

In The Matter Of:

Evan Milligan,et al v. John H.Merrill, et al.

Jim McClendon

December 17, 2021

US Legal

Evan Milligan, et al v. John H. Merrill, et al.

Jim McClendon
12/17/2021

1	UNITED STATES DISTRICT COURT	1	A P P E A R A N C E S
2	FOR THE NORTHERN DISTRICT OF ALABAMA	2	
3		3	FOR THE MILLIGAN PLAINTIFFS:
4		4	MICHAEL L. TURRILL
5		5	Attorney at Law
6	EVAN MILLIGAN, et al.,)	6	Hogan Lovells US LLP
7) CIVIL CASE NO.	7	1999 Avenue of the Stars, Ste. 1400
8	Plaintiffs,) 2:2021-CV-01530-AMM	8	Los Angeles, California 90067
9	VS.) VIDEO DEPOSITION OF:	9	michael.turrill@hoganlovells.com
10	JOHN MERRILL, et al.,) JAMES MCCLENDON	10	
11)	11	KATHRYN SADASIVAN
12	Defendants.)	12	Attorney at Law
13		13	NAACP Legal Defense & Educational Fund
14		14	40 Rector Street, FL 5
15		15	New York, New York 10006
16	S T I P U L A T I O N S	16	ksadasivan@naacpldf.org
17	IT IS STIPULATED AND AGREED, by and between	17	
18	the parties through their respective counsel, that	18	DEUEL ROSS (Via Zoom)
19	the deposition of:	19	Attorney at Law
20	JAMES MCCLENDON,	20	NAACP Legal Defense & Educational Fund
21	may be taken before LeAnn Maroney, Notary Public,	21	700 14th Street N.W., Ste. 600
22	State at Large, at the law offices of Balch &	22	Washington, DC 20005
23	Bingham, 105 Tallapoosa Street, Montgomery, Alabama,	23	dross@naacpldf.org
24	36104, on December 17, 2021, commencing at 1:57 p.m.	24	
25	Page 1	25	Page 3
1	IT IS FURTHER STIPULATED AND AGREED that the	1	JULIE A. EBENSTEIN
2	signature to and reading of the deposition by the	2	Attorney at Law
3	witness is waived, the deposition to have the same	3	American Civil Liberties Union Foundation
4	force and effect as if full compliance had been had	4	125 Broad Street
5	with all laws and rules of Court relating to the	5	New York, New York 10004
6	taking of depositions.	6	jebenstein@aclu.org
7		7	
8	IT IS FURTHER STIPULATED AND AGREED that it	8	KAITLIN WELBORN
9	shall not be necessary for any objections to be made	9	Attorney at Law
10	by counsel to any questions, except as to form or	10	American Civil Liberties Union of Alabama
11	leading questions, and that counsel for the parties	11	P.O. Box 6179
12	may make objections and assign grounds at the time	12	Montgomery, Alabama 36106
13	of the trial, or at the time said deposition is	13	kwelborn@aclualabama.org
14	offered in evidence, or prior thereto.	14	
15		15	FOR THE CASTER PLAINTIFFS: (Via Zoom)
16		16	DAN OSHER
17	***	17	Attorney at Law
18		18	Elias Law Group
19		19	10 G Street NE, Ste. 600
20		20	Washington, DC 20002
21		21	dosher@elias.law
22		22	
23		23	
24		24	
25	Page 2	25	Page 4

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1 FOR DEFENDANT JOHN H. MERRILL:	1 I, LeAnn Maroney, a Court Reporter of
2 JIM DAVIS	2 Birmingham, Alabama, and a Notary Public for the
3 Assistant Attorney General	3 State of Alabama at Large, acting as commissioner,
4 Office of the Attorney General	4 certify that on this date, pursuant to the Federal
5 501 Washington Avenue	5 Rules of Civil Procedure and the foregoing
6 Montgomery, Alabama 36130	6 stipulation of counsel, there came before me on
7 jim.davis@alabamaag.gov	7 December 17, 2021, JAMES MCCLENDON, witness in the
8	8 above cause, for oral examination, whereupon the
9 FOR THE DEFENDANTS JAMES MCCLENDON & JAMES	9 following proceedings were had:
10 MCCLENDON:	10 * * * * *
11 DORMAN WALKER	11 THE VIDEOGRAPHER: This marks the
12 Attorney at Law	12 beginning of the deposition of Jim McClendon in the
13 Balch & Bingham	13 matter of Evan Milligan, et al., versus John H.
14 105 Tallapoosa Street, Ste. 200	14 Merrill, et al., Civil Case Number 2:21-CV-01530-AMM
15 Montgomery, Alabama 36104	15 filed in the United States District Court for the
16 dwalker@balch.com	16 Northern District of Alabama. The date is December
17	17 17, 2021. The time is 1:57 p.m.
18	18 All attorneys present, will you please
19 ALSO PRESENT:	19 state your names and whom you represent.
20 Paige Ali, Videographer	20 MR. DAVIS: Jim Davis, Alabama Attorney
21	21 General's Office, for Secretary of State John
22	22 Merrill.
23	23 MR. WALKER: Dorman Walker, Balch &
24	24 Bingham, for Senator Jim McClendon.
25	25 MS. SADASIVAN: This is Kathryn
Page 5	Page 7
1 I N D E X	1 Sadasivan for plaintiffs Evan Milligan, Shalela
2 MS. SADASIVAN: 9-103	2 Dowdy, Letetia Jackson, Greater Birmingham
3 MR. OSHER: 104-111	3 Ministries, and the NAACP of Alabama.
4 MR. DAVIS: 111-114	4 I'm still having trouble hearing you
5	5 all, though. The audio is going out. Are you able
6	6 to move the place where -- anything towards the
7 E X H I B I T L I S T	7 witness, a phone, audio of some sort?
8	8 (Discussion held off the record.)
9	9 THE VIDEOGRAPHER: Okay. The attorneys
10 Plaintiff's Exhibit 1 - 35	10 that are on Zoom, if you'll do your introductions.
11 (Talk points)	11 MR. TURRILL: Michael Turrill of Hogan
12 Plaintiff's Exhibit 2 - 36	12 Lovells on behalf of the Milligan plaintiffs.
13 (2011 reapportionment guidelines)	13 MR. ROSS: Deuel Ross for the Milligan
14 Plaintiff's Exhibit 3 - 47	14 plaintiffs.
15 (Montgomeryadvertiser.com)	15 MR. OSHER: Dan Osher for the Caster
16 Plaintiff's Exhibit 4 - 61	16 plaintiffs.
17 (Public hearing schedule)	17 MS. EBENSTEIN: Julie Ebenstein for the
18 Plaintiff's Exhibit 5 - 64	18 Milligan plaintiffs.
19 (2021 reapportionment guidelines)	19 THE VIDEOGRAPHER: Do you want to swear
20 Plaintiff's Exhibit 6 - 76	20 him in?
21 (Transcript of October 26, 2021)	21 JAMES MCCLENDON,
22 Plaintiff's Exhibit 7 - 94	22 having been duly sworn, was examined and testified
23 (Transcript of November 3, 2021)	23 as follows:
24 Plaintiff's Exhibit 8 - 100	24 THE REPORTER: Usual stipulations?
25 (Hall request for additional meetings)	25 MR. WALKER: Meaning that the only
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<p>1 objections that need to be made are to the form of 2 the question. Yes, Katherine?</p> <p>3 MS. SADASIVAN: Yes.</p> <p>4 THE VIDEOGRAPHER: We are off the 5 record. The time is 1:59 p.m.</p> <p>6 (Recess was taken.)</p> <p>7 THE VIDEOGRAPHER: We are back on the 8 record. The time is 2:04 p.m.</p> <p>9 EXAMINATION BY MS. SADASIVAN:</p> <p>10 Q. Good afternoon, Mr. McClendon. My name 11 is Kathryn Sadasivan and I work for the NAACP Legal 12 Defense & Educational Fund. I represent the 13 plaintiffs in this case, Milligan versus Merrill. 14 Thank you for making yourself available for today's 15 deposition.</p> <p>16 Do you understand that you're here today 17 because you've been served with a notice of 18 deposition and you are a defendant in Milligan 19 versus Merrill in your official capacity as cochair 20 of the Alabama permanent legislative committee on 21 reapportionment?</p> <p>22 A. I do.</p> <p>23 Q. Before going any further, can you please 24 state and spell your name for the record?</p> <p>25 A. James H. McClendon, M-c-C-L-E-N-D-O-N.</p> <p style="text-align: right;">Page 9</p>	<p>1 Q. Are you taking any medication that might 2 affect your ability to understand the questions that 3 I ask or provide answers to those questions?</p> <p>4 A. No.</p> <p>5 Q. Do you have any condition that would 6 affect your ability to understand the questions that 7 I ask and provide answers to the questions?</p> <p>8 A. No.</p> <p>9 Q. Do you understand that today's 10 deposition is being conducted via web 11 videoconference?</p> <p>12 A. Yes.</p> <p>13 Q. Do you understand that a court reporter 14 is transcribing this deposition, meaning that they 15 are writing down everything that you, your counsel, 16 and I say today?</p> <p>17 A. Yes.</p> <p>18 Q. It's important that all of your answers 19 are verbal. This will allow the court reporter to 20 record our statements. The court reporter won't be 21 able to record gestures or nodding. Do you 22 understand?</p> <p>23 A. I do.</p> <p>24 Q. Likewise, it's important that we don't 25 speak over one another. I will wait until you</p> <p style="text-align: right;">Page 11</p>
<p>1 Q. And your first name, as well, please.</p> <p>2 A. J-A-M-E-S.</p> <p>3 Q. Have you ever been deposed before?</p> <p>4 A. Yes.</p> <p>5 Q. When?</p> <p>6 A. Roughly ten years ago during 7 redistricting last time.</p> <p>8 Q. And what was your role in the 9 litigation?</p> <p>10 A. I was house chairman of redistricting at 11 that time.</p> <p>12 Q. Were you a defendant?</p> <p>13 A. Yes.</p> <p>14 Q. Were you -- have you been involved in 15 any other cases?</p> <p>16 A. Any? No.</p> <p>17 Q. You are sworn and under oath. Do you 18 understand that for purposes of my questioning, you 19 must testify truthfully and as completely as 20 possible as though we were before a judge in a 21 courtroom?</p> <p>22 A. Yes.</p> <p>23 Q. Is there any reason you cannot give 24 truthful and complete testimony today?</p> <p>25 A. No.</p> <p style="text-align: right;">Page 10</p>	<p>1 finish your answer, and I ask that you please wait 2 until I finish my question before answering. Do you 3 understand?</p> <p>4 A. I do.</p> <p>5 Q. If you don't understand a question that 6 I ask, please just let me know, and I'll rephrase 7 it. If at any point you recall additional 8 information that is responsive to a question that I 9 asked you earlier, please let me know, and I will 10 allow you to clarify the record. Do you understand?</p> <p>11 A. I do.</p> <p>12 Q. Please do not guess or assume when 13 answering. Be sure to state only that which you 14 know to be true based on your personal knowledge. 15 Will you do that?</p> <p>16 A. Yes.</p> <p>17 Q. You may hear your attorney, Mr. Walker, 18 object to a question from time to time. His 19 objections are being made for the record, and you 20 are still required to answer my question unless you 21 are instructed by your attorney not to answer. Do 22 you understand?</p> <p>23 A. I'm not sure about that. Maybe say it 24 again. Let me hear you say that one more time.</p> <p>25 Q. You may hear your attorney object to a</p> <p style="text-align: right;">Page 12</p>

