

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

COMMON CAUSE, et al., )  
)  
Plaintiffs, )  
vs. ) Civil Action No.  
) 1:16-CV-2016-WO-JEP  
ROBERT A. RUCHO, in his )  
official capacity as Chairman )  
of the North Carolina Senate )  
Redistricting Committee for the )  
2016 Extra Session and )  
Co-Chairman of the Joint Select )  
Committee on Congressional )  
Redistricting, et al., )  
)  
Defendants. )  
)  
LEAGUE OF WOMEN VOTERS OF NORTH )  
CAROLINA, et al., )  
)  
Plaintiffs, )  
vs. ) Civil Action No.  
) 1:16-CV-1164  
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official capacity as Chairman )  
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Redistricting Committee for the )  
2016 Extra Session and )  
Co-Chairman of the 2016 Joint )  
Select Committee on )  
Congressional Redistricting, )  
et al, )  
)  
Defendants. )  
)

DEPOSITION OF GUNTHER PECK

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8:58 A.M.

WEDNESDAY, MARCH 22, 2017

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SOUTHERN COALITION FOR SOCIAL JUSTICE  
1415 WEST HIGHWAY 54, SUITE 101  
DURHAM, NORTH CAROLINA

1 I'll try to wait for you to finish your  
2 answers before I ask you another question and,  
3 likewise, if you'll wait for me to finish my  
4 question before you start to answer, that will  
5 help make sure that we have a record that's as  
6 clean as possible.

7 And certainly I don't anticipate this  
8 deposition taking very long at all, but if you  
9 need to take a break at any time, it's  
10 completely fine. If I have a question pending,  
11 I'd ask that you answer that question before we  
12 take a break, but otherwise feel free just to  
13 let me know and we'll be glad to do that.

14 Is there any reason you cannot testify  
15 truthfully and completely today?

16 A. No.

17 Q. And did you do anything to prepare for your  
18 deposition today?

19 A. I looked over the work I've done organizing and  
20 registering voters over the past 12 years.

21 Q. And I want to get into that in a few minutes,  
22 but generally speaking, what are you talking  
23 about? The work that you've done organizing and  
24 registering voters, what is that?

25 A. Well, since 2004 I've been actively involved in

1 voter registration efforts in Durham county, and  
2 in surroundings counties, registering Democrats,  
3 Republicans and Independents.

4 Q. Is that through an organization or on your own,  
5 or how did that go?

6 A. It's been through different groups. The biggest  
7 effort was through a group called Durham for  
8 Obama. That was formed in 2008. And then more  
9 recently it's been Durham for Organizing, which  
10 is the current group that I'm involved.

11 Q. Is that still related with the Obama campaign,  
12 or how does that work?

13 A. It's no longer -- no, it's a new group.

14 Q. Okay. I didn't know if that's what he was doing  
15 in his retirement.

16 A. It has no connection to the Obama campaign at  
17 this point.

18 Q. Okay. And you said you looked over your, I  
19 think, materials. Is that how you put it?

20 A. Yeah.

21 Q. What kind of materials were you talking about?

22 A. Just remembering what work we had done, how many  
23 people we had registered, where we had done it  
24 and how we had worked both -- how we had  
25 mobilized and organized within the county and

1 also outside of the county.

2 Q. And just out of curiosity, why did you think  
3 that was relevant to your testimony today?

4 A. Because I feel that the gerrymandering has  
5 directly minimized the good work that we did in  
6 helping to enfranchise thousands of voters in  
7 Durham county.

8 Q. Could you explain what you mean by that?

9 A. So, well, backing up, in 2004 I was part of a  
10 group called Durham for Caring and we registered  
11 several thousand voters in east Durham and also  
12 helped immobilize those voters to the polls in  
13 several core precincts and increased turnout  
14 from -- in the 15th precinct, for example, we  
15 expanded turnout from 37 to 63 percent and also  
16 expanded the number of voters substantially.

17 And then in 2008, citizen volunteers  
18 like us registered more than 26,000 new voters  
19 in Durham county, plus participated in voter  
20 registration in Wayne county in the 8th  
21 Congressional District, in Person county,  
22 Granville county. We were sending volunteers  
23 throughout the state to register voters.

24 So one reason that North Carolina  
25 became a swing state in 2008 is because of a

1 massive voter registration effort that added  
2 almost half a million voters to the state rolls.  
3 So we were part of that. And we were doing it  
4 individually. I think I personally registered  
5 over 700 people in 2008, but probably more  
6 importantly, we were registering -- we were  
7 helping to organize citizen volunteers.

8 So the culmination of that in 2008 was  
9 both voter registration and getting out the  
10 vote. The ground game, so-called, for the  
11 Democrats was organized out of our house in  
12 2008, became known as the launch pad. We  
13 canvassed 28 out of 55 precincts out of our  
14 house, had 2,000 volunteers that we trained in  
15 our house. So we were very much involved with  
16 every part of helping citizens get organized,  
17 persuading them that their voices counted, that  
18 we wanted them to stand up and be heard.

19 Q. And that was all part of the Durham for Obama  
20 effort; is that right?

21 A. 2008 was all for the Durham for Obama effort.

22 In 2010 we did similar work. We  
23 organized it out of our house, did Durham county  
24 get-out-the-vote and expanded turnout in the  
25 off-year election from 2006 to 2010. So I think

1 it was 36 percent turnout in 2006 and it was  
2 47 percent turnout in 2010, which was important  
3 for David Price's reelection. He got killed in  
4 Wake county but did well in Durham county in  
5 2010.

6 Q. So now your efforts in 2010, who was that  
7 through?

8 A. That was -- we didn't really have an  
9 organization as such. I think it was still  
10 Durham for Obama. Yeah, we were still using our  
11 membership list.

12 Q. From the Obama campaign?

13 A. Which is something that we --

14 MS. EARLS: Objection to the form of  
15 that question. You said from the Obama  
16 campaign.

17 BY MR. McKNIGHT:

18 Q. Durham for Obama is separate from the campaign?

19 A. It is separate, yeah. Before the Obama campaign  
20 arrived, we were citizen run. No one was paid a  
21 cent. We controlled the membership  
22 organization. So it has 11,000 -- had 11,000  
23 members that were all -- it was run by citizens.  
24 None of them were paid a penny.

25 Q. Well, was it like a registered political

1 committee of some sort?

2 A. It has no legal status. It was just a group of  
3 members of citizen volunteers and we kept track  
4 of -- whoever signed in, whoever did any  
5 volunteer work became a member.

6 Q. But it's not registered with the FEC or anything  
7 like that?

8 A. We weren't -- we never took a penny. We didn't  
9 take any money.

10 Q. You're saying you didn't spend any money either?

11 A. Well, we were immobilizing citizens.

12 Q. Did you --

13 A. I probably spent money driving voters to the  
14 polls, yeah, but it was just what people were  
15 doing.

16 Q. But you didn't buy advertising or anything like  
17 that?

18 A. No. No.

19 Q. Didn't -- did you send mail to people or  
20 anything like that?

21 A. No. Nor did we endorse. We were working for  
22 Durham for Obama, but we weren't endorsing local  
23 candidates.

24 Q. Was the goal of the group to try to mobilize  
25 voters who would tend to vote for Obama? Is

1 that what the goal was?

2 A. The goal was to enfranchise as many of our  
3 citizens as possible. As I said, I registered  
4 hundreds of voters, many Republicans as well as  
5 Democrats. So it was not, strictly speaking,  
6 we're only registering Democrats. We registered  
7 anyone who needed to be registered.

8 Q. But the focus of the effort was to register  
9 Democrats?

10 A. The focus of the efforts was to register as many  
11 citizens in Durham county as we could.

12 Q. I just ask because if the name is Durham for  
13 Obama, there's clearly a mission or a goal to  
14 the organization. The name would suggest --

15 A. We wanted citizens to vote for Obama, but we  
16 registered Democrats, Republicans and  
17 Independents who voted for Obama.

