff director for
10:23 20 the Senate committee on reapportionment in 2012 when
10:23 21 the Senate map was enacted; is that right?

10:23 22 A That is correct.

10:23 23 Q And, of course, that year was the last cycle
10:24 24 in your long experience in doing redistricting; right?

10:24 25 A There was a special session in the summer of

10:24 1 2014 to remedy defects with the congressional plan,
10:24 2 and I did participate in that.

10:24 3 Q Right. But the 2012 work was the last time
10:24 4 you did full maps for the Senate and participated in
10:24 5 the congressional map; right?

10:24 6 A It was -- yes. Yes.

10:24 7 Q All right. And you were the fellow that was
10:24 8 in charge of that effort for the Senate as far as the
10:24 9 staff was concerned; is that right?

10:24 10 A That is correct.

10:24 11 Q All of the staff worked for you; correct?

10:24 12 A The -- the staff attorneys for the committee
10:25 13 on reapportionment and -- and Mr. Ferrin, who was then
10:25 14 an administrative assistant, and the technical team,
10:25 15 the IT team that worked for Senate reapportionment all
10:25 16 reported to me.

10:25 17 Q And so in that process, as far as the staff
10:25 18 was concerned, you were the last word about the
10:25 19 drawing of the maps before the legislators weighed in
10:25 20 on their opinions and decisions regarding those maps;
10:25 21 correct?

10:25 22 A That is correct.

10:25 23 Q All of the information that your staff
10:25 24 developed about the mapping process and the -- the
10:25 25 decisions about the individual districts, all of that

10:25 1 flowed through you; correct?

10:25 2 A That is correct.

10:25 3 Q Now, in the Senate there were no subcommittees
10:25 4 on the particular maps -- I mean the Congressional
10:26 5 map, the House map, or --

10:26 6 A There was a --

10:26 7 Q -- the Senate map; right?

10:26 8 A -- committee on reapportionment that had
10:26 9 jurisdiction over all matters relating to
10:26 10 redistricting.

10:26 11 Q Right. And you knew in the House they divided
10:26 12 it up in specific committees for each of the various
10:26 13 maps; right?

10:26 14 A I did know that.

10:26 15 Q But in the Senate they took a different
10:26 16 approach; correct?

10:26 17 A In the Senate there was a single committee on
10:26 18 reapportionment that had jurisdiction over all matters
10:26 19 relating to redistricting, yes.

10:26 20 Q And that committee had something like 29 of
10:26 21 the 40 senators on it; right?

10:26 22 A It varied over time. But, yes, a very large
10:26 23 committee.

10:26 24 Q You had to be on the outs not to be on that
10:26 25 committee; didn't you?

10:26 1 MR. CANTERO: Object to the form; calls for
10:26 2 speculation.

10:26 3 BY MR. KING:

10:26 4 Q Okay. I will withdraw that question, then.

10:26 5 So the committee was responsible, then, for
10:26 6 the congressional, the state Senate and the state
10:27 7 House map as far as the Senate was involved in those
10:27 8 processes; is that correct?

10:27 9 A Yes, that is correct.

10:27 10 Q All right. Now, was it your understanding
10:27 11 that the Senate and the House had an agreement that
10:27 12 the Senate would draw the Senate map, and the House
10:27 13 would draw the House map? .0

10:27 14 A My understanding was that there was a
10:27 15 gentleman's agreement between the House and Senate
10:27 16 leadership. I don't know anything -- that was my
10:27 17 understanding. I -- I don't recall seeing any formal
10:27 18 agreement or knowing of any formal agreement.

10:27 19 But I think to say that it was an
10:27 20 understanding is a fair statement.

10:27 21 Q And is that the way it actually played out in
10:27 22 2012 as the Senate map was enacted and the House map
10:27 23 was enacted?

10:27 24 A I believe that it was, yes.

10:27 25 Q So is it correct, then, that the House had

10:28 1 nothing to do with the Senate map?

10:28 2 A The -- the -- a -- the House and the Senate
10:28 3 map are passed together as a joint resolution of
10:28 4 apportionment. That joint resolution was heard in
10:28 5 House committee and on the House floor, and the House
10:28 6 considered amendments to the joint resolution on -- so
10:28 7 it would be untrue, from my perspective, to say that
10:28 8 the House did not participate.

10:28 9 Q All right. But as far as drawing the maps and
10:28 10 the districts, was that all done by the Senate for the
10:28 11 Senate map?

10:28 12 A I am aware of no modeling of districts that
10:28 13 affected the final outcome that emanated from House
10:28 14 members or House staff.

10:29 15 Does that answer your question?

10:29 16 Q Well, I think so. Let me just flush it out
10:29 17 just a little bit more.

10:29 18 So, you know, we have seen, for example, in
10:29 19 this case, produced in this case were a lot of draft
10:29 20 maps done by the House staff pertaining to the Senate
10:29 21 map. In other words, the House did draft maps of the
10:29 22 Senate districts, the 40 Senate districts.

10:29 23 And my question to you is, did those draft
10:29 24 maps end up in your possession, or did you all look at
10:29 25 those and rely on those in drawing the Senate maps?

10:29 1 A My first awareness of any of those maps came
10:29 2 through discovery in -- in these cases.

10:29 3 Q So nobody was telling you back at the time
10:29 4 that the Senate was drawing -- I mean the House was
10:29 5 drawing Senate maps?

10:29 6 A That is correct.

10:29 7 Q And so, then, certainly they weren't sharing
10:30 8 them with you; is that right?

10:30 9 A That is correct.

10:30 10 Q So -- so then it would be your position
10:30 11 that -- that all the work that went into establishing
10:30 12 and drawing and refining the Senate districts was done
10:30 13 by the Senate staff and the senators?

10:30 14 A I believe -- that is correct, yes.

10:30 15 Q So the -- do you recall this time line that,
10:30 16 around November 28th -- strike that.

10:30 17 Precisely on November 28th, 2011, the Senate
10:30 18 released draft -- a published map that was a draft,
10:30 19 9004.

10:30 20 Do you recall that generally?

10:30 21 A I do.

10:31 22 Q And then around December the 30th, a map was
10:31 23 published, 9008, that was ultimately passed by the
10:31 24 Senate as the enacted map on February the 9th, 2012.

10:31 25 Do you recall that?

10:31 1 A I do.

10:31 2 Q And then ultimately, after the Supreme Court's
10:31 3 facial review required some changes to 9008, a map
10:31 4 styled 9030 was adopted by the Senate on March 22,
10:31 5 2012.

10:31 6 Do you recall that?

10:31 7 A I recall the adoption of that plan. I don't
10:31 8 have that date locked in my brain the way I do the
10:31 9 other two dates that you just read to me. The
10:31 10 November 28th and the December 30, I'm certain of.
10:32 11 The -- about the time of -- of March 28th.

10:32 12 Q Okay. And so would it also be correct that --

10:32 13 A 22nd you said? March 22nd?

10:32 14 Q I said around March 22nd, yes.

10:32 15 As far as 9004 is concerned, would it be
10:32 16 correct that that was the first map published by the
10:32 17 Florida Senate for the redistricting process in 2012?

10:32 18 A That was the first map published as a product
10:32 19 of a senator or a Senate committee.

10:32 20 Q Right.

10:32 21 A That and plan S000C9002 were both published
10:33 22 on -- on November 28th. So we did a congressional
10:33 23 map, or the Senate committee did it -- published a
10:33 24 congressional map and a Senate map on that date.

10:33 25 Q But that was -- that 9004 was the first Senate

10:33 1 map published in that redistricting cycle; is that
10:33 2 correct?

10:33 3 A That came from Senate staff or senators.

10:33 4 Q Right. In other words, the Senate staff had
10:33 5 been working on redistricting for six, nine months
10:33 6 leading up to that time, somewhere around that; would
10:33 7 that be right? Or am I underestimating how long you
10:33 8 had been working on it?

10:33 9 A The committee was created in November of 2010.
10:33 10 And I was given -- or actually continued my assignment
10:34 11 as staff director of the reapportionment committee.
10:34 12 At that time I had some IT staff that were working on
10:34 13 collecting the data and building the DistrictBuilder
10:34 14 software for the Senate and the public to be able to
10:34 15 use on redistricting.

10:34 16 And then subsequently, I don't have the dates
10:34 17 locked in my mind, but sometime in 2011 we hired
10:34 18 Mr. Ferrin as an administrative assistant and two
10:34 19 staff attorneys.

10:34 20 And from that time -- from the time that folks
10:34 21 were employed, they were working with me on the
10:34 22 assignment that we had, which is a significant
10:34 23 assignment.

10:34 24 Q So you and your staff had been working then
10:34 25 all of 2011 leading up to the publishing of the first

10:35 1 map for the Senate redistricting 9004 on November the
10:35 2 28th; is that right, of 2011?

10:35 3 A I would say that everybody who was employed by
10:35 4 the redistricting committee was working on -- on
10:35 5 redistricting, yes.

10:35 6 Q And so you had done other draft maps leading
10:35 7 up to 9004, but those had not been exposed to public
10:35 8 view; correct?

10:35 9 A That is correct.

10:35 10 Q In fact, is it also correct that you hadn't
10:35 11 even discussed -- in any of the public meetings of the
10:35 12 Senate committee on reapportionment, you had not
10:35 13 discussed any draft maps produced by your staff prior
10:35 14 to November 28th; had you, sir?

10:36 15 A So there were -- was a long series of public
10:36 16 hearings during the summer of 2011. The direction
10:36 17 that staff got from -- and -- and also we had
10:36 18 published the final version of the redistricting
10:36 19 software in May of 2011.

10:36 20 So people were free -- the public was free;
10:36 21 senators were free; staff was free from the time that
10:36 22 that software became available until now to log onto
10:36 23 the system and model districts. But -- I'm sorry. I
10:36 24 may not be answering your question.

10:36 25 Q Well, let me try to make it a little more

10:36 1 pointed. So you had a series of meetings after the
10:37 2 public meeting -- let me -- let me do it again. Let
10:37 3 me start -- withdraw that question.

10:37 4 In the summer of 2011, there were over 20
10:37 5 public meetings around the state to get input from
10:37 6 people about the proposed redistricting process;
10:37 7 right?

10:37 8 A That is correct.

10:37 9 Q And you attended probably most, if not all
10:37 10 those meetings; right?

10:37 11 A I believe I attended all of them.

10:37 12 Q All right. And then in the early fall the
10:37 13 committee on reapportionment started holding meetings
10:37 14 every couple of weeks to discuss the public plans that
10:37 15 had been submitted by people; isn't that correct?

10:37 16 A Yes. There were meetings in the fall.

10:37 17 Q So as the fall -- after you got your software
10:37 18 up, in the fall people started submitting proposed
10:37 19 redistricting plans; the public did; correct?

10:38 20 A Yes. Plans were submitted by the public. I
10:38 21 have not committed to memory what the date of the
10:38 22 first one was, but it was sometime during, I would
10:38 23 think the summer, maybe late summer, of -- of 2011.

10:38 24 Q And so the committee had meetings, led by
10:38 25 Senator Gaetz, on September 22nd, October 5, October

10:38 1 18, November 2, November 15. Does that sound -- I'm
10:38 2 not saying you have to have those dates committed to
10:38 3 memory, but does it sound correct to you that there
10:38 4 would have been committee meetings on a schedule
10:38 5 somewhat like I just gave you, sir?

10:38 6 A That sounds generally correct, yes.

10:38 7 Q Okay. And at those meetings, isn't it correct
10:38 8 that Chairman Gaetz took the position that we were
10:39 9 going to -- that the committee was going to carefully
10:39 10 consider the public submissions at those meetings?

10:39 11 A That was the direction that I heard from
10:39 12 Chairman Gaetz, yes.

10:39 13 Q So at each one of those meetings a certain
10:39 14 number of public submissions would be examined and
10:39 15 considered, and you would offer your opinions about
10:39 16 them, and the senators present would discuss them and
10:39 17 debate them; correct?

10:39 18 A My -- my recollection is that the first
10:39 19 meeting that occurred after the public hearings did
10:39 20 not focus on -- on the substance of plans or maps, but
10:39 21 was more general framework. But after that the
10:39 22 committee moved through the state -- we worked one
10:39 23 region at a time. And staff presented a -- a review
10:40 24 of some of the public input received to that point in
10:40 25 time.

10:40 1 And then we listened to the committee's
10:40 2 discussion of -- or reaction to -- to that
10:40 3 presentation.

10:40 4 Q But isn't it correct, sir, that at none of
10:40 5 those meetings did the staff present any draft maps
10:40 6 constructed by the staff?

10:40 7 A That is correct.

10:40 8 Q And so the first time anybody ever saw the
10:40 9 work product of the staff was when 904 -- 9004 was
10:40 10 published on November the 28th; isn't that right?

10:40 11 A Well, Chairman Gaetz was aware of what the
10:40 12 staff was doing on -- on his behalf. And Chairman
10:41 13 Gaetz and I had had conversations with --
10:41 14 collaborating with staff, but also in the week
10:41 15 preceding release of that, there were some
10:41 16 conversations with senators just to report to those
10:41 17 senators the progress that Senator Gaetz had made on
10:41 18 the map that he was working on.

10:41 19 Q So basically it was you and Senator Gaetz and
10:41 20 the staff producing the map that was released to the
10:41 21 public on 9004; correct?

10:41 22 A That map was primarily my product in
10:41 23 collaboration with staff and at the direction of
10:41 24 Senator Gaetz, yes.

10:41 25 Q And prior to December 6, when it was

10:41 1 considered by the committee, the committee had not had
10:42 2 the chance to see or observe or discuss any of the
10:42 3 draft maps generated by your office; isn't that
10:42 4 correct?

10:42 5 A I mentioned that there were some meetings --
10:42 6 some meetings in Tallahassee. There were some
10:42 7 screen-sharing video conferences that Senator Gaetz
10:42 8 hosted, where we showed senators' kind of the work in
10:42 9 progress. So there was -- the final version of the
10:42 10 map, to the best of my recollection, was not exposed
10:42 11 to anybody other than really me and the chairman prior
10:42 12 to when it was released to the public.

10:42 13 But -- but there were -- during the week prior
10:42 14 there was an earlier draft that was shown to other
10:43 15 senators.

10:43 16 Q Was that S09?

10:43 17 A I don't know.

10:43 18 Q Well, isn't it correct that S09 was a draft
10:43 19 that you and the staff prepared around the -- between
10:43 20 the 21st and the 23rd of November?

10:43 21 A I believe that is correct.

10:43 22 Q All right. And then that evolved into 9004;
10:43 23 right?

10:43 24 A S09, I believe, is a -- a draft map that I
10:43 25 created. I don't know for certain that that's the one

10:43 1 that was appearing on -- on the video screens when --
10:44 2 when we were conducting these -- these phone
10:44 3 conferences or -- but it or something like it was.

10:44 4 Q Now, these --

10:44 5 MR. CANTERO: Are you done with your answer?

10:44 6 THE WITNESS: I think so.

10:44 7 MR. KING: I'm sorry.

10:44 8 BY MR. KING:

10:44 9 Q These screen-sharing meetings you had with
10:44 10 senators, these were non-public meetings; correct?

10:44 11 A They were not noticed or -- yeah, they were
10:44 12 not noticed meetings.

10:44 13 Q And who were -- who participated in these
10:44 14 screen-sharing meetings that occurred, I believe you
10:44 15 said during the week before it was announced on
10:44 16 November the 28th?

10:44 17 A Yes.

10:44 18 Q All right. Who was present for that?

10:44 19 A It was me and Senator Gaetz, and there may
10:44 20 have been other staff who -- who attended -- and there
10:45 21 may have been some that occurred where Senator Gaetz
10:45 22 was not available. So I would have the conversation
10:45 23 with a -- a senator per Senator Gaetz' direction and
10:45 24 then report to him --

10:45 25 Q All right.

10:45 1 A -- how that conversation went, what I heard,
10:45 2 and ...

10:45 3 Q Would you just do it one senator at a time, or
10:45 4 would you have more than one senator on at a time?

10:45 5 A To the best of my recollection, the meetings
10:45 6 involved Senator Gaetz and one other senator at a
10:45 7 time.

10:45 8 Q All right. And who were these senators? All
10:45 9 of them?

10:45 10 A I believe that it was, let's say, a
10:45 11 significant share of the members of the committee and
10:45 12 maybe some other senators as well. I don't -- I
10:45 13 haven't committed to memory -- there were lots and
10:46 14 lots of calls; I remember that. But I don't remember
10:46 15 the particular senators that we talked to.

10:46 16 Q You don't remember any -- you can't give me a
10:46 17 single name of a senator that y'all talked to?

10:46 18 A I believe that we produced through discovery
10:46 19 some notes to self that I had -- that came from my
10:46 20 calendar, my Outlook calendar. And I believe that
10:46 21 those notes indicate at least when we attempted to
10:46 22 arrange such meetings.

10:46 23 But I -- I haven't memorized that. So I
10:46 24 don't -- I don't want to take off down the path of
10:46 25 conjecture.

10:47 1 Q Was Senator Latvala one of the people you all
10:47 2 talked to?

10:47 3 A I believe he was.

10:47 4 Q Was Senator Gardiner one of the people you
10:47 5 talked to?

10:47 6 A I believe that he was.

10:47 7 Q Was Senator Galvano one of the people you
10:47 8 talked to?

10:47 9 A No.

10:47 10 Q Do you know why he wasn't talked to?

10:47 11 A He was not a member of the legislature at that
10:47 12 time.

10:47 13 Q That would be a good reason.

10:47 14 Did you -- did you talk to any Democratic
10:47 15 senators in that process?

10:47 16 A Yes.

10:47 17 Q Which ones?

10:47 18 A Again, it's -- I've got some -- some memor --
10:47 19 I have some memories which may not be complete. And
10:48 20 I -- I -- I hate to head down the path and leave a
10:48 21 bunch, you know, a bunch out.

10:48 22 Q Sure. If you just remember any, I would be
10:48 23 interested. You don't have to remember them all.

10:48 24 A I know we tried -- I know we tried multiple
10:48 25 times, and I believe we spoke with Senator Bullard,

10:48 1 who had health issues at the time. So connecting with
10:48 2 her was more of a challenge than with some of the
10:48 3 other senators.

10:48 4 Q How about Senator Rich?

10:48 5 A I did have conversations with Senator Rich,
10:48 6 yes.

10:48 7 Q Was that on the screen-sharing process?

10:48 8 A I don't recall for sure whether -- whether
10:48 9 Senator Rich and I did screen-sharing or not.

10:48 10 Q Now, would you -- yes, did you talk to Senator
10:49 11 Negron?

10:49 12 A During -- during this period in the week --
10:49 13 week of Thanksgiving?

10:49 14 Q Yes.

10:49 15 A I -- I could -- my calendar would help refresh
10:49 16 my memory. I don't have a specific recollection of --
10:49 17 of conversing with Senator Negron during that time.

10:49 18 Q Do you have a recollection that you attempted
10:49 19 to talk to all of the Republican leadership of that
10:49 20 committee?

10:49 21 A I -- I recall that we spoke to -- I -- most of
10:49 22 the senators on -- on the committee. Now who -- who
10:49 23 we might have missed, I -- I -- I don't know.

10:50 24 Q Well, let me ask you this question: Why did
10:50 25 you choose to do it in this fashion without -- instead

10:50 1 of having a public meeting and discussing these issues
10:50 2 about the work product of the staff in front of the --
10:50 3 the citizens of Florida?

10:50 4 A So at that time we were working with the
10:50 5 chairman, Senator Gaetz, on a proposal that he was
10:50 6 going to have introduced for consideration by the
10:50 7 redistricting committee. So my direction on that was
10:50 8 coming entirely from Senator Gaetz.

10:50 9 And I -- and Senator Gaetz, perhaps at my
10:50 10 recommendation, was of a mind that it would be -- it
10:51 11 would be good to show the members of the committee
10:51 12 what it was that -- that the committee was working on
10:51 13 and have an opportunity to hear their input before the
10:51 14 plan 9004 was proposed as a committee bill.

10:51 15 Q Well, isn't that the reason you have committee
10:51 16 meetings, so you can have public input from the
10:51 17 committee members, so that the citizens know what
10:51 18 their thoughts are about your work product?

10:51 19 A A purpose of committee meetings is to hear --
10:51 20 hear from senators and the public, their thoughts on
10:51 21 proposed legislation, yes.

10:51 22 Q But Senator Gaetz decided to do it in secret
10:51 23 that week before the 9004 was released; right?

10:51 24 MR. CANTERO: Object to the form.

10:52 25 A Our -- what we did was we arranged meetings in

10:52 1 order to disclose to members of the committee, one at
10:52 2 a time, the progress that Chairman Gaetz and staff had
10:52 3 made to that point in terms of modeling a proposed
10:52 4 committee bill, which Chairman Gaetz was very soon
10:52 5 going to ask the entire committee to proffer to the
10:52 6 Senate as its work product.

10:52 7 BY MR. KING:

10:52 8 Q So after the bill -- the work product of the
10:52 9 staff had been exposed to the senators in these
10:52 10 nonpublic, secret meetings, then there really wasn't a
10:52 11 lot of need to do much -- have much debate when you
10:52 12 had your public meeting on December the 6th when
10:52 13 the -- the 9004 was first discussed in a committee
10:53 14 meeting; right?

10:53 15 MR. CANTERO: Object to the form; calls for
10:53 16 speculation.

10:53 17 THE WITNESS: So could you please restate the
10:53 18 question in a way my attorney doesn't find
10:53 19 objectionable?

10:53 20 MR. CANTERO: I'm not sure --

10:53 21 MR. KING: I'm not sure if I can do that.

10:53 22 MR. ZEHNDER: You're asking a lot,
10:53 23 Mr. Guthrie.

10:53 24 MR. KING: That's right.

10:53 25 BY MR. KING:

10:53 1 Q Isn't it correct that the result of these
10:53 2 nonpublic, secret meetings with the individual
10:53 3 senators was, there really wasn't much need for much
10:53 4 debate, then, in the public meeting on December the
10:53 5 6th?

10:53 6 MR. CANTERO: Object to the form; calls for
10:53 7 speculation.

10:53 8 A And I would not agree that there was -- was
10:53 9 not much point in having the meeting on December 6. I
10:54 10 disagree with that.

10:54 11 BY MR. KING:

10:54 12 Q Okay. Well, there wasn't much debate about
10:54 13 9004 at that meeting on December 6; was there?

10:54 14 A I -- it's been a long, long time since I
10:54 15 testified at that committee, and the transcript is
10:54 16 online --

10:54 17 Q Sure.

10:54 18 A Anybody can look at it and measure for
10:54 19 themselves how much debate there was at -- at that
10:54 20 meeting.

10:54 21 Q So it would have been a much more efficient
10:54 22 way to present the information that was presented in
10:54 23 these single meetings with senators, it would have
10:54 24 been much more efficient to do that in a group
10:54 25 meeting; wouldn't it, sir?

10:54 1 A I'm not positive that efficiency is always the
10:54 2 goal in -- so would it be more efficient? I don't
10:54 3 know.

10:54 4 Q Well, the goal was that Senator Gaetz had
10:55 5 indicated to you it was secrecy; wasn't it?

10:55 6 MR. CANTERO: Object to the form.

10:55 7 A I don't believe that that was his intent.

10:55 8 BY MR. KING:

10:55 9 Q Well, Senator Gaetz did not want the work of
10:55 10 the Senate staff on redistricting to get out to the
10:55 11 public; did he?

10:55 12 MR. CANTERO: Object to the form; calls for
10:55 13 speculation.

10:55 14 A Senator Gaetz wanted to let the members of the
10:55 15 committee that were -- that he was going to ask to be
10:55 16 cosponsors, in essence, of a committee bill, he wanted
10:55 17 to let them see what he and the staff was working on
10:55 18 before that -- that work product was released to the
10:55 19 public, yes.

10:55 20 BY MR. KING:

10:55 21 Q And before that work product was released to
10:56 22 the public, other than the people Senator Gaetz wanted
10:56 23 to see it, wanted to have look at it, you weren't
10:56 24 supposed to let anybody else see the work product of
10:56 25 your staff on redistricting; were you?

10:56 1 A Staff and attorneys and Senator Gaetz and --
10:56 2 yeah, yes.

10:56 3 Q And were you protective about making sure that
10:56 4 your work product was just limited to Senator Gaetz
10:56 5 and staff and attorneys?

10:56 6 A I was pretty careful about that, yes.

10:56 7 Q And Senator Gaetz' plan was just to have all
10:56 8 the work of your office and the various draft maps
10:56 9 that were done funnel into one draft map, 9004, that
10:56 10 he would release to the public then; correct?

10:57 11 A The procedure that -- that we followed was to
10:57 12 release a single, complete draft map for the
10:57 13 committee's consideration.

10:57 14 Q Now, these non-public, one-on-one meetings
10:57 15 with senators allowed those senators to express to you
10:57 16 how they wanted their districts to look; didn't it?

10:57 17 A One of the purposes of those meetings was for
10:57 18 the chairman and staff to get insights from members of
10:57 19 the committee about factors that -- that may not have
10:57 20 been otherwise aware of regarding what made sense in
10:57 21 terms of providing effective representation to the
10:58 22 constituencies in their region.

10:58 23 Q Right. And so they would just rather make
10:58 24 those kinds of observations in a nonpublic, secret
10:58 25 meeting with you and Senator Gaetz; correct?

10:58 1 MR. CANTERO: Object to the form; calls for
10:58 2 speculation.

10:58 3 A Yeah, I don't know what the senators were
10:58 4 thinking.

10:58 5 BY MR. KING:

10:58 6 Q Well, you all designed this process so that
10:58 7 the meetings could be nonpublic; isn't that correct?

10:58 8 A That is correct.

10:58 9 Q Because if you had more than one senator
10:58 10 involved in the meetings, you would have had to have
10:58 11 given notice that these things were going on; right?

10:58 12 A Gee, I'm retired. I'm not as up on the Senate
10:58 13 rules as I -- as I was when I worked there. I -- I'm
10:59 14 not certain whether it's two or three where you -- as
10:59 15 I sit here today. I mean, the rules say what the --
10:59 16 what the requirement is for notice.

10:59 17 Q Well, whatever the rule was --

10:59 18 A It's two or three.

10:59 19 Q Whatever the rule was, you and Senator Gaetz
10:59 20 worked it out so that you wouldn't have to give
10:59 21 notice, so that you could have those meetings in
10:59 22 secret; right?

10:59 23 MR. CANTERO: Object to the form.

10:59 24 A Yeah, it's -- I don't agree with the premise
10:59 25 that the aim was to conduct meetings in secret.

10:59 1 The -- the aim was to conduct meetings and to comply
10:59 2 with the Senate rules.

10:59 3 BY MR. KING:

10:59 4 Q And the aim was to conduct nonpublic meetings;
10:59 5 right?

10:59 6 MR. CANTERO: Object to the form.

10:59 7 A The meetings, as we have already established,
11:00 8 in fact, were not public.

11:00 9 BY MR. KING:

11:00 10 Q And so in those nonpublic meetings, let's say
11:00 11 with Senator Gardiner, you figured out where Senator
11:00 12 Gardiner lived; isn't that right?

11:00 13 A That is not correct.

11:00 14 Q I mean, didn't y'all discuss where -- what his
11:00 15 district was?

11:00 16 A We -- we provided an opportunity for senators
11:00 17 to see whatever -- see the entirety of the Senate map
11:00 18 and the entirety of the congressional map, and then an
11:00 19 opportunity for the chairman to hear their input about
11:00 20 the progress that he had made so far in fashioning a
11:00 21 draft, which he was going to ask the committee to
11:01 22 proffer as a committee bill.

11:01 23 Q Uh-huh. And so during that week's period you
11:01 24 must have spent a lot of time in these seriatim
11:01 25 meetings with individual senators explaining to them

11:01 1 what your thoughts were about the draft maps; didn't
11:01 2 you?

11:01 3 A That was a very busy time, yes.

11:01 4 Q And equally, they were explaining to you what
11:01 5 their thoughts about what you were sharing with them;
11:01 6 right?

11:01 7 A We did provide an opportunity for senators
11:01 8 to -- to share their reactions, yes.

11:01 9 Q And I assume that you took their reactions
11:01 10 into consideration as you revised the map that became
11:02 11 9004?

11:02 12 A I followed Senator Gaetz's direction as to
11:02 13 whether or not he would like to make any -- any
11:02 14 modifications in -- in the draft based on what we
11:02 15 heard or any other reason.

11:02 16 Q Would it be correct that as you did S09 in --
11:02 17 around November 21 to 23, you were also following
11:02 18 Senator Gaetz's direction?

11:02 19 A The modeling that staff did early on was
11:02 20 driven by a staff goal to -- and as mandated by the
11:03 21 committee and the chairman, to comply with the
11:03 22 standards in the state constitution. So -- so they --
11:03 23 the early drafts I would say involved just a whole lot
11:03 24 of modeling of various concepts, trying to come up
11:03 25 with a solution that struck a fair balance between

11:03 1 what -- what many see -- what I see as some -- as --
11:03 2 as potentially conflicting standards in the state
11:03 3 constitution.