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<p>1 question from time to time throughout this 2 deposition. Those objections are made largely for 3 the record. And you understand you are still 4 required to respond to my question unless you are 5 instructed by your attorney not to?</p> <p>6 A. Okay.</p> <p>7 Q. Do you understand that?</p> <p>8 A. I've got it.</p> <p>9 Q. Is that a yes?</p> <p>10 A. Yes.</p> <p>11 Q. Thank you.</p> <p>12 Since we're conducting this deposition 13 remotely and we're not together in the same room, I 14 ask that you please keep your cell phone off unless 15 we are on a break. Can you do that?</p> <p>16 A. I understand.</p> <p>17 Q. Please don't refer to any documents or 18 other materials during our conversation today. Will 19 you do that?</p> <p>20 A. Did you say don't refer to any materials 21 or documents today? Is that what you said?</p> <p>22 Q. Do you have any documents with you?</p> <p>23 A. I do not.</p> <p>24 MR. WALKER: Oh, did you mean don't look 25 at any documents?</p> <p style="text-align: right;">Page 13</p>	<p>1 A. Correct. Yes, it is.</p> <p>2 MR. WALKER: Kathryn, can I ask that 3 this personal information be redacted with anything 4 you file with the court?</p> <p>5 Q. Do you have any other phone numbers?</p> <p>6 A. Well, I do have a phone in my office in 7 the Alabama state house, but I'm not sure what the 8 number is.</p> <p>9 Q. Do you have an email account?</p> <p>10 A. I do. I have two.</p> <p>11 Q. And what are they?</p> <p>12 A. My personal email is 13 jimmcc@windstream.net. My senate email is 14 jim.mcclendon@alsenate.gov.</p> <p>15 Q. Do you have any personal social media 16 accounts?</p> <p>17 A. Facebook, yes.</p> <p>18 Q. You just have a Facebook account?</p> <p>19 A. Correct.</p> <p>20 Q. No Twitter?</p> <p>21 A. No Twitter.</p> <p>22 Q. And where were you born?</p> <p>23 A. Mobile, Alabama.</p> <p>24 Q. And where did you go to high school?</p> <p>25 A. Springville, Alabama.</p> <p style="text-align: right;">Page 15</p>
<p>1 Q. Do you have any -- if you don't have any 2 documents with you, please don't look at any 3 documents other than those that I will give you. Do 4 you understand that?</p> <p>5 A. I do.</p> <p>6 Q. Thank you. Sorry for all the 7 preparatory language.</p> <p>8 Finally, if you need a break at any 9 time, please just let me know. If there's a 10 question pending, I just ask that you answer that 11 question before going on a break. Do you 12 understand?</p> <p>13 A. I do.</p> <p>14 Q. Thank you.</p> <p>15 I'm going to ask you some background 16 questions to get to know you a little bit better.</p> <p>17 What is your date of birth?</p> <p>18 A. 1-10-43.</p> <p>19 Q. That's January 10, 1943?</p> <p>20 A. Correct.</p> <p>21 Q. What's your address?</p> <p>22 A. 361 Jones Road, Springville, Alabama.</p> <p>23 Q. And your telephone number?</p> <p>24 A. (205)999-8096.</p> <p>25 Q. Is that a mobile phone number?</p> <p style="text-align: right;">Page 14</p>	<p>1 Q. Where did you go to college?</p> <p>2 A. My undergraduate degree is from 3 Birmingham Southern College in Birmingham, and my 4 doctorate is from the University of Houston, 5 Houston, Texas.</p> <p>6 Q. And what is your doctorate in?</p> <p>7 A. Optometry.</p> <p>8 Q. And what courses did you take at 9 Birmingham Southern?</p> <p>10 A. Just pretty much premed-type courses.</p> <p>11 Q. And have you studied anywhere else?</p> <p>12 A. No, other than continuing education 13 courses required to maintain my optometry license.</p> <p>14 Q. So you are an optometrist?</p> <p>15 A. Correct. Yes, I am.</p> <p>16 Q. Have you -- are you married?</p> <p>17 A. I am.</p> <p>18 Q. How long have you been married?</p> <p>19 A. 26 years.</p> <p>20 Q. Congratulations.</p> <p>21 Do you have kids?</p> <p>22 A. I do.</p> <p>23 Q. How many?</p> <p>24 A. One child.</p> <p>25 Q. One child. And how old are they?</p> <p style="text-align: right;">Page 16</p>