18 Q. So if a Republican filled out a voter  
19 registration form, you didn't give it back or  
20 throw it away; you turned it in, right?

21 A. We turned every one of them in, yes.

22 Q. Now, we talked about 2008 and 2010. Did you do  
23 any voter registration efforts after that?

24 A. Yes, every election, 2012, 2014 and 2016.

25 Q. 2012, were those efforts through any group or



1 anything like that?

2 A. Same, still Durham for Obama working  
3 independently of the -- I guess they were called  
4 Organizing for America from the official paid  
5 staff.

6 And in 2012 our focus moved to helping  
7 citizens who were -- who needed transportation  
8 and who also were not registered. So we worked  
9 down at the downtown bus station primarily and  
10 were offering voters -- citizens the opportunity  
11 to register and vote because we still had  
12 one-stop voter registration. And so we  
13 registered and helped vote several thousand  
14 voters there.

15 I also worked on helping to secure an  
16 early vote site for Duke students as well as  
17 maintaining the NC Central site, working with  
18 board of elections people. That was not through  
19 Durham for Obama. That was just as a citizen,  
20 as more of a faculty member of Duke really  
21 working on maintaining access so that students  
22 could vote without having to drive since they  
23 don't have cars.

24 Q. And does that cover what you did in 2012?

25 A. So 2008 and 2012 I helped -- helped get an early

1 vote site on Duke's campus, which dramatically  
2 expanded turnout of Duke students. So I looked  
3 at -- in the primary in 2008 we had no early  
4 vote site on Duke's campus.

5 And even though there was a lot of  
6 discussion about voting, I think only 11 percent  
7 of Duke's registered Durham citizens voted, and  
8 that was about half of what UNC students and  
9 NC State or Central students voted. So I made  
10 the argument that access was key to students  
11 voting, and so that persuaded board of elections  
12 people as well as Duke officials to have an  
13 early vote site.

14 In the fall of 2008, I think 86 percent  
15 of Duke students voted and, more importantly,  
16 several thousand students had registered for the  
17 first time on campus so that the size of the  
18 actual aggregate number of North Carolina voters  
19 expanded at Duke because of that early vote  
20 site, because we had the same-day registration.  
21 They could show up, register and vote.

22 And the same thing happened in 2012 and  
23 the same thing happened in 2016.

24 Q. So in 2012 were your efforts -- you were working  
25 with, I think you mentioned, Organizing for

1           America; is that right?

2           A.    I was not -- that was the national campaign.

3           Q.    Okay.

4           A.    Durham for Obama was separate, always was.

5           Q.    So you didn't coordinate with the Obama campaign  
6           or anything?

7           A.    We did coordinate with them, yeah, in 2012.

8           Q.    And then after 2012 what were your efforts?

9           A.    In 2014 we organized, once again, as part of  
10           getting out the vote the bus stop canvas  
11           downtown which was finding voters who -- in part  
12           the assumption is because they are riding buses  
13           they don't have cars and it's harder for them to  
14           vote, and so we were offering them help with  
15           registration, information about registration as  
16           well as rides to the polls from the bus station.

17          Q.    To do that you would just stand outside the bus  
18           station?

19          A.    We canvas every single Durham transit rider,  
20           every single person who got off a bus we asked  
21           "Are you interested in voting?"

22          Q.    Who did you use for volunteers for that?

23          A.    Durham for Obama volunteers.  People we knew.  
24           People who we've been organizing and registering  
25           voters with since 2004.  So these are citizen

1 activists throughout the county. Some of them  
2 are from Orange county too.

3 Q. And does that summarize what you did in 2014,  
4 then?

5 A. So it was focused on the bus station in 2014,  
6 yeah. There was no early vote site for Duke's  
7 campus because it was -- there was less of a --  
8 I guess less resources for -- at the county  
9 level for early vote sites. You know, it's  
10 usually in the presidential election years.

11 And then in 2016, once again I was  
12 helping to get the early vote site at Duke's  
13 campus, trying to make sure that NC Central held  
14 on to its early vote site. They moved it. At  
15 one point there was fear they would lose it. So  
16 I did work that way.

17 And then also working at the bus  
18 station downtown -- this time still with Durham  
19 for Obama, not with -- coordinating with the  
20 Clinton campaign. I mean, they knew what we  
21 were doing, but they didn't do what we did.  
22 They were canvassing door to door. We were  
23 mobilizing people who were riding buses.

24 Q. So in 2016 your group went by the name Durham  
25 for Obama?

1 A. Continued to be, yeah.

2 Q. But tended -- but you worked with the Clinton  
3 campaign. Is that what you're saying?

4 A. We worked with them. They knew what we were  
5 doing, certainly, yeah, we were coordinating  
6 with them, but they weren't doing the work and  
7 none of us were paid.

8 This is just something that we were  
9 mobilizing on our own out of our house. We  
10 would train people at our house and then they  
11 would go to the bus station. And then we  
12 also -- I should say there was -- that's just  
13 within Durham county. There was more work we  
14 did out of county. We can talk about that too  
15 if you like.

16 Q. Tell me, at the bus station, you trained  
17 volunteers to approach riders who were getting  
18 on or off the bus and asked them if they wanted  
19 to --

20 A. We held signs and said "Rides to the polls here"  
21 or, you know, "Are you registered," and we would  
22 just hold the sign and then people would see  
23 that we were there. And we made sure that we  
24 were there every day for a longer period of  
25 time.

1           So what happened was people began to  
2           come to the bus station because they knew we had  
3           information about how to register and how to get  
4           a ride to the polls because many people didn't  
5           have time or the ability to get to the polling  
6           places. So typically what we would do is if --  
7           we would canvas some people, but we couldn't  
8           canvas -- 50 people come off a bus. We couldn't  
9           talk to everyone at once, that's impossible. So  
10          we would talk to a few people at a time, but our  
11          presence was visible throughout the early voting  
12          period in 2012, '14 and '16.

13        Q.    So were you registering people there? Is that  
14            what you were doing?

15        A.    During early vote we would drive them to the  
16            early vote site and they would register or  
17            reregister and vote.

18        Q.    And then during -- between the early voting and  
19            election day did you do anything?

20        A.    On election day we drove people to their -- to  
21            the precincts wherever they were, which were --  
22            that was harder because we had to drive them all  
23            over to 55 different precincts.

24        Q.    Well, now --

25        A.    You couldn't register anybody on election day,

1 of course.

2 Q. How long were you out there in 2016? How long  
3 did that last? Weeks or days? Or how long did  
4 that last?

5 A. Every -- every day early votes. There's 17 days  
6 of early voting, plus election day. We were --  
7 we had at least -- we had eight shifts a day, at  
8 least four people per shift.

9 Q. But you weren't registering people before early  
10 voting? You weren't out there doing any of this  
11 stuff before early voting started, right?

12 A. We were doing -- yes, we were doing other things  
13 before early voting. We were registering people  
14 there before early voting started, working with  
15 a non-partisan group called You Can Vote  
16 registering voters.

17 Q. How long were you doing that in 2016?

18 A. We did that all summer.

19 Q. Was it every day or --

20 A. No. On and off. On a weekend we would show up.  
21 We would do that work on a weekend. That  
22 started in June.

23 We also sent volunteers to other  
24 organizations who wanted -- who didn't want to  
25 canvas at the bus station. So we sent -- this

1 is -- we were helping steer the good people who  
2 we had worked with to different places they  
3 wanted to work. So we sent a lot of people to  
4 the Clinton headquarters downtown. We sent a  
5 lot of people to Advance Carolina, which was a  
6 different organization working specifically with  
7 African American voters and trying to get them  
8 registered to vote, and we sent a lot of people  
9 work with them. And that was also door-to-door  
10 canvassing in east Durham in 2016. And then we  
11 were also sending people out of the county.