11:03 4 BY MR. KING:

11:03 5 Q Okay. I'm going to show you Exhibit 1, which
11:03 6 are answers to interrogatories filed in this case to
11:03 7 the -- the Florida Senate's response to the
11:04 8 plaintiff's second set of interrogatories to the
11:04 9 Florida Senate.

11:04 10 MR. CANTERO: Just a second. Is the court
11:04 11 reporter going to keep PDFs of these; do you know?

11:04 12 MR. KING: I don't know. She's going to do
11:04 13 whatever she's done on every other exhibit in the
11:04 14 last couple of years.

11:04 15 MR. CANTERO: Are you going to do that, PDF
11:04 16 copies?

11:04 17 THE REPORTER: Yes.

11:04 18 BY MR. KING:

11:04 19 Q So did you assist the Senate in providing
11:04 20 answers to these questions? In particular, I'm asking
11:04 21 about Interrogatory No. 6, which asks that there be a
11:04 22 listing of all the draft maps produced by the Senate.

11:04 23 A Yes. I assisted in providing counsel --
11:05 24 counsel information to answer that interrogatory.

11:05 25 (Exhibit No. 1 was identified for the record.)

11:05 1 BY MR. KING:

11:05 2 Q Would it be correct that on page 7, 8, and 9,
11:05 3 when it lists the list of draft maps, that that is a
11:05 4 list that you prepared?

11:05 5 A That -- that came from information that I
11:05 6 prepared, yes.

11:05 7 Q Okay. And so would it be correct that this is
11:05 8 an accurate listing of all of the draft maps prepared
11:05 9 under your supervision during the work of the Senate
11:05 10 in 2012 -- in 2011 and 2012?

11:05 11 A It is a listing of all the draft maps that --
11:05 12 that I was able to find when I did a -- a search, per
11:06 13 your discovery request for all of the draft maps that
11:06 14 had been generated by staff or by senators.

11:06 15 Q And would it also be correct, sir, that none
11:06 16 of these draft maps were ever released to the public
11:06 17 until this litigation?

11:06 18 A To the best of my knowledge, they were not.

11:06 19 Q They were not supposed to be; right?

11:06 20 A That is correct.

11:06 21 Q And would it be correct that you informed your
11:06 22 staff that these maps were not supposed to be released
11:06 23 to anybody?

11:06 24 A I believe that staff -- that that was a -- a
11:06 25 direction that I provided to the staff, yes.

11:06 1 Q All right. And the way it ran in the Senate
11:06 2 committee on reapportionment, is it correct that
11:06 3 nobody saw these maps unless Chairman Gaetz said they
11:07 4 should see the maps; is that right?

11:07 5 A Yeah, I -- my best recollection is that most
11:07 6 of these maps were never seen or disclosed before the
11:07 7 Senate's response to -- to the discovery request.

11:07 8 Q All right.

11:07 9 A Many of them I was not aware of. They -- they
11:07 10 were work product of staff that -- that I collected in
11:07 11 order to respond to your discovery request.

11:07 12 Q All right. But the point of the question I
11:07 13 asked was, isn't it correct that senators didn't see
11:07 14 these maps unless Senator Gaetz said they should?

11:08 15 A I believe that's correct.

11:08 16 Q So Senator Gaetz kept a very tight control on
11:08 17 this process; isn't that correct?

11:08 18 A The process that the chairman and I were
11:08 19 following was to work toward releasing, as a proposed
11:08 20 committee bill, a single Senate and a single
11:08 21 congressional redistricting plan, so --

11:08 22 Q To be reviewed by the public?

11:08 23 A And senators and the world, yes.

11:08 24 Q Whereas you understood that over in the House
11:08 25 they worked up seven draft maps and released them and

11:08 1 debated them in committee and public, and then finally
11:08 2 decided on the ones they were going to follow; right?

11:09 3 A I don't recall the exact number of Senate
11:09 4 drafts that they looked at, but it was more than one.
11:09 5 It seems like the congress --

11:09 6 Q No, no.

11:09 7 A Okay.

11:09 8 Q I'm sorry. I think you and I are on a
11:09 9 different wavelength. I'm talking about the way the
11:09 10 House did the congressional maps for -- as an example.

11:09 11 A The number that sticks in my head for that is
11:09 12 nine.

11:09 13 Q All right. They released a bunch of draft
11:09 14 maps and then talked about them in public, discussed
11:09 15 them, and then finally settled on one in a public
11:09 16 meeting; right?

11:09 17 A The House had a process of releasing multiple
11:09 18 drafts and then hosting committee discussions of those
11:09 19 various drafts.

11:09 20 Q But Senator Gaetz decided that he didn't want
11:09 21 to do it that way; right?

11:09 22 A The -- the Senate process was different. We
11:09 23 released -- the Senate released a single congressional
11:09 24 map and a single House map -- or U.S. House, a single
11:10 25 congressional map.

11:10 1 Q And you see that -- if you look at the second
11:10 2 page of that Exhibit 1, on page 8, I'm sorry, you will
11:10 3 see that there was a Senate map 5 in the center of the
11:10 4 page that was last modified around October the 10th.
11:10 5 Do you see that?

11:10 6 A I do.

11:10 7 Q And then a Senate map 7 that was last modified
11:10 8 on 11 -- on November 3; right?

11:10 9 A I see that.

11:10 10 Q And Senate 8 on 11-2; right?

11:10 11 A That is correct.

11:10 12 Q And then Senate 9 on 11-15.

11:10 13 A That is correct.

11:10 14 Q Now, Senate 9 was the operative draft map that
11:10 15 you were working on until you went to S09 on 11-21 to
11:11 16 11-3; do you see that up there? It's like the eighth
11:11 17 map from the top. Do you see S09?

11:11 18 A I see it, yes. I -- I am not certain that you
11:11 19 can infer a progression of drafts from -- from the --
11:11 20 from the dates, because, again, what I -- any -- these
11:11 21 maps -- what we have here are the maps that Senate
11:11 22 staff retained after the redistricting process --
11:11 23 after this litigation started.

11:11 24 Q Well, you never destroyed any of these maps;
11:11 25 did you?

11:11 1 A I never destroyed any -- any public documents,
11:12 2 no.

11:12 3 Q All right. And your staff certainly wasn't
11:12 4 under any instructions to destroy or get rid of any of
11:12 5 these draft maps; were they?

11:12 6 A No.

11:12 7 Q I mean, there would be no reason to get rid of
11:12 8 a draft map; would there?

11:12 9 A There might be.

11:12 10 Q I mean, you've saved over -- well over 50;
11:12 11 right?

11:12 12 A A lot were saved, yes.

11:12 13 Q Why would you throw one away?

11:12 14 A Simply for -- for purposes of -- of managing
11:12 15 your work space. A -- every -- maybe I should take a
11:12 16 minute to explain here. As you're building a -- a --
11:12 17 a map, every time you assign territory to a district,
11:12 18 you really have a new plan. Right.

11:12 19 And -- and anytime you hit "save" and give it
11:12 20 a new -- it's a lot like a Word document. Anytime you
11:13 21 hit "save" and give it a new name, you've -- you've
11:13 22 generated a -- a new name.

11:13 23 So your, what I call your locker or your
11:13 24 storage area in the DistrictBuilder database for --
11:13 25 for a particular user, if you never cleared anything

11:13 1 out, might become impossibly large to -- to contend
11:13 2 with.

11:13 3 So I tend to prefer having things more tidy,
11:13 4 and so I didn't retain every single draft that I
11:13 5 worked on along the way.

11:13 6 Q Well, there was some sort of an orderly
11:13 7 evolutionary process in this draft map approach;
11:13 8 wasn't there, sir?

11:13 9 A I believe that there was a progressive or
11:13 10 evolutionary approach to trying to come up with a plan
11:13 11 for the Senate that -- that -- that the Senate would
11:14 12 embrace and that would achieve the -- follow the
11:14 13 constitutional guidelines.

11:14 14 Q Right. You essentially, at least the public
11:14 15 position was that the staff was going to wait until
11:14 16 after November the 1st when all the public maps were
11:14 17 in before they started drawing their own maps; isn't
11:14 18 that right?

11:14 19 A I -- I don't recall whether the start date was
11:14 20 after the public hearings concluded or -- or after
11:14 21 the -- all of the deadline -- the so-called deadline
11:14 22 for public submissions passed. But it -- it was
11:14 23 certainly after a period for public input had -- had
11:14 24 finished.

11:14 25 Q And the -- so the work that you were doing was

11:15 1 to commence drawing the staff maps when you had all of
11:15 2 the public participation, at least formally,
11:15 3 concluded; wasn't it?

11:15 4 A Well, we -- the Senate continued to get public
11:15 5 input through January of 2014 and beyond. So --

11:15 6 Q Well, you couldn't wait that long, though?

11:15 7 A Right.

11:15 8 Q And you had drawn a line in the sand and said,
11:15 9 if you're going to file a public map, you need to have
11:15 10 it filed by November the 1st, 2011; isn't that right?

11:15 11 A That was a pronouncement made by -- by the
11:15 12 chairman, yes.

11:15 13 Q And the chairman knew that he wanted to come
11:15 14 out with a proposed map sometime in either late
11:15 15 November or early December; right?

11:15 16 A It was late November. And that was -- that
11:16 17 schedule was discussed in a committee meeting.

11:16 18 Q So what occurred was that there had to be a
11:16 19 significant emphasis on your staff producing these
11:16 20 maps in November; isn't that right?

11:16 21 A Staff was working diligently in November, yes.

11:16 22 Q All right. And so by November 15th, are you
11:16 23 aware of any other map -- draft map that you were
11:16 24 focused on besides Senate 9?

11:16 25 A I was working day by day, in collaboration

11:16 1 with staff, at the direction of the chairman to model
11:16 2 districts that complied with the constitutional
11:17 3 guidelines.

11:17 4 Q All right.

11:17 5 A And day by day I was learning more, making
11:17 6 changes. I might save it with the -- with the same
11:17 7 name. I might save it with a different name. But it
11:17 8 was a -- as you say, an evolutionary progress directed
11:17 9 toward the end goal of -- of submitting a committee
11:17 10 bill on November 28th.

11:17 11 Q And so the ones you were focused on in -- from
11:17 12 early November to mid November, at least, was that
11:17 13 line; Senate 5, Senate 7, Senate 8, Senate 9; isn't
11:17 14 that correct?

11:17 15 A Those are the maps that -- that were retained
11:17 16 from that time period.

11:18 17 Q And in fact, would you -- do you recall in
11:18 18 mid-November showing Senator Gaetz Senate 9?

11:18 19 A I -- I don't have a specific recollection of
11:18 20 that.

11:18 21 Q Would he typically come in and look at your
11:18 22 work product?

11:18 23 A I had -- I wouldn't say it was typical, but it
11:18 24 was not unusual for Senator Gaetz to stop by my office
11:18 25 and check in with staff and see -- see what progress I

11:18 1 was making and others were making.

11:18 2 Q Because it sounds like Senator Gaetz was kind
11:18 3 of a hands-on sort of a fellow; right?

11:18 4 A I would say that Senator Gaetz is a
11:18 5 hands-on -- hands-on manager, yes.

11:18 6 Q And he was very carefully managing the work
11:18 7 product of your staff; right?

11:18 8 A I had a clear sense of direction from Senator
11:19 9 Gaetz of what he wanted me and the staff to do. And I
11:19 10 communicated that to the staff as well.

11:19 11 Q And then did Senator Gaetz give you guidance
11:19 12 that directed you in the direction of S09, the one
11:19 13 that you did around 11 -- that was created on 11-21
11:19 14 and last updated on 11-23?

11:19 15 A I -- I -- I generally recall that I would have
11:19 16 had conversations -- or I did have conversations with
11:19 17 Chairman Gaetz, you know, prior to and after November
11:19 18 21st. I don't -- I don't know if -- I probably should
11:19 19 take a second to explain what we mean here by "created
11:20 20 and updated."

11:20 21 Q Well, you've defined that in the answers to --

11:20 22 A Okay.

11:20 23 Q -- interrogatories, so I --

11:20 24 A Okay.

11:20 25 Q -- read that.

11:20 1 A Okay.

11:20 2 Q And so around the first -- the 21st of
11:20 3 November, S09 became the direction you were going, and
11:20 4 that, then, evolved into 9004; correct?

11:20 5 A S09 is the artifact from that time period
11:20 6 that -- that was retained, yes.

11:20 7 Q Okay. And a lot of S09 is in 9004; isn't that
11:20 8 right, a lot of the districts, identically?

11:20 9 A That is a technical question that I would like
11:20 10 to actually line the two plans up, block by block, and
11:21 11 count the population that is in common. Sort of --
11:21 12 so --

11:21 13 Q We will talk about that later.

11:21 14 A Okay.

11:21 15 Q I will get to that with you.

11:21 16 Now as you were doing this work as the primary
11:21 17 map drawer, who were the staff persons that primarily
11:21 18 assisted you?

11:21 19 A Ben Shankle and Alexis Lambert and Andy
11:21 20 Bardos. The -- that's with -- for map drawing. Now
11:21 21 for IT issues or -- I was working with a different
11:21 22 staff.

11:21 23 Q And those are described, I think, in the
11:21 24 answers to interrogatories also. But I'm more
11:21 25 concerned about the folks that were working as map

11:21 1 drawers. So let me ask you about Ben Shankle.

11:22 2 Exactly what was his role? How did he work under you
11:22 3 as a map-drawer?

11:22 4 A Well, he was a staff attorney. And so he
11:22 5 participated in providing staff support for the public
11:22 6 hearings and all of the committee meetings that the
11:22 7 committee conducted. And with respect to modeling, I
11:22 8 told Mr. -- I asked Mr. Shankle to focus his efforts
11:22 9 and his attention more on Senate districts rather than
11:22 10 congressional districts.

11:22 11 Q All right. Tell me what Alex Lambert was
11:22 12 primarily assigned to do.

11:22 13 A So Alexis Lambert had the same general duties
11:23 14 as Mr. Shankle, but I asked her to concentrate her
11:23 15 modeling efforts more on congressional plans than
11:23 16 on -- than on Senate plans.

11:23 17 Q All right. Now was Alexis Lambert, is she a
11:23 18 lawyer too?

11:23 19 A She is a lawyer, yes.

11:23 20 Q And then the third person you named was Andy
11:23 21 Bardos; right?

11:23 22 A That is correct.

11:23 23 Q And what was his focus or responsibility?

11:23 24 A Andy actually was not hierarchically assigned
11:23 25 to the committee on reapportionment. He was a special

11:23 1 counsel in the president's office. And -- and my
11:23 2 report to the president's office was through
11:23 3 Mr. Bardos.

11:23 4 So even though I worked directly for the
11:23 5 president, he -- Mr. Bardos was -- was the president's
11:24 6 assigned policy analyst working with the
11:24 7 reapportionment committee.

11:24 8 Q So that was President Haridopolos; correct?

11:24 9 A It was, yes.

11:24 10 Q So Mr. Bardos was sort of the liaison between
11:24 11 President Haridopolos and you?

11:24 12 A That is correct.

11:24 13 Q But did he actually participate in the map
11:24 14 drawing?

11:24 15 A He did.

11:24 16 Q Was he assigned to focus on Senate or focus on
11:24 17 congressional or what?

11:24 18 A I did not assign Senate or congressional to
11:24 19 Mr. Bardos.

11:24 20 Q What did he ultimately focus his work on, to
11:24 21 your knowledge?

11:24 22 A I would say that he helped with both.

11:24 23 Q Did he actually draw districts?

11:24 24 A He did.

11:25 25 Q All right. So as far as the Senate districts

11:25 1 are concerned, the people that actually drew those
11:25 2 districts were you, Shankle, and Bardos?

11:25 3 A I believe Ms. Lambert worked on some Senate
11:25 4 districts as well.

11:25 5 Q And how did you focus the work? Would you --
11:25 6 would you assign them regions of the state to focus
11:25 7 on, or how did that work?

11:25 8 A I would say that our committee organization
11:25 9 was very collaborative. So we would really work
11:25 10 together on -- on trying to answer questions and model
11:26 11 solutions to -- to -- in response to the
11:26 12 constitutional guidelines. So we -- considering all
11:26 13 sorts of options, all around the state, there wasn't a
11:26 14 logical progression. I worked with the staff on --
11:26 15 certainly on a daily basis.

11:26 16 Oftentimes I would meet with individuals
11:26 17 multiple times in a day and share with them what I had
11:26 18 discovered, learn from them what they had discovered
11:26 19 to -- so ...

11:26 20 Q Okay. Now, we've talked about the process
11:26 21 that occurred to get us to 9004. And then you're
11:26 22 aware that that map was ultimately revised slightly
11:27 23 and enacted as 9008; correct?

11:27 24 A I am.

11:27 25 Q All right. Would you describe the changes

11:27 1 that you recall between 9004 and 9008?

11:27 2 A I -- as I sit here this morning, having not
11:27 3 compared those two plans in a long, long time, I -- I
11:27 4 feel ill equipped to go down that path.

11:27 5 Q Okay.

11:27 6 MR. KING: All right. Maybe this would be a
11:27 7 good time to take a slight break. Let's -- let's
11:27 8 try to figure out a schedule.

11:27 9 Off the record.

11:27 10 (Discussion off the record.)

11:40 11 BY MR. KING:

11:40 12 Q Mr. Guthrie, I notice that there was a
11:40 13 hearing -- a meeting of the committee on
11:40 14 reapportionment on December 6th, 2011, when you passed
11:40 15 9004; do you recall that?

11:40 16 A That sounds about right, yes.

11:40 17 Q All right. Now, I think we previously
11:40 18 discussed that you published 9008 on December the
11:40 19 30th; do you recall that?

11:40 20 A That is my recollection, yes.

11:40 21 Q And then there was a meeting of the committee
11:40 22 on January the 11th, 2012, where they considered 9004,
11:41 23 9008, and 9012, and they passed 9008 without debate;
11:41 24 do you remember that?

11:41 25 A I remember there being a meeting about --

11:41 1 during the second week of January where the committee
11:41 2 reported as a committee substitute plan 9008.

11:41 3 Q All right. So did you have meetings with the
11:41 4 senators again about the differences in 9004 and 9008
11:41 5 between December 6 and January 11?

11:41 6 A None that I recall.

11:41 7 Q So would it be correct, then, that Senator
11:41 8 Gaetz was the fellow that was making the -- directing
11:42 9 you to make the -- and approving the changes between
11:42 10 9004 and 9008?

11:42 11 A Having not gone back and compared the plans
11:42 12 for a long time or -- or, you know, considered that
11:42 13 sort of question, I -- my general recollection is that
11:42 14 Senator Gaetz was the one who provided direction to
11:42 15 me.

11:42 16 Q So if there are changes between 9004 and 9008,
11:42 17 those changes were ultimately approved by Senator
11:42 18 Gaetz; right?

11:42 19 A It is correct that he approved the particulars
11:42 20 of the committee substitute -- or proposed committee
11:42 21 substitute, yes.

11:42 22 Q Now, as you had these meetings with senators,
11:43 23 which you described primarily took place before
11:43 24 November 28, was there any record made of those
11:43 25 meetings?

11:43 1 A I believe that the Senate provided, through
11:43 2 discovery, some of the calendar entries that -- that I
11:43 3 had. But I did not keep notes, and I don't know that
11:43 4 anybody else kept notes at those meetings.

11:43 5 Q So the only possible record of what transpired
11:43 6 at those meetings is just a calendar entry of yours
11:43 7 that says there was a meeting; right?

11:43 8 A And what I recollect and what Senator Gaetz
11:43 9 recollects and what the senators who -- who we were
11:44 10 talking to recollect, yes.

11:44 11 Q All right. But do you recollect anything
11:44 12 specifically about your meetings with Senator
11:44 13 Gardiner?

11:44 14 A No.

11:44 15 Q Do you recollect anything about your meeting
11:44 16 with Senator Latvala?

11:44 17 A No.

11:44 18 Q Do you recollect anything about your meeting
11:44 19 with Senator Negron?

11:44 20 A During that time frame, no.

11:44 21 Q Did you have a meeting with President
11:44 22 Haridopolos?

11:44 23 A I -- I believe that there is a calendar entry
11:44 24 that shows that such a meeting at least was scheduled.
11:44 25 I don't recall for certain whether -- whether that

11:44 1 meeting in fact occurred or not.

11:45 2 Q Do you remember anything about your meeting
11:45 3 with Senator Bullard?

11:45 4 A I remember that it was difficult reaching her.
11:45 5 And I -- I -- I mean, a general statement I can make
11:45 6 about all of those meetings is that the feedback we
11:45 7 heard was very positive as to the progress made to
11:45 8 date. So mostly what we heard was that -- you know,
11:45 9 just -- just positive feedback about the -- the
11:45 10 congressional and Senate map as they were then
11:45 11 modeled.

11:45 12 Q But as to the Senate map, after you got this
11:45 13 feedback, changes were made; correct?

11:45 14 A There were some changes made, yes.

11:45 15 Q But you don't know what those changes were and
11:45 16 to which senators they related to; right?

11:46 17 A I did not keep notes. It's been a long, long
11:46 18 time since those meetings occurred. And I -- so I
11:46 19 have some random memories. But a lot of it would be
11:46 20 conjecture at this point.

11:46 21 Q Did -- did Senator Gaetz tell you not to take
11:46 22 notes?

11:46 23 A No.

11:46 24 Q Did he take notes?

11:46 25 A I don't recall that he took notes.

11:46 1 Q And certainly nothing was recorded while these
11:46 2 meetings were occurring?

11:46 3 A Not by me or Senator Gaetz.

11:46 4 Q Do you remember anything specifically about
11:46 5 your meeting with Senator Rich?

11:46 6 A What I remember is that Senator Rich, all
11:47 7 during the fall, wanted to meet with me prior to, and
11:47 8 oftentimes after as well, each of the committee
11:47 9 meetings just -- and Chairman Gaetz asked me to meet
11:47 10 with her frequently to keep the minority leader
11:47 11 apprised of what staff was doing and -- and what we
11:47 12 were doing on his behalf.

11:47 13 So I had -- I actually had frequent meetings,
11:47 14 probably more than are indicated by my calendar
11:47 15 entries, with Senator Rich and -- and shared with her
11:47 16 along the way the progress that staff was making.

11:47 17 Q Did you ever show her any of the draft maps?

11:47 18 A I -- on -- on more than one occasion took a
11:47 19 map to Senator Rich's office and would show her what
11:48 20 the map looked like, yes.

11:48 21 Q You mean that was a draft map that hadn't been
11:48 22 published? It wasn't 9004, 9008?

11:48 23 A I'm pretty sure that -- that she and I would
11:48 24 have spent time with both of those maps. We may have
11:48 25 spent a little time looking at some other maps as

11:48 1 well.

11:48 2 Q Do you remember that for a fact?

11:48 3 A I am -- well, it's not for certain, no.

11:48 4 Q Did any senator besides Senator Gaetz give you
11:48 5 directions about how you should draw districts?

11:48 6 A Through the period when 9008 was proposed as a
11:49 7 committee substitute and -- and passage of that plan
11:49 8 during the regular session, the direction I got was --
11:49 9 was from Senator Gaetz. We -- I don't recall -- I
11:49 10 don't recall -- although the -- the record will
11:49 11 show -- that senators other than Senator Rich may have
11:49 12 proposed an amendment and may have sought assistance
11:49 13 of the staff in -- in drafting that amendment.

11:49 14 But the -- the public records that are on the
11:49 15 Senate website would -- would show that, whether there
11:49 16 were any proposals coming from senators other than the
11:49 17 committee and other than Senator Gaetz during that
11:49 18 time frame.

11:49 19 Q If those were on the public record; right?

11:50 20 A I do not recall -- during the period prior to
11:50 21 enactment of plan 9008, I don't recall any -- me
11:50 22 working or staff working on -- on any amendments for
11:50 23 senators that were not filed.

11:50 24 Is that answer sufficiently clear?

11:50 25 Q I think so. Is there any document

11:50 1 memorializing the directions you were given by Senator
11:50 2 Gaetz, the specific directions about the draft maps,
11:50 3 during the evolutionary process?

11:50 4 A Sure. I -- I believe that that was discussed
11:51 5 during committee meetings. So at -- at the time that
11:51 6 the committee would meet, Senator Gaetz would -- or I
11:51 7 would walk the committee through, again, the progress
11:51 8 we had made and what had been done to the maps.

11:51 9 Q But -- but none of your draft maps were ever
11:51 10 discussed in any of your committee meetings; were
11:51 11 they?

11:51 12 A I -- well, during the meetings that occurred
11:51 13 prior to December 6, I would say that there was
11:51 14 committee discussion of concepts for modifying the
11:51 15 plans. And then on December 6 we heard significant
11:52 16 public testimony, some by a -- an audio visual
11:52 17 presentation that was put together by the Florida
11:52 18 Channel of people calling in to the redistricting
11:52 19 line, and then also some live testimony from the
11:52 20 public, and senators at the committee meeting did
11:52 21 react to that public input. And -- and -- and that
11:52 22 direction was what Senator Gaetz and I took into
11:52 23 consideration in putting together the proposed
11:52 24 committee substitute.

11:52 25 I would say that the two key bases for -- for

11:52 1 changing the map from 9004 to 9008 was testimony that
11:52 2 was proffered during that December 6 committee meeting
11:53 3 and conversations that I had with technical staff of
11:53 4 supervisors of elections, because we were actively
11:53 5 soliciting feedback from elections officials as to how
11:53 6 we could modify the map to make it better serve
11:53 7 their -- their interests of promoting efficient
11:53 8 elections in their jurisdiction.

11:53 9 Q Now, Mr. Guthrie, is it also correct that you
11:53 10 served another function for Mr. Gaetz in that
11:53 11 basically you wrote out scripts from him to provide
11:53 12 and use at the various committee meetings and public
11:53 13 meetings on the floor of the Senate even; is that
11:53 14 right?

11:53 15 A I would propose -- or would prepare for the
11:53 16 chairman proposed remarks and sometimes Q and A type
11:54 17 documents.

11:54 18 Q And -- and he would pretty faithfully use your
11:54 19 material; wouldn't he?

11:54 20 A I -- I -- I enjoyed working with Senator Gaetz
11:54 21 a lot. He was -- he's a quick study. And -- and I --
11:54 22 "faithfully" is a judgment term. But I think that his
11:54 23 answers -- his presentations to the Senate or to
11:54 24 committee and his answers to questions I thought
11:54 25 was -- was superb.

11:54 1 Q But his presentations to the Senate typically
11:54 2 were reading exactly what you had wrote for him to
11:54 3 say; isn't that right?

11:54 4 A I haven't done that proof testing -- texting.
11:54 5 If you have, then -- then you can make a judgment.
11:54 6 I --

11:54 7 Q But you -- you listened to him talk, and you
11:55 8 had written the words, so you could -- you were pretty
11:55 9 confident that he was saying pretty much what you had
11:55 10 told him to say; right?

11:55 11 A He did not say a lot -- very much that
11:55 12 surprised me. I can't remember anything that he said
11:55 13 that surprised me.

11:55 14 Q And so one of the lines you wrote for him was
11:55 15 that this was the most open and transparent
11:55 16 redistricting process in America; isn't that right?

11:55 17 A Something to that effect was my belief, and --
11:55 18 and -- and I -- so it's no surprise to me that I would
11:55 19 have written that in a script.

11:55 20 Q Well, did you discuss with him that that
11:55 21 seemed somewhat inconsistent with these nonpublic
11:55 22 meetings that he was having with the senators before
11:55 23 the first public exposure of 9004?

11:55 24 A I believed that what happened at that time was
11:55 25 in -- completely consistent with Senate rules. I

11:56 1 believed that in terms of providing a vehicle for
11:56 2 posting public and Senate work product and House work
11:56 3 product on the website and providing 24 or so public
11:56 4 hearings and providing transcripts of all of the
11:56 5 public hearings and committee meetings that occurred,
11:56 6 as well as an extensive video library of -- of those
11:56 7 meetings, plus the subsequent litigation, that -- but
11:56 8 I wasn't talking about litigation, of course, at that
11:56 9 time -- that -- that indeed what we had in Florida was
11:56 10 at a completely different level than any other state
11:56 11 in the nation. I believed that then; I believe it
11:56 12 now.

11:56 13 Q Well, there was nothing open and transparent
11:57 14 about those nonpublic meetings with the senators the
11:57 15 week prior to November the 28th; was there?

11:57 16 A Those were --

11:57 17 MR. CANTERO: Object to the form.

11:57 18 A Those were not public meetings.

11:57 19 BY MR. KING:

11:57 20 Q Those meetings were not preserved in any video
11:57 21 library; were they?

11:57 22 A No.

11:57 23 Q Those meetings did not have written
11:57 24 transcripts; did they?

11:57 25 A No.

11:57 1 Q Those meetings were secret; right?

11:57 2 MR. CANTERO: Object to the form.

11:57 3 A That is your term. I -- I would not use that
11:57 4 term.

11:57 5 BY MR. KING:

11:57 6 Q Now, did you also develop for him this
11:57 7 resolution that was passed at one of the first
11:57 8 meetings of committee that they would do their best to
11:57 9 enhance and preserve minority districts above all
11:57 10 else?