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<p>1 A. She is 50.</p> <p>2 Q. And what does she do for a living?</p> <p>3 A. A school teacher.</p> <p>4 Q. In Alabama?</p> <p>5 A. Yes.</p> <p>6 Q. Where?</p> <p>7 A. In the Jefferson County system.</p> <p>8 Q. And where do you work?</p> <p>9 A. I'm a -- I'm retired from optometry.</p> <p>10 Q. So you are not employed currently?</p> <p>11 A. As an optometrist, no, I am not.</p> <p>12 Q. Are you employed anywhere currently?</p> <p>13 A. Only as an Alabama senator.</p> <p>14 Q. So you're working as an Alabama senator?</p> <p>15 A. Well, I am a senator, and we do work</p> <p>16 from time to time.</p> <p>17 Q. Are you paid?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know why you're here today?</p> <p>20 A. Yes.</p> <p>21 Q. Why?</p> <p>22 A. A lawsuit concerning redistricting that</p> <p>23 we just completed in the Alabama legislature.</p> <p>24 Q. Did you read the complaint in the case</p> <p>25 in which you're sitting for a deposition today?</p> <p style="text-align: right;">Page 17</p>	<p>1 Q. Did you review any documents?</p> <p>2 A. Yes.</p> <p>3 Q. Which documents?</p> <p>4 A. There were two. Actually, I can't say I</p> <p>5 reviewed them. I looked at the cover. One of them</p> <p>6 had to do with the notes -- the bullet points we</p> <p>7 used on the floor, in my case on the floor of the</p> <p>8 senate.</p> <p>9 And the other one -- I can't even</p> <p>10 remember what the other one was. But I gave them</p> <p>11 back to my attorney. I didn't take them home and</p> <p>12 read them or study them.</p> <p>13 Q. So I am going to try to drop in the chat</p> <p>14 a document that I'll ask the court reporter to mark</p> <p>15 as Exhibit 1. And I can show it on my screen, as</p> <p>16 well.</p> <p>17 Is this the document that you reviewed</p> <p>18 in advance of your deposition today? Let me share</p> <p>19 my screen.</p> <p>20 Senator McClendon, is this the document</p> <p>21 that you were referring to?</p> <p>22 A. I really can't read that. I see talking</p> <p>23 points -- okay. Scroll it up and let me see it.</p> <p>24 Well, that looks similar. I don't know if that's</p> <p>25 exactly the same document. But that's sort of the</p> <p style="text-align: right;">Page 19</p>
<p>1 A. I didn't quite understand. Did you say</p> <p>2 will you read or did you read?</p> <p>3 Q. Did you read.</p> <p>4 A. I have not read it, no.</p> <p>5 Q. Do you know what the case is about?</p> <p>6 A. Yes. This case has to deal with the</p> <p>7 congressional districts.</p> <p>8 Q. Are you represented by counsel today?</p> <p>9 A. I am.</p> <p>10 Q. Who is your counsel?</p> <p>11 A. Dorman Walker.</p> <p>12 Q. And how did you prepare for this</p> <p>13 deposition today?</p> <p>14 A. I came in yesterday and we met for a</p> <p>15 couple of hours and we sort of talked about how this</p> <p>16 works and what to expect. But that was the only</p> <p>17 preparation.</p> <p>18 Q. And who is "we"?</p> <p>19 A. Jim Davis was here and Chris --</p> <p>20 Representative Pringle was here and I was here. So</p> <p>21 it was four of us present.</p> <p>22 Q. So you -- the only preparation you did</p> <p>23 for this deposition was to meet with Chris Pringle,</p> <p>24 Jim Davis, and Mr. Walker yesterday for a few hours?</p> <p>25 A. That is correct.</p> <p style="text-align: right;">Page 18</p>	<p>1 format that was used.</p> <p>2 Q. I'll represent that this was produced in</p> <p>3 this litigation and that I have given it to the</p> <p>4 court reporter and hopefully you also have a copy.</p> <p>5 And what was this document?</p> <p>6 A. What you and I were just discussing was</p> <p>7 talking points that I was provided by our attorney</p> <p>8 when the issue of the congressional map came before</p> <p>9 the senate as a body.</p> <p>10 Q. And who gave you this document?</p> <p>11 A. Pardon?</p> <p>12 Q. Who gave that document to you?</p> <p>13 A. One of the staff members of the</p> <p>14 redistricting -- not committee, but the</p> <p>15 redistricting department there in the state house.</p> <p>16 Q. What is the difference between the</p> <p>17 redistricting committee and the redistricting</p> <p>18 department?</p> <p>19 A. Well, the redistricting office is</p> <p>20 staffed by state employees. And the redistricting</p> <p>21 committee is composed of elected senators and</p> <p>22 representatives.</p> <p>23 Q. So you were given this document when?</p> <p>24 A. Well, prior to it going on the floor for</p> <p>25 debate, and not much sooner than that.</p> <p style="text-align: right;">Page 20</p>

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<p>1 Q. Prior to what going on the floor for 2 debate?</p> <p>3 A. The congressional bill.</p> <p>4 Q. And do you remember when that was?</p> <p>5 MR. WALKER: Hang on. Kathryn, when you 6 say "this document," are you talking about Talking 7 Points for Likely Issues No. 1? Or are you talking 8 about the collection of talking points?</p> <p>9 Q. Well, does that change your answer?</p> <p>10 A. Well, I don't think it does. I got that 11 prior to the bill going on the floor for debate. In 12 fact, I may have gotten it prior to the committee -- 13 the standing committee meeting. That would -- that 14 would make sense.</p> <p>15 Q. And what standing committee meeting are 16 you talking about?</p> <p>17 A. The bills that -- the redistricting 18 committee is considered an interim committee. And 19 the bills that come out of interim committees must 20 go to a standing committee before they can go to 21 rules in order to get on the floor.</p> <p>22 So there was a standing committee -- 23 which happened to be general fund -- that was 24 handling not only a general fund bill but all the 25 redistricting bills, as well. So that would have</p> <p style="text-align: right;">Page 21</p>	<p>1 Q. Besides the talking points, what other 2 documents did you look at?</p> <p>3 A. It may have been a summary of this 4 lawsuit. But I'm not -- Kathryn, I'm really not -- 5 I really don't remember what it was. I didn't pay 6 much attention to it.</p> <p>7 Q. You say "a summary of this lawsuit." 8 Would you mind giving me a summary of this lawsuit?</p> <p>9 A. I can't do it. Sorry. I wish I could.</p> <p>10 Q. You testified earlier that you were a 11 party to a lawsuit in the last redistricting cycle; 12 is that correct?</p> <p>13 A. Correct.</p> <p>14 Q. Was that a redistricting case?</p> <p>15 A. Yes.</p> <p>16 Q. And you were deposed?</p> <p>17 A. Yes.</p> <p>18 Q. Did you testify at trial?</p> <p>19 A. I'm sorry. I didn't understand you.</p> <p>20 Q. Sorry. Did you testify at trial?</p> <p>21 A. Yes.</p> <p>22 Q. And what was that case about?</p> <p>23 A. That case, I believe, was -- legislative 24 was the target, not congressional. The issue was --</p> <p>25 Q. And when you say --</p> <p style="text-align: right;">Page 23</p>
<p>1 been the standing committee that this bill went to 2 after it came to the senate from the house.</p> <p>3 Q. You said you reviewed the talking points 4 that we discussed. And what else before this 5 deposition?</p> <p>6 A. What did I review? Well, no. The 7 talking points was the -- that was the purpose of 8 having the talking points, is I had a summary of the 9 main points that needed to be shared with the 10 standing committee members so they would be able to 11 vote however they wanted to.</p> <p>12 Q. I'm sorry. I meant -- just going back, 13 what documents other than this talking points did 14 you look at to prepare for this deposition today?</p> <p>15 A. Well, I looked at a number of documents 16 during the process of the bill going through the 17 redistricting committee. But there wasn't anything 18 in particular that I did to review that prior to the 19 meeting of the standing committee. They were all 20 summarized. So --</p> <p>21 Q. For this deposition, though, you 22 mentioned that you met yesterday with Mr. Davis, 23 Mr. Walker, and Mr. Pringle and that you looked at 24 several documents.</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 22</p>	<p>1 A. I'm sorry.</p> <p>2 Q. I'm sorry.</p> <p>3 A. It's my turn?</p> <p>4 My point is that case was not 5 congressional. That had do with house and senate 6 districts.</p> <p>7 Q. And when you say "the target," you mean 8 what?</p> <p>9 A. That the object, the goal of the case 10 was to challenge the way house and senate districts 11 were drawn.</p> <p>12 Q. And do you remember under what law those 13 were challenged?</p> <p>14 A. No.</p> <p>15 Q. So let's talk about your career in 16 public service. When were you first elected to 17 public office?</p> <p>18 A. 2001.</p> <p>19 Q. And what were you elected -- where were 20 you elected?</p> <p>21 A. What or where? Which one do you want? 22 I was elected --</p> <p>23 Q. What district (inaudible.)</p> <p>24 A. Alabama house of representatives, House 25 District 50.</p> <p style="text-align: right;">Page 24</p>