12 So we sent lots of people who wanted  
13 to -- we sent them to -- at the end to Granville  
14 county, Oxford, Person county. But, yeah, some  
15 of the most -- we can talk about the  
16 out-of-county work if you want.

17 Q. Yeah, let's talk about that. What did you do  
18 there?

19 A. So back it up to 2004. In 2004 we were early  
20 working to try to get Larry Kissell elected in  
21 the 8th Congressional District, which was a  
22 different map than we have today but some of the  
23 same counties basically due south of us. And  
24 there were probably a group of five to ten  
25 volunteers who went there every single weekend



1 throughout the summer and fall of 2004,  
2 registered a lot of voters.

3 That was the goal in all of the work  
4 I've done has been most the volunteers we work  
5 with has been to grow the majority and to grow  
6 the democracy, so...

7 Q. Now, you said grow the majority. What do you  
8 mean by that?

9 A. Grow the -- there is a Democrat majority in the  
10 state, more registered Democrats than  
11 Republicans. So we would register anybody, but  
12 we were seeking to help groups that had  
13 historically been underrepresented, African  
14 Americans, poor people, who are less likely to  
15 vote, to help them get voted and registered and  
16 participating.

17 Q. And those were all also groups that were likely  
18 to vote Democrat too, right?

19 A. Yeah, definitely. That was the case in 2004 and  
20 again in 2006. Finally in 2008, in the 8th  
21 district, Larry Kissell won in large measure  
22 because we helped to register Democrats. In  
23 2008 there were probably 30 volunteers a week  
24 that were going down to work with him.

25 Q. So remind me about this. Now, Larry Kissell, he

1 ran in 2004 and 2006?

2 A. Lost narrowly both times and then won in 2008,  
3 and then he was reelected and then he lost. He  
4 was reelected in 2010, even though that was a  
5 bad year for Democrats, because we were sending  
6 volunteers there again, to be honest, in part,  
7 and then in -- redistricting occurred in 2011  
8 and then he lost in the first gerrymandered  
9 election 2012.

10 Q. Now, you said Larry Kissell lost in 2004 and  
11 2006, right?

12 A. Uh-huh.

13 Q. Now, why wasn't the district gerrymandered then?

14 A. It wasn't.

15 Q. Okay. Tell me why.

16 A. It's a different district. It was a more  
17 competitive district. So it was a district that  
18 was in play so that an activist like me, and  
19 volunteers that I was working with, saw that  
20 there was an opportunity there to make a  
21 difference with our voter registration and with  
22 our voices as citizens.

23 And then in 2012 it wasn't even close  
24 because the Democrats had been pulled out of his  
25 district. He had been -- it's almost like 60/40

1           what the current balance there. So I think he  
2           lost -- I think he got 42 percent of the vote in  
3           2012 as opposed to about 54 or -5 percent,  
4           something like that.

5           Q. Now, in 2008, when he first won, that was a big  
6           year for Democrats, right?

7           A. Yeah.

8           Q. In fact, Democrats won -- they won all across  
9           the ballot, didn't they?

10          A. Yeah. It was a good year.

11          Q. I mean, Elizabeth Dole lost.

12          A. Right.

13          Q. And in 2010, you mentioned that was not such a  
14          good year for Democrats and you mentioned that  
15          Larry Kissell won that election, right? Do you  
16          think the fact that he was an incumbent at that  
17          time had anything to do with it?

18          A. Certainly helped, I suspect.

19          Q. It would help him raise money, right?

20          A. Yeah. Also the district had not been redrawn  
21          and he was representing a more closely divided  
22          district.

23          Q. Well, is it fair to say that incumbents have  
24          higher name ID too?

25          A. Of course they do. He was also a conservative

1 Democrat. He was reaching across the aisle and  
2 he was representing a district that in some ways  
3 left some liberals in Durham unhappy, but he was  
4 doing his best to represent the district that he  
5 had and that -- and he could not win it in 2012  
6 because it was a different district.

7 Q. In districts like that that are very close and  
8 competitive, does the type of Democrat who's  
9 running, in your experience, make a difference?

10 A. What do you mean?

11 Q. Well, you mentioned that Mr. Kissell was a  
12 conservative Democrat. Had he been a liberal  
13 Democrat, do you think he would have had a  
14 harder time in that district based upon your  
15 experience working in it?

16 A. Yeah, probably. I mean, I wasn't -- our goal as  
17 citizens has always been to get more people  
18 participating, so... And the belief is that  
19 when more people vote and participate we get  
20 better outcomes.

21 The problem is that when your vote  
22 doesn't matter, because you've been  
23 gerrymandered, it's like disfranchisement.  
24 There is nothing at stake in the congressional  
25 races in 2012, '14 and '16 in Durham county for

1 a Democrat or a Republican. If all politics are  
2 local, and there's some truth in that, the  
3 gerrymandering has removed congress as an area  
4 where local matters.

5 In 2008, David Price was then my  
6 congressman, came to our house, helped us with  
7 voter registration. He was there showing up on  
8 our doorstep as we were training volunteers.

9 In 2010, as I already said, we helped  
10 save his seat in a really bad election by  
11 turning out a much-larger-than-normal off-year  
12 election in Durham county.

13 In 2012, his district is no longer  
14 competitive. He's a good man, but he doesn't  
15 need to pay attention to grassroots actors like  
16 us. Nor do Republicans in Durham county have  
17 any hope of winning the election because it is  
18 so completely lopsided, and that's a direct  
19 result of gerrymandering.

20 So the ways in which my work, and  
21 others work, has been powerful and valuable is  
22 partly partisan. There are issues I care about  
23 deeply, like voting rights, that have  
24 unfortunately been politicized and denied many  
25 citizens, but also participation. And I

1 genuinely want Republicans to participate in  
2 Durham county. They have very little reason to  
3 vote for congress, and the congressional actors  
4 themselves have less reason to be responsive to  
5 our needs.

6 GK Butterfield is now my congressman  
7 because I've been redistricted, like many  
8 others, and also a good man whose politics I  
9 agree with, but our ability to have a voice in  
10 shaping other congressional races has been  
11 directly affected by the gerrymandering. There  
12 is no swing congressional district left. We can  
13 and will try to register voters outside of  
14 Durham county.

15 But the Larry Kissell story is not  
16 available to us right now. We'd have to  
17 register literally every single last woman and  
18 child -- you can't register kids. You would  
19 have to register everyone to try to make one of  
20 those districts competitive. It's invulnerable  
21 to even a landslide election.

22 Q. How do you know that?

23 A. Because I look at the numbers.

24 Q. Explain that to me.

25 A. Okay. So 59/41, what would it take -- that's

1           been pretty consistently what Republicans have  
2           won with. It's not 75 or three-quarter or  
3           two-thirds majority that David Price and other  
4           actors have had, but it's in the mid to high  
5           50s. So if you've got a five or six point  
6           swing, that's a wave election. That's not going  
7           to matter. They're still going to win.

8                         So it devalues not only the Democratic  
9           voices in those counties because their votes are  
10          literally kind of wasted. It also devalues the  
11          need that Republicans have to be responsive to  
12          their own constituents because they're not in,  
13          really, swing districts.

14                        Swing districts are good for our  
15          democracy. They're good for activists like me  
16          because we get to compete. We get to try to  
17          persuade voters in counties that are really  
18          different from ours about why engagement  
19          matters, about why they should participate.

20                        And I can't tell you how many people  
21          told me this election, Republicans as well as  
22          Democrats, "This system is rigged. My vote  
23          doesn't count." It was really hard to try to  
24          galvanize people to participate.

25                        So another stat I will give you that

1 backs up my opinion about this is that you saw  
2 voter participation in Durham county expand to  
3 historic levels in 2008. 77 percent voted in  
4 the county. We had substantially increased  
5 turnout in the off-year election in 2010,  
6 47 percent. 2012, 2014, 2016 voter turnout has  
7 been down in Durham county. It's dropped. Why?  
8 I think in part because congress is not even an  
9 issue. That's not a competitive seat. Those  
10 are not competitive races. It's less reason for  
11 people to get involved, Democrats or  
12 Republicans. So our turnout has dropped. It's  
13 still good. It's better than it was before all  
14 this mobilizing occurred.