11:57 11 A I -- I'm sorry. I -- I missed the question.
11:57 12 Let's make sure I understand exactly what you're
11:57 13 asking.

11:57 14 Q Do you remember that a resolution was passed
11:57 15 at one of the very earliest committee meetings that
11:57 16 one of the primary goals of the committee was going to
11:57 17 be to enhance and preserve and protect minority
11:58 18 districts?

11:58 19 A There -- there were some -- I believe what
11:58 20 Senator Gaetz called them was -- was unanimous consent
11:58 21 agreements or, you know, something to that effect, by
11:58 22 the committee to set parameters beyond what we -- we
11:58 23 would glean from a -- a word-by-word reading of -- of
11:58 24 the state constitution for how the maps should be
11:58 25 modeled.

11:58 1 And -- and one of those clearly was to --
11:58 2 there was a lot of committee discussion about meeting
11:58 3 the tier 1 objective of not retrogressing minority
11:58 4 voting rights and, in fact, providing enhanced
11:58 5 opportunities for minority voters, where possible.

11:59 6 Q Did Senator Gaetz direct you not to do
11:59 7 functional analyses of the minority districts during
11:59 8 the Senate redistricting process?

11:59 9 A So functional analysis in -- in that -- as it
11:59 10 was used by the -- as that term was used by the
11:59 11 Supreme Court in apportionment 1 was -- was not really
11:59 12 in our lexicon at the time that the map was being
11:59 13 developed.

11:59 14 I was -- I was very aware of the U.S.
11:59 15 Department of Justice guidance on Section 5 of the
12:00 16 Voting Rights Act, but functional analysis -- so
12:00 17 that's not a discussion that Senator Gaetz and I would
12:00 18 have had. We -- we did have extensive discussion
12:00 19 about whether or not it was appropriate for the Senate
12:00 20 to -- to show on the DistrictBuilder dashboard
12:00 21 political type data, which is -- is what, I believe,
12:00 22 the Supreme Court was referring to in -- in
12:00 23 apportionment 1 when they talk about a functional
12:00 24 analysis.

12:00 25 But -- but I -- and I was under direction from

12:00 1 Senator Gaetz not to consider registration or election
12:00 2 results at all in modeling districts. I don't recall
12:00 3 him specifically telling me that after the plan was
12:01 4 adopted we should, you know, never -- continue to
12:01 5 never look at political data.

12:01 6 Q So you never looked at political data before
12:01 7 the plan was adopted, 9008, February the 9th?

12:01 8 A Well, I -- I -- I did look at some of the
12:01 9 records from the deposition you took in the
12:01 10 congressional trial. I believe that there was a -- an
12:01 11 export of the My District Builder data that you --
12:01 12 that any citizen could get from the House that had my
12:01 13 name on it and -- and was produced sometime after 9008
12:01 14 was approved by the Senate, but sometime before it was
12:02 15 approved by the House.

12:02 16 So I -- I -- I can't answer that question, you
12:02 17 know, category -- my -- my recollection would be I --
12:02 18 that I did not look at political data, but I -- I
12:02 19 think we discovered a piece of -- a document from --
12:02 20 from before that suggested that at least I had created
12:02 21 a document that showed some of those data.

12:02 22 Q That was in your possession?

12:02 23 A That -- that I would think was in my
12:02 24 possession, yes.

12:02 25 Q Now, between December 6, 2011, and February

12:02 1 9th, when 2008 [sic] was passed, were there any
12:02 2 nonpublic meetings between you and Senator Gaetz and
12:02 3 any other senators relating to the evolution of 9004
12:03 4 to 9008?

12:03 5 A None that I can think of.

12:03 6 Q Now, were you tasked with drawing the remedial
12:03 7 plan after the Supreme Court invalidated 9008 in
12:03 8 apportionment 1?

12:03 9 A I was the staff director, and that was my
12:03 10 primary responsibility, yes.

12:03 11 MR. CANTERO: We're done with this; right?

12:03 12 MR. KING: For the moment, but let's leave
12:03 13 it --

12:03 14 MR. CANTERO: Sure.

12:03 15 MR. KING: -- nearby.

12:03 16 MR. CANTERO: Yeah.

12:03 17 BY MR. KING:

12:03 18 Q How did you go about doing the remedial plan
12:03 19 then?

12:03 20 A I -- I was working closely with Justice Raoul
12:03 21 Cantero, who -- who the Senate recently had employed
12:04 22 as its -- as its lead outside counsel on
12:04 23 redistricting, and carefully reading the direction
12:04 24 that was provided by the Supreme Court and trying to
12:04 25 answer all of the Supreme Court's objections.

12:04 1 Q Did Senator Gaetz give you directions as to
12:04 2 how you were to proceed?

12:04 3 A I believe -- he certainly was aware of what
12:04 4 Justice Cantero and I were doing. He did not -- and
12:04 5 he agreed that -- with the approach, which was to
12:04 6 comply to the extent of our ability with the direction
12:04 7 the Supreme Court had provided. But I don't recall --
12:05 8 I -- well, we didn't -- you know, we had a discussion
12:05 9 about how to do the numbering thing. And Senator
12:05 10 Gaetz was involved in that discussion.

12:05 11 And then that was -- and he had a viewpoint,
12:05 12 and he made the -- the final decision on using a
12:05 13 random process to number districts.

12:05 14 The -- we could walk through the map sort of
12:05 15 district by district if you like, and I could try to
12:05 16 recall -- the general direction was, let's comply
12:05 17 with -- with the direction that the Supreme Court
12:05 18 provided.

12:05 19 And I would say he left Justice Cantero and me
12:06 20 a fair amount of latitude with coming up with a
12:06 21 solution to do that.

12:06 22 Q All right. Now, in the process, the process
12:06 23 was pretty compressed; correct?

12:06 24 A It was.

12:06 25 Q It moved pretty fast?

12:06 1 A Yes.

12:06 2 Q And Senator Latvala proposed some maps; is
12:06 3 that correct?

12:06 4 A He proposed at least one, because the enacted
12:06 5 plan was actually an amendment that was proposed by
12:06 6 Senator Latvala. Again, the -- the Senate website
12:06 7 will disclose everything -- every plan that was
12:06 8 offered by a senator or by the public and when.

12:07 9 Q All right. I show you Exhibit --

12:07 10 MR. CANTERO: 2.

12:07 11 BY MR. KING:

12:07 12 Q -- 2.

12:07 13 MR. CANTERO: Just made a copy of it.

12:07 14 MR. KING: Okay. You put your copy -- oh.

12:07 15 Let's keep them separated.

12:07 16 (Exhibit No. 2 was identified for the record.)

12:07 17 BY MR. KING:

12:07 18 Q I show you, sir, Exhibit 2, which is the map
12:07 19 and the first page of the data regarding 9030. And
12:07 20 you indicated that that was an amendment by Senator
12:07 21 Latvala; correct?

12:07 22 A That is correct.

12:07 23 Q And I also show you Exhibit 3 -- I show you
12:08 24 Exhibit 3 --

12:08 25 MR. CANTERO: Can I see that first?

12:08 1 MR. KING: Sure. Here is your copy right
12:08 2 there --

12:08 3 BY MR. KING:

12:08 4 Q Exhibit 3, which is another amendment by
12:08 5 Senator Latvala, 9018; right?

12:08 6 A I see that, yes.

12:08 7 (Exhibit No. 3 was identified for the record.)

12:08 8 MR. CANTERO: Did you say Exhibit 2 was a
12:08 9 Latvala amendment?

12:08 10 MR. KING: Yes. Or he said it was.

12:08 11 BY MR. KING:

12:08 12 Q And I will show you also Exhibit 4 and ask you
12:08 13 if you recognize that as another package that was an
12:09 14 amendment by Senator Latvala, 9022?

12:09 15 (Exhibit No. 4 was identified for the record.)

12:09 16 A I see what is printed on the page, and I -- I
12:09 17 believe that this is -- these are probably accurate
12:09 18 records.

12:09 19 BY MR. KING:

12:09 20 Q All right. Did you work with Senator
12:09 21 Latvala's office on any of those maps or your
12:09 22 committee staff work with him on those maps?

12:09 23 A I expect that -- I -- I know that I was
12:09 24 involved in working with Senator Latvala on the first
12:09 25 map that you showed me, S016S9030, I was involved in

12:09 1 helping fashion that amendment.

12:09 2 I don't have any specific recollection of
12:10 3 which staff, you know, might have assisted Senator
12:10 4 Latvala with the -- the earlier amendments. That may
12:10 5 have been disclosed in the committee meeting record; I
12:10 6 don't know.

12:10 7 Q Did you discuss with Senator Latvala why he
12:10 8 wanted these amendments?

12:10 9 A I remember there being some discussion in
12:10 10 committee, where Senator Latvala said that he had
12:10 11 heard from the mayor of Plant City that the mayor was
12:10 12 concerned that his community was being tied in to a
12:10 13 committee -- or to a map that was dominated by Polk
12:10 14 County, and the mayor would like to have Plant City
12:11 15 reunited with Hillsborough County.

12:11 16 Q Did you believe that was a valid reason for
12:11 17 changing the boundaries of that district?

12:11 18 A Yes. I would think that that -- that would be
12:11 19 a reason to change a district that would be compliant
12:11 20 with tier 2.

12:11 21 Q And Mayor Raulerson was a Republican -- is now
12:11 22 a Republican member of the House?

12:11 23 A I don't know that.

12:11 24 Q Did you have any discussions with Mr. Mayor
12:11 25 Raulerson about --

12:11 1 MR. KING: That's R-A-U-L-E-R-S-O-N.

12:11 2 BY MR. KING

12:11 3 Q -- about the Plant City issue?

12:11 4 A No.

12:11 5 Q Did any residents of Plant City or the
12:11 6 surrounding areas, other than the mayor, identify this
12:11 7 as an issue?

12:11 8 A I don't recall.

12:11 9 Q Did you have any discussions with any other
12:11 10 legislator or staff regarding the Plant City issue?

12:12 11 A I am confident that Senator Gaetz and I would
12:12 12 have talked about that.

12:12 13 Q Did you undertake to draw a map that would
12:12 14 accommodate Mayor Raulerson's request?

12:12 15 A I believe that Senator Latvala undertook to
12:12 16 draft such an amendment, and staff assisted Senator
12:12 17 Latvala in that -- in that work.

12:12 18 Q Did you discuss that with Senator Latvala?

12:12 19 A Did I discuss what with him?

12:12 20 Q The Plant City issue?

12:12 21 A Yes.

12:12 22 Q Do you know which staff members you worked
12:12 23 with -- that -- on your staff worked with Senator
12:12 24 Latvala?

12:12 25 A Who was working with him on 9030 initially

12:13 1 was -- was Ben Shankle. And then who worked -- and
12:13 2 then I worked on it toward the end. What -- during
12:13 3 that time period, the -- Senator Gaetz proposed a
12:13 4 draft map for consideration on -- on the floor.

12:13 5 And I remember that there was a -- a flurry of
12:13 6 activity and, in fact, a lot of amendments that came
12:13 7 in in a very short period of time there.

12:13 8 So all of the staff were -- were very busy
12:13 9 during that time trying to accommodate all of the
12:13 10 senators and all of their desires to offer amendments
12:13 11 for consideration on the Senate floor. So Ben
12:14 12 happened to do -- or to work with Senator Latvala
12:14 13 initially. I remember that I got involved before --
12:14 14 before it was finished.

12:14 15 Q Now, one of the benefits of the 9030 is that
12:14 16 it separated Senator Galvano and Senator Grimsley into
12:14 17 separate districts where they were in the -- in the
12:14 18 same district under 9008; isn't that right?

12:14 19 MR. CANTERO: Object to the form.

12:14 20 A Yeah, that would be hearsay from my -- I don't
12:14 21 know that.

12:14 22 BY MR. KING:

12:14 23 Q Didn't -- well, you knew that they were in the
12:14 24 same district under 9008; didn't you?

12:14 25 A I did not -- I did not know that to be a fact.

12:14 1 Q In all your discussions with Senate Gaetz and
12:14 2 Senator Latvala, you weren't aware of that?

12:14 3 A I did not -- I knew generally where
12:15 4 then-Representative Grimsley lived, and I knew
12:15 5 generally where former Representative Galvano lived.
12:15 6 But -- but, you know, whether a particular plan paired
12:15 7 the two of them in a district or not, I really did not
12:15 8 know.

12:15 9 And when I say generally, I knew that Senator
12:15 10 Grimsley, her primary residence was in, I believe --
12:15 11 is it -- either Okeechobee or Highlands County, one or
12:15 12 the other, and Senator Galvano's principal residence
12:15 13 was in Manatee County.

12:15 14 Q Now, did you and your colleagues on your staff
12:15 15 consider 9026 to be a more tier 2-compliant map than
12:16 16 9030?

12:16 17 A I don't --

12:16 18 MR. CANTERO: Is 9026 here?

12:16 19 A Yeah, I don't have those maps all committed to
12:16 20 memory.

12:16 21 BY MR. KING:

12:16 22 Q Right.

12:16 23 MR. CANTERO: When you talk about 9026, I
12:16 24 don't think that's an exhibit.

12:16 25 MR. KING: It's not.

12:16 1 MR. CANTERO: Oh, okay.

12:16 2 MR. KING: I knew that.

12:16 3 MR. CANTERO: Okay.

12:16 4 MR. KING: Let's do Q6.

12:16 5 MR. ZEHNDER: P6?

12:16 6 MR. KING: Q6.

12:17 7 MR. CANTERO: Is this Exhibit 5?

12:17 8 MR. KING: Yes.

12:17 9 BY MR. KING:

12:17 10 Q I show you Exhibit 5 and ask you if you
12:17 11 recognize that document.

12:17 12 (Exhibit No. 5 was identified for the record.)

12:17 13 A I see that document, yes. And it -- what it
12:17 14 indicates is that I sent a communication to
12:17 15 Mr. Shankle with a Word document attached.

12:17 16 BY MR. KING:

12:17 17 Q And basically you're discussing there the
12:17 18 deficiencies of 9030 in comparison to 9026; right?

12:18 19 A May I take a minute to read this?

12:18 20 Q Sure. Read it.

12:18 21 A Okay. I've read it.

12:18 22 Q All right. And isn't it correct that you're
12:18 23 indicating there deficiencies of 9030?

12:18 24 A I think that's a fair reading of the bullet
12:18 25 points.

12:18 1 Q And was that because you didn't think 9030 was
12:19 2 an appropriate amendment to the map?

12:19 3 A I was working for and taking my direction from
12:19 4 Senator Gaetz. And a number of senators had proposed
12:19 5 amendments that -- that were at odds or that made
12:19 6 changes to what it was that Senator Gaetz had offered
12:19 7 to the Senate for -- for a final solution.

12:19 8 And so these were some bullet points that I
12:19 9 would think I drafted that -- similar to talking
12:19 10 points that would say, you know, here are some reasons
12:19 11 why you might want to go with what Senator Gaetz is
12:20 12 proposing instead of 9030.

12:20 13 Q And Senator Gaetz actually opposed 9030;
12:20 14 right?

12:20 15 A I -- I know that ultimately Senator Gaetz
12:20 16 supported it. I don't remember exactly the
12:20 17 progression of his thought in -- in coming round to
12:20 18 embrace that as the final solution. So I -- I don't
12:20 19 remember whether he made any public comments, and I'm
12:20 20 not recalling private comments that he made to me
12:20 21 regarding deficiencies of -- of -- of this approach.

12:20 22 But I know that he did like what he was
12:20 23 proposing, so I could say that without equivocation.

12:21 24 Q Did the staff agree with you regarding that
12:21 25 memo?

12:21 1 A I don't remember getting any feedback from
12:21 2 staff on that.

12:21 3 Q Were you given a chance to make those points
12:21 4 in any meeting about the maps?

12:21 5 A At that point the plan was on the Senate
12:21 6 floor. And staff do not testify at floor proceedings.

12:21 7 Q Now, did you have any communications with any
12:21 8 of the following individuals relating to the Senate
12:22 9 redistricting in 2010 to 2012?

12:22 10 First would be Rich Heffley?

12:22 11 A So when you say 2010, do you mean January 1 of
12:22 12 2010?

12:22 13 Q Let's say from the time the Fair Districts
12:22 14 amendment was passed in 2010, I think that was
12:22 15 November of 2010 --

12:22 16 A Okay.

12:22 17 Q -- until the completion of the Senate
12:22 18 redistricting cycle --

12:22 19 A Okay.

12:22 20 Q -- in April of 2012, at least the first part
12:22 21 of the cycle.

12:22 22 A I -- I recall seeing a communication where
12:22 23 Mr. Heffley asked me for a PowerPoint presentation,
12:23 24 which may have been in 2011 -- early 2011. And I
12:23 25 provided a copy of the PowerPoint slides to him.

12:23 1 That's -- I -- and I recall that just because I saw a
12:23 2 record of that.

12:23 3 It's not unusual for members of the public or
12:23 4 staff of various Senate committees, particularly the
12:23 5 minority office and the majority office, to request
12:23 6 materials from me after a committee meeting beyond
12:23 7 what gets published on the web. And -- and when asked
12:23 8 for those kinds of information, I routinely respond
12:23 9 with what they're asking for.

12:23 10 So I don't recall any other communications
12:23 11 other than -- than that.

12:23 12 Q Did you ever give Mr. Heffley any draft maps
12:24 13 which constitute the work product of your Senate
12:24 14 redistricting staff?

12:24 15 A No.

12:24 16 Q To your knowledge, did any member of your
12:24 17 staff provide Mr. Heffley any of your draft work --
12:24 18 draft maps?

12:24 19 A To my knowledge, none of -- no, none of the
12:24 20 staff provided maps to Mr. Heffley.

12:24 21 Q Other than to Senator Gaetz, did you ever
12:24 22 transmit any of your maps during the Senate
12:24 23 redistricting process to anyone other than Senator
12:24 24 Gaetz?

12:24 25 A I -- I was collaborating with staff and -- and

12:24 1 routinely we would share plans among the staff. Less
12:25 2 frequently I would share drafts with outside counsel;
12:25 3 that would be Mr. Carvin and -- and Mr. Cantero,
12:25 4 and -- and that's it. So Senate staff plus outside
12:25 5 counsel.

12:25 6 Q Okay. Would you provide materials to anyone
12:25 7 in a zip file?

12:25 8 A That would be a reasonable way to provide --
12:25 9 in fact, when you do an export of a plan using the
12:25 10 District Builder software, what it does is, it creates
12:25 11 a dot DOJ file, and it compresses that into a zip
12:26 12 archive, which has the DOJ file and -- and a little
12:26 13 Read Me file indicating what it is.

12:26 14 Q Okay. In those nonpublic meetings you had
12:26 15 with Senator Gaetz, was -- and other senators -- was
12:26 16 one of his staffers named Chris Clark, was he ever
12:26 17 present for some of those?

12:26 18 A Chris Clark was sometimes present when I met
12:26 19 with Senator Gaetz, yes.

12:26 20 Q Was he present when you met with Senator Gaetz
12:26 21 and other senators?

12:26 22 A He very well may have been. I don't -- I'm
12:26 23 not getting a mental picture of me, Senator Gaetz, and
12:26 24 another senator, and Chris Clark. But it wouldn't
12:26 25 be -- it certainly seems possible to me that he would

12:26 1 have been present.

12:26 2 Q Because Mr. Clark was a -- was like Senator
12:27 3 Gaetz's chief of staff; wasn't he, or ...

12:27 4 A He was his chief of staff when Senator Gaetz
12:27 5 was -- was president of the Senate. And during this
12:27 6 time frame, when we were doing redistricting, what --
12:27 7 in my mind Chris -- Chris Clark was Senator Gaetz's
12:27 8 lead legislative analyst.

12:27 9 Q Okay. And so he was closely involved in the
12:27 10 redistricting work?

12:27 11 MR. CANTERO: Object to the form.

12:27 12 A I know that -- that Mr. Clark worked closely
12:27 13 with Senator Gaetz. But I would not -- I would not
12:27 14 say that he was involved directly or on a daily basis
12:27 15 with the work of the reapportionment staff.

12:27 16 BY MR. KING:

12:27 17 Q Did you provide information about
12:28 18 redistricting, including draft maps, to Chris Clark?

12:28 19 A I think that I probably did. Again, I have no
12:28 20 specific recollection of -- of what or when, but --
12:28 21 but --

12:28 22 MR. CANTERO: If you don't recall, don't
12:28 23 guess.

12:28 24 BY MR. KING:

12:28 25 Q All right. Did you have communications during

12:28 1 the Senate redistricting process with Pat Bainter?

12:28 2 A Starting in November of 2010, I believe that I
12:28 3 did not.

12:28 4 Q Do you know who he is?

12:28 5 A I do know who he is.

12:28 6 Q Have you ever talked to him before?

12:28 7 A Yes.

12:28 8 Q You friends?

12:28 9 A I -- boy, that term "friends" came up before.
12:29 10 I know Pat Bainter; he knows me. We are
12:29 11 acquaintances.

12:29 12 Q Okay.

12:29 13 A I don't send him Christmas cards; he doesn't
12:29 14 send me Christmas cards. I don't know exactly what
12:29 15 you mean by the term "friends," so let's don't go
12:29 16 there.

12:29 17 Q You would have enjoyed his Christmas card last
12:29 18 year.

12:29 19 MR. KING: All right. We said we would take a
12:29 20 break for lunch about this time.

21 (The deposition continues in Volume 2.)

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEON)

I, the undersigned authority, certify that said designated witness personally appeared before me and was duly sworn.

WITNESS my hand and official seal this _____ day of August, 2015.

/s/ Sarah B. Gilroy
SARAH B. GILROY
sbrinkhoff@comcast.net
NOTARY PUBLIC
850.878.2221

CERTIFICATE OF REPORTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF FLORIDA)
COUNTY OF LEON)

I, SARAH B. GILROY, Registered Professional Reporter,
and Notary Public, do hereby certify that the foregoing
proceedings were taken before me at the time and place
therein designated; that a review of the transcript was
requested, and that the foregoing pages numbered 1
through 78 are a true and correct record of the
aforesaid proceedings.

I further certify that I am not a relative, employee,
attorney or counsel of any parties, nor am I a relative
or employee of any of the parties' attorney or counsel
connected with the action, nor am I financially
interested in the action.

DATED this _____ day of August, 2015.

/s/ Sarah B. Gilroy
SARAH B. GILROY
sbrinkhoff@comcast.net
850.878.2221

12:29

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

THE LEAGUE OF WOMEN VOTERS
OF FLORIDA, COMMON CAUSE; JOAN
ERWIN; ROLAND SANCHEZ-MEDINA,
JR.; J. STEELE OLMSTEAD; CHARLES
PETERS; OLIVER D. FINNIGAN;
SERENA CATHERINA BALDACCHINO;
and DUDLEY BATES,

Plaintiffs,

vs.

CASE NO. 2012-CA-2842

KENNETH W. DETZNER, in his official
capacity as Florida Secretary of
State; THE FLORIDA SENATE; ANDY
GARDINER, in his official capacity as
President of the Florida State
SENATE; THE FLORIDA HOUSE OF
REPRESENTATIVES; and STEVE CRISAFULLI,
in his official capacity as Speaker
of the Florida House of Representatives,
and PAM BONDI, in her official capacity
as Attorney General of the State of
Florida,

Defendants.

_____ /

Volume 2, Pages 80 - 209

THE DEPOSITION OF: JOHN GUTHRIE
AT THE INSTANCE OF: The Plaintiffs
DATE: July 29, 2015
TIME: Recommened at 1:33 p.m.
Adjourned at 5:18 p.m.
PLACE: Law Offices
301 South Bronough Street
Tallahassee, Florida
REPORTED BY: SARAH B. GILROY, RPR, CRR
sbrinkhoff@comcast.net
Notary Public
State of Florida

1 APPEARANCES:

2 REPRESENTING THE PLAINTIFFS:

3 DAVID B. KING, ESQUIRE
4 dking@kbzwlaw.com
5 THOMAS A. ZEHNDER, ESQUIRE
6 tzehnder@kbzwlaw.com
7 VINCENT FALCONI, III, ESQUIRE - *Telephonic*
8 vfalcone@kbzwlaw.com
9 King, Blackwell, Zehnder & Wermuth
10 25 East Pine Street
11 Orlando, Florida 32081

12 REPRESENTING FLORIDA SENATE:
13 RAOUL G. CANTEROS, III, ESQUIRE
14 rcantero@whitecase.com
15 JASON N. ZAKIA, ESQUIRE
16 jzakia@whitecase.com
17 White & Case, LLP
18 Southeast Financial Center
19 200 South Biscayne Boulevard, Suite 4900
20 Miami, Florida 33131

21 REPRESENTING THE HOUSE OF REPRESENTATIVES:
22 GEORGE N. MEROS, JR., ESQUIRE
23 george.meros@gray-robinson.com
24 GrayRobinson
25 301 South Bronough Street, Suite 600
Tallahassee, Florida

I N D E X

1		
2	<u>WITNESS</u>	PAGE NO.
3	JOHN GUTHRIE	
4	Direct Examination (cont'd) by Mr. King	83
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1 DIRECT EXAMINATION (cont'd)

13:33 2 BY MR. KING:

13:34 3 Q All right. Back on the record.

13:34 4 Mr. Guthrie, so in the redistricting cycle in
13:34 5 2010-2012, as we defined it before, did you have
13:34 6 any -- did you receive any map information or diagrams
13:34 7 of -- or drawings of districts from Mr. Bainter, or
13:34 8 did you provide any map -- draft maps done by the
13:34 9 Senate?

13:34 10 A I neither received nor provided draft maps
13:34 11 to -- from or to Mr. Bainter.

13:34 12 Q Do you know Michael Sheehan?

13:34 13 A I do not recall that name.

13:34 14 Q Do you know Matt Mitchell?

13:34 15 A Not --

13:34 16 Q In Gainesville?

13:34 17 A With you saying Gainesville, I -- I recall
13:34 18 that there were some maps, public submissions that
13:34 19 came in from several citizens in Gainesville --

13:35 20 Q Well, I -- I'm going to represent to you that
13:35 21 both Mr. Sheehan and Mr. Mitchell work for
13:35 22 Mr. Bainter.

13:35 23 A Okay.

13:35 24 Q Did you have any dealings with them about
13:35 25 redistricting?

13:35 1 A No.

13:35 2 Q All right. Do you know Marc Reichelderfer?

13:35 3 A I do know him.

13:35 4 Q And how long have you known him?

13:35 5 A My best recollection is that I first met
13:35 6 Mr. Reichelderfer when he came to my office in --
13:35 7 during -- during the -- boy, I don't remember whether
13:35 8 it was the 2013 session or the 2014 session when I was
13:35 9 working on a gaming policy for the Senate. Senator
13:35 10 Gaetz was the president. Senator Richter was the
13:35 11 chairman of the committee.

13:35 12 And Mr. Reichelderfer, I believe, is -- is a
13:35 13 lobbyist for the GREY2K organization, interested in
13:36 14 compassionate treatment of -- of greyhounds.

13:36 15 And he came to my office then as -- that, I
13:36 16 believe, was the first time I met him, although I -- I
13:36 17 know that this was discussed during the congressional
13:36 18 trial, and the Supreme Court, you know, made a finding
13:36 19 that I may have met him earlier.

13:36 20 Q So you didn't have any contact with him, you
13:36 21 don't think, during the redistricting cycle?

13:36 22 A I do not think so.

13:36 23 Q All right. How about Frank Terraferma, do you
13:36 24 know Mr. Terraferma?

13:36 25 A I do know Frank Terraferma.

13:36 1 Q And how long have you known him?

13:36 2 A I've known him, oh, at least 15 years or so.
13:36 3 He -- he was involved with the House on redistricting.
13:36 4 I believe he was House staff in the 2001-2002 time
13:37 5 frame.

13:37 6 Q Uh-huh. And during this redistricting cycle
13:37 7 in the Senate maps, did you have any dealings with
13:37 8 Mr. Terraferma where you supplied him with any
13:37 9 information or he supplied you with information about
13:37 10 redistricting?

13:37 11 A No, I did not.

13:37 12 Q Do you know Joel Springer?

13:37 13 A Yes.

13:37 14 Q How do you know him?

13:37 15 A He has been involved with Republican politics
13:37 16 for -- for some time. He has worked with Senate
13:37 17 leadership on some of their political work.

13:37 18 Q And did you have any dealings with him during
13:37 19 the redistricting cycle about the -- the Senate map?

13:37 20 A No.

13:38 21 Q And do you know Andrew Wiggins?

13:38 22 A That name does not ring a bell.

13:38 23 Q Do you know Jim Rimes?

13:38 24 A I do know Jim Rimes.

13:38 25 Q How do you know him?

13:38 1 A He was staff director of the Senate Majority
13:38 2 Office in 2012, the organizational session of 2012
13:38 3 through -- or maybe a little bit earlier than that
13:38 4 through the end of President Gaetz's term.

13:38 5 Q And did you have any dealings with him about
13:38 6 redistricting?