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<p>1 Q. And did you run as a -- with the support 2 of a political party?</p> <p>3 A. Well, there was a primary with 4 republican -- I don't think the republican party 5 endorsed any of the republican candidates.</p> <p>6 Q. You ran as a republican?</p> <p>7 A. Yes, I did.</p> <p>8 Q. Why did you run as a republican?</p> <p>9 A. Why did I run as a republican? Is that 10 what you said?</p> <p>11 Q. Yes, sir.</p> <p>12 A. Because I am a republican.</p> <p>13 Q. What does it mean to be a republican?</p> <p>14 A. I would say the first word that comes to 15 mind would be "conservative." And that would be 16 socially conservative and fiscally conservative.</p> <p>17 Q. And when you say "socially 18 conservative," what do you mean?</p> <p>19 A. It has to do with policies that we make 20 that are conservative in nature.</p> <p>21 Q. And what is a policy that is 22 conservative in nature?</p> <p>23 A. I would say one of the things that 24 conservatives believe in is law and order.</p> <p>25 Q. Okay. So how long did you serve in</p> <p style="text-align: right;">Page 25</p>	<p>1 Q. Those are all of the committees that you 2 have ever served on?</p> <p>3 A. No. No. In the house, I served on 4 several different committees over three terms. And, 5 of course, I served on redistricting, as well, ten 6 years ago and became -- and was house chair of 7 redistricting.</p> <p>8 Q. And when you say "redistricting," you 9 mean the permanent -- the Alabama legislative 10 committee on reapportionment?</p> <p>11 A. That's exactly what I mean.</p> <p>12 Q. Okay. So if I say redistricting for the 13 reapportionment committee or if you say those 14 things, you mean the permanent committee on 15 reapportionment?</p> <p>16 Is that a yes?</p> <p>17 A. You know, there's a little difference in 18 there. During the interim years when there's not 19 redistricting activity going on, there is a 20 permanent redistricting committee composed of three 21 members of the house and three of the senate.</p> <p>22 And then as we approach the 23 redistricting time period where the activity goes 24 up, then -- then it converts over to 11 and 11 for 25 the actual process.</p> <p style="text-align: right;">Page 27</p>
<p>1 house district 50?</p> <p>2 A. I served three four-year terms. I went 3 into office -- well, I went into office in 2021. So 4 three four-year terms.</p> <p>5 Q. And are you currently a member of the 6 house of representatives?</p> <p>7 A. No. I'm a member of the Alabama senate.</p> <p>8 Q. And when were you first elected to the 9 Alabama senate?</p> <p>10 A. It must have been '14. Yeah, 2014.</p> <p>11 Q. Prior to --</p> <p>12 A. Your turn.</p> <p>13 Q. I'm so sorry. I said don't cut each 14 other off, and I'm cutting you off. I'm sorry.</p> <p>15 A. I answered your -- 2014, which is the 16 answer to the question.</p> <p>17 Q. Thank you. Sorry again.</p> <p>18 What legislative committees have you 19 served on during your very long tenure in the 20 Alabama legislature?</p> <p>21 A. Well, in the senate, I'm currently on 22 the health committee, I am on the general fund 23 committee, I am on the education trust fund 24 committee, and I am on education policy. And I 25 chair the health committee.</p> <p style="text-align: right;">Page 26</p>	<p>1 Q. That makes sense. So it's the same 2 committee, just getting bigger or larger or smaller 3 based on the time period?</p> <p>4 A. Correct.</p> <p>5 Q. What was your role in Alabama's 2011 6 redistricting process?</p> <p>7 A. I was house chairman.</p> <p>8 Q. And what are the responsibilities of the 9 house chairman for redistricting?</p> <p>10 A. Well, part of -- essentially part of a 11 leadership team that makes preparations for the 12 actual process, meets with the attorney and can meet 13 with the person that draws the maps, and begins 14 discussions and review, for example, of our 15 guidelines to see if they need to be updated or 16 changed, and also help time the scheduling of the 17 actual meeting of the full redistricting committee.</p> <p>18 Q. Do you have any other responsibilities?</p> <p>19 A. No. I think that pretty well summarizes 20 it. I'm sure there's some other things that we do 21 that are not big items. But I think that summarizes 22 the things worth discussing.</p> <p>23 Q. And when you said you meet with the 24 attorney and you -- as the cochair, you meet with 25 the attorney and you meet with the person who draws</p> <p style="text-align: right;">Page 28</p>

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<p>1 the map, what do you -- what do you do during those 2 meetings? Or what is your role during those 3 meetings?</p> <p>4 MR. WALKER: I'll instruct you not to 5 discuss anything that I may have told you or you may 6 have told me during those meetings.</p> <p>7 A. Yes, ma'am. Do you mind me correcting 8 you on a phrase?</p> <p>9 Actually, if you look at the law, there 10 is a house chair and a senate chair. They are not 11 cochairs, although that seems to be a well-kept 12 secret. But now you know.</p> <p>13 So now --</p> <p>14 Q. The secret is out.</p> <p>15 So as the house chair of the 16 redistricting committee, what do you mean -- what 17 was your responsibility with respect to your 18 meetings with the attorney and the meetings with the 19 person who draws the map?</p> <p>20 MR. WALKER: Same instruction.</p> <p>21 THE WITNESS: Okay. Well, stop me if I 22 go astray here.</p> <p>23 MR. WALKER: Okay.</p> <p>24 A. Of course, probably the single most 25 important role of the attorney is to help the</p> <p style="text-align: right;">Page 29</p>	<p>1 course, is the time schedule on when we can carry 2 out the duties and when we need to carry out the 3 duties. And then another thing has to do with 4 making sure that we stay in compliance with the 5 courts and the law and recent court cases.</p> <p>6 Q. Who selected the attorney?</p> <p>7 MR. WALKER: At what time are you 8 talking about?</p> <p>9 MS. SADASIVAN: In 2011.</p> <p>10 A. I do not know the answer to that.</p> <p>11 Q. Did you have any involvement in the 12 selection of the attorney --</p> <p>13 A. No.</p> <p>14 Q. -- for the reapportionment committee?</p> <p>15 A. No.</p> <p>16 Q. Did you have any role in the selection 17 of the demographer as the house chair of the 18 reapportionment committee?</p> <p>19 A. No.</p> <p>20 Q. Do you know who made the decision?</p> <p>21 A. I do not.</p> <p>22 Q. How were you selected to serve as the 23 house chair of the reapportionment committee?</p> <p>24 A. By the speaker of the house.</p> <p>25 Actually --</p> <p style="text-align: right;">Page 31</p>
<p>1 elected members of this committee know what the law 2 is and what -- and keep us up to date on recent 3 court cases so we can do our best to be in 4 compliance with what the law says and what the 5 courts have subsequently interpreted.</p> <p>6 Q. So as the house chair of the 7 reapportionment committee, what were -- what was 8 your role in those meetings?</p> <p>9 A. Well, I guess my role was to be there 10 and to make sure that we stay -- are we -- I guess 11 we're talking generically here. We're not talking 12 about 2011 or 2021. Are we just talking about being 13 a chair, a redistricting chair? Is that what the 14 discussion is? Or are we talking about a certain 15 time period?</p> <p>16 Q. So when I asked you what your 17 responsibilities were as house chair of the 18 reapportionment committee, you said, among other 19 things, you meet with the attorney, you meet with 20 the person who draws the map, meeting with the 21 reapportionment committee. And I'm just asking what 22 you meant by that as your role.</p> <p>23 What was your role in those meetings 24 with the attorney and with the drawer?</p> <p>25 A. To discuss the -- one of the issues, of</p> <p style="text-align: right;">Page 30</p>	<p>1 Q. Who was that?</p> <p>2 A. -- I was -- he selected me to be on the 3 committee. And then the house members on that 4 committee elected the house chair.</p> <p>5 Q. I see. So you were elected by the other 6 house members of the reapportionment committee to 7 serve as the house chair?</p> <p>8 A. Correct.</p> <p>9 Q. And who was the senate chair of the 10 reapportionment committee in 2011?</p> <p>11 A. Gerald Dial.</p> <p>12 THE REPORTER: Gerald who?</p> <p>13 A. D-I-A-L.</p> <p>14 Q. And was the starting point -- what was 15 the starting point for drawing the congressional 16 maps in 2011?</p> <p>17 A. The starting point would be the existing 18 lines.</p> <p>19 Q. What existing lines?</p> <p>20 A. The congressional lines that were 21 current at that time.</p> <p>22 Q. And how did you go about deciding how to 23 update those lines based on the census data in 2011?</p> <p>24 A. Actually, I didn't make those decisions.</p> <p>25 Q. Who did?</p> <p style="text-align: right;">Page 32</p>