15 I think in 2000 North Carolina was 42nd  
16 in the country in voter participation. I think  
17 it's risen to about 8th. That's been because of  
18 voter participation. It's been a much heavier  
19 lift to say, yeah, my vote counts whatever their  
20 party is because when people would say the  
21 system is rigged, I would say you're right it is  
22 and it's because of gerrymandering, and that  
23 hurts Republicans as well as Democrats. In this  
24 case it's helping Republicans to get their  
25 majority statewide, but it hurts Republicans in



1 districts like Durham or in the 1st or the 4th  
2 Congressional District.

3 Q. I think you said something to the effect that  
4 you thought the way the districts were drawn  
5 affected your -- I think you said your ability  
6 to have a voice. Is that what you said?

7 A. Uh-huh. Yeah.

8 Q. Can you explain that to me.

9 A. Okay. I'll try to explain it again. So I think  
10 one way I've had a voice has been as an activist  
11 in helping people in Durham county realize that  
12 their votes, their voices matter and why they  
13 should show up and vote.

14 In Durham county, because of the  
15 gerrymandering, their votes for Congress are  
16 essentially irrelevant. They matter for  
17 statewide races, they matter for the national  
18 races and they matter for local city council  
19 races, what have you. They don't matter for  
20 Congress because they're simply not competitive  
21 races.

22 So what is meant in terms of how we  
23 mobilize people -- and for me that is part of  
24 what my interest is in getting more people to  
25 participate. It's been getting much harder

1 because congressional races are no longer  
2 competitive.

3 Q. So you're saying people aren't interested in  
4 registering and participating because the  
5 congressional race in Durham is not competitive?

6 A. And our abilities to mobilize and help Democrats  
7 outside of Durham has also been hampered because  
8 the Larry Kissell story is off the table for us  
9 because there isn't a competitive district --  
10 congressional district outside of Durham that we  
11 can get to reasonably quickly.

12 It means that there's less capacity for  
13 us to go and mobilize in the 8th Congressional  
14 District, for example. I mean, the 2nd is maybe  
15 the closest, but it's still 56/43. That's not  
16 close. What it means is -- sorry, go ahead.

17 Q. No, you go ahead. Finish up, please.

18 A. So what it means is in terms of how my interest  
19 are harmed by that, it's because we as activists  
20 have basically exempted congressional races from  
21 being races where we could have a democratic --  
22 small "D" -- democratic impact. It doesn't  
23 really matter for those races because of the  
24 gerrymandering because they're not competitive.

25 Q. Well, if the districts before 2012 were

1 competitive, say, in Durham, why were you  
2 sending people to, like, the 8th district to be  
3 engaged in these activities?

4 A. So we realize that if we were to win statewide  
5 for the presidential, that what we were doing in  
6 Durham needed to happen elsewhere. So voter  
7 registration in Durham county was not just  
8 local. It was part of a broader campaign, an  
9 effort to bring as many new people into the  
10 political process.

11 So we were doing that in rural counties  
12 as well as in Durham. It was part of how we  
13 thought we could win the state for Barack Obama  
14 in 2008. It's also how we thought we would help  
15 maintain and build a Democratic congressional  
16 majority in the state. We had eight in 2008 and  
17 we had seven still in 2010 and now we have  
18 three.

19 Q. For example, though, in 2004 and '06 and '08 and  
20 you thought David Price, who was the  
21 representative at that time, was at risk of  
22 losing Durham county, you wouldn't have sent  
23 people to the 8th district to work, would you?

24 A. Some of these people we were just helping. They  
25 were already going there. We weren't

1 controlling them. We were part of a much  
2 broader part of voter activists who were wanting  
3 to do voter registration and have a belief, that  
4 I hope is still true, that if everybody voted in  
5 our democracy it would be a better democracy,  
6 that our votes would matter more.

7 And I wish Republican legislators  
8 understood that their vote is demeaned by  
9 disfranchisement and gerrymandering. It's a  
10 less representative vote. Something that is  
11 sacred to me is that the vote represents as much  
12 participation as possible. That's what I'm  
13 wanting to -- that's what my life's work has  
14 been about promoting and defending.

15 And so on the strategic side, to answer  
16 your question, if David Price was really  
17 vulnerable, I would have said let's work for  
18 him, but that's exactly what we did do in 2010.  
19 So we had less -- you know, fewer volunteers in  
20 the off-year election, but we were still --  
21 people who had been working for Larry Kissell  
22 continued to work for Larry Kissell in his  
23 district.

24 I didn't go to his district in 2010. I  
25 was staying put in Durham registering voters and

1 making sure that the people we had registered in  
2 2008 showed up to vote in 2010. And Durham  
3 county was kind of an exception, people did show  
4 up and that's basically what saved David Price's  
5 seat.

6 Q. Do you know how close the election was in 2010  
7 for David Price?

8 A. It wasn't close ultimately. It was pretty  
9 close. I don't remember the exact number, but I  
10 remember I looked at the numbers afterwards, and  
11 if what happened in eastern Wake county, which  
12 was part of his district now, if the same  
13 turnout had occurred -- if he had the same  
14 turnout in Durham as he had in Wake county, it  
15 would have been a nail-biter of an election. It  
16 would have been 5- or 6,000 votes. It's all  
17 turnout.

18 So we were -- we were working hard for  
19 David in 2010, as well as Elaine Marshall I  
20 think was running for senate at that point in  
21 statewide races.

22 Q. So who turns out in a particular election  
23 affects the results too. Is that fair?

24 A. Yes, of course.

25 Q. Because in 2008 large numbers of Democrats

1           turned out?

2           A.     Right.

3           Q.     In 2012, to some degree that was again true?

4           A.     Right.

5           Q.     In 2016 --

6           A.     2016 is a complicated story, but, yeah, overall  
7           turnout was down in sort of core Democratic  
8           constituencies. Overall turnout was down. So  
9           there's a bit of a debate about whether there  
10          was a huge Republican wave in the countryside.  
11          Democrats lost because they lost the  
12          countryside.

13                         So they gained 150,000 votes in the  
14          presidential level in seven core urban counties  
15          and hemorrhaged 200,000 in 93 counties outside  
16          of those seven, and that's because of -- lots of  
17          reasons, but, among other things, there was less  
18          rural organizing. And one of reason there was  
19          less rural organizing is because those districts  
20          were not competitive at the congressional level.

21                         If there were competitive districts  
22          outside in these rural areas, then you can get  
23          everything that stacks up. You can have a state  
24          seat in play and a state senate seat in play and  
25          a U.S. Congress seat in play as well as the

1           presidency, but right now those were not in play  
2           because it's been gerrymandered at the state  
3           level as well as the congressional level.

4                        So it became harder to figure out a  
5           strategy to try to bring people to rural areas.  
6           So we focused in 2016 less in countryside areas,  
7           which hurt ultimately, and focused more on -- we  
8           worked in both Durham county -- I should say in  
9           Wake county we organized the bus stop in the  
10          downtown bus station in Wake as well.

11                       Turnout in Durham and Wake county was  
12          down, but the Democratic vote margin expanded.  
13          So our work was very effective. Durham has  
14          never been bluer, Wake county has never been  
15          bluer, and that's because of the hard work of  
16          voter registration and turning out the vote.