13:38 7 A I don't recall ever meeting Mr. Rimes before
13:38 8 he came to work as a Senate employee. We -- so during
13:38 9 the time frame that you're interested in, I had no
13:38 10 communications whatsoever with him that I was aware
13:39 11 of.

13:39 12 Q All right. Now, you indicated before, I
13:39 13 think, that you attended a meeting in January of 2011
13:39 14 right here in this room at GrayRobinson with Senator
13:39 15 Gaetz and Chairman Weatherford, Alex Kelly, and also
13:39 16 with some political operatives; do you remember that?

13:39 17 MR. CANTERO: Object; I don't think he ever
13:39 18 has testified to that.

13:39 19 MR. KING: Well, let's -- why don't we let him
13:39 20 say.

13:39 21 MR. CANTERO: Because you said you testified
13:39 22 before.

13:39 23 MR. KING: Well, he can tell me whether he did
13:39 24 or didn't.

13:39 25 A So, I remember --

13:39 1 MR. KING: Now that you've suggested to him
13:39 2 that he didn't.

13:39 3 A Well, it doesn't matter. I remember being
13:39 4 asked that question before, and I remember it coming
13:39 5 up as an issue during the congressional trial. And as
13:40 6 I stated previously, I don't have any -- I do have
13:40 7 recollection of walking over here with Senator Gaetz
13:40 8 prior to -- early on, soon after the election, so soon
13:40 9 after he became chairman of the Senate redistricting
13:40 10 committee and Representative Weatherford became
13:40 11 chairman of the -- of the House committee.

13:40 12 I don't remember ever meeting
13:40 13 Mr. Reichelderfer prior to when he came to my office
13:40 14 lobbying on behalf of Greyhound interests. And -- and
13:40 15 as to other people who -- any of the details of that
13:40 16 meeting, I really just don't have a recollection.

13:41 17 I can't -- I can't deny it, because I may have
13:41 18 been here, but I don't know that I was.

13:41 19 BY MR. KING:

13:41 20 Q And if others testified that you were, you
13:41 21 wouldn't deny it, then?

13:41 22 A I don't have a basis for denying it, other
13:41 23 than no recollection.

13:41 24 Q And if others testified that Mr. Heffley and
13:41 25 Mr. Reichelderfer and Mr. Terraferma, and perhaps

13:41 1 Mr. Bainter were present, would you deny that?

13:41 2 A I have no recollection of the meeting.

13:41 3 Q All right. Wouldn't that be an unusual
13:41 4 meeting for you to be involved in at the start of
13:41 5 redistricting with a group of political operatives and
13:41 6 your boss?

13:41 7 A I would not consider that strange. I had -- I
13:41 8 had visited this conference room previously over the
13:42 9 years.

13:42 10 Mr. Meros and his firm have been involved as
13:42 11 counsel to the Legislature on redistricting for 15
13:42 12 years. So I -- I've been here before.

13:42 13 Q So it wouldn't be unusually strange to have
13:42 14 the political operatives around when you're having
13:42 15 those meetings?

13:42 16 A I have -- have read some of the recollections
13:42 17 about what transpired at -- or what people remember
13:42 18 transpiring at that meeting. And that sort of
13:42 19 communication does not strike me as -- as strange.

13:42 20 Q So it doesn't strike you as strange that
13:42 21 they -- that they would be trying to figure out a way
13:42 22 to communicate between the staff and the political
13:43 23 operatives without -- with some sort of a privilege?
13:43 24 That's not a strange thing to you in that -- in that
13:43 25 situation?

13:43 1 A That particular spin on what -- what may have
13:43 2 been going on would change my opinion. I -- I would
13:43 3 not -- that -- that seems very -- would seem very
13:43 4 unusual that -- that third parties would be seeking
13:43 5 any sort of privilege.

13:43 6 Q Did --

13:43 7 A I -- I --

13:43 8 Q -- you express any concerns to Senator Gaetz
13:43 9 about that meeting?

13:43 10 A Again, I have no specific recollection of that
13:43 11 meeting. I do have a recollection of -- of being
13:43 12 aware of -- of this question of whether third parties
13:44 13 might be entitled to some sort of attorney-client
13:44 14 privilege, and -- and I did express my opinion that
13:44 15 that was out of bounds, from my perspective.

13:44 16 Q So when did you express your opinion about
13:44 17 that?

13:44 18 A At the time that I -- I heard that that notion
13:44 19 was being discussed.

13:44 20 Q And who did you express that opinion to?

13:44 21 A I -- I would have -- well.

13:44 22 MR. CANTERO: You can answer to the extent
13:44 23 that it's not communication with a lawyer or with
13:44 24 your lawyer present.

13:44 25 A Okay. Well, with that caveat, I would have

13:44 1 expressed it to Senator Gaetz.

13:44 2 BY MR. KING:

13:44 3 Q Okay. Was Senator Gaetz suggesting that maybe
13:44 4 he thought it was a good idea to be able to try to
13:45 5 have such a privilege so that we could communicate
13:45 6 with the --

13:45 7 A I --

13:45 8 Q -- political consultants?

13:45 9 A I never had heard him say anything like that.

13:45 10 Q Well, how did it come up, then, that you would
13:45 11 have to express opinion that you thought it was a bad
13:45 12 idea?

13:45 13 A I somehow became aware of -- of the -- that
13:45 14 concept or that -- or that notion, and -- and I spoke
13:45 15 freely with my chairman about my perspectives on -- on
13:45 16 all that was going on with respect to redistricting.

13:45 17 Q But was your chairman telling you that he
13:45 18 wanted to be able to talk to his friend, Mr. Heffley,
13:45 19 and Mr. Bainter, about the redistricting process?

13:45 20 A On the contrary. Everything I heard my
13:45 21 chairman say is that he wanted to insulate the Senate,
13:45 22 and insulate Senate staff and insulate the entire
13:46 23 process from any sort of improper involvement by
13:46 24 persons who are -- were pursuing personal or partisan
13:46 25 interests.

13:46 1 Q So why would you have a meeting with those
13:46 2 folks, then, at the start of the process, those folks
13:46 3 that would like to be part of the process like
13:46 4 Reichelderfer and Heffley and Terraferma?

13:46 5 A You're -- you're -- I think you're kind of
13:46 6 asking for me to make a conjecture here about why
13:46 7 there might have been such a meeting?

13:46 8 Q I'm just asking what you know about why there
13:46 9 was such a meeting, if the idea was we're not supposed
13:46 10 to have any involvement with these people, why are we
13:46 11 meeting with them?

13:46 12 MR. CANTERO: Object to the form.

13:47 13 A So -- I -- I'm -- can you state the question
13:47 14 in a way that doesn't call for me to -- to guess on --
13:47 15 on -- on what a rationale might be. I mean, I really
13:47 16 have no idea.

13:47 17 BY MR. KING:

13:47 18 Q I'm not asking you to guess. I'm just saying,
13:47 19 you said your chairman made it very clear that you
13:47 20 weren't supposed to be involved with these political
13:47 21 consultants.

13:47 22 A I was -- that was very clear to me, yes.

13:47 23 Q So why are you coming over here in January at
13:47 24 the start of the process to have a meeting with them?

13:47 25 A Perhaps in order to communicate that message.

13:47 1 Q So you're going to have a meeting with them in
13:47 2 secret to tell them that they're not to be part of the
13:47 3 process; is that right?

13:47 4 MR. CANTERO: Objection; he's already
13:48 5 testified he doesn't remember being at the meeting,
13:48 6 so you're --

13:48 7 MR. KING: You don't need to coach him.

13:48 8 MR. CANTERO: -- asking him to tell us about
13:48 9 things he doesn't know happened.

13:48 10 BY MR. KING:

13:48 11 Q You can go ahead and answer the question, sir.

13:48 12 A Could you repeat the question?

13:48 13 Q Sure.

13:48 14 MR. KING: Could you read it back please,
13:48 15 Sarah?

13:48 16 (The question beginning on page 92, line 1 was
13:48 17 read.)

13:48 18 A I did not arrange such a meeting. I don't
13:48 19 even recall my presence at a meeting where that was
13:48 20 discussed, and -- and I don't have any further
13:48 21 opinion.

13:48 22 BY MR. KING:

13:48 23 Q Okay. Did you have any communications with
13:48 24 any other political consultants that I haven't
13:48 25 specifically named for you relating to Senate

13:48 1 redistricting?

13:48 2 A I may have received -- I did receive an e-mail
13:49 3 from persons who were interested in the work of the
13:49 4 Senate redistricting committee and who had personal or
13:49 5 partisan interests. And -- and so they sent me
13:49 6 e-mails, and -- and pursuant to Senator Gaetz's
13:49 7 direction, I disregarded all of that communication.

13:49 8 Q Do you remember the names of any of these
13:49 9 consultants?

13:49 10 A No.

13:49 11 Q Did you destroy their e-mails?

13:49 12 A No.

13:49 13 Q They were part of your production in this
13:49 14 case?

13:49 15 A I think they probably were. They would have
13:49 16 been -- e-mails from third parties most likely -- like
13:49 17 that would have -- would have been something that I
13:49 18 would have retained and would have provided to the
13:50 19 Senate lawyers.

13:50 20 Q All right. Let's do Exhibit C.

13:50 21 MR. ZEHNDER: That will be 6.

13:50 22 MR. KING: All right.

13:50 23 (Exhibit No. 6 was identified for the record.)

13:50 24 BY MR. KING:

13:50 25 Q I show you, sir, Exhibit 6. I've shown him

13:50 1 the same thing. He's got his own copy.

13:50 2 And that's a composite exhibit, sir, because
13:50 3 it is a -- it's the contents of a zip file. And on
13:50 4 the cover of that zip file it says MCARVIN1. And then
13:51 5 it -- turn to the second page, that shows you a
13:51 6 picture of what's in the file.

13:51 7 A Okay.

13:51 8 Q Do you see that?

13:51 9 A I see that.

13:51 10 Q And it refers to a draft map, S01; do you see
13:51 11 that?

13:51 12 A I see that.

13:51 13 Q Now my question to you, sir, is, is this your
13:52 14 work product?

13:52 15 MR. CANTERO: When you say "this" --

13:52 16 MR. KING: This -- Exhibit 6.

13:52 17 MR. CANTERO: The whole thing? The whole
13:52 18 thing?

13:52 19 MR. KING: The zip file.

13:52 20 BY MR. KING:

13:52 21 Q Is the zip file materials that you produced?

13:52 22 MR. CANTERO: Take your time to look through
13:52 23 it.

13:52 24 MR. KING: May I inquire?

13:52 25 BY MR. KING:

13:52 1 Q Well, it's probably not the best way to
13:52 2 proceed.

13:52 3 A Okay.

13:52 4 Q Let me direct your attention to a couple of
13:52 5 things.

13:52 6 A Okay.

13:52 7 Q One is you will see throughout this document,
13:52 8 as you look at individual documents, you will see a
13:52 9 statement up in the left corner, "Exempt from public
13:52 10 disclosure as provided in Section 110 -- 11.0431(2)(e)
13:53 11 Florida Stat 2011."

13:53 12 When you --

13:53 13 MR. CANTERO: Where are we looking?

13:53 14 BY MR. KING:

13:53 15 Q You notice that in the corner of mostly these
13:53 16 data sheets that are in here.

13:53 17 A All right. Let me get to that.

13:53 18 Q It's up in the left corner, left-hand corner,
13:53 19 at least four times they're in there. That's, of
13:53 20 course, what you stamp on your work product sometimes;
13:53 21 isn't it?

13:53 22 A I have not found what you're referring to yet.

13:53 23 Q You will see it on a document entitled "Draft
13:53 24 S01 District and County Statistics," which is --

13:54 25 A Okay.

13:54 1 Q -- under the map.

13:54 2 Do you see that?

13:54 3 A Yeah. That's the first place that I see it.

13:54 4 Q And you also see on the right-hand side a
13:54 5 date, 10-20-2011, 9:38 p.m.; do you see that?

13:54 6 A I do.

13:54 7 Q Okay.

13:54 8 A Looks like there may be multiple copies of the
13:54 9 same material.

13:54 10 Q Well, evidently whoever compiled the zip file
13:54 11 and put the stuff in there may have put some stuff in
13:54 12 there more than once.

13:54 13 A Okay.

13:55 14 Q I will just represent to you, sir, that this
13:55 15 is a printout of the entire zip file. And the second
13:55 16 page of Exhibit 6, of course, has the index of what's
13:55 17 in that zip file; right?

13:55 18 A I hear what you're saying.

13:55 19 Q Okay.

13:55 20 A I --

13:55 21 MR. CANTERO: Can I show him this? Talking
13:55 22 about that.

13:55 23 THE WITNESS: Yeah. I see that. So I was
13:55 24 aware from reading the Chen and Rodden report,
13:55 25 which I did, that there was a plan that the

13:55 1 plaintiff counsel provided to the plaintiff's
13:56 2 experts called MCVIN.

13:56 3 And I -- and I took --

13:56 4 MR. CANTERO: There is no question pending.

13:56 5 THE WITNESS: Okay. All right.

13:56 6 BY MR. KING:

13:56 7 Q And you took what? You say you were aware of
13:56 8 the plan, and then you took what?

13:56 9 A So I took a look at the DOJ file that was
13:56 10 supplied by Mr. -- or Dr. Chen and Dr. Rodden through
13:56 11 their disclosure. I forget whose -- whose package it
13:56 12 was in.

13:56 13 Q And what did you find?

13:56 14 A I found a -- a map that looked like -- looked
13:56 15 to me like it likely was my work product.

13:56 16 MR. KING: Let's mark -- just to simplify
13:57 17 things, we have marked one document out of Exhibit
13:57 18 6, which is a copy of the plan, draft S01, as
13:57 19 Exhibit 7. And I show that to you, sir.

13:57 20 (Exhibit No. 7 was identified for the record.)

13:57 21 A Okay.

13:57 22 BY MR. KING:

13:57 23 Q Is that what you looked at and concluded that
13:57 24 that was your work product?

13:57 25 A I -- based on looking at that, based on the

13:57 1 associate -- the naming convention that is used here,
13:57 2 the draft, underscore, S01, based on the MCARVIN
13:57 3 moniker, I came to believe that it likely was my work
13:57 4 product.

13:57 5 Q So --

13:57 6 A That the map that comes from producing a map
13:58 7 from the DOJ file was -- was that, was my work
13:58 8 product.

13:58 9 Q So Exhibit 7, titled "draft, dash, S01" was
13:58 10 the work product of the Senate redistricting staff
13:58 11 back prior to October 20, 2011; correct?

13:58 12 A Or on October 20. There is -- I believe,
13:58 13 based on what you are showing me here, that to be the
13:58 14 case.

13:58 15 Q And would it also be true that all the rest of
13:58 16 the contents of that zip file came from the Senate
13:58 17 redistricting office?

13:58 18 A That's what I believe.

13:58 19 Q Now, do you recall creating a zip file on
13:59 20 October 20, 2011, and providing it to someone?

13:59 21 A What is the -- I'm wondering, because I
13:59 22 haven't looked at this -- I'm wondering what the total
13:59 23 size of the zip file is. It looks like it's about 6
13:59 24 megabytes. So it is -- I may have been -- I may have
13:59 25 created that zip file, or I may have created the

13:59 1 contents that somebody else compressed into a zip
13:59 2 archive.

13:59 3 It could have been either way.

13:59 4 Q It says 6,648 KB.

13:59 5 A Right.

13:59 6 Q So you -- do you recall why you assembled
13:59 7 these documents to be put into a zip file, sir?

14:00 8 A This looks like materials that I would have
14:00 9 supplied to counsel.

14:00 10 Q So you think this -- you supplied this to
14:00 11 counsel at that time?

14:00 12 A That's my belief, yes.

14:00 13 Q And do you recall why you would have provided
14:00 14 that zip file to counsel?

14:00 15 A I would provide, as I testified earlier, a --
14:00 16 to counsel a -- information about our work in
14:00 17 progress. This was likely early work in progress.
14:00 18 And I was -- I would have provided it to counsel at
14:01 19 his request or maybe on my own motion so that counsel
14:01 20 would be apprised of how we were proposing to
14:01 21 implement the guidelines specified in the state
14:01 22 constitution.

14:01 23 Q So this would have been your most current map
14:01 24 reflecting the direction that the Senate redistricting
14:01 25 staff was going as of October 20, 2011; is that right?

14:01 1 A That would be my best guess, yes.

14:01 2 Q All right. And so evidently the counsel that
14:01 3 this was supplied to was Michael Carvin; is right?

14:01 4 A Michael Carvin was counsel for the Florida
14:01 5 Senate.

14:01 6 Q All right. And the fact that his name is on
14:02 7 the zip file, does that suggest to you that he
14:02 8 received the zip file from you?

14:02 9 A That name could have been put there by anybody
14:02 10 who had possession of the file. So I -- I doubt that
14:02 11 that would have been the name that I would have
14:02 12 applied to that particular zip file.

14:02 13 I, from time to time, would send Mr. Carvin
14:02 14 data on a compact disk or a DVD -- I think it was
14:02 15 mostly compact disk -- by express mail or FedEx.

14:02 16 And so it may be that I sent him optical
14:02 17 media, and he and somebody else created a zip file.
14:02 18 That's possible.

14:02 19 It's possible, although my recollection is I
14:03 20 did less of it, that I might have sent a zip file
14:03 21 by -- by e-mail. But I don't -- I don't recall doing
14:03 22 that in this case, if ever.

14:03 23 So I may -- what I may have done is sent -- I
14:03 24 would rather -- yeah. Well, beyond that, it's all
14:03 25 conjecture.

14:03 1 Q Now, the Senate did not produce Exhibit 6 or 7
14:03 2 in this litigation; have they, sir?

14:03 3 A I -- to the best of my knowledge, they did
14:03 4 not, yes.

14:03 5 Q Is that because the Senate had destroyed this
14:03 6 document, these two documents, Exhibit 6 and 7?

14:03 7 A I -- well those -- these documents I never --
14:04 8 as -- as -- as they are here, I never possessed. I --
14:04 9 I had hundreds of thousands of documents during this
14:04 10 process. And things that there was no reason, in my
14:04 11 mind, for me to retain, work product that I had no
14:04 12 official responsibility to retain and saw no value in
14:04 13 retaining, I did not retain.

14:04 14 Q Well, you retained a record of draft maps,
14:04 15 over 50, that show the progress and evolution of the
14:04 16 ultimate redistricting maps; isn't that correct?

14:04 17 A I produced for discovery to my attorneys
14:04 18 everything that I could find that was responsive to
14:05 19 your request for draft maps.

14:05 20 Q And certainly Exhibit 6 and 7 would have been
14:05 21 responsive to our request if you still possessed them;
14:05 22 right?

14:05 23 A If I possessed them, I would have produced
14:05 24 them.

14:05 25 Q And you know -- do you know where we got

14:05 1 these?

14:05 2 A Not exactly, no. Well, the answer is, no, I
14:05 3 don't know where you got those.

14:05 4 Q All right. Let me show you Exhibit D and B.

14:05 5 MR. ZEHNDER: D first?

14:05 6 MR. KING: D first. Actually, let me see B
14:06 7 first.

14:59 8 (Exhibit No. 8 was identified for the record.)

14:06 9 BY MR. KING:

14:06 10 Q I show you, sir, Exhibit 8, which you don't
14:06 11 have any connection with this document, but it was a
14:06 12 document that was produced by Frank Terraferma. And
14:06 13 it -- if you go down to the bottom, you see where it
14:06 14 says an e-mail from Rich Heffley to Mike Sheehan at
14:07 15 Data Targeting. You know that to be Mr. Bainter's
14:07 16 company; right?

14:07 17 A I know that Data Targeting is associated with
14:07 18 Mr. Bainter, yes.

14:07 19 Q All right. And you see Mr. Heffley says --

14:07 20 A Where are we on the page?

14:07 21 Q At the very bottom of the page.

14:07 22 A First page. Okay.

14:07 23 Q The first page. See where Mr. Heffley says,
14:07 24 "Draft S01 is the plan. Thanks."

14:07 25 Do you see that?

14:07 1 A I see that.

14:07 2 Q Now, S01 is obviously referring to Exhibit 7;
14:07 3 right --

14:07 4 A I don't --

14:07 5 Q -- which is draft S01; right, that you
14:07 6 produced; correct? Well, you -- not you produced; you
14:07 7 didn't produce it -- that you drew and was your work
14:07 8 product; right?

14:07 9 A I don't know what -- what the author of this
14:07 10 e-mail is referring to. But that seems like a
14:07 11 reasonable conjecture for somebody to make.

14:08 12 Q And this is on October the 28th. Do you see
14:08 13 that?

14:08 14 A I do see that.

14:08 15 Q So on October 20, evidently a draft map S01 is
14:08 16 provided in a zip file to Mr. Carvin. By eight days
14:08 17 later Mr. Heffley is saying S01 is the plan; right?

14:08 18 A I -- I see the exhibit you've placed in front
14:08 19 of me.

14:08 20 Q And then Mr. Sheehan sends back resulting
14:08 21 Maptitude files, unzip and open in Maptitude. And
14:08 22 then Mr. Heffley sends it to Mr. Terraferma. And then
14:08 23 Mr. Terraferma, on the same day, sends it to Mike
14:08 24 Wild, the redistrict -- in redistricting at the
14:08 25 Republican party headquarters in Washington, D.C.

14:09 1 A Is that on a different page?

14:09 2 Q It's all on that one page. You see all the
14:09 3 various e-mails --

14:09 4 A Oh, Mike -- Mike Wild up at the top. Okay.

14:09 5 Q Yeah.

14:09 6 MR. CANTERO: Object to the form of the
14:09 7 question.

14:09 8 BY MR. KING:

14:09 9 Q So --

14:09 10 MR. CANTERO: Mischaracterizes the exhibit.

14:09 11 THE WITNESS: Right. I -- I don't -- I don't
14:09 12 know who Mike Wild is.

14:09 13 BY MR. KING:

14:09 14 Q Right. And I don't expect you to. But you do
14:09 15 know all these other political operatives, because
14:09 16 they were the same fellows that were at the meeting
14:09 17 with you back in January of 2011; right?

14:09 18 MR. CANTERO: Object to the form;
14:09 19 mischaracterizes the testimony.

14:09 20 BY MR. KING:

14:09 21 Q You know who Heffley is; right?

14:09 22 A I know Mr. Heffley.

14:09 23 Q You know who Terraferma is?

14:09 24 A I know Mr. Terraferma.

14:09 25 Q All right. And you know who Mr. Bainter is?

14:09 1 A I know Mr. Bainter.

14:09 2 Q And so your work product, eight days after you
14:09 3 have sent it to Mr. Carvin, is in the hands of all
14:09 4 these political operatives; right? According to what
14:10 5 this reflects; right?

14:10 6 A I -- I can -- I can see why you would say
14:10 7 that. I -- I don't know that. I -- other than by
14:10 8 virtue of -- of this exhibit.

14:10 9 Q And --

14:10 10 MR. KING: Let's do D, Tom. Let's make it an
14:10 11 exhibit.

14:10 12 (Exhibit No. 9 was identified for the record.)

14:10 13 BY MR. KING:

14:10 14 Q Next I show you, sir, Exhibit 9, which is --
14:10 15 now this is what we got from Data Targeting. This is
14:10 16 a document produced from Mr. Bainter's operation. And
14:10 17 you see the first page there, the draft S01 is the
14:11 18 plan; do you see that?

14:11 19 A Am I court approved to look at this?

14:11 20 Q You are, amazingly. These are not
14:11 21 confidential documents.

14:11 22 A Okay.

14:11 23 Q This is part of the nonconfidential part of
14:11 24 it.

14:11 25 A Okay.

14:11 1 Q Okay. So do you see where it says, "Draft S01
14:11 2 is the plan. Thanks"?

14:11 3 A That looks like the same message that we saw
14:11 4 before.

14:11 5 Q Right. And do you see right under it, though,
14:11 6 this is a little different, you see right under it, it
14:11 7 says MCARVIN1zip6.7MG?

14:11 8 A Okay.

14:11 9 Q So there --

14:11 10 A I do see that.

14:11 11 Q -- is your zip file; right?

14:11 12 MR. CANTERO: Objection.

14:11 13 A I do not know, as I testified earlier, that I
14:11 14 was the one who created that zip archive.

14:12 15 BY MR. KING:

14:12 16 Q Okay. You or somebody working for you; right?

14:12 17 A No. It could have been done down -- I could
14:12 18 have sent data out on a CD as individual files, and
14:12 19 somebody may have compressed those into a zip archive.

14:12 20 Q Okay. A distinction without a difference;
14:12 21 right?

14:12 22 A I don't know that. I'm not -- I'm one of
14:12 23 these data wonk guys, and -- and so --

14:12 24 Q But you told me that it would be very normal
14:12 25 for you to send it in zip file; right?

14:12 1 A My -- I don't think that's my testimony
14:12 2 either. I -- I said that I recall on several
14:12 3 occasions sending maps, statistics, and -- and CDs to
14:12 4 Mr. Carvin.

14:12 5 Q All right. So -- so the question is, then,
14:12 6 whether you sent it by CD or whether you sent it by
14:12 7 zip file, it is the work of your redistricting office;
14:13 8 correct?

14:13 9 A My testimony was and is that the -- the
14:13 10 products that you showed me that were contained in
14:13 11 that zip file likely -- most likely were -- were
14:13 12 documents that I created.

14:13 13 Q And S01 is a draft map that you created, or
14:13 14 somebody working for you created, around October 20,
14:13 15 2011; right?

14:13 16 A I believe that is correct.

14:13 17 Q And those things, eight days later, were in
14:13 18 the hands of the political operatives; right?

14:13 19 A I have seen, for the first time, this
14:13 20 evidence, you know, today. And I'll -- I'll -- you
14:13 21 know, you can draw your conclusions. I'll -- I have
14:13 22 no basis for disagreement.

14:14 23 Q Well, we wouldn't have it if they hadn't
14:14 24 produced it; right?

14:14 25 A Okay.

14:14 1 MR. CANTERO: Object to the form.

14:14 2 BY MR. KING:

14:14 3 Q The Senate has totally lost possession of
14:14 4 those documents; right?

14:14 5 A I did not retain those documents.

14:14 6 Q And you didn't retain any method of
14:14 7 transmission to show that you sent them where you sent
14:14 8 them; right?

14:14 9 A I did not.

14:14 10 Q And isn't that convenient when it ends up in
14:14 11 the hands of the political operatives?

14:14 12 MR. CANTERO: Object to the form.

14:14 13 Argumentative.

14:14 14 BY MR. KING:

14:14 15 Q How do we know you didn't send it straight to
14:14 16 the -- Mr. Heffley?

14:14 17 MR. CANTERO: Object to the form.

14:14 18 A My testimony was and is that I never sent any
14:14 19 draft maps to Mr. Heffley.

14:14 20 BY MR. KING:

14:14 21 Q Well, did Mr. Carvin tell you he was going to
14:15 22 deliver it to Mr. Heffley?

14:15 23 MR. CANTERO: Don't answer that. It's
14:15 24 attorney-client communication.

14:15 25 MR. KING: Well, it wouldn't -- I don't think

14:15 1 that would be helping him do legal advice. It
14:15 2 would be how to participate in a conspiracy or a
14:15 3 scheme to violate the constitution if that's what
14:15 4 Mr. Carvin told him. I don't think that would be
14:15 5 an attorney-client privileged statement. Would it
14:15 6 really?

14:15 7 MR. CANTERO: I'm asking -- just telling him
14:15 8 not to answer the question. I'm not saying what
14:15 9 the answer would be.

14:15 10 MR. KING: Well --

14:15 11 MR. CANTERO: His conversations with Mike
14:15 12 Carvin are attorney-client privileged.

14:15 13 MR. KING: So even if they're discussing a
14:15 14 scheme to violate the constitution? Is your
14:15 15 Attorney-client privilege --

14:15 16 MR. MEROS: Are you guys arguing back and
14:15 17 forth, or are you asking him a question?

14:15 18 MR. KING: We are a little bit. We are a
14:15 19 little bit, George.

14:15 20 MR. MEROS: Let's ask questions so we can all
14:15 21 get out of here at a reasonable time.

14:16 22 MR. KING: I don't -- you're going to get out
14:16 23 at the same time regardless of whether we talk or
14:16 24 not here.

14:16 25 BY MR. KING:

14:16 1 Q So was it your understanding that your lawyer
14:16 2 was going to be a conduit to provide information to
14:16 3 the political operatives?

14:16 4 MR. CANTERO: Objection; don't answer.

14:16 5 MR. KING: Well, that's not asking for any
14:16 6 communications with the lawyer.

14:16 7 BY MR. KING:

14:16 8 Q Did -- did -- did you have any reason to
14:16 9 believe that Mr. Carvin was going to provide your work
14:16 10 product to the political operatives?

14:16 11 MR. CANTERO: If your understanding is outside
14:16 12 of any attorney-client communication, you can
14:16 13 answer.

14:16 14 A I had no knowledge whatsoever of Mr. Carvin
14:16 15 using what I sent him for any purpose other than
14:17 16 advising the Florida Senate.