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<p>1 A. The map drawer met with and talked to</p> <p>2 the members of the congressional delegation. And,</p> <p>3 of course, once we had the data, the population</p> <p>4 numbers, then they knew if a district needed to have</p> <p>5 an increase or a decrease in population.</p> <p>6 Q. Did the legislature conduct public</p> <p>7 hearings in the redistricting process?</p> <p>8 A. Yes.</p> <p>9 Q. Following the (inaudible.)</p> <p>10 A. What was the last thing you said?</p> <p>11 Following?</p> <p>12 Q. The 2010 census.</p> <p>13 A. Yeah, the -- correct, we did have public</p> <p>14 hearings.</p> <p>15 Q. How many?</p> <p>16 A. 22.</p> <p>17 Q. And when did those hearings occur?</p> <p>18 A. I just -- I do not remember. I don't</p> <p>19 remember those dates.</p> <p>20 Q. How many meetings did the</p> <p>21 reapportionment committee hold in 2011?</p> <p>22 A. I can't tell you exactly. I don't know</p> <p>23 the exact number. I don't -- I don't remember the</p> <p>24 exact number.</p> <p>25 Q. Was it more than one?</p> <p style="text-align: right;">Page 33</p>	<p>1 look at a map?</p> <p>2 A. Well, the map and the data was put</p> <p>3 before them at the committee meeting.</p> <p>4 Q. I'm dropping into the chat and I will</p> <p>5 ask the court reporter to mark as McClendon Exhibit</p> <p>6 2 --</p> <p>7 MR. WALKER: Kathryn, what was Exhibit</p> <p>8 1? I'm sorry. Was that the talking points?</p> <p>9 MS. SADASIVAN: Yes, sir.</p> <p>10 MR. WALKER: Okay. Let me -- let me --</p> <p>11 I'm your secretary in this. So let me take care of</p> <p>12 it.</p> <p>13 MS. SADASIVAN: Oh, thank you so much,</p> <p>14 Dorman. I'm sorry about that. I appreciate it.</p> <p>15 MR. WALKER: We're a full-service law</p> <p>16 firm.</p> <p>17 MS. WELBORN: I'm happy to play the</p> <p>18 role.</p> <p>19 MR. WALKER: Well, I've got them spread</p> <p>20 out over here.</p> <p>21</p> <p>22 (Plaintiff's Exhibit 1 was</p> <p>23 marked for identification.)</p> <p>24</p> <p>25 Q. Senator McClendon, do you have the</p> <p style="text-align: right;">Page 35</p>
<p>1 A. Yes.</p> <p>2 Q. Was it more than two meetings?</p> <p>3 A. I'm sorry? What was the last word you</p> <p>4 said? It came out fuzzy.</p> <p>5 Q. Was it more than two meetings?</p> <p>6 A. I'm just guessing. And I can't answer</p> <p>7 that question because I don't remember.</p> <p>8 Q. What was the role of the reapportionment</p> <p>9 committee in the map drawing process in 2011?</p> <p>10 A. Are we talking congressional maps?</p> <p>11 Q. Yes.</p> <p>12 A. The role of the reapportionment</p> <p>13 committee was to take the map that was submitted,</p> <p>14 that was put together by the -- with the approval of</p> <p>15 the congressional delegation, and to approve or</p> <p>16 disapprove that map and submit it for introduction</p> <p>17 to the legislature.</p> <p>18 Q. And how did the committee go about</p> <p>19 approving or disapproving of the map drawn?</p> <p>20 A. A roll call vote.</p> <p>21 Q. Were members given any guidance on how</p> <p>22 to vote?</p> <p>23 A. I don't quite understand that -- that</p> <p>24 question, were they given guidance.</p> <p>25 Q. Any information on how to vote or how to</p> <p style="text-align: right;">Page 34</p>	<p>1 document that I've asked the court reporter to mark</p> <p>2 as McClendon Exhibit 2 in front of you?</p> <p>3 MR. WALKER: I'm sorry. Which one is</p> <p>4 it? Tell me.</p> <p>5 A. Exhibit what?</p> <p>6 MR. WALKER: No. Don't say anything.</p> <p>7 Exhibit 2, just tell me what it is.</p> <p>8 Q. Do you recognize the document in front</p> <p>9 of you?</p> <p>10 MS. WELBORN: What is the document,</p> <p>11 Kathryn? Which one is it?</p> <p>12 MS. SADASIVAN: I just dropped it into</p> <p>13 the chat. It is the 2011 legislative</p> <p>14 reapportionment committee guidelines.</p> <p>15 MR. DAVIS: The chat is not going to</p> <p>16 work because the system is pretty far away from us</p> <p>17 all. Nobody can get to the chat easily.</p> <p>18 MS. SADASIVAN: Okay. Would it help if</p> <p>19 I pull it up so you can see it?</p> <p>20 MR. WALKER: The May 2011 guidelines?</p> <p>21 MS. SADASIVAN: This is the document</p> <p>22 we're looking at.</p> <p>23</p> <p>24 (Plaintiff's Exhibit 2 was</p> <p>25 marked for identification.)</p> <p style="text-align: right;">Page 36</p>

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<p>1 2 Q. Do you recognize this document, Senator 3 McClendon? 4 A. Yes. It looks -- it looks familiar. 5 Q. How do you recognize this document? 6 A. The first part of what you said was cut 7 off. Say it again. 8 Q. How do you recognize this document? 9 A. How do I recognize it? I mainly 10 recognize it by the fact that it's reapportionment 11 committee guidelines. And I recall going through 12 that process and the adoption of those guidelines. 13 Q. Do you know who drafted the document? 14 A. Did I draft the document? 15 Q. Do you know who drafted the 2011 16 reapportionment -- 17 A. Do I know who drafted it. I think I 18 have a good idea. But I can't say that I'm a 19 hundred percent certain who drafted the document. 20 So the answer to the question would be no. 21 Q. Who do you think drafted it? 22 A. I imagine it was our attorney at the 23 time. But I'm just not sure about that. 24 Q. Can you read please on Page 1 under May 25 2011 the paragraph beginning with "Pursuant"? Page 37</p>	<p>1 Q. It's in the sentence beginning with 2 "Accordingly." 3 A. Yeah, I see it. 4 Well, that means the committee, the 5 reapportionment committee, adopted the guidelines, 6 had a vote and said that's our guidelines. 7 Q. Will you please go to page two and read 8 under numeral III Voting Rights Act, and read the 9 two paragraphs below it? 10 A. "Districts shall be drawn in accordance 11 with the laws of the United States and the State of 12 Alabama, including compliance with protections 13 against the unwarranted retrogression or dilution of 14 racial or ethnic minority voting strength. Nothing 15 in these guidelines shall be construed to require or 16 permit any districting policy or action that is 17 contrary to the U.S. Constitution or the Voting 18 Rights Act." 19 Number 2, "Redistricting plans are 20 subject to the preclearance process established in 21 Section 5 of the Voting Rights Act." 22 Q. I'm sorry. I'll just have you read Page 23 4, Paragraph 2 and 3 under Plans Produced by 24 Legislators. 2, 3, and 4. I apologize. 25 A. 2, 3, and 4 under Roman numeral V. Is Page 39</p>
<p>1 A. I see that. 2 Q. Could you read it, please? 3 A. To myself or to you? 4 Q. Out loud. Thank you. 5 A. "Pursuant to the constitution of the 6 United States and the Constitution of the State of 7 Alabama, the Alabama state legislature is required 8 to review 2010 federal decennial census data 9 provided by the U.S. Bureau of the Census to 10 determine if it is necessary redistrict Alabama's 11 congressional, legislative, and state board of 12 education districts because of population changes 13 since the 2000 census. 14 Accordingly, the following guidelines 15 for congressional, legislative, and state board of 16 education redistricting have been established by the 17 legislature's permanent joint legislative committee 18 on reapportionment, (hereinafter referred to as the 19 'reapportionment committee.')</p> <p>20 There you go. 21 Q. Thank you. 22 In the paragraph that you just read 23 where you said that the guidelines were established 24 by the committee, what does that mean? 25 A. Okay. Let me find it. Page 38</p>	<p>1 that what you're asking for? It must be. That's 2 the only 2, 3, and 4 on the page. 3 "A proposed redistricting plan will be 4 public information upon its introduction as a bill 5 in the legislative process, or upon presentation for 6 consideration by the reapportionment committee." 7 "Access to the legislative 8 reapportionment office computer system, census 9 population data, and redistricting work maps will be 10 available to all members of the legislature upon 11 request. Reapportionment office staff will provide 12 technical assistance to all legislators who wish to 13 develop proposals." 14 Number 4, "In accordance with Rule 23 of 15 the joint rules of the Alabama legislature (2011) 16 all amendments or revisions to the redistricting 17 plans, following introduction as a bill, shall be 18 drafted by the reapportionment office." 19 Q. I'm going to ask you to quickly scan the 20 lest of the guidelines and then let me know if you 21 followed those guidelines in 2011. 22 MR. WALKER: Objection to form. You may 23 answer the question. 24 A. Yes, ma'am, it's my belief that we 25 followed the guidelines. Page 40</p>