17          Q. So we also had a very competitive governor's  
18          race, for example.

19          A. Right. Yeah.

20          Q. Did that not drive people out?

21          A. Yes, it did. And that exemplifies my argument  
22          in a nutshell. Close races that are  
23          competitive -- you can gerrymander the state but  
24          you can't gerrymander the actual state of  
25          North Carolina. So every statewide race is

1 really competitive, and that's where -- this is  
2 a purple state. It just is. It's become a  
3 purple state because of citizen activists --  
4 I'll say it, and I don't want to sound like an  
5 egotist -- because of voter registration and  
6 bringing a lot of new people into the political  
7 process. And that is what gerrymandering is  
8 shutting down --

9 Q. Can you explain --

10 A. -- at U.S. congressional races.

11 Q. Given the fact that the governor's race was so  
12 competitive, as you acknowledge, can you explain  
13 to me, though, how the way the congressional  
14 districts were drawn in 2016 somehow hampered  
15 the enthusiasm that people had for -- to turn  
16 out for the governor's race? If they turn out  
17 for the governor's race, they turn out for all  
18 the races, aren't they?

19 A. Well, I'm not sure I would frame it as that.  
20 The governor's race was -- yeah, I agree with  
21 you, the governor's race was competitive and  
22 that drove turnout, that brought up turnout. It  
23 was also a very close, you know, U.S.  
24 presidential race that was driving turnout.

25 But overall turnout dropped and that's



1 in part a reflection that many of the local  
2 races, local meaning U.S. Congress or as well  
3 as some of the -- Phil Berger was unopposed, was  
4 it 40 percent of state races were unopposed.

5 Q. Phil Berger --

6 A. Unopposed to run.

7 Q. Which Phil Berger? There's a son who's on the  
8 Court of Appeals and then there's the state  
9 senator.

10 A. The state senator ran unopposed.

11 Q. Okay, but that's not in Durham county.

12 A. I'm talking about the overall state. I'm  
13 talking about what drives overall turnout in the  
14 state. And a lot of local races are not  
15 competitive and they're not even -- and that's  
16 because of gerrymandering.

17 Q. How about Durham county, are there local races  
18 that weren't competitive in Durham county  
19 that --

20 A. Yeah, yeah, they were not competitive. That  
21 didn't drive our turnout. That didn't help.

22 So I guess what I'm saying, if we had a  
23 really -- if we had a competitive congressional  
24 race, whether or not we had one in Durham, it  
25 would have helped turnout, I think, and that

1 always helps. The more competitive races there  
2 are the more turnout there is.

3 This was a hard election -- 2016 was a  
4 hard election to get people engaged in in part  
5 because it was such a negative campaign at the  
6 national level that it was a heavier lift to say  
7 and -- it was a heavier lift to persuade people  
8 their votes count and the fact that there was  
9 gerrymandering and the system was rigged, that  
10 was coming from Donald Trump.

11 The rhetoric, it was really coming from  
12 the perception that our voices for Congress at  
13 the state level are -- it's gerrymandered in  
14 such a way that your vote doesn't matter.

15 The issue that I used a lot -- I  
16 canvassed with this all election long. In 2012,  
17 Democrats got a majority of votes for Congress  
18 and they won 4 out of 13 seats. That's just a  
19 fact. That's unfair. That did mobilize people.  
20 People looked at that and go, yeah, that's  
21 unfair. I do need to -- and why did they vote  
22 then? Some people said why should I vote. And  
23 I would say here's one seat that's competitive  
24 at a statewide level where we might have hope to  
25 challenge gerrymandering. It's Mike Morgan's

1 state supreme court seat. So a lot of people we  
2 helped mobilize were voting for Mike Morgan.

3 They were turned off to Hillary Clinton  
4 and Donald Trump, and there was nothing in the  
5 congressional to bring them in engagement. I  
6 mean, they voted for their congress people, but  
7 what drove them was the competitive seat of the  
8 state supreme court. That was the local, if you  
9 will, statewide race that drove the turnout in  
10 Durham.

11 There were thousands of people who  
12 showed up to vote for Mike Morgan, and they were  
13 angry about gerrymandering. I can tell you  
14 that's what our message was and it resonated  
15 really powerfully with a lot of people.

16 Q. How do you know that?

17 A. Because they would say "I don't want to vote.  
18 Why should I vote."

19 Q. But your knowledge is just anecdotal; is that  
20 right?

21 A. What do you mean?

22 Q. Well, all you know is based upon what the people  
23 you spoke with?

24 A. My knowledge of the vote turnout in 2012 is not  
25 anecdotal. That's an objective fact.

1 Q. Well, I was talking about what was driving  
2 turnout. For example, you said you thought the  
3 Mike Morgan race drove turnout or that --

4 A. For the people we worked with, the people we  
5 were persuading to vote -- our biggest struggle  
6 was to get people to vote. It wasn't who they  
7 would vote for actually. And I drove several  
8 Republicans to vote and they voted for Donald  
9 Trump. They also voted for Mike Morgan.

10 Q. Was that something -- was that something your  
11 group was pushing, though?

12 A. Yeah. The citizens we worked with, one of the  
13 big issues was the way in which gerrymandering  
14 was stifling our collective strength as  
15 Democrats and as citizens. Because just look at  
16 the math, we have 3 out of 13, and it's a  
17 closely divided state. That hasn't been the  
18 case historically.

19 Q. So the message was Mike Morgan will fix  
20 gerrymandering or something like that?

21 A. Well, that Mike Morgan would be an important  
22 step in the right direction. Because when we  
23 had tried in the past, when activists had tried  
24 to challenge gerrymandering at the State Supreme  
25 Court level, it had failed. So the hope is

1           there might be a remedy at that level, and  
2           that's why that seat mattered.

3                           How do you fight gerrymandering with a  
4           vote? Can you -- how do you do it? What is the  
5           remedy for it, for voters? What should we do?  
6           I can vote all day -- I could vote for David  
7           Price from now until I'm dead and it's not going  
8           to change gerrymandering.

9           Q. But during the time you lived in Durham  
10           county -- Durham's always been represented by a  
11           Democratic congress, hasn't it?

12           A. No. David Price lost in 1994.

13           Q. I'm talking about during the time you lived in  
14           Durham county.

15           A. I lived in Durham in 1994.

16           Q. So he lost one time?

17           A. He lost that, and that was a wave election,  
18           yeah.

19           Q. That was when the Contract for America and all  
20           that, that was with the Gingrich revolution and  
21           all that sort of stuff?

22           A. Yeah. Yeah.

23           Q. And that was Fred Heineman, right?

24           A. Uh-huh. So the gerrymandering that existed at  
25           that level was nothing even approaching what it

1 is now. So, I mean, you could argue that  
2 gerrymandering has been an element of American  
3 political history. I'm certainly aware of that.  
4 I teach U.S. political history, among other  
5 things, is part of what I teach, but never to  
6 the degree that we have now.

7 So it's pretty unprecedented how much  
8 gerrymandering there is in North Carolina. And  
9 the reason you know that is even if there were a  
10 wave election, it wouldn't matter. So how do  
11 you dislodge this -- it rewards bad political  
12 behavior.

13 Q. So you've lived in the 4th Congressional  
14 District how long, then?

15 A. So it switched. David Price was my legislator/  
16 congressman through 2012 and then it became GK  
17 Butterfield.

18 Q. When did you start living in Durham county?

19 A. I lived in Durham county originally from '92 to  
20 '94, when I was a graduate student, and then we  
21 returned here in 2002. And from -- we've lived  
22 at our current address from 2002 to the present.

23 Q. Do you believe the district was gerrymandered in  
24 the 1990s at all?

25 A. Well, I wasn't here in the 1990s, so --

1 one term.

2 Q. And your knowledge about how gerrymandering  
3 affects whether people vote, that's based upon  
4 your conversations with people and the  
5 activities that you just talked about?

6 A. Well, my knowledge of gerrymandering and how  
7 it -- I mean, I'm a historian, so I've done  
8 research on it and have looked at the numbers --  
9 what percentage of people voted in -- certainly  
10 for Durham county, which has been my focus, and  
11 other counties around the country. And I just  
12 recently published an article on turnout in the  
13 last five election cycles in North Carolina,  
14 comparing seven urban counties to seven rural  
15 counties.