14:17 17 BY MR. KING:

14:17 18 Q Well, isn't it somewhat of an amazing
14:17 19 coincidence that what you sent to Mr. Carvin, which
14:17 20 ended up in the hands of the political operatives,
14:17 21 just happens to be the one draft map that we have
14:17 22 discovered that you don't have in your possession?

14:17 23 MR. CANTERO: Object to the form;
14:17 24 argumentative.

14:17 25 A Please restate the question.

14:17 1 BY MR. KING:

14:17 2 Q Isn't it a remarkable coincidence that the --
14:17 3 the single map that we have discovered that ended up
14:17 4 in the hands of the political operatives just happens
14:17 5 to be the one that's been deleted from your
14:17 6 possession?

14:17 7 MR. CANTERO: Same objection.

14:17 8 A My personal practice was not to retain the
14:17 9 hundreds of thousands of iterations of -- of draft
14:18 10 plans that I went through in trying to craft or model
14:18 11 districts, pursuant to Senator Gaetz's direction, that
14:18 12 complied with the state constitution.

14:18 13 BY MR. KING:

14:18 14 Q Well, you actually started out on this S --
14:18 15 this S01 -- this is a naming convention; isn't it?

14:18 16 A That is.

14:18 17 Q And so --

14:18 18 A Or -- or a draft S01, I would say.

14:18 19 Q Draft S01, right. And in your draft maps we
14:18 20 found draft S09; right? We talked about that this
14:18 21 morning.

14:18 22 A That is correct.

14:18 23 Q And draft S09 was the one you created on
14:18 24 November the 21st and last updated on November 23rd,
14:19 25 as you were doing that flurry of meeting with the

14:19 1 senators; right?

14:19 2 A That's -- that's what we believe, yes.

14:19 3 Q Now, up until we discovered this S01, there
14:19 4 were no copies of S01, S02, S03, S04, S05, S06, S07,
14:19 5 S08 in your records of draft maps; right?

14:19 6 A That is right.

14:19 7 Q Can you tell me whether, in fact, there were
14:19 8 draft maps with designations between S02 and S08?

14:19 9 A I -- well, I don't know about S08 or S07 or
14:19 10 any -- any number in particular. I do recall that the
14:19 11 naming convention that I used for personal work
14:20 12 product that I was working on myself under my
14:20 13 DistrictBuilder account was to call things draft
14:20 14 and -- and then an underscore, and -- and then either
14:20 15 C or S and -- and a number.

14:20 16 Q So this would suggest, then, that you likely
14:20 17 yourself did S01 and S09; is that right?

14:20 18 A I believe that to be the case, yes.

14:20 19 Q Okay. Now, did you also do the naming
14:20 20 convention Senate 5, Senate 6, Senate 7, Senate 8,
14:20 21 Senate 9?

14:20 22 A I may have had plans in my locker that had
14:20 23 names like that, but -- and one thing for all of us to
14:21 24 understand here is that the redistricting staff was
14:21 25 working collaboratively as a unit. And I would share

14:21 1 exports from the DistrictBuilder program; I would
14:21 2 share them with staff routinely. Multiple times each
14:21 3 week we would -- would share data with one another as
14:21 4 we had ideas that we thought were worthy of sharing.

14:21 5 So I may have had files with those names in --
14:21 6 in my locker. But -- but you don't know -- we don't
14:21 7 know from the name alone whether it was in -- in my
14:21 8 locker or -- or that of other staff.

14:21 9 And I don't know that it much matters, because
14:21 10 we really were working cohesively. And each of us
14:22 11 decided individually what we thought was useful for us
14:22 12 to retain for our own purposes, and -- and what we
14:22 13 thought was just clutter that we better -- would be
14:22 14 better served not to retain.

14:22 15 Q Well, you didn't think S01 was clutter; did
14:22 16 you, sir?

14:22 17 A Once -- once I moved on from that -- that
14:22 18 draft, that would have been my belief, yes.

14:22 19 Q And so then you would have created S02; right?

14:22 20 A Perhaps.

14:22 21 Q And then S03?

14:22 22 A Again, I -- I don't have any specific
14:22 23 recollection --

14:22 24 Q Well --

14:22 25 A -- as to --

14:22 1 Q I'm sorry. I'm sorry. In -- in your naming
14:22 2 convention, you seem to me to be a pretty precise
14:23 3 fellow; is that right?

14:23 4 A I don't know what you think I am.

14:23 5 (Laughter.)

14:23 6 BY MR. KING:

14:23 7 Q Well, "precise" is certainly a quality it
14:23 8 seemed to me like would fit. Would you agree with
14:23 9 that?

14:23 10 A I approach my work very carefully, yes.

14:23 11 Q Right. So you wouldn't go -- in naming maps,
14:23 12 you wouldn't go draft S01 and then draft S09; would
14:23 13 you?

14:23 14 A So what -- what you cannot infer from just
14:23 15 based on the way I name drafts, you cannot infer that
14:23 16 there is a sequential progression from 1 to 9. In
14:23 17 between there may have been a 1A -- I'm going to make
14:23 18 it worse for you -- there may have been a 1A, a 1B, a
14:24 19 1C.

14:24 20 There may have been -- and at some point as I
14:24 21 was collaborating with staff I may have skipped one or
14:24 22 more numbers. So from the -- the simple name and the
14:24 23 way that I just personally -- because all of this is
14:24 24 just personal work files that -- of modeling that I
14:24 25 was doing.

14:24 1 And just like when you're working on a
14:24 2 brief -- I don't work on briefs, but you work on
14:24 3 briefs -- you -- you -- in Word you might work on it
14:24 4 for a little while, and then you would save the
14:24 5 document. And then you may work on it a little longer
14:24 6 and save it again.

14:24 7 And each time you save, you have the option to
14:24 8 save it with a new name or save it with the old name.
14:24 9 If you save it with the old name, you're going to
14:25 10 overwrite what -- what formerly was there.

14:25 11 So the -- the choice of when to say "save" and
14:25 12 when to say "save as" and whether or not to retain any
14:25 13 of that personal work product rests solely with the
14:25 14 person who is -- is -- is doing that work.

14:25 15 It's not something that I supervised for my
14:25 16 employees. I -- I merely managed the -- the documents
14:25 17 in my own locker.

14:25 18 Q But if -- if we just relied on the documents
14:25 19 we got from the Senate, nobody would have ever been
14:25 20 aware that there were maps in the S01 through S08 line
14:25 21 that no longer existed; right?

14:25 22 A I think I have testified that we cannot infer
14:25 23 that from the fact that we have something named draft,
14:26 24 underscore, S01, and we have something named S09. I
14:26 25 don't think you can -- can make that inference, as I

14:26 1 just explained, and I don't think you want me to
14:26 2 explain it again.

14:26 3 Q Okay. And so on October the 28th, let's say,
14:26 4 none of the senators had seen a draft map produced by
14:26 5 your redistricting office; right?

14:26 6 A I explained how we did some screen-sharing
14:26 7 meetings.

14:26 8 Q But that was later on; wasn't it?

14:26 9 A October 20 -- I'm sorry. Thank you. October
14:26 10 28th, November 28th, I got -- I got confused there.

14:27 11 As of October 28th, I don't remember sharing
14:27 12 any draft maps with -- with any senators, other than
14:27 13 Senator Gaetz.

14:27 14 Q So evidently the only people that -- outside
14:27 15 of your office that had a vision of your work as of
14:27 16 that time and where you were going with S01 were
14:27 17 Senator Gaetz and Mr. Terraferma and Mr. Bainter and
14:27 18 Mr. Heffley; correct?

14:27 19 MR. CANTERO: Object to the form.

14:27 20 BY MR. KING:

14:27 21 Q According to what you've seen here today?

14:27 22 A I can speak for Senator Gaetz. I have
14:27 23 testified that I was collaborating with Senate
14:27 24 redistricting staff -- with Senate staff. And -- and
14:27 25 so they would have been aware. And I have testified

14:28 1 that I had shared draft products with Senate counsel.

14:28 2 Q So if these documents are accurate, if we
14:28 3 really did get them from the political operatives,
14:28 4 then the political operatives knew more about the
14:28 5 status of your work on October the 28th than did the
14:28 6 other 28 members of the committee on reapportionment
14:28 7 in the Senate of the State of Florida; right?

14:28 8 A You're making a logical deduction, which is
14:28 9 what it is.

14:28 10 Q It seems to be unassailable; doesn't it?

14:28 11 MR. CANTERO: Object to the form.

14:28 12 A It is a logical deduction.

14:28 13 BY MR. KING:

14:28 14 Q That's not the way it's supposed to work; is
14:28 15 it?

14:28 16 MR. CANTERO: Object to the form.

14:29 17 A It is surprising to me that political
14:29 18 consultants would have had those draft products, if,
14:29 19 in fact, they did. And I presume, based on what
14:29 20 you're showing me here today, that they did.

14:29 21 BY MR. KING:

14:29 22 Q When did you first learn that the political
14:29 23 consultants had your work?

14:29 24 A I don't know if I was aware of -- of any -- of
14:29 25 the MCARVIN zip thing from the congressional trial or

14:29 1 not. The first possible time that I could have been
14:29 2 even remotely aware of that was -- was during the
14:30 3 congressional trial.

14:30 4 I became aware of it -- of a MCARVIN map when
14:30 5 I read the Chen and Rodden expert report that -- that
14:30 6 the plaintiffs provided and at that point started
14:30 7 doing some due diligence to try to figure out, you
14:30 8 know, what is this thing, and -- and what's going on
14:30 9 here.

14:30 10 And I, from the zip file, was able to -- and
14:30 11 the time and -- I mean, just what it looked like to me
14:30 12 was that it was a work product, as I said, that --
14:30 13 that I had created. And --

14:30 14 MR. CANTERO: You've answered the question.

14:30 15 THE WITNESS: Okay.

14:30 16 BY MR. KING:

14:30 17 Q Did you investigate -- as part of your due
14:30 18 diligence, did you investigate how it was that this
14:31 19 could have ended up in the hands of the political
14:31 20 operatives?

14:31 21 A No.

14:31 22 Q So did you report to Senator Gaetz what you
14:31 23 had discovered?

14:31 24 A I became aware of that recently. My -- and my
14:31 25 communications regarding that discovery have been

14:31 1 between me and counsel. Me and Mr. Cantero and his
14:31 2 firm.

14:31 3 Q Right. You didn't -- you didn't reveal this
14:31 4 to Senator Galvano, the head of Redistricting Now?

14:31 5 A I believe that I was retired when I started --
14:31 6 I mean, some of it was as late as yesterday. Senate
14:31 7 counsel -- I asked Senate counsel --

14:32 8 MR. CANTERO: I wouldn't discuss --

14:32 9 THE WITNESS: Yeah.

14:32 10 BY MR. KING:

14:32 11 Q He would rather you not --

14:32 12 A I --

14:32 13 Q -- say --

14:32 14 A I --

14:32 15 Q -- what you want to.

14:32 16 A I wish -- I -- I wanted to see a --

14:32 17 MR. CANTERO: You've answered his --

14:32 18 A -- copy of the zip.

14:32 19 MR. CANTERO: You've answered the question --

14:32 20 THE WITNESS: Yeah.

14:32 21 MR. CANTERO: -- about Senator Galvano.

14:32 22 BY MR. KING:

14:32 23 Q Did you see the contents of the zip before you
14:32 24 came here today?

14:32 25 A No. Other than the -- other than the -- one

14:32 1 of the pages you showed me had the -- a directory of
14:32 2 what the contents were.

14:32 3 MR. KING: Do you have Exhibit 9 over there?

14:32 4 BY MR. KING:

14:32 5 Q Do you see Exhibit 9? Now, would you look at
14:32 6 Exhibit 9, and look at the back of that, because you
14:32 7 will see a document entitled "Rich Heffley, DOJ map,
14:33 8 10-28-2011, DOJ."

14:33 9 A Okay.

14:33 10 Q And you see we also got that from the
14:33 11 political operatives. And my question to you is, have
14:33 12 you ever seen that before?

14:33 13 A I saw that Professors Chen and Rodden analyzed
14:33 14 a map that they called, I think, something like Rich
14:33 15 Heffley DBF --

14:33 16 Q All right.

14:33 17 A -- DOJ.

14:33 18 Q And did you see that the Rich Heffley DOJ map,
14:33 19 10-28-2011, is exactly the same as your S01?

14:33 20 A Actually, I yesterday performed that analysis
14:33 21 myself, and they are exact.

14:33 22 Q Well, good, then I don't have to go through
14:33 23 that process with you here.

14:33 24 A At least as -- as to the DO -- so the only
14:33 25 source of either of these files that I have is the

14:34 1 production that Professors Chen and Rodden provided
14:34 2 through discovery.

14:34 3 Q Right. But -- but what you saw is that the
14:34 4 data and the district lines were exactly the same in
14:34 5 both -- both maps; right?

14:34 6 A I looked at it block by block. And I saw that
14:34 7 every single block was assigned to the same district.

14:34 8 Q Right. So those maps are identical; correct?

14:34 9 A Identical district assignments, yes.

14:34 10 Q Right. The only thing that's different is the
14:34 11 title on the maps; right?

14:34 12 A Basically, yes.

14:34 13 Q One says draft S01, and the other says Rich
14:34 14 Heffley 10-28-2011, whatever.

14:34 15 A Or whatever, yeah.

14:34 16 Q So not only was Mr. Heffley purloining your
14:35 17 work product, but he was calling it by his name;
14:35 18 right?

14:35 19 MR. CANTERO: Object to the form.

14:35 20 A I -- I don't know where that name came from
14:35 21 or -- or -- or what -- what is going on there.

14:35 22 BY MR. KING:

14:35 23 Q Would you be surprised to know that -- that
14:35 24 actually the districts in S01 fit with the evolution
14:35 25 of the progress of your maps in Senate 7, 8, and 9?

14:35 1 A That would not surprise me.

14:35 2 Q In other words, you will see maps -- you will
14:36 3 see districts that are exactly the same in Carvin and
14:36 4 in Senate 7, 8, and 9?

14:36 5 A I'm not sure -- well, Carvin is -- is -- as we
14:36 6 have talked through here, I think is a -- a stretch
14:36 7 for the name of -- of that plan.

14:36 8 Q Let me -- let me change the name to S01.

14:36 9 A Okay.

14:36 10 Q So in S01 you will see a number of districts,
14:36 11 if you compare S01 to Senate 7, 8, and 9, you will see
14:36 12 a substantial number of districts that are precisely
14:36 13 the same; right?

14:36 14 A I did not do the block-by-block comparison
14:36 15 with -- with those that I did with -- with the Rich
14:36 16 Heffley DBF.DOJ file and the draft S01. So I don't
14:37 17 know -- I can't speak as precisely as I would like.
14:37 18 But -- but I -- I understand and do not disagree with
14:37 19 what you are saying about a general correspondence
14:37 20 between those maps.

14:37 21 Q I show you, sir, Exhibit 10, which is a
14:38 22 comparison of District 6 in draft S01. The first page
14:38 23 is a picture of that as compared to 9004. It's
14:38 24 different; right?

14:38 25 (Exhibit No. 10 was identified for the

14:38 1 record.)

14:38 2 A Yes. And I -- this is not a -- an exhibit
14:38 3 that I created --

14:38 4 BY MR. KING:

14:38 5 Q No, sir.

14:38 6 A -- but I'm -- if I look at this visual, I -- I
14:38 7 would come to the same conclusion that you do.

14:38 8 Q All right. And then if you look at the second
14:38 9 page you will see a comparison of Senate 7 to 9004.

14:38 10 Do you see that?

14:38 11 A The second page?

14:38 12 MR. MEROS: The second page?

14:38 13 MR. KING: The second page.

14:38 14 MR. CANTERO: No.

14:38 15 THE WITNESS: Mine must be in a different
14:38 16 order.

14:38 17 BY MR. KING:

14:38 18 Q So you see 143? All right. Skip that one.

14:38 19 And we will go to the third page. Do you see Senate
14:39 20 7?

14:39 21 A I -- I see what's written on the page here,
14:39 22 yes.

14:39 23 Q And that's a diagram of Senate 7 District 6,
14:39 24 which is pretty much precisely the same as draft S01;
14:39 25 right?

14:39 1 A I have not done the block-by-block comparison.
14:39 2 But -- but the -- you know, graphic here looks the
14:39 3 same.

14:39 4 Q And you see that the population, the black
14:39 5 percentage, the Hispanic percentage, Obama 2008, Sink
14:39 6 2010, are all pretty much the same; right?

14:39 7 A I do see that.

14:39 8 Q All right. So evidently draft S01, Senate 7,
14:39 9 you're moving in the same -- same direction on that
14:39 10 district anyway; right?

14:40 11 A Okay.

14:40 12 Q Okay is not really answering the question. It
14:40 13 would be yes or no.

14:40 14 A Please restate the question.

14:40 15 Q All right. So you're moving in the same --
14:40 16 you're using the same configuration of District 6 in
14:40 17 draft S01 and in Senate 7; right?

14:40 18 A That is correct.

14:40 19 Q And then, look at Senate 8. That would be the
14:40 20 fourth page. And Senate 8 is the same again; right?

14:40 21 A It appears -- without doing a block-by-block
14:40 22 comparison, based on the graphic and the population
14:40 23 statistics reported here, it appears to be the same.

14:40 24 Q And turn the page, then, and you see Senate 9
14:40 25 compared to 9004; right?

14:41 1 A I do.

14:41 2 Q And in Senate 9, District 6 remains the same
14:41 3 as it was in draft S01, Senate 7, Senate 8, and
14:41 4 Senate -- now Senate 9; correct?

14:41 5 A I see what you see, yes.

14:41 6 Q And you would agree that it remains the same;
14:41 7 right?

14:41 8 A With the caveats expressed earlier that I --

14:41 9 Q Sure.

14:41 10 A -- have not done a block-by-block comparison.

14:41 11 Q And, of course, I happen to include in there
14:41 12 on the second page, 143, which is a public map from a
14:41 13 fellow named Mr. Patten. You see it actually
14:41 14 corresponds to District 6 in 9004; right?

14:41 15 A I see that.

14:41 16 Q So evidently you hadn't got around yet to
14:41 17 considering the benefits of public map 143 by November
14:42 18 the 15th when you last worked on Senate 9; correct?

14:42 19 MR. CANTERO: Object to the form.

14:42 20 A Where is the exhibit that shows -- from the
14:42 21 response to the interrogatories that shows when the
14:42 22 plans were created and --

14:42 23 BY MR. KING:

14:42 24 Q That's the --

14:42 25 A -- updated?

14:42 1 Q -- very first exhibit.

14:42 2 MR. ZEHNDER: Exhibit 1.

14:42 3 MR. CANTERO: Here you go (tendering
14:42 4 document.)

14:42 5 A So created on November 21st and last updated
14:42 6 on November 23rd.

14:42 7 BY MR. KING:

14:42 8 Q That was S09?

14:42 9 A Right.

14:42 10 Q And -- and Senate 9 was -- do you see
14:43 11 Senate 9?

14:43 12 A I do.

14:43 13 Q And what does that say?

14:43 14 A That was created on November 3rd and last
14:43 15 updated on November 15th.

14:43 16 Q All right. So as of November 15th, you still
14:43 17 seemed to be approaching Senate District 6 in
14:43 18 precisely the same way that it had been approached in
14:43 19 S01; correct?

14:43 20 A You're actually making a leap here that I
14:43 21 cannot make. You -- you don't know from one draft to
14:43 22 another what changes were made along the way. We also
14:43 23 don't know precisely when a change was made during the
14:44 24 span of time between when a -- when a file is created
14:44 25 and when it is last updated.

14:44 1 It -- the change could have been made the
14:44 2 first day; it could have been made the last day, or it
14:44 3 could have been made anywhere in between. So what
14:44 4 I -- so I -- I can't make the leap that you made.

14:44 5 Q Well, understanding what you just said, there
14:44 6 were no changes made to District 6 between October 20
14:44 7 and November 15th; were there?

14:44 8 A No. I don't think you can infer that.

14:44 9 Q Well --

14:44 10 A I -- I think you can infer that, as a -- as
14:44 11 Senate 9 was last saved, with or without changes -- it
14:44 12 may have been -- so I might have -- have created
14:44 13 Senate 9 on November 3rd and made no changes, ever,
14:45 14 and then saved it on November 15th.

14:45 15 Q Right.

14:45 16 A And -- and so in -- in between we don't -- we
14:45 17 don't know what was going on in between that period of
14:45 18 time with any particular district.

14:45 19 Q Right. But you don't have another map in that
14:45 20 series that changes that district; isn't that correct?

14:45 21 A We don't -- we don't have -- in -- in what we
14:45 22 produced, which is everything that we retained, I -- I
14:45 23 mean, a map that -- well, even before I say that, what
14:45 24 I would want to do is arrange these plans in some sort
14:46 25 of chronological order so -- the kinds of leaps you're

14:46 1 wanting to make here are -- are, I think, very
14:46 2 hazardous without -- without knowing exactly what
14:46 3 we're talking about.

14:46 4 Q Well, for the purposes of our discussion right
14:46 5 now, would you agree that what we have established
14:46 6 from looking at Exhibit 10 is the fact that, where you
14:46 7 were on District 6 on S01 is the same place you are on
14:46 8 District 6 on draft maps Senate 7, Senate 8, and
14:46 9 Senate 9?

14:46 10 A Yes. I've already agreed with that.

14:46 11 MR. MEROS: Let's take a break when you are at
14:46 12 a breaking point, please.

14:46 13 MR. KING: Sure.

14:46 14 MR. MEROS: Okay.

14:46 15 (In recess from 2:46 to 2:56.)

14:56 16 BY MR. KING:

14:56 17 Q Mr. Guthrie?

14:59 18 A Yes, sir.

14:59 19 (Exhibit No. 11 was identified for the
14:59 20 record.)

14:59 21 BY MR. KING:

14:56 22 Q We have looked at one district now to see that
14:56 23 basically that district remained the same in -- from
14:57 24 S01 right through Senate 9. Let me show you another
14:57 25 example.

14:57 1 I'm going to show you Exhibit 11, which shows
14:57 2 you District 29. And do you see on the first page
14:57 3 there it shows District 29 in Senate comm, which was a
14:57 4 map that was closed out on October 7, 2011, a draft
14:57 5 map.

14:57 6 Do you see that?

14:57 7 A Yeah. I do see that, yes.

14:57 8 Q All right. And then if you look at the second
14:57 9 page, you see draft S01 looks exactly the same as
14:57 10 Senate comm; right? Same stats at the bottom?

14:57 11 A That is correct.

14:58 12 Q All right. And then you see the third page,
14:58 13 Senate 7. In Senate 7, exactly the same; right?

14:58 14 A You know, with the same explanation I have not
14:58 15 done a -- a block-by-block comparison --

14:58 16 Q Sure.

14:58 17 A -- but the statistics and the graphic look the
14:58 18 same, yes.

14:58 19 Q And then next to the last page, Senate 8 looks
14:58 20 the same; right?

14:58 21 A Yes. It looks the same.

14:58 22 Q And then it was the same as of November 15th;
14:58 23 right?

14:58 24 A So the plan that was last updated on November
14:58 25 15th --

14:58 1 Q Right.

14:58 2 A Yes.

14:58 3 Q And then actually that's what the final 29
14:58 4 looked like in 9004; right?

14:59 5 A That's what this sheet would indicate, yes.

14:59 6 Q All right. Do you have any reason to disagree
14:59 7 with that?

14:59 8 A No.

14:59 9 Q Okay. Then let me show you Exhibit 12.

14:59 10 Exhibit 12 is another district, District 36. And
14:59 11 this -- actually the very first page of this I think
14:59 12 shows us the point we wanted to make, and that is, if
14:59 13 you look at Senate comm on October 7, S01 on October
14:59 14 20, Senate 7 on November 3, and Senate 9 on November
14:59 15 15, the map is precisely the same; right?

14:59 16 (Exhibit No. 12 was identified for the
14:59 17 record.)

14:59 18 A I agree that they look the same.

14:59 19 BY MR. KING:

14:59 20 Q Okay. And, of course, you see that the stats
15:00 21 are exactly the same population -- the population
15:00 22 doesn't have to be the same in these districts; does
15:00 23 it, sir?

15:00 24 A What do you mean, they don't have --

15:00 25 Q Well, I mean, the population can vary from the

15:00 1 various maps for a district; right?

15:00 2 A The Supreme Court has, in its opinion, said
15:00 3 that a range of population, other than numerical
15:00 4 equality, was permissible for House and Senate --

15:00 5 Q Right?

15:00 6 A -- districts; is that what you're saying?

15:00 7 Q Yes.

15:00 8 A Okay.

15:00 9 Q And so if the population is the same in each
15:00 10 of these districts, that would sort of be very
15:00 11 indicative of the fact that these are identical
15:00 12 districts then; wouldn't it?

15:00 13 A I would say if all of the statistics,
15:00 14 including percentages carried to the hundredth point,
15:00 15 are the same, then -- then that -- that's sort of
15:00 16 evidence. Now in this case we don't see that with
15:00 17 respect to the Obama 2008 and the Sink 2010 numbers.

15:01 18 So what that tells me is that there are likely
15:01 19 block level differences between those plans --

15:01 20 Q Right.

15:01 21 A -- that, if I were to do the block-by-block
15:01 22 comparison, I would see. But you don't necessarily
15:01 23 see from, you know, from these gross graphics and --
15:01 24 and summary statistics.

15:01 25 Q Well, on 12 the stats, though, on -- on the

15:01 1 2008 and 2010 election are exactly the same to four
15:01 2 digits; aren't they?

15:01 3 A On 12?

15:01 4 Q On Exhibit 12?

15:01 5 A So what I am seeing for Obama is Scomm is --

15:01 6 Q Oh, I'm sorry. You're right. It's a
15:01 7 different -- the fourth digit, one is an 8, and the
15:01 8 other is a 6?

15:01 9 A Right.

15:01 10 Q Okay. So it's a slight -- and the same thing,
15:01 11 one is a 4, and two of them on -- on Sink, and -- so
15:02 12 those are very minuscule differences; right, if there
15:02 13 is a difference here?

15:02 14 A I believe that there is a difference, and --
15:02 15 and -- from the graphic it does not appear to be a
15:02 16 significant --

15:02 17 Q Right.

15:02 18 A -- difference in terms of -- of which
15:02 19 blocks -- but, again, the only way you know what the
15:02 20 difference is is to do a block-by-block comparison.

15:02 21 You may -- there may be a difference that
15:02 22 doesn't even involve population.

15:02 23 Q Sure.

15:03 24 MR. KING: Let's mark S.

14:59 25 (Exhibit No. 13 was identified for the

15:03 1 record.)

15:03 2 BY MR. KING:

15:03 3 Q I show you Exhibit 13, sir, and ask you if you
15:03 4 recognize that as S09, the map that was created around
15:04 5 November the 21st to the 23rd.

15:04 6 A Well, I -- I will accept your representation
15:04 7 that this is a map rendering of the block assignment
15:04 8 file called S09.DOJ. I have no -- I see nothing on
15:04 9 this page that would cause me to challenge that --
15:04 10 that claim.

15:04 11 Q All right. Now, S09 is the work product of
15:04 12 the Senate redistricting department; correct?

15:04 13 A I believe that it is, yes.

15:05 14 Q And that, of course, comes after you stopped
15:05 15 working on Senate 9; right?

15:05 16 A You cannot necessarily infer temporal order
15:05 17 from plan names. I mean, to the extent that the last
15:05 18 updated date of one plan precedes the created date of
15:05 19 another, you know that the first came first.

15:05 20 Q All right.

15:05 21 A But any time there is an overlap you don't --
15:05 22 you don't -- you can't really exactly infer or
15:05 23 deduce -- you cannot deduce temporal order.

15:05 24 Q Well, there -- you don't have to deduce
15:05 25 temporal order between Senate 9 and S09, because there

15:05 1 is no overlap; is there?

15:06 2 A Let me -- that is correct.

15:06 3 Q So we know that Senate 9 preceded S09; right?

15:06 4 A We do.

15:06 5 Q And in fact, S09 was created during that last
15:06 6 flurry of activity before you had to provide a
15:06 7 published map on November the 28th; isn't that right?

15:06 8 A It was created in the -- the week prior to
15:06 9 when the SS000S9004 was -- was published.

15:06 10 Q All right. So -- and there is no other
15:06 11 temporal map that is referred to in the list of maps,
15:07 12 draft maps that you provided us, between November the
15:07 13 15th and November the 21st; is there, sir?

15:07 14 A I -- if you want to -- if you have put these
15:07 15 in -- in order, and -- and determined that, that is
15:07 16 not something I would dispute.

15:07 17 Q Okay.

15:07 18 A It's not a determination that I have made.

15:07 19 Q All right.

15:07 20 MR. KING: Now let's look at A2 and B2.

15:08 21 BY MR. KING:

15:08 22 Q Now, Mr. Guthrie, to your knowledge, did
15:08 23 anybody, you or anybody else in the Senate
15:08 24 redistricting office, provide the data and information
15:08 25 about S09 to Mr. Heffley or Mr. Terraferma or

15:08 1 Mr. Bainter?