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<p>1 Q. And how did you go about following the</p> <p>2 guidelines in the map-drawing process?</p> <p>3 A. Well, you just read the guidelines and</p> <p>4 try to stay -- and try to do what it says.</p> <p>5 Q. What action did you take to make sure</p> <p>6 that the guidelines were followed?</p> <p>7 A. What action did I take to make sure they</p> <p>8 were followed. I consulted with the attorney and</p> <p>9 with the person drawing the map to make sure that</p> <p>10 they were following the rules that we had before us.</p> <p>11 Q. And how did you do that?</p> <p>12 A. I just looked them in the eye.</p> <p>13 Q. You looked them in the eye and what?</p> <p>14 A. And said, "Are we staying within the</p> <p>15 guidelines?" I'm not even sure I said that. We did</p> <p>16 -- we did talk about the importance of the</p> <p>17 guidelines. And it was understood everybody would</p> <p>18 use that as exactly what they're called, guidelines.</p> <p>19 Q. And so when you said you talked about</p> <p>20 the guidelines and that they were important, were</p> <p>21 you explaining the guidelines to the demographer?</p> <p>22 A. I was not explaining them, no. We would</p> <p>23 talk about them from time to time. But it was just</p> <p>24 so well known that we followed the guidelines.</p> <p>25 That's what we did. That's our job.</p> <p style="text-align: right;">Page 41</p>	<p>1 A. To keep the what demographics?</p> <p>2 Q. The racial demographics.</p> <p>3 A. Racial demographics. In 2011, you know,</p> <p>4 I don't know the answer to that.</p> <p>5 Q. Was it a primary goal to keep District 7</p> <p>6 the same black population as in 2001?</p> <p>7 A. I do not know the answer to that</p> <p>8 question.</p> <p>9 Q. Did you consider race in drawing any of</p> <p>10 the districts in 2011?</p> <p>11 A. No.</p> <p>12 Q. Why was there only one district with a</p> <p>13 majority black voting age population in 2011?</p> <p>14 THE REPORTER: I'm sorry. Could you say</p> <p>15 that question over?</p> <p>16 Q. Why was there only one district with a</p> <p>17 majority black voting age population in 2011?</p> <p>18 A. Well, I -- I don't need to speculate. I</p> <p>19 will say I do not know why.</p> <p>20 Q. What is Section 5 of the Voting Rights</p> <p>21 Act?</p> <p>22 A. Section 5 has to do with racial</p> <p>23 injustice or racial problems when it comes to</p> <p>24 elections. And it provides some solutions to that.</p> <p>25 Or remedy, I should say.</p> <p style="text-align: right;">Page 43</p>
<p>1 Q. Do you know if anyone else talked to the</p> <p>2 person -- the attorney or to the map drawer about</p> <p>3 the guidelines?</p> <p>4 A. Do I know? No, I do not.</p> <p>5 Q. How many congressional redistricting</p> <p>6 plans were considered by the reapportionment</p> <p>7 committee in 2011?</p> <p>8 A. I don't recall.</p> <p>9 Q. How did the reapportionment committee</p> <p>10 decide on which Alabama congressional map to</p> <p>11 introduce?</p> <p>12 A. We took the map that the members of the</p> <p>13 congressional delegation had -- proved to be</p> <p>14 satisfied with.</p> <p>15 Q. That was the starting point in the 2001</p> <p>16 map?</p> <p>17 A. Yes.</p> <p>18 Q. Was the goal in drafting to make sure</p> <p>19 the congressional districts remained roughly the</p> <p>20 same as in 2001?</p> <p>21 A. One of the goals is that we keep the</p> <p>22 core of the districts recognizable, or we attempt to</p> <p>23 do that.</p> <p>24 Q. Was it a primary goal to keep the same</p> <p>25 racial demographics for each district?</p> <p style="text-align: right;">Page 42</p>	<p>1 Q. What is a racial problem?</p> <p>2 A. What is a racial problem? Are you</p> <p>3 asking for an example or something? I don't quite</p> <p>4 -- I don't understand your question, what is a</p> <p>5 racial problem.</p> <p>6 Q. I'm asking you what you meant by your</p> <p>7 statement. Do you want your court reporter to read</p> <p>8 your answer about what Section 5 is back?</p> <p>9 A. To make sure that every -- every group,</p> <p>10 subgroup, race had a fair opportunity to express</p> <p>11 themselves at the polls.</p> <p>12 Q. And why did Section 5 apply to Alabama?</p> <p>13 THE REPORTER: I'm sorry. What?</p> <p>14 Q. Why did Section 5 apply to Alabama?</p> <p>15 A. You know, I could -- I could guess at</p> <p>16 that. But I don't want to do that. So I'll say I</p> <p>17 don't know.</p> <p>18 Q. You don't know why Section 5 applied to</p> <p>19 Alabama?</p> <p>20 A. Like I said, I could guess at it. But I</p> <p>21 don't want to do that. So I don't know.</p> <p>22 Q. And I'm just asking you don't know why</p> <p>23 Section 5 applied to Alabama?</p> <p>24 A. Correct.</p> <p>25 Q. The guidelines mention preclearance</p> <p style="text-align: right;">Page 44</p>

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<p>1 under Section 5 of the VRA. What involvement did 2 you have in obtaining justice department 3 preclearance of a proposed congressional plan in 4 2011?</p> <p>5 A. None.</p> <p>6 Q. Did you have any role in proposing 7 judicial preclearance of the 2021 map?</p> <p>8 A. Did I have any -- I'm really having a 9 time understanding you. Did I have any -- okay. 10 Say that -- say that again, please, ma'am.</p> <p>11 Q. Did you have any role in proposing 12 judicial preclearance in the redistricting process 13 in 2011?</p> <p>14 A. No.</p> <p>15 Q. Did you introduce any proposed 16 redistricting plans for the Alabama congressional 17 delegation in 2011?</p> <p>18 A. I do not recall if the bill started in 19 the house or in the senate. I don't know. So I 20 can't answer the question.</p> <p>21 Q. Did you introduce any redistricting 22 bills in the 2011 legislative session?</p> <p>23 A. Any redistricting bill. So we've gone 24 outside of congressional.</p> <p>25 Yes, I'm sure I introduced the house Page 45</p>	<p>1 and then the number after it is SOS 001929. And 2 this is what the document looks like.</p> <p>3 MR. WALKER: Can you describe it, 4 please?</p> <p>5 THE WITNESS: Look up here.</p> <p>6 MR. WALKER: Oh, that. Okay. We've got 7 it.</p> <p>8 9 (Plaintiff's Exhibit 3 was 10 marked for identification.)</p> <p>11</p> <p>12 Q. Do you recognize this document, Senator 13 McClendon?</p> <p>14 A. No.</p> <p>15 Q. I will represent to you that this is a 16 news article produced by the secretary of state, a 17 defendant in this case. In it, Brian Lyman is 18 discussing a plan put forward by Mr. Buskey which 19 would have created two majority minority districts. 20 And in this article, you were quoted as 21 saying -- on Page 2, the second paragraph on Page 2, 22 as saying, The Buskey plan would lead to 23 "retrogression," or a retreat from minority 24 population benchmarks set by the department of 25 justice. Under the Voting Rights Act, the DOJ must Page 47</p>
<p>1 bill in the house. I don't remember who did the BOE 2 bill, who started it. I don't remember who started 3 the congressional bill.</p> <p>4 Q. Did you consider a plan permitting two 5 majority minority districts in 2011?</p> <p>6 A. Not to my knowledge.</p> <p>7 Q. Why?</p> <p>8 A. It wasn't brought before us.</p> <p>9 Q. It wasn't brought before who?</p> <p>10 A. That is correct.</p> <p>11 Q. Who? You said, "It wasn't brought 12 before us." It wasn't brought before who?</p> <p>13 A. The redistricting committee.</p> <p>14 Q. Did you have the opportunity to consider 15 a map with two majority minority districts in the 16 legislature?</p> <p>17 A. No, I don't think so.</p> <p>18 Q. You did not?</p> <p>19 A. I don't remember that at all, if we did.</p> <p>20 Q. I'm going to -- I'm dropping it in the 21 chat, as well, in case it's helpful. I know it's 22 probably not.</p> <p>23 I am going to show you what I ask the 24 court reporter to mark as McClendon Exhibit 3. And 25 let me just share my screen quickly. It is exhibit, Page 46</p>	<p>1 approve the state's redistricting plan before it can 2 be implemented. If the redistricting plan retreats 3 from the justice department benchmarks, such as 4 reducing minority population in a 5 previously-approved congressional district, the 6 state must show that it had no discriminatory 7 purpose in the move and did not reduce minority 8 voters' effective exercise of the electoral 9 franchise.</p> <p>10 Does that sound familiar to you?</p> <p>11 MR. WALKER: Are you asking him if he 12 said that, or what?</p> <p>13 Q. I'm just asking if that helps refresh 14 your memory.</p> <p>15 A. Well, it provides a memory. I don't -- 16 I don't remember this.</p> <p>17 Q. So you don't know why you believed that 18 the map introduced by Representative Buskey would 19 have led to retrogression?</p> <p>20 A. So what did he introduce? No. I'm 21 really lost on trying to decipher this.</p> <p>22 Q. So is that -- did you say the quote that 23 I just read to you?</p> <p>24 A. I don't recall saying it. I don't 25 recall the article. Page 48</p>