16 Q. Did that -- was there a study behind that?

17 A. I did the study.

18 Q. And did that study specifically look at how  
19 gerrymandering affected turnout?

20 A. No, it was not focused on gerrymandering. So  
21 I'm not an expert on gerrymandering, if that's  
22 what you're asking.

23 Q. I'm just trying to find out if you conducted any  
24 kind of independent study specifically of, like,  
25 the allegations in the complaint here, because

1 that's what we're here to talk about.

2 A. No, I have not. I mean, I've read about  
3 gerrymandering and there's been conversations  
4 about gerrymandering at the public policy  
5 school, at the Sanford School where I teach as  
6 well. So I've learned from my colleagues there,  
7 and I've also learned about gerrymandering from  
8 just observing it in practice and what people  
9 think gerrymandering is and why it matters.

10 Q. But you couldn't say specifically what  
11 percentage of people or what types of people  
12 necessarily don't turn out the vote because of  
13 gerrymandering beyond the one-on-one  
14 conversations you've had with people?

15 A. I don't have the -- are you asking do I have a  
16 number?

17 Q. Yeah. I mean, you can't say, for example,  
18 40 percent of Republicans don't turn out because  
19 of the way the district lines are drawn for  
20 congress?

21 A. No, I don't have a number like that. I can look  
22 at -- this would be correlation, not causation.  
23 I can look at the decline in overall  
24 participation in Durham county post  
25 gerrymandering 2011 and suggest that it has



1 something to do with gerrymandering. It went  
2 from 77 percent to 68 percent at the  
3 presidential election down to 66 percent.  
4 That's 2008, '12, '16.

5 So that's a definite drop off, even as  
6 the number of people we've registered has  
7 expanded the size of the electorate quite a bit.

8 Q. Do you think any of that drop off could be due  
9 to the initial excitement of Obama in '08 and  
10 then --

11 A. Yeah, could be.

12 Q. And you couldn't say how much is attributable to  
13 that versus other things?

14 A. I'm not an expert to -- I wouldn't have the  
15 ability to give you a number about that.

16 What I can give you is a vantage from  
17 canvassing and that the sense -- especially in  
18 2016 where there was a lot of resistance to  
19 voting and it was a sense that their vote didn't  
20 count. And people brought up racial  
21 gerrymandering. People brought up political  
22 gerrymandering, both, to us, and we would try to  
23 persuade them that their vote still counted. So  
24 we would emphasize where are the competitive  
25 races. The presidential race, which didn't help

1 much, to be honest. It was the state races that  
2 brought people into the conversation. And  
3 again, that was our goal to bring people in, to  
4 get them to participate.

5 The Mike Morgan seat was really helpful  
6 because, in fact, people thought, oh, well, that  
7 will be an opportunity for -- to get a hearing  
8 about questions that had been sort of about  
9 gerrymandering and about the voter ID law, which  
10 disfranchised a lot of people. The hope that  
11 the State Supreme Court would be a place where  
12 those claims could be heard, whether or not they  
13 even won, and that had not been the case prior  
14 to that. That was the public perception of it.

15 Q. Do you know of any plans to bring a  
16 gerrymandering case to the state court?

17 A. Do I know of any plans right now?

18 Q. Yeah. Yeah.

19 A. No. I think there had been a challenge  
20 initially brought there that had been dismissed  
21 prior to -- yeah, so that was the first remedy I  
22 think was to combat gerrymandering at the state  
23 level, to challenge there, and then basically --  
24 the person that Mike Morgan defeated helped  
25 defend gerrymandering.

1 Q. And when you say gerrymandering, can you give me  
2 a definition? What is your definition of  
3 gerrymandering?

4 A. Gosh -- do you want me to answer that?

5 MS. EARLS: I assume you're not asking  
6 for a legal definition.

7 BY MR. McKNIGHT:

8 Q. Because you used the term a lot, so I want to  
9 know what you mean by it.

10 A. It means -- what is gerrymandering? It's a  
11 political strategy to silence one group of  
12 voters' interests and political views by  
13 dividing them up and diluting their political  
14 power in by how you draw the maps.

15 You do it really in two ways. You  
16 either split Democratic core districts, you take  
17 Buncombe county -- prefect example -- Asheville,  
18 Democratic stronghold, it's gotten more  
19 Democratic each election cycle in the last five  
20 election cycles. There's no Democratic  
21 congressman there, not even a hope, because it's  
22 split between two districts. I think that's  
23 called splitting Democratic strength.

24 And you combine that with packing as  
25 many African American or progressive Democrats

1 into a few uncompetitive districts. So that's  
2 three. There's the three we have: Mel Watt,  
3 David Price, GK Butterfield. That's it.

4 And the Democrats who live in all those  
5 other rural counties, or in some urban areas,  
6 they do not have the ability to have -- they  
7 don't have a reasonably competitive opportunity  
8 to have their voices heard. It could be the  
9 American care -- the Affordable Care Act, it  
10 could be -- whatever the issue is. We worked  
11 hard for the Affordable Care Act, to get it  
12 passed in 2009 after we helped turn the state in  
13 2008.

14 We had a whole legislative strategy  
15 statewide and within Durham to try to influence  
16 the congressional delegation to support it. We  
17 lobbied Kay Hagan directly. We brought a  
18 wonderful activist, Rhonda Robinson, who had  
19 lost healthcare and faced life-threatening  
20 illnesses, and Rhonda's testimony was directly  
21 influential in persuading Senator Kay Hagan to  
22 support the ACA. We were citizen activists.  
23 That's what we were doing.

24 So when the current moment there are  
25 three Democrats who are already persuaded, we

1 don't have any -- it's very, very hard -- in  
2 fact, some people I've worked with have sought  
3 to lobby a congressman and it's -- we're not in  
4 their district so they don't have a reason to  
5 listen to us, for one, and it's just much, much  
6 harder to have your voices be heard when it  
7 comes to helping -- actually, you know, showing  
8 up to a town hall, we do that whenever we can,  
9 but there's less communication between the  
10 legislators and their citizens and less need for  
11 a David Price or GK Butterfield even to show up  
12 and listen to us because we're so -- we're so  
13 packed together.

14 So gerrymandering is a way of diluting  
15 a particular group's political voice and their  
16 political power. It works. Democrats use it as  
17 well.

18 My best friend is a congressman from  
19 Maryland and he lives in a very gerrymandered  
20 district, 3rd district of Maryland, John  
21 Sarbanes. He doesn't like it.

22 It's not that the Republicans are  
23 uniquely wrong in gerrymandering, but what we  
24 have in North Carolina is reprehensible. I'm  
25 sorry to be angry.

1 Q. That's all right. But when in your mind did it  
2 become reprehensible?

3 A. 2011.

4 Q. And what -- can you explain to me what kind of  
5 gerrymandering you think existed in 2011. And  
6 what made 2011 worse than what was going on  
7 before that?

8 A. Just look at the numbers. The numbers do tell  
9 the story here pretty clearly. So Democratic  
10 votes for Congress range from 45, yeah, 46 in  
11 the last election. In 2014 it was 46. We had  
12 50.1 in 2012 or -- yeah, in 2010 -- sorry. No,  
13 2012. So it's been a range of 45 to 55 the  
14 Democrats have had when you add up all the votes  
15 for Congress over time, over several election  
16 cycles back to 2000.

17 Q. Are you talking about statewide or are you --

18 A. Statewide. We aggregated all of the votes for  
19 Congress that citizens cast. It's actually a  
20 pretty closely divided state. 45 to 55 is  
21 roughly the swing.

22 And if you look at 13 districts, yeah,  
23 you would think 6 or 7 should go one way or the  
24 other, maybe 5-8. Not 10-3. And we've been at  
25 10 -- we were at 9-4 in 2012 the first year we

1 had it, 9-4 in 2011, and it's been 10-3 ever  
2 since.