15:08 2 A I have no knowledge of that.

15:08 3 Q Are you aware that they had some of this
15:08 4 information contemporaneous with the time that S09 was
15:08 5 developed by your office?

15:08 6 A I am not aware of that, no.

15:08 7 (Exhibit No. 14 was identified for the
15:08 8 record.)

15:09 9 BY MR. KING:

15:09 10 Q All right. Let me show you Exhibit 14. And I
15:09 11 represent to you that Exhibit 14 is an e-mail, starts
15:09 12 at the bottom of the page, e-mail from Frank
15:09 13 Terraferma to Rich Heffley. And this is a document
15:09 14 that was produced by Mr. Terraferma.

15:09 15 And do you see that on November the 21st at
15:09 16 2:00 -- at -- on 2011 at 3:52 a.m. in the morning
15:09 17 Mr. Terraferma sends an e-mail to Mr. Heffley saying,
15:09 18 quote, CDs are on your chair. One of them, 8, has a
15:09 19 problem and can't be uploaded. Another one, 4, I
15:10 20 downloaded the political data and called it as such,
15:10 21 along with everything on the CDs.

15:10 22 The Larcenia is back in style, I see. Maybe
15:10 23 we should all -- all it the Lazarus seat instead.
15:10 24 Otherwise, looking good. Except why the Margolis seat
15:10 25 is still there is beyond me. That seat should have

15:10 1 been abolished ten years ago. TTY tomorrow.

15:10 2 And then do you see that Mr. Heffley says,
15:10 3 "I've been able to open up on two computers, let me
15:10 4 know when you get here."

15:10 5 Are you -- has anybody ever made you aware of
15:10 6 this e-mail, sir?

15:10 7 A No.

15:10 8 Q Did you put on a CD S08 and S04 to be provided
15:11 9 to the political operatives?

15:11 10 A No.

15:11 11 Q All right. Then you see Mr. Heffley responds
15:11 12 to Mr. Terraferma and says, "I've been able to open up
15:11 13 on two computers. Let me know when you get here."

15:11 14 Do you see that?

15:11 15 A I see that.

15:11 16 Q All right. Then next I'm going to show you
15:11 17 Exhibit 15. Exhibit 15 is an e-mail, again produced
15:11 18 by Mr. Terraferma, on November 21, 2011, 1:39 p.m.,
15:11 19 Terraferma to Heffley, "Here it is,
15:11 20 Heffley8polydata.xls" -- oh, xls. I'm sorry.

15:11 21 A We can't all be computer wonks.

15:11 22 Q I'm sorry. Some of us have reached an age
15:12 23 that we will never be computer wonks.

15:12 24 So my question to you is, sir, do you know
15:12 25 anything about Heffley8polydata?

15:12 1 A I do not.

15:12 2 Q Have you ever seen this before?

15:12 3 A No.

15:12 4 Q Now, you will see attached to this a data
15:12 5 sheet.

15:12 6 Do you see that?

15:12 7 A I'm turning to that now.

15:12 8 MR. KING: Let's get C2 and D2.

15:12 9 BY MR. KING:

15:12 10 Q Have you ever seen that data sheet before?

15:13 11 A No.

15:13 12 (Discussion off the record.)

15:13 13 BY MR. KING:

15:13 14 Q I show you Exhibit 16, which purports to be
15:13 15 the data sheet blown up for Heffley8polydata. And
15:13 16 then I show you --

15:13 17 MR. CANTERO: I don't have it.

15:13 18 BY MR. KING:

15:13 19 Q -- Exhibit 17 --

15:13 20 MR. CANTERO: Hold on.

15:13 21 MR. KING: Oh.

15:14 22 (Exhibit Nos. 16 and 17 were identified for
15:14 23 the record.)

15:14 24 MR. KING: And just for the record, we made

15:14 25 the yellow highlights on that document. That's not

15:14 1 the way it came.

15:14 2 BY MR. KING:

15:14 3 Q And next I show you Exhibit 17, which is the
15:14 4 data sheet for S09 DOJ, the -- the map produced by
15:14 5 your office.

15:14 6 A Okay. So what it looks like to me --

15:14 7 MR. KING: Do you have E2?

15:14 8 MR. CANTERO: There is no question.

15:14 9 MR. KING: Was the first one Exhibit 16?

15:14 10 MR. CANTERO: Yes.

15:14 11 MR. KING: And the second one is Exhibit 17.

15:15 12 And this, E2, is going to be Exhibit 18.

15:15 13 (Exhibit No. 18 was identified for the
15:15 14 record.)

15:15 15 BY MR. KING:

15:15 16 Q Next, sir, I show you Exhibit 18, which is a
15:15 17 comparison of 14 districts between Heffley8polydata
15:15 18 compared to S09.

15:15 19 Now, just so you will know, Mr. Guthrie, the
15:15 20 stuff we got from Mr. Heffley and Mr. Terraferma did
15:15 21 not have a picture of Heffley8polydata, didn't have a
15:16 22 map picture. So we don't have a map to look at to
15:16 23 compare to S09. So all we have is the data.

15:16 24 But do you see, sir, that for 14 districts
15:16 25 the -- the data, including the population and the

15:16 1 percentage of black, the percentage of Hispanics, and
15:16 2 so on, all of that is identical; is it not, sir?

15:16 3 A Would you like me to assume that, or do you
15:16 4 want me to look at the numbers on the page?

15:16 5 Q I'm asking -- why don't you test me. Look at
15:16 6 a few and see -- and see if we're right about that.

15:16 7 A It appears to me that the numbers provided for
15:17 8 districts in so-called Heffley8polydata are -- have
15:17 9 the same attributes in terms of population; black
15:17 10 percentage, black VAP percentage, Hispanic percentage
15:17 11 and Hispanic VAP percentage as the corresponding
15:17 12 districts in what is named here S09.

15:17 13 Q So in S09, Districts -- follow me -- Districts
15:17 14 1, 2, 3, 4, 5, 6, 8, 10, 14, 18, 20, 21, 23, and 25
15:18 15 have exactly the same data as that contained in the
15:18 16 possession of Rich Heffley and Frank Terraferma,
15:18 17 Heffley8polydata; right?

15:18 18 A I -- I reach the same conclusion you do
15:18 19 looking at this sheet.

15:18 20 Q And that cannot be a coincidence; can it, sir?
15:18 21 Two --

15:18 22 MR. CANTERO: What can't be?

15:18 23 BY MR. KING:

15:18 24 Q Two different map drawers drawing maps aren't
15:18 25 going to get precisely the same population percentages

15:18 1 on 14 different districts at the same time; are they?

15:18 2 MR. CANTERO: Object to the form.

15:18 3 A I would say it's not impossible, but it's not
15:18 4 likely.

15:18 5 BY MR. KING:

15:18 6 Q So wouldn't you agree with me that the most
15:19 7 likely inference to draw from this is that on the 21st
15:19 8 of November, at the same time you're starting to work
15:19 9 on S09, Heffley and Terraferma have got at least 14 of
15:19 10 your districts already?

15:19 11 A What I see is that what is called here
15:19 12 Heffley8polydata has the correspondence you described
15:19 13 with S09.

15:19 14 Q So when Mr. Terraferma is delivering a CD to
15:20 15 Mr. Heffley that contains this information in
15:20 16 district -- in something called 8, isn't it a fact
15:20 17 that what evidently he is delivering is the prior
15:20 18 iteration to S09, which was S08?

15:20 19 A I don't think you can deduce that, but -- but
15:20 20 you may choose to infer it.

15:20 21 Q Well, isn't it correct that this
15:20 22 establishes -- this is proof of the fact that there is
15:20 23 a breach of the information from your office that it's
15:20 24 getting to the -- to the political operatives as fast
15:20 25 as you're developing it?

15:20 1 MR. CANTERO: Object to the form.

15:20 2 A So I -- I see the numbers on the -- the page
15:21 3 and do not reach a different conclusion than you would
15:21 4 reach.

15:21 5 BY MR. KING:

15:21 6 Q I mean, your confidential materials that are
15:21 7 supposed to be secret and just going to the senators
15:21 8 are in the hands of the political operatives almost as
15:21 9 fast as you're putting this stuff on paper yourself;
15:21 10 right?

15:21 11 MR. CANTERO: Object to the form.

15:21 12 A I see the correspondence that you are asking
15:21 13 about, the -- the value judgment about how quickly
15:21 14 that's happening. I -- I'm -- and I don't want to be
15:21 15 ridiculous here -- but I -- that's -- that's your
15:21 16 statement, not mine.

15:21 17 I mean I -- I was doing my work and was
15:21 18 unaware of what might be going on in -- in this
15:22 19 parallel universe that I knew nothing about.

15:22 20 Q But your work seemed to be going out the door
15:22 21 as fast as it's done; right?

15:22 22 MR. CANTERO: Object to the form; asked and
15:22 23 answered.

15:22 24 BY MR. KING:

15:22 25 Q I mean, your office is leaking like a sieve;

15:22 1 isn't it?

15:22 2 MR. CANTERO: Object to the form.

15:22 3 Argumentative. Asked and answered.

15:22 4 BY MR. KING:

15:22 5 Q Well, I mean, do you have some other
15:22 6 explanation for how Mr. Heffley and Mr. Terraferma
15:22 7 have the work product of the Senate redistricting
15:22 8 office, Mr. Guthrie?

15:22 9 A I have no explanation of how they might have
15:22 10 been obtaining Senate drafts.

15:22 11 Q Well, isn't it fair to say that someone who
15:22 12 had access to this information in your office was
15:22 13 providing it to the political operatives --

15:23 14 MR. CANTERO: Object to the form.

15:23 15 BY MR. KING:

15:23 16 Q -- right?

15:23 17 MR. CANTERO: Calls for speculation.

15:23 18 A So what we see is the correspondence, right,
15:23 19 you know, the -- which -- which has evidentiary value
15:23 20 in and of itself, but I don't know that -- that we
15:23 21 have proven anything. We certainly haven't proven how
15:23 22 or why or who -- we haven't proven that there is a
15:23 23 leak. And we haven't proven who or how or why such a
15:23 24 leak occurred.

15:23 25 BY MR. KING:

15:23 1 Q Well, if there is not a leak, Mr. Guthrie, how
15:23 2 is it that Mr. Heffley and Mr. Terraferma have the
15:23 3 data on 14 of your districts that end up in S09 on
15:23 4 November the 21st to the 23rd? And they've got it on
15:24 5 November the 21st. How does that happen without a
15:24 6 leak?

15:24 7 A I don't know.

15:24 8 Q I mean, Mr. Heffley and Mr. Terraferma didn't
15:24 9 get to range around your office looking at your work
15:24 10 product in your presence; did they?

15:24 11 A In my presence, I do not think they ever came
15:24 12 into my office --

15:24 13 Q So --

15:24 14 A -- during this time period.

15:24 15 Q So if that's the case, then the next logical
15:24 16 assumption is that someone in your office or someone
15:24 17 you're providing information to legitimately, like the
15:24 18 chairman of the committee or his staff member,
15:24 19 Mr. Clark, somebody was providing that information to
15:24 20 Heffley and Terraferma; right?

15:24 21 A Well, another possibility would be that it
15:25 22 was -- it was intercepted surreptitiously by some sort
15:25 23 of, you know, computer intrusion or -- or -- or -- I
15:25 24 mean, that is possible.

15:25 25 Q Sure.

15:25 1 A And I -- and I -- and I don't know how on
15:25 2 earth that could have happened. It's nothing that I
15:25 3 was aware of.

15:25 4 Q So you don't have any evidence of that
15:25 5 occurring?

15:25 6 A Of --

15:25 7 Q Of being hacked?

15:25 8 A I do not.

15:25 9 Q But you do know that there are people involved
15:25 10 in this that had access to this information that have
15:25 11 relationships with Heffley and Terraferma; right?

15:25 12 A Yes, I know that.

15:25 13 Q You know that Mr. Clark had a close
15:25 14 relationship with Mr. Heffley; right?

15:25 15 A I know that he had a relationship.

15:25 16 Q All right. You knew that Senator Gaetz had a
15:26 17 close relationship with Mr. Heffley; right?

15:26 18 A Again, the -- I want to be careful with --
15:26 19 with the adjectives here. Senator Gaetz -- I -- what
15:26 20 I do know is that Senator Gaetz had communicated --
15:26 21 you know, would meet with Mr. Heffley from time to
15:26 22 time.

15:26 23 Q Well, Mr. Heffley was a long-time political
15:26 24 consultant of Senator Gaetz; wasn't he? Wasn't he?

15:26 25 A I've --

15:26 1 MR. CANTERO: Object to the form.

15:26 2 A I have seen evidence from the earlier trial
15:26 3 that there was -- which is how I became aware of -- of
15:26 4 any such relationship -- that -- that Senator Gaetz
15:26 5 had -- had an association with Mr. Heffley.

15:27 6 BY MR. KING:

15:27 7 Q So -- so let me get this straight here. So,
15:27 8 now, back in October -- in October, Heffley and
15:27 9 Terraferma were aware -- and Bainter -- were aware of
15:27 10 what you were doing at the end of October -- October
15:27 11 28th they had S01, and none of the senators did;
15:27 12 correct, except maybe Senator Gaetz?

15:27 13 A And I am not saying that Senator Gaetz had --

15:27 14 Q All right.

15:27 15 A -- S -- S01 or any particular plan.

15:27 16 Q So maybe they knew more about the work -- your
15:27 17 work than any of the senators did at the end of
15:27 18 October; right?

15:27 19 MR. CANTERO: Object to the form.

15:27 20 BY MR. KING:

15:27 21 Q If they had the plan and the senators didn't.

15:27 22 MR. CANTERO: Objection; calls for
15:27 23 speculation.

15:27 24 A So -- I mean they had, you know, through --
15:28 25 through discovery we have an idea of what they had,

15:28 1 and -- and as far as I know, that information had not
15:28 2 been provided to them or anyone else, to my --

15:28 3 BY MR. KING:

15:28 4 Q And so then --

15:28 5 A -- knowledge.

15:28 6 Q So then, on November the 21st, once again,
15:28 7 Heffley and Terraferma are right on top of what you're
15:28 8 doing in your office. They've got 14 of the districts
15:28 9 in S09. And, again, none of the senators know
15:28 10 anything about S09; right --

15:28 11 A On --

15:28 12 Q -- on November the 21st?

15:28 13 A I would think that the chairman would be --
15:28 14 would be at least generally aware of what I was doing
15:29 15 to model districts on his behalf.

15:29 16 Q Okay. So Senator Gaetz, Frank Terraferma, and
15:29 17 Rich Heffley are the most informed about the work of
15:29 18 your Senate redistricting committee as of November the
15:29 19 21st, and no more than any of the other 28 members of
15:29 20 the committee on reapportionment; right?

15:29 21 A I believe that with respect to Senator Gaetz.
15:29 22 I don't know that with respect to Mr. Terraferma or
15:29 23 Mr. Heffley.

15:29 24 Q Well, you know that Terraferma and Heffley had
15:29 25 14 of the districts that were going to be in S09, and

15:29 1 none of your other senators on the reapportionment
15:29 2 committee knew anything about those districts; did
15:29 3 they, sir?

15:29 4 A Not as far as I know.

15:29 5 MR. CANTERO: Objection; calls for
15:29 6 speculation.

15:29 7 BY MR. KING:

15:29 8 Q Not as far as what?

15:29 9 A As I know.

15:30 10 Q Now that's not the way it's supposed to work;
15:30 11 is it, Mr. Guthrie?

15:30 12 A I am surprised that -- that persons who were
15:30 13 not working directly with the Senate committee or --
15:30 14 or Senate staff had -- had access to the computer, if
15:30 15 they did.

15:30 16 Q And by -- well, you've certainly seen evidence
15:30 17 here today that they did; right?

15:30 18 A I -- I've seen the same -- the evidence that
15:30 19 you've provided, yes.

15:30 20 Q And if they knew the direction you were going,
15:30 21 that allowed them to give information to senators
15:31 22 about the political results of those decisions that
15:31 23 were being made; isn't that right?

15:31 24 A If you have a block assignment file, and you
15:31 25 know demographic attributes by block, then -- then

15:31 1 anybody could -- could make those calculations and --
15:31 2 and -- and aggregate whether it's census data or
15:31 3 elections data or whatever, or -- or socioeconomic
15:31 4 data. All of those kinds of data could be aggregated
15:31 5 from block level to district level if you had a block
15:31 6 assignment file.

15:31 7 Q And from what you've heard about the political
15:31 8 operatives, I mean, Mr. Terraferma's referred to as
15:31 9 genius mapmaker. I mean, you understand that they
15:32 10 would have the ability to do those kind of things;
15:32 11 right? You listened to them testify at the trial.

15:32 12 A The -- I don't recall -- that may have been
15:32 13 their testimony during trial. I don't recall them
15:32 14 testifying to their evaluation of political
15:32 15 performance, but it wouldn't shock me to -- to have,
15:32 16 you know -- if somebody said that they -- they maybe
15:32 17 were.

15:32 18 Q Now, let me ask you very directly. Doesn't
15:32 19 this lead you to believe that Mr. Heffley and
15:32 20 Mr. Terraferma had in their possession draft 8, S08?

15:33 21 MR. CANTERO: Objection; calls for
15:33 22 speculation; asked and answered.

15:33 23 A So that question seems to call for
15:33 24 speculation, and I believe it's been asked and
15:33 25 answered.

15:33 1 BY MR. KING:

15:33 2 Q Well, I guess my question to you, then, more
15:33 3 directly is, was there an S08, Mr. Guthrie?

15:33 4 A I don't know.

15:33 5 MR. MEROS: Mr. Heffley?

15:33 6 MR. KING: No, Mr. Guthrie. I'm asking
15:33 7 Mr. Guthrie.

15:33 8 MR. MEROS: I thought you said Mr. Heffley.

15:33 9 MR. KING: No. I said Mr. Guthrie. I
15:33 10 believe. I hope. He doesn't look anything like
15:33 11 Mr. Heffley.

15:33 12 BY MR. KING:

15:33 13 Q So let me ask it again, since we --
15:33 14 Mr. Guthrie, was there an S08?

15:33 15 A I don't know.

15:33 16 Q Well, wouldn't that suggest that there was?

15:34 17 MR. CANTERO: Object to the form; calls for
15:34 18 speculation.

15:34 19 A If -- if you believed that -- that I created
15:34 20 along the way plans numbered sequentially from S01 to
15:34 21 S09, then -- then you would infer that all the
15:34 22 intermediate numbers were -- were populated.

15:34 23 But I -- I explained earlier that my naming
15:34 24 convention doesn't -- as I know it, or as I remember
15:34 25 it -- doesn't really support leaping to that

15:34 1 conclusion.

15:34 2 I may have skipped number 8, or I may have --
15:34 3 I may have skipped -- what I -- what I -- you know, to
15:34 4 be fair, what I don't expect that I would do is -- is
15:35 5 do 1, and then 8, and then 3, and then 9. I think
15:35 6 there would have been a progression in the way that I
15:35 7 name things, just because that would make sense to me.

15:35 8 But -- but you don't know that I ever had a
15:35 9 draft with every single number in between.

15:35 10 BY MR. KING:

15:35 11 Q All right. But the name of that is
15:35 12 Heffley8polydata. So we've got 8 in the title that
15:35 13 Heffley gave it; right?

15:35 14 A That's what I see on the page here, yes.

15:35 15 Q And that's not a direct match to that -- to
15:35 16 S09. It's only 14 districts that match.

15:35 17 A You showed me 14. I --

15:35 18 Q Right.

15:35 19 A I don't know about the others.

15:35 20 Q The rest are different.

15:35 21 A Okay. I will take your word for it.

15:35 22 Q So wouldn't that seem to support the idea that
15:35 23 this was a work in progression, that you had 14 of the
15:35 24 districts the same, but there were others that were
15:35 25 different. And then you move on and create S09?

15:36 1 MR. CANTERO: Object to the form.

15:36 2 A So -- I mean, a lot of this is -- is -- is a
15:36 3 matter of fact based on what these artifacts show and
15:36 4 what they hold.

15:36 5 BY MR. KING:

15:36 6 Q Right.

15:36 7 A And -- and -- and whatever the facts are, I
15:36 8 accept the facts.

15:36 9 Q Well, we're having to put the facts together
15:36 10 as much as we can, because a lot of stuff doesn't
15:36 11 exist anymore; isn't that right?

15:36 12 A I did not retain every draft map that I worked
15:36 13 on during this process.

15:36 14 Q But -- but isn't it -- isn't it interesting,
15:36 15 evidently, that the ones that you didn't retain are
15:36 16 the ones that end up in the hands of the political
15:36 17 operatives?

15:36 18 MR. CANTERO: Object to the form.

15:36 19 BY MR. KING:

15:36 20 Q What does that mean?

15:36 21 A What I -- what --

15:36 22 MR. CANTERO: Hold on. Assumes facts not in
15:36 23 evidence.

15:36 24 Go ahead.

15:36 25 BY MR. KING:

15:36 1 Q Well, let's -- let's review the -- the facts.
15:37 2 S01 ends up in the hands of Mr. Heffley and
15:37 3 Mr. Terraferma. You don't have a copy of it. The
15:37 4 Senate of Florida does not have a copy of S01; right?

15:37 5 A That is correct.

15:37 6 Q All right. Then we get to polydata 8, which
15:37 7 contains 14 districts that looks like it was S08.
15:37 8 It's in the hands of the political operatives, and you
15:37 9 don't have a copy of it; right?

15:37 10 MR. CANTERO: Object to the form; assumes
15:37 11 facts not in evidence.

15:37 12 A Is there an S08 that you've shown me, other
15:37 13 than this Heffley8polydata?

15:37 14 BY MR. KING:

15:37 15 Q It's referred to as 8. But I have not shown
15:37 16 you a map that says S08, because you haven't produced
15:37 17 one.

15:37 18 The question is, was there one, and is the
15:37 19 data on Heffleypolydata8 or Heffley8polydata -- is
15:38 20 that from S08?

15:38 21 A I don't know.

15:40 22 (Discussion off the record.)

15:40 23 BY MR. KING:

15:40 24 Q Now, do you know a fellow named Tony Cortese?

15:40 25 A I do.

15:40 1 Q And who do you know him to be?

15:41 2 A He presently is a policy director in the
15:41 3 Senate president's office.

15:41 4 Q And --

15:41 5 MR. CANTERO: Tom, do you have a copy of that?

15:41 6 MR. ZEHNDER: Yeah. He hasn't given it to him
15:41 7 yet.

15:41 8 MR. KING: I haven't given it to him.

15:41 9 MR. ZEHNDER: Oh.

15:41 10 MR. KING: I'm just asking questions.

15:41 11 BY MR. KING:

15:41 12 Q And so does that mean he is an aide to
15:41 13 President Gardiner?

15:41 14 A Yes. He -- he is executive staff to the
15:41 15 Senate president.

15:41 16 Q Now, back in 2012, in April of 2012, what was
15:41 17 he doing; do you know?

15:41 18 A He was staff director of the Senate majority
15:41 19 office.

15:41 20 Q Okay. And would you provide him information
15:41 21 about redistricting?

15:41 22 A If Mr. Cortese asked me for information, I
15:41 23 would provide it, yes.

15:41 24 Q Had you provided him information before during
15:42 25 the redistricting process in -- from October of 2011

15:42 1 through April of 2012?

15:42 2 A I -- I don't know -- I don't know. I mean --
15:42 3 so -- did I provide information. I provided -- I
15:42 4 provided information to many, many, many Senate staff.
15:42 5 But if you're asking about draft plans, I don't have,
15:42 6 as I sit here today, a specific recollection of
15:42 7 providing draft plans to Mr. Cortese.

15:43 8 Q Would you -- would you give him information
15:43 9 about maps or data or plans or decisions regarding
15:43 10 districts?

15:43 11 A I would have communicated with Mr. Cortese
15:43 12 about the work that I was doing, yes.

15:43 13 Q On a regular basis?

15:43 14 A Not daily, but -- but I -- I would say most
15:43 15 weeks I would see Mr. Cortese somewhere along the
15:43 16 line.

15:43 17 Q And he was always interested in your
15:43 18 redistricting work?

15:43 19 A As staff director of the Senate majority
15:43 20 office, he -- he was interested in the work of that
15:43 21 committee, yes.

15:43 22 Q All right, sir. I show you Exhibit 19 and ask
15:44 23 you if you recognize that as a -- the bottom line
15:44 24 there -- as an e-mail that you sent to Mr. Cortese on
15:44 25 April 11th, 2012, and the subject was: Attached

15:44 1 draft. And you say, "Draft is attached."

15:44 2 (Exhibit No. 19 was identified for the
15:44 3 record.)

15:44 4 BY MR. KING:

15:44 5 Q Do you see that?

15:44 6 A I see that.

15:44 7 Q Did you send that e-mail?

15:44 8 A I have no reason to doubt that I sent that
15:44 9 e-mail.

15:44 10 Q All right. And so what you were sending him
15:44 11 was a draft of the brief, as you all were getting
15:44 12 started in litigation over the maps the second time;
15:44 13 right?

15:44 14 A I believe that the Senate's brief in the
15:44 15 apportionment 2 case was due on April 13th. So this
15:45 16 would have been a couple days before that.

15:45 17 Q So did you understand that he would send it to
15:45 18 Pat Bainter?

15:45 19 A No.

15:45 20 Q Was that okay, as far as you were concerned?

15:45 21 A That -- I did not know that that would happen,
15:45 22 and I -- I don't -- as I sit here today, I'm not
15:45 23 inclined to make value judgments about what others
15:45 24 decide to do.

15:45 25 Q Okay. Did he ask you for the brief? Is that

15:45 1 why you sent it to him?

15:45 2 A I don't recall.

15:45 3 Q Would you have just -- let me see who to send
15:45 4 the brief to. I believe I will send it to
15:45 5 Mr. Cortese?

15:45 6 MR. CANTERO: Objection; sarcastic.

15:45 7 MR. KING: I'm -- I'm just trying to figure
15:45 8 out what would happen here. I'm not trying to be
15:45 9 sarcastic.

15:45 10 MR. ZEHNDER: That is on the list somewhere
15:46 11 I'm sure; right?

15:46 12 BY MR. KING:

15:46 13 Q Would you send it to Mr. Cortese if he didn't
15:46 14 ask for it?

15:46 15 A I sent some e-mails and some documents to
15:46 16 Mr. Cortese without any initiative from him. And I
15:46 17 sent others that he requested. So I -- I may have
15:46 18 done it either way.

15:46 19 And I -- in this particular case, I don't
15:46 20 remember whether it was something I sent unsolicited
15:46 21 or whether it was something he requested of me.

15:46 22 Q Did you know that Mr. Cortese had a
15:46 23 relationship with Mr. Bainter?

15:47 24 A I don't think I -- I know that, no, or knew it
15:47 25 at the time.

15:47 1 Q Did you know at that time that Senator
15:47 2 Gardiner had a relationship with Mr. Bainter?

15:47 3 A I did not know at that time.

15:47 4 Q Okay. Now, did Mr. Bainter provide any
15:47 5 feedback on the brief?

15:47 6 A I have no idea, none to me.

15:47 7 Q Did Mr. Cortese or Mr. Gardiner provide any
15:47 8 feedback on the brief?

15:47 9 A Mr. -- Senator Gardiner may have been present
15:48 10 in meetings with counsel where the brief was
15:48 11 discussed. I really don't have a specific
15:48 12 recollection. But it would not have been unusual, in
15:48 13 my mind, for -- for Senator Gardiner to communicate
15:48 14 directly to counsel any feedback that he had.

15:48 15 Q Okay. Now, I assume you're aware that a
15:48 16 number of the public maps that came to the -- came
15:48 17 through the public portal in the public process that
15:48 18 ended on November the 1st, ostensibly, a number of
15:48 19 those maps were submitted by Mr. Terraferma and
15:48 20 Mr. Bainter and Mr. Heffley through third parties. Do
15:49 21 you recall that? Are you aware of that?

15:49 22 A I -- I know that there was a -- a set of maps
15:49 23 that came in from people who -- who indicated their --
15:49 24 their city of residence was Gainesville. And they all
15:49 25 came in on the same day.

15:49 1 But -- but other than what I might have heard
15:49 2 during the congressional trial, I really didn't know
15:49 3 what -- you know, what the origin of those -- those
15:49 4 maps was.

15:49 5 Q And were those maps suspicious to you at all?

15:49 6 A It -- the fact that a number of maps came in
15:49 7 all indicating they were from Gainesville looked
15:49 8 unusual to me when they first came in.

15:49 9 Q And you all studied those maps pretty
15:49 10 carefully; right?

15:49 11 A What I did when I -- when I received maps
15:50 12 from -- from the public submission process was process
15:50 13 them to the web. So there -- there was some work that
15:50 14 I had to do on the Senate side and that Mr. Kelly had
15:50 15 to do on the House side in order to get all these
15:50 16 public submissions or amendments by committee or
15:50 17 senators or -- or representatives posted on the
15:50 18 website.