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12/17/2021

<p>1 Q. How about I give you a few minutes to</p> <p>2 look through the article, and then I'll ask you some</p> <p>3 questions again.</p> <p>4 MR. WALKER: Kathryn, we've been going</p> <p>5 for about an hour, and I need to step out for a</p> <p>6 second. Would you mind if we took a five-minute</p> <p>7 break?</p> <p>8 MS. SADASIVAN: If you don't mind, we'll</p> <p>9 just finish this question after Senator McClendon</p> <p>10 has a chance to look at it. And then after that, we</p> <p>11 can take a break.</p> <p>12 MR. WALKER: Certainly. No problem.</p> <p>13 MS. SADASIVAN: Thank you so much,</p> <p>14 Dorman.</p> <p>15 A. I'm ready when you are.</p> <p>16 Q. Do you have any reason to believe that</p> <p>17 quote is inaccurate?</p> <p>18 A. Now, what did you --</p> <p>19 MR. WALKER: Which quote?</p> <p>20 A. Yeah. My question is what quote are you</p> <p>21 talking about?</p> <p>22 Q. On Page 2 of the exhibit I just shared</p> <p>23 with you beginning with Rep Jim McClendon,</p> <p>24 R-Springville, who carried the plan in the house.</p> <p>25 There are two paragraphs where Senator McClendon is</p> <p style="text-align: right;">Page 49</p>	<p>1 A. I do not.</p> <p>2 MR. DAVIS: Are we breaking now?</p> <p>3 MS. SADASIVAN: No. I'm sorry. I asked</p> <p>4 a question.</p> <p>5 MR. DAVIS: And he answered it.</p> <p>6 Q. You don't recall seeing two majority</p> <p>7 minority districts in the Alabama congressional plan</p> <p>8 in 2011?</p> <p>9 A. I do not recall it.</p> <p>10 Q. Okay. Thank you so much.</p> <p>11 MR. SADASIVAN: We can take a break now.</p> <p>12 MR. WALKER: Thank you.</p> <p>13 THE VIDEOGRAPHER: We are off the</p> <p>14 record. The time is 3:09 p.m.</p> <p>15 (Recess was taken.)</p> <p>16 THE VIDEOGRAPHER: We are back on the</p> <p>17 record. The time is 3:22 p.m.</p> <p>18 Q. Senator McClendon, I just want to</p> <p>19 clarify really quickly Exhibit 3. You stated that</p> <p>20 you don't remember being interviewed for that</p> <p>21 article, right?</p> <p>22 A. I do not.</p> <p>23 Q. And you don't remember saying anything</p> <p>24 about retrogression?</p> <p>25 A. Yes. The answer is the same as it was</p> <p style="text-align: right;">Page 51</p>
<p>1 quoted. And I'm asking if you have any reason to</p> <p>2 believe that that quote is inaccurate.</p> <p>3 A. Well, there are no -- the only quotation</p> <p>4 marks are around the word "retrogression" and around</p> <p>5 the words "effective exercise of the electoral</p> <p>6 franchise." There's no -- I don't see where I was</p> <p>7 attributed a quote in those paragraphs.</p> <p>8 Q. Do you have any reason to believe that</p> <p>9 that paragraph discussing -- beginning with "Rep Jim</p> <p>10 McClendon" and continuing on until "This plan, as</p> <p>11 far as the justice department and Voting Rights Act</p> <p>12 goes, it's a failure," do you have any reason to</p> <p>13 believe that that is inaccurate?</p> <p>14 A. Well, the only part that has quotes is</p> <p>15 the one you just read. And I do not recall making</p> <p>16 that statement.</p> <p>17 Q. So you don't think that that was an</p> <p>18 accurate reflection of what you thought at the time?</p> <p>19 MR. WALKER: Objection to form. You may</p> <p>20 answer it.</p> <p>21 A. I just -- I don't recall making the</p> <p>22 statement.</p> <p>23 Q. And you don't recall having the</p> <p>24 opportunity to see two majority minority districts</p> <p>25 in a congressional plan?</p> <p style="text-align: right;">Page 50</p>	<p>1 before. I do not remember.</p> <p>2 Q. If there was a plan in 2011 that</p> <p>3 complied with all the districting principles and the</p> <p>4 guidelines and created two majority minority</p> <p>5 districts, would you have voted for it?</p> <p>6 A. Okay. Say that again. We're having a</p> <p>7 hard time.</p> <p>8 THE REPORTER: I think if you would slow</p> <p>9 down just a little bit, that would help.</p> <p>10 MS. SADASIVAN: If I come in a little</p> <p>11 bit, is this better?</p> <p>12 MR. WALKER: No. Slow down.</p> <p>13 Q. If there was a plan that complied with</p> <p>14 the redistricting guidelines and created two</p> <p>15 majority minority districts in 2011, would you have</p> <p>16 voted for it?</p> <p>17 A. Thank you. I -- I understood you very</p> <p>18 well.</p> <p>19 I would certainly have considered it and</p> <p>20 would -- but part of that is looking at what else is</p> <p>21 available. So I would have put it on the list for</p> <p>22 consideration, yes.</p> <p>23 Q. Let's move to the 2021 redistricting</p> <p>24 process.</p> <p>25 A. Good.</p> <p style="text-align: right;">Page 52</p>

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<p>1 Q. What was your role in the</p> <p>2 reapportionment committee in 2021?</p> <p>3 A. Senate chair.</p> <p>4 Q. And what were your responsibilities as</p> <p>5 senate chair?</p> <p>6 A. Pretty much the same as it was as house</p> <p>7 chair, to confer with the attorney and the map</p> <p>8 drawer, to help try to set the schedule of events as</p> <p>9 they were going to unfold.</p> <p>10 Q. And when you say "confer with the</p> <p>11 attorney and map drawer, I'm not asking for</p> <p>12 attorney-client information. But generally as</p> <p>13 senate chair, what responsibilities did conferring</p> <p>14 with the attorney and map drawer entail?</p> <p>15 A. Well, for quite some time, we were</p> <p>16 trying to decide when we could actually get started</p> <p>17 on the process. And we spent a little bit of time</p> <p>18 wondering when we were going to get the data. We</p> <p>19 spent a lot of time wondering when we were going to</p> <p>20 get the data. And we shared some speculation about</p> <p>21 when it would show up. So we did the timing of the</p> <p>22 -- and sequence of events is one of the things</p> <p>23 initially that we talked about.</p> <p>24 Q. And so conferring with the attorney and</p> <p>25 the map drawer, you were trying to reach decisions</p> <p style="text-align: right;">Page 53</p>	<p>1 A. Well, no. It was just part of a</p> <p>2 continuum of setting the schedule and seeing when</p> <p>3 things would work out, how things -- in what order</p> <p>4 things needed to unfold in order to get the job done</p> <p>5 in a timely manner.</p> <p>6 Q. And other than you and the map drawer</p> <p>7 and the attorney, who else was involved in that</p> <p>8 decision-making?</p> <p>9 A. Representative Pringle.</p> <p>10 Q. Anybody else?</p> <p>11 A. No.</p> <p>12 Q. So you, the attorney, Representative</p> <p>13 Pringle, and the map drawer determined when you</p> <p>14 would begin the public hearings or the</p> <p>15 reapportionment committee meetings?</p> <p>16 A. Well, the staff, the reapportionment</p> <p>17 staff, had some input into it. Although the public</p> <p>18 hearings, we gave -- we gave a time frame to the</p> <p>19 community -- the community college system. The</p> <p>20 chancellor loaned us one of his personnel to help us</p> <p>21 coordinate those public hearings. And so he's the</p> <p>22 one that actually set up the dates, locations, and</p> <p>23 times for the public hearings.</p> <p>24 I think we told him we wanted to get</p> <p>25 this done the first couple of weeks in September.</p> <p style="text-align: right;">Page 55</p>
<p>1 about the timeline?</p> <p>2 A. Correct.</p> <p>3 Q. Anything else?</p> <p>4 A. That's the main -- at that point, that</p> <p>5 was the main thing, when can we get started.</p> <p>6 Q. At what point?</p> <p>7 A. Was that a question?</p> <p>8 Q. Yes. You said "at that point." And I'm</p> <p>9 just asking at what point was that the main --</p> <p>10 A. That was prior to receiving the data</p> <p>11 from the census bureau.</p> <p>12 Q. And did your responsibilities to confer</p> <p>13 with the attorney and the map drawer change after</p> <p>14 you received census data?</p> <p>15 A. I'm not sure I understand your question.</p> <p>16 Do it again and let me listen carefully.</p> <p>17 Q. You just shared that your</p> <p>18 responsibilities before the census numbers came out</p> <p>19 with respect to the attorney and the map drawer as</p> <p>20 senate chair of the reapportionment committee was to</p> <p>21 determine a timeline.</p> <p>22 And I'm asking if your responsibilities</p> <p>23 as senate chair of the reapportionment committee</p> <p>24 with respect to conferring with the attorney and map</p> <p>25 drawer changed once you received census data.</p> <p style="text-align: right;">Page 54</p>	<p>1 And then one of the representatives asked for</p> <p>2 additional meetings, so it spilled over into the</p> <p>3 third week into September.</p> <p>4 Q. So just going back to your role as</p> <p>5 senate chair of the reapportionment committee and</p> <p>6 your responsibilities to confer with the attorney</p> <p>7 and the map drawer, what were -- the public hearings</p> <p>8 -- strike that.</p> <p>9 Going back to your role as senate chair</p> <p>10 of the reapportionment committee and your</p> <p>11 responsibilities to confer with the attorney and map</p> <p>12 drawer, what other timelines did you discuss?</p> <p>13 A. We also needed to be able to give some</p> <p>14 idea as to when we would actually be prepared for a</p> <p>15 legislative session, for the governor to call a</p> <p>16 special session to consider redistricting.</p> <p>17 Q. And how did you arrive at that</p> <p>18 information of when that should be?</p> <p>19 A. There was -- we just sort of projected</p> <p>20 forward saying we need -- we'll need X amount of</p> <p>21 time for the public hearings and then we'll need X</p> <p>22 amount of time to meet with the legislators and the</p> <p>23 congressional delegation and the board of education.</p> <p>24 And then we basically set a timeline and</p> <p>25 said we can -- and then at this point we'll be ready</p> <p style="text-align: right;">Page 56</p>