3 So that -- to me, that's self-evident  
4 that there's been a -- the citizens have not  
5 shifted their votes correspondingly to account  
6 for that much of a swing.

7 So that's a good way to illustrate what  
8 partisan gerrymandering looks like. It means  
9 that we get -- what's 3 over 13? That's about a  
10 quarter of the congressional representation when  
11 we have almost half of the votes. So that's  
12 unfair. And we had a majority in one election  
13 and we got 4 out of 13. So that's also unfair.  
14 That's, to me, a good way of seeing what  
15 gerrymandering is as a fact.

16 Q. Why is it fair to add up all the votes that one  
17 party got and all the votes the other party got  
18 and then to use that to determine how many seats  
19 a party ought to be winning in a state's  
20 congressional delegation? Why is that a fair  
21 way to do it?

22 A. That's one way to do it. That's one way to  
23 measure the overall sentiment of the state's  
24 electorate. I mean, it's not accidental that  
25 the Democrats have these huge mega majorities

1 and that the Republicans have consistently the  
2 same size of majority, which is smaller but  
3 gives them many more seats which expands their  
4 voice, their power, and it weakens the voices of  
5 people who are trying to bring people into the  
6 process as well as have their opinions on  
7 legislation be heard.

8 Q. When you say that the Democrats have a huge mega  
9 majority, what do you mean by that?

10 A. The Republicans have a huge mega majority. I'm  
11 sorry. They have 10 to 3. So it's better than  
12 75 percent of the congressional representation  
13 is Republican and they have a narrow majority of  
14 the votes for Congress. So that's a definition  
15 of gerrymandering as well.

16 Q. But couldn't the number of votes that each party  
17 got for Congress around the state, couldn't that  
18 be affected by the types of candidates who run,  
19 the amount of money they spend and other  
20 factors?

21 A. It could be. And that -- you would expect to  
22 see that kind of fluke election where you would  
23 have one election where maybe, wow, in this  
24 election Democrats just got really bad luck or  
25 it all broke the wrong way.



1 But you see a clear pattern here now.

2 It's been three election cycles now where, yeah,  
3 good people have run and they're running in  
4 districts where they almost can't win.

5 Q. But you acknowledge the districts were changed  
6 in 2016, right?

7 A. They were redrawn but they maintained the same  
8 outcome of a 10-3 even though -- yeah, there was  
9 a large turnout of Democrats, more in 2016 than  
10 in 2014, and it made no difference in the  
11 congressional delegation.

12 Q. Is it possible that people sometimes split their  
13 tickets? Like, for example, people could have  
14 voted Democrat for governor and Republican for  
15 Congress?

16 A. And some did, to be sure. Some people voted for  
17 Governor Cooper who voted for Donald Trump.  
18 They split it that way as well. There's a fair  
19 amount of ticket splitting, but that doesn't  
20 obviate the fact that there is this mismatch  
21 between -- to me it's a useful way of  
22 understanding the support for Democratic  
23 candidates across the state is simply to add up  
24 the total number of congressional votes that are  
25 Republican and the total number that are

1 as Peck Exhibit 1. And what I'll represent to  
2 you is that this is a -- this is a printout of  
3 the public information from the State Board of  
4 Elections that summarizes your voter history and  
5 voter information.

6 Is your name and address correct here  
7 at the top?

8 A. Yes, it is.

9 Q. And you're registered in Durham county; is that  
10 right?

11 A. Uh-huh, yes.

12 Q. And you're a registered Democrat?

13 A. Yes.

14 Q. Is your polling place correct here?

15 A. Yes, it is.

16 Q. Did you live in Precinct 7 in Durham county?

17 A. Yes.

18 Q. And you currently live in the 1st Congressional  
19 District?

20 A. Uh-huh.

21 Q. And if you'll turn with me to the second page.  
22 The second and third pages have a voter history  
23 here, and I know this is asking a lot, but would  
24 you look through this and let me know if this  
25 voter history looks accurate based upon your

1 Q. Because you were all directly coordinating with  
2 them?

3 A. We didn't go. We were sending volunteers that  
4 we knew who wanted to do that work.

5 Q. But there was communication with the Kissell  
6 campaign about where are you sending people?

7 A. Yes, there was.

8 Q. Now, in Interrogatory 11, you said you were  
9 precinct chairman or chairperson of Precinct 7  
10 from 2008 to 2010. Is that precinct chairperson  
11 for the --

12 A. 7th precinct.

13 Q. -- for the Democratic Party?

14 A. Yes. Yeah.

15 Q. And I understand that you did not attend any  
16 public hearing on redistricting for the 2016  
17 districts, is that right --

18 A. No.

19 Q. -- for the congressional districts?

20 A. No, I did not.

21 Q. Have you ever attended any kind of public  
22 hearing at the General Assembly for  
23 redistricting?

24 A. No, I have not. It's a good idea, though.

25 Q. And other than the articles we discussed

1 about -- that may touch on some of these issues,  
2 any other articles or social media posts, blogs  
3 that you've done on this issue?

4 A. No. No.

5 Q. Do you think that it's possible for people to  
6 change their political beliefs?

7 A. Yes.

8 Q. So people aren't born Democrats or Republicans?

9 A. No.

10 Q. And even people -- and people who might vote for  
11 a Democrat for Congress for ten years, it's  
12 possible they could change their mind and vote  
13 for Republican if the right candidate came  
14 along, correct?

15 A. Certainly.

16 Q. And have you had circumstances where you've ever  
17 voted for a Republican?

18 A. Have I voted for a Republican. I'm trying to  
19 remember. In my earliest days I -- I don't  
20 think so, but I may have. I'm trying to  
21 remember. In the '80s, when I first was engaged  
22 with voter registration work in Rochester,  
23 New York, where I grew up, I may have voted for  
24 the state senator who was our local Republican  
25 because he was helping us with voter

1 registration. I think I did, but I can't  
2 remember, I'll be honest.

3 Q. Was that largely based upon a relationship you  
4 had with him?

5 A. No. He didn't know me, but we knew that he --  
6 we were -- he was more progressive than the  
7 conservative Democrat at that moment in time  
8 and --

9 Q. So sometimes that can happen?

10 A. Certainly, yeah.

11 Q. Are there other circumstances where you might  
12 consider voting for a Republican?

13 A. Certainly.

14 Q. Can you tell me what circumstances that might  
15 be?

16 A. Well, it's not so much me. My values are  
17 deeply -- at this point represent -- best  
18 represented by the Democratic Party.

19 But I should say that I consider myself  
20 a citizen first -- or a patriot first and then a  
21 Democrat second. And so I have a lot of  
22 complaints about the Democrats. I wish I could  
23 surgically implant a spine into some of my good  
24 Democratic colleagues. Is that on the record?  
25 Make it on the record. And I admire some

1           Republicans for having that kind of spine.

2                         But to register as a Republican at this  
3 point or to vote, it would have to be -- that  
4 would be contrary to my values because the  
5 Republican Party, unfortunately, has decided  
6 it's better to disfranchise than to compete.

7     Q.   Well, now --

8     A.   They should compete for the loyalties of our  
9 citizens rather than trying to silence. That's  
10 what I think.

11    Q.   You bring up a distinction here that I want to  
12 get at too. There's a difference too between  
13 how someone registers to vote and how they vote.

14    A.   Certainly.

15    Q.   You can vote for anybody no matter how you're  
16 registered.

17    A.   Yeah.

18    Q.   What factors affect how you vote?

19    A.   I've already suggested one, people's -- how well  
20 they listen to their constituents, what kind of  
21 moral compass they have in their life, whether  
22 they are good organizers as well as legislators.  
23 I want legislators to see their role as  
24 listeners and advocates and also who are -- have  
25 an incentive and a desire ideally from a kind of

1 moral center to listen and learn from their  
2 constituents and to represent them not by  
3 agreeing with them but by explaining how they  
4 vote the way they do.