15:50 19 So we would do that. I -- you know, sometimes
15:50 20 would -- would take a look at maps once they came in.
15:50 21 If it came from the League of Women Voters, I would
15:50 22 look at it very carefully as soon as I could. If it
15:50 23 came in from the NAACP, I would look at it very
15:50 24 carefully.

15:50 25 Routinely I didn't -- didn't scrutinize or

15:50 1 analyze every plan that came in from the public, and I
15:50 2 don't remember doing that with -- with any of these
15:51 3 maps that came from -- from Gainesville, you know, on
15:51 4 that date or at that time.

15:51 5 We did look at them later.

15:51 6 Q Well, as you were explaining the decisions
15:51 7 that you made, you indicated that you relied on those
15:51 8 maps as you were drawing and making decisions about
15:51 9 districts; isn't that right?

15:51 10 MR. CANTERO: Object to the form.

15:51 11 A So the -- because you've shown it to me in the
15:51 12 prior deposition, and, I mean, I'm generally aware
15:51 13 that I wrote a script that -- for Senator Gaetz that
15:51 14 talked about commonalities between public submissions
15:51 15 and the S9004.

15:52 16 BY MR. KING:

15:52 17 Q Well, you did more than write a script for
15:52 18 president -- for Senator Gaetz about reviewing the
15:52 19 public maps and making attributions about how they
15:52 20 influenced you; didn't you?

15:52 21 A I don't clearly understand the question.

15:52 22 Q Well, let me show you a couple of things here.
15:52 23 Let's see if we can figure this out. Let me show you
15:52 24 Exhibit 20. Exhibit 20 is a committee meeting
15:52 25 expanded agenda which describes each of the 40

15:52 1 districts in the Senate Map 9004 and indicates which
15:52 2 of the public maps were persuasive as to drawing those
15:53 3 districts; doesn't it, sir?

15:53 4 (Exhibit No. 20 was identified for the
15:53 5 record.)

15:53 6 A I -- I see what that -- what that memo or what
15:53 7 that document says, yes.

15:53 8 BY MR. KING:

15:53 9 Q And didn't your staff produce Exhibit 20, sir?

15:53 10 A I believe that we -- that the reapportionment
15:53 11 staff -- Senate reapportionment staff did produce
15:53 12 this, yes.

15:53 13 Q So the -- the material that in -- that is in
15:53 14 this is accurate and correct; right? Because you --
15:53 15 your office prepared it?

15:53 16 A Well, we are not perfect, and -- we were not
15:53 17 perfect, but we strived for accuracy, yes.

15:53 18 Q And everything you said there you intended to
15:53 19 be true and correct; right?

15:53 20 A I would not write a document that I believed
15:53 21 to be false, I don't think.

15:53 22 Q And did you actually draft this document
15:54 23 yourself?

15:54 24 A I believe that it was probably a collaboration
15:54 25 for which I was ultimately responsible.

15:54 1 Q And you read it over certainly before you put
15:54 2 it into the public record; right?

15:54 3 A I -- and -- and this document is the one that
15:54 4 was included in the meeting packet, may I ask?

15:54 5 Q Yes, sir. That's what it reflects there. It
15:54 6 was in the meeting packet for the December 6, 2011,
15:54 7 meeting at which 2000 -- I mean 9004 was passed by the
15:54 8 committee; right?

15:54 9 A That was the meeting when 9004 was -- was
15:54 10 introduced -- I think the committee moved to introduce
15:54 11 9004 as a committee bill.

15:54 12 Q Yes.

15:54 13 A And -- and -- so if it was in the meeting
15:55 14 packet, then I -- I would -- I was ultimately
15:55 15 responsible for everything that went out in -- in a
15:55 16 meeting packet. And so I would have read this
15:55 17 document.

15:55 18 Q And -- and this went to each member of the
15:55 19 committee so they could see how you all came up with
15:55 20 the districts that they were going to be voting on
15:55 21 that day; right?

15:55 22 A Not only did it go to all the members of the
15:55 23 committee, but it also was posted on the website and
15:55 24 was available to --

15:55 25 Q Sure.

15:55 1 A -- to the world.

15:55 2 Q And so in this do you now understand that
15:55 3 Senate public maps 84, 85, 90, 105, 108, 123, 143,
15:55 4 146, and 147, all came out of the map-making process
15:56 5 of Bainter, Terraferma, Heffley, and Reichelderfer?

15:56 6 A I caused all of the public submissions that
15:56 7 the -- that were posted on the website to go there.
15:56 8 When we published them, we indicate the name of the
15:56 9 person who made the submission and -- and the person's
15:56 10 residence, city.

15:56 11 And although the House did -- we also included
15:56 12 House plans on the Senate side. And the House chose
15:56 13 to show not cities, but rather counties. So if it was
15:56 14 submitted through the House process, it would have the
15:56 15 county name. If it came through the Senate process,
15:56 16 it would be the city name.

15:56 17 So I -- you rattled off a lot of numbers
15:56 18 there. And -- and, I mean, who submitted those maps,
15:57 19 as far as I know -- knew, were the people whose names
15:57 20 appeared on -- on the submission form. The -- the
15:57 21 connection between those maps and -- and
15:57 22 Mr. Terraferma or Mr. Heffley or -- who was the third
15:57 23 person you said?

15:57 24 Q Reichelderfer.

15:57 25 A Or Mr. Reichelderfer.

15:57 1 Q And Terraferma.

15:57 2 A Yeah, I really didn't --

15:57 3 MR. ZEHNDER: Bainter.

15:57 4 BY MR. KING:

15:57 5 Q Bainter.

15:57 6 A I did not know anything about that sort of
15:57 7 connection until discovery during the congressional
15:57 8 trial.

15:57 9 Q But now you understand; right?

15:57 10 A I am generally aware of the evidence that was
15:57 11 presented during the congressional trial.

15:57 12 Q And the evidence was sufficient to convince
15:57 13 you that these maps came out of Mr. Bainter's
15:57 14 map-making factory with the assistance of Heffley and
15:58 15 Terraferma and Reichelderfer?

15:58 16 MR. CANTERO: Object to the form.

15:58 17 A That's a pretty broad compound. But -- but --

15:58 18 MR. CANTERO: Object to the characterization.

15:58 19 A I -- I heard the evidence that was presented
15:58 20 during the congressional trial.

15:58 21 BY MR. KING:

15:58 22 Q I mean, you say you -- you looked over the
15:58 23 maps that Mr. Chen and Rodden examined. Did you
15:58 24 compare the Schmedlov 3 map to Alex Patton's 143
15:58 25 public submission?

15:58 1 A I looked at that yesterday.

15:58 2 Q And did you see that it was identical?

15:58 3 A I did.

15:58 4 Q Okay. So I don't have to prove that those --

15:58 5 A No.

15:58 6 Q -- are identical --

15:58 7 A Block --

15:58 8 Q -- to satisfy you?

15:58 9 A Block for block they're identical.

15:58 10 Q All right. So if the testimony clearly was
15:58 11 that Mr. Terraferma, that map emanated from Terraferma
15:58 12 and Bainter and Heffley, you would agree, then, that
15:58 13 the Patton map is --

15:58 14 A If --

15:59 15 Q -- identical to it?

15:59 16 A If Schmedlov is a product of one of those
15:59 17 persons, then the Patton map is -- what I can testify
15:59 18 to is the Patton map is identical to Schmedlov.

15:59 19 Q And so actually the Patton map was one that
15:59 20 you relied on very heavily; isn't that correct, sir?

15:59 21 MR. CANTERO: Object to the form.

15:59 22 A The Patton map was one that, in describing
15:59 23 the -- the relationships between the public hearings
15:59 24 and the public map submissions and the product that
15:59 25 was -- that the Senate was -- the Senate committee was

15:59 1 being asked to introduce as a proposed committee
16:00 2 bill -- I lost my train of thought there -- the --

16:00 3 BY MR. KING:

16:00 4 Q The question was the Patton map was a map that
16:00 5 you relied on very heavily; isn't that correct --

16:00 6 MR. CANTERO: Object to the form.

16:00 7 BY MR. KING:

16:00 8 Q -- as far as 9004 is concerned?

16:00 9 A It was a map that exhibited a number of -- of
16:00 10 commonalities with 9004. We -- we may have used the
16:00 11 word "relied on" in -- in writing the meeting
16:00 12 materials and in -- in drafting a script for Senator
16:00 13 Gaetz. But the -- the way that public input was --
16:00 14 was factored by the committee staff is, we took in all
16:01 15 of the hearings -- which I and the staff, by and
16:01 16 large, attended all of the meetings -- myself, I
16:01 17 attended all of them; staff attended most of them --
16:01 18 and all of the submissions, the map submissions kind
16:01 19 of in toto, whether they were submitted to the Senate
16:01 20 or the House, and gleaned from those sort of general
16:01 21 ideas or concepts about what could be done in terms of
16:01 22 modeling districts that would comply with the
16:01 23 constitutional guidelines.

16:01 24 So we -- we did this general exercise, and
16:01 25 then we, irrespective of what the maps were, who

16:01 1 submitted them, we -- we went about preparing the
16:01 2 drafts that we produced for Senator Gaetz. And -- and
16:01 3 then it was later in the process when, just to provide
16:02 4 some context for the -- the meeting on December 6, I
16:02 5 asked staff to help me put together this document,
16:02 6 which -- which describes commonalties.

16:02 7 And -- and we used the term -- I regret today
16:02 8 that I used the term "relied upon," because I don't
16:02 9 think we relied upon any particular district from any
16:02 10 particular public submission. But we did take all of
16:02 11 the material that was provided to the committee into
16:02 12 consideration in trying to model districts that were
16:02 13 compliant with the constitutional guidelines.

16:02 14 Q But you told the public when they were
16:02 15 submitting -- to get them to submit these maps, that
16:02 16 you were going to rely on their proposals, look at
16:03 17 them, and see if they made sense, and then utilize
16:03 18 them if they -- they did; didn't you?

16:03 19 A I believe that we told the public that their
16:03 20 input would be considered.

16:03 21 Q Right.

16:03 22 A And -- and it was.

16:03 23 Q But what you really did was, as I understand
16:03 24 what you just said, is that you drew the map and got
16:03 25 it the way you wanted it, and then you looked through

16:03 1 the public maps to see if there were identical
16:03 2 districts, and then you referred to that as that's an
16:03 3 identical district to --

16:03 4 A Well, you -- you left a step out.

16:03 5 Q Okay.

16:03 6 A The first step was that we considered the
16:03 7 input that we had gotten from the public.

16:03 8 Q Okay.

16:03 9 A Then we did our modeling, and then we wrote a
16:03 10 script or wrote a -- wrote these scripts --

16:03 11 Q Isn't it correct, sir, in Exhibit 20 that
16:03 12 you -- the only district that -- I mean, the only
16:03 13 public map that is referred to for Districts 3, 6, and
16:03 14 14, is Alex Patton's 143? You can look at District 3
16:04 15 on page 1, at the bottom of page 1.

16:04 16 A Okay.

16:04 17 Q District 6 down toward the bottom of page 2.

16:04 18 A Correct.

16:04 19 Q And District 14 on page 4 in the middle --
16:04 20 middle of the page.

16:04 21 A That is correct.

16:04 22 Q Now, you could have referred to a lot of other
16:04 23 districts that his map was the closest to, but you
16:04 24 chose not to do that; isn't that correct?

16:04 25 A I believe that's correct, yes.

16:04 1 Q So you made a conscious decision not to refer
16:04 2 to Mr. Patton's map very much; isn't that correct?

16:04 3 A What -- I did make a conscious decision about
16:04 4 the contents in -- in this memo. And what I was
16:05 5 conscious of is -- is not wanting to state that we
16:05 6 relied on a single public hearing or a single map in
16:05 7 terms of -- of where we found commonalties.

16:05 8 Q Even though you did?

16:05 9 A There were more commonalties with the Alex
16:05 10 Patton submission than many, if not most, of the other
16:05 11 public submissions.

16:05 12 Q Than any other public submission; isn't that
16:05 13 correct?

16:05 14 A I -- well, I've not done that analysis. There
16:05 15 were a lot of similarities with the NAACP map. And I
16:05 16 think there -- so, I mean, the -- the facts are what
16:05 17 they are. You -- you know, anybody can -- can look
16:05 18 and see, but I've not done that analysis.

16:06 19 Q I show you Exhibit 21 and ask if you recognize
16:06 20 that document?

16:06 21 (Exhibit No. 21 was identified for the
16:06 22 record.)

16:06 23 A And this was a Senate production or something
16:06 24 you got off the Senate website or --

16:06 25 BY MR. KING:

16:06 1 Q Yes, sir.

16:06 2 A Okay.

16:06 3 Q Isn't it correct, sir, that Exhibit 21 is a
16:06 4 document produced by your office in support of the
16:06 5 enacted 9008?

16:06 6 A Where it says "Senate Casebook" at the top,
16:07 7 what I recall is Senator Gaetz requested of the staff
16:07 8 that we provide him what he called casebooks for him
16:07 9 to have at his disposal during legislative debate
16:07 10 on -- when he presented this bill on the floor of the
16:07 11 Senate.

16:07 12 Q All right. And in the descriptions of each of
16:07 13 the 40 districts, you also indicate districts that --
16:07 14 from the public maps -- that lined up with the
16:07 15 districts you referred to; right, with the districts
16:07 16 you've drawn?

16:07 17 A As I flip through this, I'm not seeing that.
16:07 18 But I -- I -- that does not surprise me -- well, here
16:07 19 I see total public testimony -- well, is that it or --

16:07 20 Q You --

16:07 21 A -- I mean, again, the words are what they are.

16:07 22 Q Well, if you look at --

16:08 23 A Yeah, point me to a particular page.

16:08 24 Q Let's look at District 2. And it's on page
16:08 25 17. And you see it refers to -- at the top of the

16:08 1 page it refers to maps, and it says, plans containing
16:08 2 a district similar -- a district similar to District 2
16:08 3 encompassing the same counties and using I-75 in Ocala
16:08 4 and Marion County as a boundary, 143 by Alex Patton.

16:08 5 A Yes.

16:08 6 Q Do you see that?

16:08 7 A I see that.

16:08 8 MR. CANTERO: Sorry. What page are you guys
16:08 9 on?

16:08 10 MR. KING: That's on page 17.

16:08 11 BY MR. KING:

16:08 12 Q Another one, for example, on page 30, that's
16:08 13 for District 4.

16:09 14 A Page 30. Okay.

16:09 15 Q District 4. And do you see that down at the
16:09 16 bottom of the page, plan identical to this district,
16:09 17 143 by Alex Patton?

16:09 18 A Yes, I see that.

16:09 19 Q I'm sorry. That was District 5.

16:09 20 A Yeah. I wasn't proofing that. I was going by
16:09 21 the page number.

16:09 22 Q That was District 5.

16:09 23 A Yeah.

16:09 24 Q Would -- would you be surprised -- I'm not
16:09 25 going to go through each of these, but would you be

16:09 1 surprised to know that you relied on -- or that you
16:09 2 referred to Alex Patton on Districts 5, 2, 7, and 11,
16:09 3 that that map was the only one that was referred to on
16:10 4 each of the discussions of those four districts, and
16:10 5 then you also relied -- or not relied -- referred to
16:10 6 Patton on District 22 as well? Would that surprise
16:10 7 you?

16:10 8 A That would not surprise me.

16:10 9 Q Okay. And in fact, as you look at the cover,
16:10 10 what you see is that District 5, 2, 7, and 11,
16:10 11 basically your map was modeled after Mr. Patton's map
16:10 12 across the top of North Florida; do you see that?

16:10 13 A Do -- so what I think I hear you saying is
16:10 14 that in this -- this case book we say that Patton is
16:10 15 identical to 9008 in those four districts; is that
16:11 16 what it says?

16:11 17 Q Yes, sir.

16:11 18 A Because what you've given me here is a
16:11 19 185-page -- or 186-page --

16:11 20 Q I'm not saying it's exactly identical. It's
16:11 21 identical in a -- in a couple of districts there I
16:11 22 think, pretty much.

16:11 23 A Right. Well, I don't have any reason to
16:11 24 disagree with anything we said --

16:11 25 Q Let me show you Exhibit --

16:11 1 A -- in this report.

16:11 2 Q Let me show you Exhibit 22, which is the
16:11 3 Patton Schmedlov map or Schmedlov. Still a little
16:11 4 unclear on that pronunciation.

16:11 5 (Exhibit No. 22 was identified for the
16:11 6 record.)

16:11 7 BY MR. KING:

16:11 8 Q And -- and so would you be surprised that
16:11 9 about 30 of the 40 districts in 9008 are supported by
16:11 10 references to the maps produced by Mr. Bainter in
16:11 11 Heffley and Terraferma?

16:12 12 MR. CANTERO: Object to the form. What do you
16:12 13 mean mass produced by --

16:12 14 MR. KING: I mean that the nine public maps
16:12 15 that emanated from Mr. Bainter and Mr. Terraferma
16:12 16 and Mr. Heffley and maybe even Mr. Reichelderfer.

16:12 17 MR. CANTERO: Object to the form.

16:12 18 A So two -- again, this is a numerical exercise
16:12 19 which --

16:12 20 BY MR. KING:

16:12 21 Q We're not going to count them up now. We just
16:12 22 don't have time to do that now.

16:12 23 A Okay.

16:12 24 Q Would you be surprised to know that you had
16:12 25 referred on those -- those tainted maps in 30 of the

16:12 1 40 districts?

16:12 2 MR. CANTERO: Object to the form.

16:12 3 A And that's what was stated here, or -- or is
16:12 4 that something you're --

16:12 5 BY MR. KING:

16:12 6 Q No. That's just the ones you attributed --

16:12 7 A -- including based on Chen -- Chen and
16:12 8 Rodden or --

16:12 9 Q No, that's the ones you've attributed.

16:12 10 A Okay. 30 out of 40 in this --

16:12 11 Q Yeah.

16:12 12 A -- document --

16:12 13 Q Have support --

16:13 14 A -- reference 143?

16:13 15 Q -- by -- not 143, to the nine pro -- the nine
16:13 16 maps produced --

16:13 17 A Oh, any one of those --

16:13 18 Q -- by the Bainter group, right.

16:13 19 A Those nine?

16:13 20 Q Including 143?

16:13 21 A Those being the numbers that you rattled off
16:13 22 earlier?

16:13 23 Q Right.

16:13 24 A That would not surprise me.

16:13 25 Q Okay. So let's look now at 143 and compare it

16:13 1 to S09. Let's look at H4, I4, HI, it's that group, H,
16:14 2 I, J, K, L, M, N, O, P.

16:14 3 (Discussion off the record.)

16:15 4 (In recess from 4:15 to 4:24 p.m.)

16:24 5 BY MR. KING:

16:24 6 Q I'm showing you Exhibit 23, which is a
16:24 7 composite exhibit, Mr. Guthrie.

16:24 8 MR. CANTERO: I'm sorry. 23; right?

16:24 9 MR. KING: 23.

16:24 10 (Exhibit No. 23 was identified for the
16:24 11 record.)

16:24 12 A So in terms of counsel getting the PDFs they
16:24 13 requested, you'll -- you will give us a mapping of --
16:24 14 it's really not my worry -- of one from the, you know,
16:24 15 how -- what this is a composite of?

16:24 16 BY MR. KING:

16:24 17 Q Let me just ask you questions about it --

16:24 18 A All right.

16:24 19 Q -- and we will figure that out later.

16:24 20 So the first page there reflects public map
16:25 21 143, District 6, as compared to S09 District 1. And
16:25 22 then a third diagram is a diagram which compares the
16:25 23 two boundaries, shows the overlapping boundary, and
16:25 24 shows the difference. Do you see that?

16:25 25 A I see this exhibit, yes.

16:25 1 Q And so would you agree, sir, that this is
16:25 2 highly similar to S09 District 1, the district in the
16:25 3 public map by Patton?

16:25 4 A I -- I would agree that there -- there -- they
16:25 5 are similar.

16:25 6 Q If I tell you that 95.1 percent of the
16:25 7 population in S09 from S D6 in 143, we had that
16:26 8 similarity, it's close to 95.1 percent of the
16:26 9 population.

16:26 10 A I will take your word for it.

16:26 11 Q All right. Then next we turn -- the second
16:26 12 page, we're comparing 143 District 16 to District 3 in
16:26 13 S09, almost identical; isn't that correct, sir?

16:26 14 A Well, what I see is both those districts are
16:26 15 made up of -- of many whole counties.

16:26 16 Q Right.

16:26 17 A They both split just one county, and there is
16:26 18 a difference around the City of Orlando, where most of
16:26 19 your -- a big chunk of your population of Marion
16:26 20 County exists.

16:26 21 So they're different in --

16:26 22 Q Wait a minute. I didn't understand.

16:26 23 A -- Ocala.

16:26 24 Q Did you say Orlando?

16:26 25 A I said Orlando; I meant Ocala.

16:27 1 Q Well, Marion County is not in -- part of
16:27 2 Marion County is in --

16:27 3 A Right. So that's where the difference occurs
16:27 4 is in the county that is different.

16:27 5 Q Right. Just a little small difference -- just
16:27 6 like 98.7 percent the same population; would you
16:27 7 accept that?

16:27 8 A Is that what you determined?

16:27 9 Q Yes, sir.

16:27 10 A Okay. Then I will take your word for it.

16:27 11 Q And, of course, you attributed this
16:27 12 district -- you attributed that you considered this
16:27 13 district in your public submissions, right, on the
16:27 14 casebook and the -- and the --

16:27 15 A I -- I believe we looked earlier at -- at --
16:27 16 about having the same counties and following
16:27 17 Interstate 75.

16:27 18 Q All right. Then let's look at the third
16:27 19 sheet, which is District 5. And do you see there is
16:27 20 great similarity there as well; correct?

16:28 21 A I'm not sure what I'm looking at in the
16:28 22 overlay here. It looks like it's confined to Nassau
16:28 23 and Duval Counties.

16:28 24 Q Right. It's simply --

16:28 25 A Of course, that urban area is -- is very

16:28 1 dense.

16:28 2 Q Right.

16:28 3 A So differences that appear small on a -- on a
16:28 4 wide scale map may, in fact, involve a lot of
16:28 5 population.

16:28 6 Q 91.9 percent of the population. Would that
16:28 7 surprise you?

16:28 8 A If -- if that's your testimony, then -- I --

16:28 9 MR. MEROS: It's not his testimony; okay?

16:28 10 MR. CANTERO: Apparently he's testifying.

16:28 11 MR. KING: Just trying to speed it along,
16:28 12 friends.

16:28 13 BY MR. KING:

16:28 14 Q All right. Let's look at the fourth page.
16:28 15 Now we have got 143, District 3, S09 District 6.

16:29 16 A All right.

16:29 17 Q Identical; right?

16:29 18 A No equivocation here.

16:29 19 Q All right. And next we are looking at
16:29 20 District 14 in 143 compared to S09 District 7. And I
16:29 21 will represent to you that that's 88 percent
16:29 22 population comparability. But it's -- it clearly is a
16:29 23 situation where the lines are extraordinarily similar
16:29 24 on the west side of the district; correct?

16:29 25 A Yeah. What you see is -- let's see -- well,

16:29 1 again, the -- the Orange County area is -- is very
16:30 2 dense, central Orange County. And -- and so -- I -- I
16:30 3 can't tell from this what the population commonality
16:30 4 is.

16:30 5 But -- but I would -- I can see, as you
16:30 6 suggest, that -- that the overall shape of the
16:30 7 district is similar, and the population commonality is
16:30 8 what it is. We can --

16:30 9 Q Right.

16:30 10 A We can calculate that.

16:30 11 Q And the next page is 143 District 7, S09
16:30 12 District 8: That's the district along the coast. And
16:30 13 you see a great similarity there. The differences are
16:30 14 down at the bottom. And at the top, and the
16:30 15 population comparability is 91.2 percent.

16:30 16 A Okay.

16:30 17 Q Again, as you all -- as your office did S09,
16:31 18 you paid very careful consideration to 143; isn't that
16:31 19 correct?

16:31 20 A Well, I -- I would not say that. What I would
16:31 21 say is that, as we developed S09, we -- that it was
16:31 22 built upon what we had learned and what we had modeled
16:31 23 in our committee previously. So I -- it is not my
16:31 24 belief that -- that we were directly relying on or
16:31 25 directly importing districts from 143 in order to

16:31 1 create S09.

16:31 2 Q Well, in S09 you took a very different turn
16:31 3 than you had taken in the last map prior to that,
16:32 4 Senate 9; isn't that correct, sir?

16:32 5 A It's not my testimony that that was the last
16:32 6 map prior -- it's the last -- I -- I will accept that,
16:32 7 among the drafts that we retained and the drafts
16:32 8 that -- which were the ones that we produced through
16:32 9 discovery, that, that it preceded, you know, all that.

16:32 10 But -- but there may have been work that I was
16:32 11 doing and that staff was doing in between.

16:32 12 Q And would you be surprised that the way S09
16:32 13 changed from Senate 9 was very similar to the
16:32 14 districts, at least in the upper half of the state,
16:32 15 the northern half of the state, to Mr. Patton's map,
16:32 16 which, of course, was created by the political
16:33 17 operatives?

16:33 18 A Well, to the -- to the extent that -- that the
16:33 19 meeting materials that we produced said that there
16:33 20 were commonalities, I'm not going to disagree with
16:33 21 what I and the staff reported at that time.

16:33 22 Q But a lot of these districts you did not
16:33 23 attribute to Mr. Patton's map were also --

16:33 24 A Even in --

16:33 25 Q -- the most similar?

16:33 1 A Even in that casebook -- I think the
16:33 2 casebook --

16:33 3 Q Only five --

16:33 4 A Okay.

16:33 5 Q -- in the casebook.

16:33 6 A Okay.

16:33 7 Q All right. Let's get through the rest of
16:33 8 these. Then we will look at that.

16:33 9 So the next page compares District 143,
16:33 10 District 12 to S09, District 9. And you see that's
16:33 11 the one with the appendage for Senator Gardiner;
16:33 12 right?

16:33 13 MR. CANTERO: Object to the form.

16:34 14 A What I see is -- is -- is those three
16:34 15 districts both include -- all include territory west
16:34 16 of Orlando and -- and territory in the eastern
16:34 17 portions of Orlando.

16:34 18 BY MR. KING:

16:34 19 Q I mean, there is a remarkable similarity in
16:34 20 creating the two appendages there that wouldn't just
16:34 21 happen by happenstance; would it?

16:34 22 A I believe -- so if you were to create a
16:34 23 minority district benefiting African-American voters
16:34 24 and a opportunity district benefiting Hispanic voters,
16:34 25 it's not surprising to me -- and -- and you were

16:34 1 trying to keep counties whole, it's not surprising to
16:34 2 me that you would end up with -- with this -- this
16:35 3 wraparound appearance for that particular district.

16:35 4 Q But of course, to come up with that appendage,
16:35 5 the similar appendage, that also would be consistent
16:35 6 with creating a district that would be electable for a
16:35 7 Senator Gardiner; isn't that correct?

16:35 8 MR. CANTERO: Object to the form.

16:35 9 A I really don't have an opinion on what's
16:35 10 electable for Senator Gardiner.

16:35 11 BY MR. KING:

16:35 12 Q And of course, that's the way the political
16:35 13 operatives wanted to draw it; right?

16:35 14 MR. CANTERO: Object to the form; calls for
16:35 15 speculation.

16:35 16 BY MR. KING:

16:35 17 Q Since they did 143, District 12, just that
16:35 18 way.

16:35 19 A I will accept your representation that
16:35 20 District 12 and 143 is -- is as depicted here.

16:36 21 Q And they created that approach that managed to
16:36 22 carve out a small area where Winter Park and Senator
16:36 23 Gardiner live and couple it -- avoid the minority
16:36 24 districts and couple it with a district that would be
16:36 25 electable for a Republican; correct?

16:36 1 MR. CANTERO: Object to the form.

16:36 2 A I'm trying to get with you here. I apologize
16:36 3 for my -- so you're referring to -- did you -- between
16:36 4 Winter Park and where?

16:36 5 BY MR. KING:

16:36 6 Q I referred to the fact that that appendage
16:36 7 included Winter Park.

16:36 8 A The -- just in the interest of efficiency, do
16:37 9 you want to point on the map to what you're -- no?

16:37 10 Q No.

16:37 11 A Okay.

16:37 12 Q We need to move on. Let's flip the page and
16:37 13 look at District 4, compared -- in 143, compared to
16:37 14 District 14 in S09. Again, another almost identical
16:37 15 district; right?

16:37 16 A With the -- yeah, with the exception of the
16:37 17 boundary in Clay County, it looks like.

16:37 18 Q Would you be surprised that's 99.4 percent the
16:37 19 same population, those two districts?

16:37 20 A Based on what you're showing me and telling me
16:37 21 here, I would not, and what I know about where the
16:37 22 St. Johns River is located.

16:37 23 Q And so, once again, Mr. Bainter and -- and his
16:37 24 group predict almost completely exactly where the
16:38 25 Senate is going to go in S09; right?

16:38 1 A There is a commonality between 143 and S09.

16:38 2 Q All right. Now let's look at -- on the next
16:38 3 page, District 9, compared to S09 District 19. Now
16:38 4 this is the minority district you were talking about;
16:38 5 right?