5 That -- and so that is basic. And I  
6 think I should say I really enjoy canvassing  
7 Republicans as well as Democrats. Again, I've  
8 gotten into some kind of trouble as an activist  
9 in the past with certain partisans who will say  
10 if you encounter a Republican, let them go, just  
11 mobilize your base. And I always -- I always  
12 talk to everybody. I -- to me it's part of my  
13 obligation. It's what I love most about  
14 politics is actually listening to what people  
15 think and believe and then engaging it, not  
16 agreeing, engaging it. So I look for that in  
17 any politician.

18 And unfortunately, as I've already  
19 said, gerrymandering weakens the incentive that  
20 good people have to do the right thing because  
21 it makes them less accountable. They don't have  
22 to listen to get reelected, so...

23 Q. If they ignored everybody -- if David Price or  
24 GK Butterfield completely ignored his base, they  
25 might turn on him, right?

1 A. They would still get reelected.

2 Q. They might get turned out in a primary?

3 A. That's where it would manifest as a problem, but  
4 if they re-secured the nomination, it is almost  
5 impossible to imagine any Republican winning in  
6 these districts because you'd be asking people  
7 like me to vote directly contrary to their moral  
8 values, and they're going to vote for the blank  
9 Democrat. And that's -- it's a low bar. It's  
10 an unvirtuous cycle we have right now.

11 Q. What if you wound up with a scenario like you  
12 have in New York where you end up with a  
13 Republican who was more progressive, than, say,  
14 GK Butterfield?

15 A. Right. In theory that's possible, yes.

16 MR. McKNIGHT: I don't think I have any  
17 other questions. I'll turn it over to  
18 Mr. Bernier to see if he has anything.

19 THE WITNESS: Is it okay to take a  
20 break?

21 MR. McKNIGHT: Absolutely.

22 MS. EARLS: If you have any  
23 questions -- do you have --

24 MS. BERNIER: We can take a break. I  
25 have some questions.



1 THE WITNESS: I mean, if you have  
2 questions, is it okay to take a quick break?

3 (Brief Recess: 10:37 to 10:58 a.m.)

4 BY MR. McKNIGHT:

5 Q. What -- in your opinion, Dr. Peck, what would  
6 make the congressional districts at issue here  
7 not gerrymandered? What would that look like in  
8 your view?

9 A. I don't -- I'm not a map maker, but the theory  
10 would be that the outcome of the election would  
11 reflect the collective sentiments of the state's  
12 electorate, so that would be result driven.  
13 That you would have -- if you had Democrats  
14 winning 46 percent of the state's congressional  
15 vote that they should win 6 of the 13. That  
16 would be fair.

17 Q. So in your view, it would be determined by  
18 adding up the vote totals that the Democrat  
19 candidate got and that the Republicans got, all  
20 those candidates for Congress in all 13  
21 districts and then --

22 A. I would start with that, yes.

23 Q. Okay. Anything else you would do?

24 A. I suppose it would be good to maximize the  
25 number of competitive districts in that process,

1           so -- so it is a public good to have competitive  
2           districts.

3           Q.    And in your view how do you define a competitive  
4           district?

5           A.    Where Democrats and Republicans would have a  
6           reasonable chance of winning a given  
7           congressional election.

8           Q.    And when you say a reasonable chance of winning,  
9           what does that look like?  Is that winning in a  
10          wave year or is it winning every year?  Or how  
11          does that --

12          A.    I'm not an expert in that.  I think that's part  
13          of what -- you know, but I would say that there  
14          would be a correspondence between -- as again,  
15          I've said -- the total number of votes for  
16          Congress for each party with the electoral  
17          outcome.

18                           And you see that very clearly in the  
19          history throughout the '90s, throughout the  
20          early 2000s, up until 2012 there is an  
21          approximate win correlation.  The party that won  
22          the majority of congressional votes won a  
23          majority of the congressional seats.  The only  
24          exception is in 2012.  I think it was -- sorry,  
25          2010, which one is it, 2010 when the Republicans

1 won a majority but only won 6 of the 13 seats.  
2 That was 2010. And -- but that's still pretty  
3 close. It's still within a good -- that to me  
4 speaks of basically the fairness of the system  
5 that it had been operating up to that point, and  
6 what we have now is completely skewed.

7 Democrats are earning 25 percent or  
8 less of the congressional representation and  
9 they have close to 50 percent, 47 percent,  
10 46 percent of the congressional votes. And,  
11 frankly, it would be higher if there were more  
12 competitive districts as well. There had been  
13 fewer votes for Congress in places like Durham  
14 where it's not a competitive race and so it's  
15 not drawn the attention of activists. So  
16 there's kind of an unvirtuous cycle you see  
17 playing out on the ground when it comes to  
18 mobilization.

19 Q. Now, you're not saying that people are coming  
20 out to vote for the state races and skipping the  
21 congressional race because it's not competitive?

22 A. It's not pulling people to the polls. People  
23 are not coming to the polls because it's not  
24 competitive.

25 Q. But that's one of several factors?

1 A. It's one of several factors, but it's one of the  
2 factors at play, certainly. Let's put it this  
3 way: Of the several hundred voters I canvassed  
4 in 2016, I don't recall a single one of them  
5 voting -- the reason they were voting was the  
6 congressional race.

7 Q. And your canvassing was limited, though, to  
8 Durham county?

9 A. No. It was Durham and Wake county.

10 Q. Durham and Wake?

11 A. Yeah.

12 Q. Do you remember what districts you were  
13 canvassing in?

14 A. So I was canvas -- well, the voters were -- in  
15 Durham county were the 1st and the 4th because  
16 at the bus station they come from all over the  
17 county. And at Wake county it was the 2nd and  
18 the -- would be the 1st.

19 MR. McKNIGHT: All right. I think  
20 that's all the questions I have for right now.

21 EXAMINATION

22 BY MS. EARLS:

23 Q. I just want to follow up, actually, about the  
24 canvassing and in particular in 2016 relating to  
25 your testimony earlier in the deposition about

1 the voters that you talked to and the views that  
2 they had about the election being rigged and the  
3 gerrymandering being a factor that discouraged  
4 voters from turning out.

5 Can you give us a rough estimate of in  
6 2016, whether it was before the early voting,  
7 during the early voting, in the 2016 election  
8 cycle, roughly how many voters you personally  
9 talked to?

10 A. So I don't have the exact number, but it would  
11 be -- there were 17 days of early voting, there  
12 was election day, there were at least 10  
13 additional days, so 30 -- it was over a thousand  
14 voters that I talked with that I canvassed  
15 directly.

16 Q. And you weren't doing this canvassing completely  
17 by yourself, right?

18 A. No.

19 Q. So there were other volunteers canvassing that  
20 you were talking with?

21 A. Yes.

22 Q. And did you -- did they share with you their  
23 experiences in talking with voters?

24 A. Yes. So I trained -- we had roughly a hundred  
25 volunteers who were regular and probably another

1           50 or so who were sporadic. So -- and for all  
2           of those voters I would train and then they gave  
3           us feedback at the end of their shift. So I was  
4           hearing about what they were hearing.

5           Q.    And what was -- what feedback did you receive?  
6           What were they saying specifically?

7           A.    They were saying specifically on gerrymandering  
8           that that was a -- it was actually a -- a  
9           challenging issue to get people -- the hardest  
10          problem all of us faced as organizers and as  
11          activists was getting people to participate  
12          because they felt like consistently that their  
13          vote didn't count, that the system was rigged,  
14          and that's the language we heard across the  
15          political spectrum.

16                            And so then the question became how do  
17          you persuade someone that their vote matters.  
18          So we, in effect, found ways to connect with  
19          people in spite of the gerrymandering deficit,  
20          and we emphasized Mike Morgan's seat for other  
21          local races, statewide races that were  
22          competitive even though Congress was not.

23                           MS. EARLS: I have no further  
24          questions.

25          ///