16:38 6 A That is.

16:38 7 Q All right. That's a pretty remarkable
16:38 8 similarity between the two; right?

16:38 9 A That -- that level of similarity I do not find
16:38 10 remarkable at all when it comes to modeling districts
16:38 11 for the purpose of complying with tier 1.

16:38 12 Q Well, would you be surprised to know -- let
16:38 13 me -- let me strike that.

16:38 14 Would it be correct that you were trying to
16:39 15 model a minority district to comply with tier 1 when
16:39 16 you were doing Senate 7, 8, and 9? You know, the
16:39 17 prior Senate draft maps?

16:39 18 A Oh, I -- we were trying to comply with the
16:39 19 constitutional requirements through -- through the
16:39 20 process.

16:39 21 Q And you weren't -- you weren't drawing it
16:39 22 anywhere near --

16:39 23 A No.

16:39 24 Q -- like this --

16:39 25 A No.

16:39 1 Q -- right --

16:39 2 A For any particular map that we happened to
16:39 3 find in -- in one of the staff lockers, I -- I really
16:39 4 don't know why it is there. I -- I -- among what we
16:39 5 produced were some plans that were submitted by the
16:39 6 League of Women Voters, for instance. So --

16:39 7 Q But we're not talking about those right now.
16:39 8 We're talking about the one that you modeled District
16:39 9 19 off of, which is Mr. Patton's District 9; isn't
16:39 10 that correct, sir?

16:40 11 A I -- I disagree that I modeled District 19 in
16:40 12 S09 off of -- off of that.

16:40 13 Q All right.

16:40 14 A I mean I -- the commonalities are what they
16:40 15 are. These -- there -- I don't recall that 143 was
16:40 16 the only map that had a Orlando district that extended
16:40 17 into Sanford. I -- I suspect that there were probably
16:40 18 others, but I don't know, because I haven't -- I'm not
16:40 19 prepared to testify in trial here today.

16:40 20 Q All right.

16:40 21 A I'm prepared to answer your questions.

16:40 22 Q And, of course, this one was 96.1 percent on
16:40 23 the comparable population.

16:40 24 A Okay.

16:40 25 Q So that's very close; isn't it?

16:41 1 A 96.1 --

16:41 2 Q Yes.

16:41 3 A -- is -- is -- is a substantial commonality,
16:41 4 which doesn't surprise me if two plans set out to
16:41 5 achieve opportunities for minority voters.

16:41 6 Q All right. Look at the next page, which is --
16:41 7 which is 143, District 10, compared to S09 District
16:41 8 20, 92.3 --

16:41 9 A Okay.

16:41 10 Q -- percent comparable --

16:41 11 A And I have --

16:41 12 Q -- population.

16:41 13 A -- a loose page here. Do you want -- but
16:41 14 we're doing -- oh, it's just -- 143, 10 to 920 -- it's
16:41 15 in order. It just didn't catch the staple, that's
16:41 16 all.

16:41 17 Q Okay. Slip it in. We will fix it.

16:41 18 A All right. So I'm sorry for the distraction.

16:42 19 Q That's okay.

16:42 20 MR. ZEHNDER: Thank you for fixing it.

16:42 21 BY MR. KING:

16:42 22 Q And then, if we turn next page, 143, District
16:42 23 11, compared to S09, District 22, that's the Seminole
16:42 24 County district, which is 92.5 percent the same
16:42 25 population. Once again, a very similar district;

16:42 1 right?

16:42 2 A Well -- so once you create a -- a common
16:42 3 minority district or districts between two plans, it
16:42 4 doesn't surprise me that the residual in Seminole and
16:42 5 Orange County would -- would have a lot of
16:42 6 commonality.

16:42 7 Q I mean -- all right. Let's turn the page.
16:43 8 Look at 143, District 24, compared to S09, District
16:43 9 23. Now we're talking about Sarasota and Charlotte
16:43 10 County. And we have a completely identical match;
16:43 11 right, 100 percent?

16:43 12 A I don't see anything here that would cause me
16:43 13 to disagree with that.

16:43 14 Q All right. That's just happenstance?

16:43 15 MR. CANTERO: Object to the form.

16:43 16 A That -- if these two districts are block for
16:43 17 block the same, and they -- and they include partial
16:43 18 counties, then I would -- I would not suggest that
16:43 19 it's happenstance.

16:43 20 BY MR. KING:

16:43 21 Q All right. And you don't even attribute -- in
16:44 22 your case book, you don't attribute this district to
16:44 23 Mr. Patton.

16:44 24 MR. CANTERO: Objection --

16:44 25 A Well, in -- in --

16:44 1 MR. CANTERO: Hold on.

16:44 2 A In the --

16:44 3 MR. CANTERO: Hold on.

16:44 4 A -- case --

16:44 5 MR. CANTERO: Hold on.

16:44 6 THE WITNESS: Sorry.

16:44 7 MR. CANTERO: Objection; the case book is
16:44 8 about 9004, not S09.

16:44 9 MR. KING: Right. But the district remains
16:44 10 the same.

16:44 11 MR. CANTERO: Are you testifying to that?

16:44 12 MR. KING: Well, you know, at a trial, I would
16:44 13 take the time to show you that it's the same.

16:44 14 MR. CANTERO: I just want to clarify that the
16:44 15 casebook is not about S09.

16:44 16 MR. KING: I understand.

16:44 17 BY MR. KING:

16:44 18 Q But when you carry it on through to 9004 and
16:44 19 9008, in neither one of those books where you
16:44 20 attribute districts do you attribute this district to
16:44 21 Mr. Patton's 143; do you, sir?

16:44 22 A The -- the -- the words that we wrote are what
16:44 23 they are.

16:44 24 Q Okay. Next page, District 13 in 143, compared
16:45 25 to District 24 in S09. Once again, a very similar

16:45 1 district with 92.9 percent same population; correct?

16:45 2 A Yes. This is a -- what I called a Hispanic
16:45 3 opportunity district.

16:45 4 Q Right. Now, isn't it correct, sir, that you
16:45 5 weren't drawing a Hispanic opportunity district until
16:45 6 S09?

16:45 7 A I would -- I believe that I -- that sounds --
16:45 8 well, I don't know about plans that may have been
16:45 9 modeled between Senate 9 and S09. But among the --
16:45 10 the drafts that -- that were retained, I believe that
16:46 11 the first appearance of a Hispanic district was -- was
16:46 12 this S09.

16:46 13 Q Right. And it was based on Mr. Bainter's
16:46 14 District 13 in 143; isn't that correct?

16:46 15 A Well, it also --

16:46 16 MR. CANTERO: Object to the form.

16:46 17 A Yeah, I don't accept that.

16:46 18 (Discussion off the record.)

16:46 19 BY MR. KING:

16:47 20 Q So there was no map -- draft map that you
16:47 21 produced between Senate 9 and S09 unless there was an
16:47 22 S08 that was destroyed; right?

16:47 23 MR. CANTERO: Object to the form. Asked and
16:47 24 answered.

16:47 25 A So what I have testified to is that I did not

16:47 1 retain every iteration of a plan. And there were
16:47 2 literally thousands, tens of thousands of those during
16:47 3 this process. And I did not retain them all.

16:47 4 BY MR. KING:

16:47 5 Q All right. So on September -- I mean, on
16:47 6 November the 15th, you closed out Senate 9; you opened
16:47 7 S09 on November the 21st; right? We have decided --
16:47 8 we have already figured that out.

16:47 9 A Okay.

16:47 10 Q And in Senate 9 there was no minority district
16:48 11 in Central Florida. In S09 there is. And there is in
16:48 12 143; right?

16:48 13 A The -- for Senate 9 -- you use the term
16:48 14 "closeout," which is kind of new to our discussion
16:48 15 today --

16:48 16 Q Last modified.

16:48 17 A -- which may have meant saved with no changes.

16:48 18 Q Okay.

16:48 19 A So those --

16:48 20 Q Fine.

16:48 21 A I stand by the numbers that were produced --
16:48 22 or the dates that were produced in the Senate's
16:48 23 interrogatory response.

16:48 24 Q Okay. And the next page is 143, 15 compared
16:48 25 to S09, 26. Indian River was left off of 26 in S09.

16:49 1 But the population remains 91.9 -- .1 percent the
16:49 2 same; right?

16:49 3 MR. CANTERO: Object to the form.

16:49 4 A I hear what you're saying. That seems -- oh,
16:49 5 okay. I -- well, trying --

16:49 6 MR. CANTERO: Don't answer anything you don't
16:49 7 know.

16:49 8 A I don't know.

16:49 9 BY MR. KING:

16:49 10 Q And then the last one is 143, 36 compared to
16:49 11 S09, District 40. And while the configuration is --
16:49 12 the boundary configuration is significantly different,
16:49 13 the population remains 92.5 percent the same in that
16:50 14 South Florida district; would you agree to that?

16:50 15 MR. CANTERO: Object to the form.

16:50 16 A I -- I haven't done the analysis, and I don't
16:50 17 know.

16:50 18 BY MR. KING:

16:50 19 Q All right. Now, the question is, Mr. Guthrie,
16:50 20 didn't Senator Gaetz tell you to pay a particular
16:50 21 attention to 143?

16:50 22 A He did not.

16:50 23 Q Who did?

16:50 24 A Nobody told me to pay particular attention to
16:50 25 143.

16:50 1 Q Because clearly there is a remarkable
16:50 2 similarity between S09 and 143; isn't that correct,
16:50 3 sir?

16:50 4 A I -- I agree that there are commonalities
16:50 5 between those plans, yes.

16:51 6 Q And do you also agree that for many of those
16:51 7 districts where there was commonality, you made the
16:51 8 decision not to indicate that 143 was similar or was
16:51 9 what you -- you referred to regarding that district?

16:51 10 MR. CANTERO: Object to the form.

16:51 11 A So the evidence is what it is. And I -- I
16:51 12 really have nothing more to add.

16:51 13 BY MR. KING:

16:51 14 Q Okay. Well, let's look -- let's look at H3
16:52 15 and J3.

16:52 16 MR. ZEHNDER: Exhibit 24 is going to be H3.

16:52 17 (Exhibit No. 24 was identified for the
16:52 18 record.)

16:52 19 BY MR. KING:

16:52 20 Q Okay. Here is Exhibit 24, sir. And that's
16:52 21 just an excerpt from your casebook -- not from the
16:52 22 casebook -- from the meeting packet regarding 9004,
16:52 23 which we have previously marked in evidence, which is
16:53 24 Exhibit 20. Okay. So this is an excerpt from Exhibit
16:53 25 20.

16:53 1 Exhibit 24 is an Exhibit from Exhibit 20, and
16:53 2 it refers to District 8. And you say District 8, in
16:53 3 the second paragraph you say, public plan, 155
16:53 4 includes a district similar to District 8; right?

16:53 5 A I see that, yes.

16:53 6 Q You don't refer to 143; right?

16:53 7 A I see it the way that you see it, yes.

16:53 8 Q Okay. And next let's look at J3.

16:53 9 (Exhibit No. 25 was identified for the
16:53 10 record.)

16:53 11 MR. ZEHNDER: Should be 25; right?

16:53 12 MR. KING: Yes. That's Exhibit 25, yes.

16:54 13 BY MR. KING:

16:54 14 Q Now, on 25 we're looking at S09, District 8
16:54 15 and 143, and we see that they're very similar; right?

16:54 16 A We -- we see that they --

16:54 17 Q To District 7, 143?

16:54 18 A We see that they share commonalities, yes.

16:54 19 Q But -- but, you might say, I asked you about
16:54 20 9004, and so let's look at the second page, where we
16:54 21 now have 9004, District 8, and we have District 155 --
16:54 22 I mean, Map 155, District 8, which is the one you
16:54 23 referred to in Exhibit 20 and 24; right?

16:55 24 A Yes.

16:55 25 Q And 155 has a population overlap of 71.2

16:55 1 percent and a border overlap of 17.4 percent,
16:55 2 excluding the state border; do you see that?

16:55 3 MR. CANTERO: It says 16.8 percent.

16:55 4 MR. KING: Huh?

16:55 5 MR. CANTERO: Maybe I'm looking at a different
16:55 6 one?

16:55 7 MR. ZEHNDER: Different order of pages.

16:55 8 MR. KING: No. We're looking at 9004.

16:55 9 MR. CANTERO: Is yours the same as mine, Tom?

16:55 10 MR. ZEHNDER: I don't know. I think so,
16:55 11 Raoul.

16:55 12 MR. KING: Let's make sure which one he's got.

16:55 13 BY MR. KING:

16:55 14 Q Do you have 155; population overlap 71.2,
16:56 15 border overlap 16.8?

16:56 16 A I do.

16:56 17 Q Okay. And then for 143, we have got a
16:56 18 population overlap of 74 percent and a border overlap
16:56 19 of 53.4 percent; right?

16:56 20 A Yeah. I'm -- I hear what you're saying. I'm
16:56 21 trying to wrap my head -- and you excluded the state
16:56 22 border in both.

16:56 23 Q Both, right.

16:56 24 A So ...

16:56 25 Q So the question is, isn't it correct that you

16:56 1 were attempting to downplay your reliance on 143 by
16:56 2 relying -- by -- by calling out a district that was
16:56 3 less similar, the one you chose, than 143?

16:57 4 MR. CANTERO: Object to the form.

16:57 5 A So the -- I don't know how the border overlap
16:57 6 numbers were calculated here. That's actually a
16:57 7 fairly complicated algorithm. But -- but you know, as
16:57 8 to the thrust of your question, as I said earlier, in
16:57 9 preparing the material that went into the meeting
16:57 10 packet, my -- what I asked staff to do was -- and what
16:57 11 I chose to do was not overemphasize any single public
16:57 12 hearing or any single public map submission in terms
16:57 13 of its commonalities with the -- the proposed
16:57 14 committee product.

16:57 15 BY MR. KING:

16:57 16 Q All right. Let's look at one more real
16:57 17 quickly. Let's do K3 and M3.

16:58 18 MR. KING: K3 is 26.

16:58 19 BY MR. KING:

16:58 20 Q I show you Exhibit 26.

16:58 21 (Exhibit No. 26 was identified for the
16:58 22 record.)

16:58 23 BY MR. KING:

16:58 24 Q And we're discussing District 7 in 9004. And
16:58 25 you say that public plans 84 and 146 each contain a

16:59 1 district similar to District 7.

16:59 2 Do you see that?

16:59 3 A I do.

16:59 4 Q All right. And then --

16:59 5 MR. CANTERO: This is an excerpt of Exhibit

16:59 6 20; right?

16:59 7 MR. KING: This is an excerpt of Exhibit 20,

16:59 8 exactly. And here we have -- thank you.

16:58 9 (Exhibit No. 27 was identified for the

16:59 10 record.)

16:59 11 BY MR. KING:

16:59 12 Q All right. Let me show you M -- Exhibit 27,
16:59 13 which is a comparison. Let's just skip the first page
16:59 14 and go right to the second. Let's go to 9004 of
16:59 15 Exhibit 27.

16:59 16 And you see that we're looking at 9004,
16:59 17 District 7. And we're looking at 84, which
16:59 18 incidentally came out of the Bainter map factory as
17:00 19 well. You see that one, and it has a population
17:00 20 overlap of 56 percent and a border overlap of 17.3
17:00 21 percent.

17:00 22 Do you see that?

17:00 23 A I see the numbers printed on this page.

17:00 24 Q And then you look at 146, another product of
17:00 25 the Bainter map factory, and it has a 75.7 percent

17:00 1 population overlap and a 23.6 percent border overlap.

17:00 2 Do you see that one?

17:00 3 MR. CANTERO: I object to the characterization
17:00 4 embedded in the question.

17:00 5 MR. KING: Okay.

17:00 6 A Right. This -- so none of this is my
17:00 7 testimony other than the fact that I can see.

17:00 8 BY MR. KING:

17:00 9 Q And then you see 143, which has a population
17:00 10 overlap of 88.8 percent and a border overlap of 69.9
17:00 11 percent; right?

17:00 12 A Yes. I see that printed on the page.

17:00 13 Q All right. But you refer to 14 -- 84 and 146,
17:01 14 because you want to downplay your emphasis on 143;
17:01 15 correct?

17:01 16 MR. CANTERO: Object to the form.

17:01 17 A I've already stated what we did in the meeting
17:01 18 packet with respect to not wanting to single out a
17:01 19 single plan or a single public hearing or any
17:01 20 particular public input as having abundant or
17:01 21 overwhelming influence or -- or commonality with the
17:01 22 proposed plan.

17:01 23 (Exhibit No. 28 was identified for the
17:01 24 record.)

17:01 25 BY MR. KING:

17:02 1 Q I show you Exhibit 28, another excerpt from
17:02 2 Exhibit 20. It refers to District 22, indicates on
17:02 3 page 6 that you rely -- or that you refer to public
17:02 4 plans 64, 72, 146, and 147 that contain districts with
17:02 5 an orientation similar to that of District 22; do you
17:02 6 see that?

17:02 7 A I see that.

17:02 8 (Exhibit No. 29 was identified for the
17:02 9 record.)

17:02 10 BY MR. KING:

17:02 11 Q All right. Then next I show you Exhibit 29,
17:03 12 and let's turn to the second page, which looks at each
17:03 13 of those. And what we see is that 64 has a population
17:03 14 overlap of 82.9 percent; 72, a population overlap of
17:03 15 77.9 percent; 146, a population overlap of 90.6 and a
17:03 16 border overlap of 59.5; 147, a population overlap of
17:03 17 90.6 and border overlap of 51.5; and then 143, which
17:03 18 has a population overlap of 92 percent and a border
17:03 19 overlay of 63.9 percent.

17:03 20 You referenced all of the maps except for 143,
17:03 21 which is the most similar; isn't that correct?

17:04 22 A I see what is printed on this page. And -- or
17:04 23 on the two pages. I've -- I've already explained --
17:04 24 there's another point that probably needs to be made
17:04 25 here, lest you jump to unreasonable conclusions, is

17:04 1 that staff did not have the benefit of -- of these
17:04 2 so-called population overlap numbers, and we certainly
17:04 3 didn't have these border overlap minus the state
17:04 4 border numbers, as they were looking at the public
17:04 5 submissions to try to articulate a -- a list -- and I
17:04 6 don't know that we claimed that it's an exhaustive
17:04 7 list -- but a list of plans that happen to exhibit
17:05 8 common district configurations to what's in the plan
17:05 9 the committee is being asked to consider.

17:05 10 BY MR. KING:

17:05 11 Q Weren't you suspicious of maps 146 and 147
17:05 12 that are exactly the same, that were filed on the
17:05 13 afternoon of November the 1st within an hour or so of
17:05 14 each other?

17:05 15 A And -- I have not independently determined
17:05 16 that those two maps are identical. So --

17:05 17 Q I didn't say they were identical. But they
17:05 18 have lots of identical districts; don't they?

17:05 19 A I did notice that, among those plans that came
17:05 20 in from Gainesville, there were similarities.

17:05 21 Q I mean, that doesn't happen accidentally; does
17:05 22 it?

17:06 23 MR. CANTERO: Object to the form.

17:06 24 A Yeah, I don't know what you mean by the term
17:06 25 "accidentally."

17:06 1 BY MR. KING:

17:06 2 Q I mean, you just don't match a number of
17:06 3 districts identically in two separate maps by
17:06 4 coincidence; do you?

17:06 5 A If -- if you match -- matched lots of
17:06 6 districts identically, and you're not following county
17:06 7 lines, then -- then that would indicate that one may
17:06 8 have borrowed from -- from the other. It doesn't tell
17:06 9 you who borrowed from whom, but -- but -- but it -- it
17:06 10 would suggest that two people were working off of a
17:06 11 similar objective or a similar source.

17:08 12 (Discussion off the record.)

17:08 13 BY MR. KING:

17:08 14 Q If you would look at Exhibit 20, page 3. It
17:08 15 refers to District 9.

17:09 16 MR. CANTERO: Here is the summary.

17:09 17 THE WITNESS: Yeah, it's here somewhere.

17:09 18 BY MR. KING:

17:09 19 Q And you see on page 3 on district -- let's
17:09 20 see --

17:09 21 MR. CANTERO: He's still looking for the
17:09 22 exhibit.

17:09 23 BY MR. KING:

17:09 24 Q -- on District 9 -- oh, I'm sorry. You're
17:09 25 still looking for Exhibit 20? I gotcha. It's getting

17:09 1 a little deep over there.

17:09 2 MR. CANTERO: I can give him my copy.

17:09 3 THE WITNESS: Mine may be there. Okay.

17:09 4 BY MR. KING:

17:09 5 Q Okay. If you look at page 3, where it refers
17:09 6 to District 9, you see that it refers to public plans
17:09 7 146 and 147 each contain districts of a similar
17:09 8 configuration; right?

17:09 9 A I see that, yes.

17:09 10 Q All right. Then I'm going to show you Exhibit
17:10 11 30.

17:10 12 (Exhibit No. 30 was identified for the
17:10 13 record.)

17:10 14 BY MR. KING:

17:10 15 Q All right. Now we're dealing with -- and
17:10 16 let's -- let's just go look at -- let's skip the first
17:10 17 page and go on to S04 -- 9004.

17:10 18 We're looking at that district that has the
17:10 19 appendage where Senator Gardiner lives; right?

17:10 20 A I -- I know from -- from the trial that
17:10 21 Senator Gardiner -- well, I don't know exactly where
17:11 22 Senator Gardiner lives. He -- he lives somewhere in
17:11 23 east Orlando. And I don't know exactly where, so ...

17:11 24 Q Okay. And --

17:11 25 A But if you've determined that, I don't have

17:11 1 any basis here for disputing it.

17:11 2 Q Now 146 and 147 are, again, products of the
17:11 3 political operatives' efforts. But you see that
17:11 4 actually 143 is closer, although they're -- all three
17:11 5 of those are very similar; right?

17:11 6 A Yes.

17:11 7 Q And, of course, you knew that all three of
17:11 8 those were filed the very same afternoon, all from
17:11 9 Gainesville; right?

17:11 10 A I -- I knew that a bunch of maps had come in
17:11 11 from Gainesville. I really wasn't looking at the
17:12 12 public submissions in terms of who submitted them or
17:12 13 where they came from. But I did notice a -- a group
17:12 14 of maps coming in on -- at -- on a particular day from
17:12 15 a particular place.

17:12 16 Q All right. And then if you will turn the
17:12 17 page, and you will see 9008. And you will see the
17:12 18 same comparability, but 143 is much more comparable;
17:12 19 right -- is more comparable?

17:12 20 A It's -- it's more comparable in terms of
17:12 21 population overlap and border overlap than 155.

17:12 22 Q All right.

17:12 23 A But the other two are quite close I would say.
17:12 24 For the -- the sort of analysis you're doing here, I
17:12 25 don't think percentages are particularly probative of

17:13 1 any -- any greater comparability.

17:13 2 Q But all three of those maps are the maps of
17:13 3 the political operatives; right?

17:13 4 MR. CANTERO: Object to the form.

17:13 5 BY MR. KING:

17:13 6 Q 143, 146, 147.

17:13 7 A If I had a -- a copy of the public submissions
17:13 8 in front of me all with the names, I -- I could --
17:13 9 which we've provided to you, by the way, along the --
17:13 10 along the way here. But if I had that in front of me,
17:13 11 I could -- I could opine on that. I haven't memorized
17:13 12 all these names and --

17:13 13 Q Right. I understand.

17:13 14 A -- all these numbers and --

16:58 15 (Exhibit No. 31 was identified for the
16:58 16 record.)

17:13 17 BY MR. KING:

17:13 18 Q Let me show you this last exhibit right here.
17:13 19 And this is Exhibit 31. And you see now we're looking
17:13 20 at 9030 in comparison to 143.

17:13 21 And we're doing an overlap of those two. And
17:14 22 what you did in 930 [sic] was to simply change the
17:14 23 bulk of Senator Gardiner's district to the east, but
17:14 24 with the same appendage down to his house; right, or
17:14 25 down in the area where he lived?

17:14 1 A As I have stated, I don't know exactly where
17:14 2 Senator Gardiner lives or where his residence would
17:14 3 fall, you know, on the east side or the west side of
17:14 4 any of these --

17:14 5 Q Well, look at the second page, and that will
17:14 6 speed us along on that.

17:14 7 A Well, I see a square there.

17:14 8 Q Right.

17:14 9 A I --

17:14 10 Q Okay.

17:14 11 A That's what I --

17:14 12 Q But the point I would like you to note is
17:14 13 that, when you compare this to 143, when you flip the
17:15 14 district you still retained exactly the area that the
17:15 15 political operatives tried to have in a district that
17:15 16 would perform for Senator Gardiner; isn't that
17:15 17 correct, sir?

17:15 18 MR. CANTERO: Object to the form.

17:15 19 A I -- I think that's -- that that is not at all
17:15 20 what I would say.

17:15 21 BY MR. KING:

17:15 22 Q Isn't it a remarkable coincidence, again, that
17:15 23 that boundary area surrounding Mr. Gardiner's house
17:15 24 continues to work for 143, whether it's 9008 or 9030?

17:15 25 MR. CANTERO: Object to the form.

17:15 1 A Yes. I -- I -- the Supreme Court ordered the
17:16 2 Senate to remediate deficiencies in district -- or in
17:16 3 plan 9008, including -- I don't even remember the
17:16 4 district number -- or the couple of district numbers
17:16 5 in that area.

17:16 6 And the Senate did so. The -- the remedial
17:16 7 plan kept for the district where, as you say -- where
17:16 8 you're alleging that Senator Gardiner's house is --
17:16 9 and I don't disagree with that -- that -- that it put
17:16 10 it in a district that, I think, retained something
17:16 11 less than 20 percent of his former district, which --
17:16 12 so the suggestion that that district was drawn to
17:17 13 benefit Senator Gardiner is not one that I agree with
17:17 14 at all.

17:17 15 BY MR. KING:

17:17 16 Q Okay.

17:17 17 A And we have explained, by the way, why there
17:17 18 was this territory east of Orlando between the
17:17 19 Hispanic district and the African-American district
17:17 20 that -- that didn't help either of those in terms of
17:17 21 their ability to elect candidates of the minority
17:17 22 voters' choosing.

17:17 23 MR. KING: Okay. I haven't run out of
17:17 24 questions, but I've run out of time. And so I'm --
17:17 25 I'm -- like I told you I would, I'm prepared to

17:17 1 terminate the deposition now. I don't have any
17:17 2 plans to retake it unless Mr. Guthrie appears as a
17:17 3 potential witness the next time around in the next
17:17 4 remedial case.

17:18 5 MR. CANTERO: Understood.

17:18 6 MR. KING: If he does, then I will probably
17:18 7 want to continue the deposition. But if he
17:18 8 doesn't, I won't.

17:18 9 MR. CANTERO: Okay.

17:18 10 MR. KING: Okay. You have a right to read and
17:18 11 sign, Mr. Guthrie. It's up to you.

17:18 12 MR. CANTERO: He will read.

17:18 13 THE WITNESS: Thank you.

14 (The deposition was adjourned at 5:18 p.m.)
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF OATH

STATE OF FLORIDA)
COUNTY OF LEON)

I, the undersigned authority, certify that said designated witness personally appeared before me and was duly sworn.

WITNESS my hand and official seal this _____ day of August, 2015.

/s/ Sarah B. Gilroy
SARAH B. GILROY
sbrinkhoff@comcast.net
NOTARY PUBLIC
850.878.2221

CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, SARAH B. GILROY, Registered Professional Reporter,
and Notary Public, do hereby certify that the foregoing
proceedings were taken before me at the time and place
therein designated; that a review of the transcript was
requested, and that the foregoing pages numbered 1
through 206 are a true and correct record of the
aforesaid proceedings.

I further certify that I am not a relative, employee,
attorney or counsel of any parties, nor am I a relative
or employee of any of the parties' attorney or counsel
connected with the action, nor am I financially
interested in the action.

DATED this _____ day of August, 2015.

/s/ Sarah B. Gilroy
SARAH B. GILROY
sbrinkhoff@comcast.net
850.878.2221

17:18

ACCURATE STENOGRAPHY REPORTERS
 2894-A Remington Green Lane
 Tallahassee, Florida 32308
 850-878-2221

August 10, 2015

John Guthrie
 c/o Raoul Cantero, Esquire
 rcantero@whitecase.com

re: July 29, 2015, deposition of John Guthrie, LWVF, et al vs. Detzner, et al

Dear Mr. Guthrie:

This letter is to advise that the transcript for the above-referenced deposition has been completed and is available for your review and signature through your attorney's office, or if you wish, you may sign below to waive review of this transcript.

It is suggested that the review of this transcript be completed within 30 days of your receipt of this letter, as considered reasonable under applicable rules; however, there is no Florida Statute to this regard.

The original of this transcript has been forwarded to the ordering party, and your errata, once received, will be forwarded to all ordering parties for inclusion in the transcript.

Sincerely yours,

SARAH B. GILROY, Court Reporter

cc: David King, Esquire
 George Meros, Esquire

Waiver:

I, _____, hereby waive the reading and signing of my deposition transcript.

 Deponent signature

 Date