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<p>1 to ask the governor to call a special session.</p> <p>2 Q. And were other members of the</p> <p>3 reapportionment committee besides House Chair</p> <p>4 Pringle involved in that decision?</p> <p>5 A. No.</p> <p>6 Q. When did you start planning for the 2021</p> <p>7 redistricting process?</p> <p>8 A. We probably started thinking about it a</p> <p>9 year and a half ahead of time or more, two years</p> <p>10 maybe ahead of time.</p> <p>11 Q. And what were the first steps that you</p> <p>12 took to prepare for the redistricting process?</p> <p>13 A. The first thing that I personally tried</p> <p>14 to figure out was what the timeline was going to be.</p> <p>15 And, of course, that proved to be futile because of</p> <p>16 the delay in receiving the data and another delay</p> <p>17 and another delay.</p> <p>18 Q. When was your first meeting on</p> <p>19 redistricting in 2021?</p> <p>20 A. You know, I don't know the date.</p> <p>21 Q. Do you know who it was with?</p> <p>22 A. Are you talking about the redistricting</p> <p>23 committee? Or who are -- what kind of meeting are</p> <p>24 you talking about?</p> <p>25 Q. I'm talking about a meeting between you,</p> <p style="text-align: right;">Page 57</p>	<p>1 to it.</p> <p>2 So we sort of had to work on that before</p> <p>3 we actually announced it. And I don't know the</p> <p>4 final date that we came out with it.</p> <p>5 Q. And that's Representative Laura Hall?</p> <p>6 A. Yes.</p> <p>7 Q. And there was no deadline to decide on</p> <p>8 public hearings?</p> <p>9 A. Well, there was a deadline. June 30th.</p> <p>10 Q. Who set the deadline?</p> <p>11 A. But on June -- I think it was June 29th,</p> <p>12 we received communication from her. So we sort of</p> <p>13 scrapped the deadline in order to the comply with</p> <p>14 her request.</p> <p>15 Q. Is there a time to determine public</p> <p>16 hearings set by law in Alabama?</p> <p>17 A. Ask that again, now.</p> <p>18 Q. Is there any law governing public</p> <p>19 redistricting hearings in Alabama?</p> <p>20 A. Not to my knowledge.</p> <p>21 Q. Was there any committee deadline or a</p> <p>22 committee -- rather a committee rule setting a</p> <p>23 deadline to determine public hearings?</p> <p>24 A. Not to my knowledge.</p> <p>25 Q. Who developed the deadline on</p> <p style="text-align: right;">Page 59</p>
<p>1 Senator McClendon, and any other person about</p> <p>2 redistricting in 2021.</p> <p>3 A. Okay. I don't know the answer to that</p> <p>4 question.</p> <p>5 Q. What role did you play in setting the</p> <p>6 schedule of the public hearings on redistricting?</p> <p>7 A. I talked to the chancellor of the</p> <p>8 two-year system and asked him to designate someone</p> <p>9 to work with our staff. And then they worked it out</p> <p>10 from there and came back with a schedule and a plan.</p> <p>11 Q. Did you review the locations of the</p> <p>12 public hearings?</p> <p>13 A. Yes, I looked at what they put together.</p> <p>14 And we were just about ready to announce it when</p> <p>15 Representative Hall requested that we add some more,</p> <p>16 which we did.</p> <p>17 Q. When were you preparing to announce the</p> <p>18 dates and locations of the public hearings?</p> <p>19 A. You know, I don't know why I would</p> <p>20 remember this, but I think June 30th was our target</p> <p>21 date to do that. And then I believe it was the day</p> <p>22 before we got a letter, an email maybe -- I didn't</p> <p>23 get it. The staff received communications from one</p> <p>24 of the members of our redistricting committee</p> <p>25 requesting that there be another half dozen added on</p> <p style="text-align: right;">Page 58</p>	<p>1 determining the time, location, and manner of public</p> <p>2 hearings?</p> <p>3 A. I think the staff, in conjunction with a</p> <p>4 representative from the community system, said we</p> <p>5 feel like we can get it done by this date, and</p> <p>6 actually communicated with members of the</p> <p>7 redistricting committee for suggestions and asked</p> <p>8 that they have those suggestions in by June 30.</p> <p>9 Q. When did you discuss public hearings</p> <p>10 with the reapportionment committee?</p> <p>11 A. When did who?</p> <p>12 Q. When did you discuss -- you or other</p> <p>13 members of the legislative delegation of the</p> <p>14 reapportionment committee discuss the public</p> <p>15 hearings?</p> <p>16 A. I don't know the answer.</p> <p>17 Q. What venues did you consider in</p> <p>18 Montgomery for public hearings?</p> <p>19 A. Well, we held one at the -- the public</p> <p>20 one was at the state house.</p> <p>21 Q. Were there any others?</p> <p>22 A. I don't know the answer to that. I</p> <p>23 don't have that schedule in front of me. I would be</p> <p>24 surprised if we had more than one, but I don't know</p> <p>25 for sure.</p> <p style="text-align: right;">Page 60</p>

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<p>1 MS. SADASIVAN: I am going to drop into 2 the chat -- again, I know you all can't see it. So 3 I will share my screen. 4 But I would ask the court reporter to 5 mark it as McClendon Exhibit 4. It is a document 6 that says 2021 Legislative Reapportionment Public 7 Hearings Final. 8 Do you have that before you, Senator 9 McClendon? 10 MR. WALKER: Give me just a second. 11 12 (Plaintiff's Exhibit 4 was 13 marked for identification.) 14 15 MR. WALKER: Is this it? Is that what 16 she's showing? 17 THE WITNESS: That looks like it. It's 18 hard to tell. It does look similar to it. 19 MS. WELBORN: That's it. 20 A. Does yours start off with Drake State in 21 the upper left? 22 Q. Yes, sir. 23 A. Okay. Then we probably have -- I 24 probably have that document before me, yes. 25 Q. And can you look through that document Page 61</p>	<p>1 A. 22. 2 MR. WALKER: No. Meetings. 3 A. Oh, meetings. I can think of two 4 meetings that we had. I don't know if there was a 5 third or not. 6 Q. What were the dates of those meetings? 7 A. I'm thinking the first one was during 8 the legislative session, probably the very -- toward 9 the very end of the regular session, which would 10 have put it in May. We did it because we had -- you 11 know, everybody was in town. 12 And then the next meeting that I am 13 thinking about was held just prior to the special 14 session that was called for consideration of the 15 bills, the redistricting bills. 16 MS. SADASIVAN: So I am going to drop in 17 the chat an exhibit that I'll ask the court reporter 18 to mark as McClendon Exhibit 4. I'm going to pull 19 it up on my screen and share my screen with you so 20 you can see it. 21 MR. WALKER: I think this is five. 22 MS. SADASIVAN: I'm sorry. Five. Thank 23 you. 24 Q. Can you see my screen? 25 A. Reapportionment Committee Redistricting Page 63</p>
<p>1 and just see if you had any other public hearings in 2 Montgomery? 3 A. Well, I don't see any. 4 Q. Did you consider any historically black 5 colleges or universities when you were scheduling 6 the public hearings? 7 A. Well, I wasn't doing the considering. 8 It was the staff in the two-year college. 9 The original idea started with having 10 these meetings at our two-year colleges because they 11 are spread all over the state. And so that's why we 12 got a liaison from them to help schedule these 13 things. 14 So whether they -- I think I saw one 15 with Troy on here. And if I recall -- yeah, here is 16 one at Trojan Center Ballroom. And that's because 17 there was not a community college close by or 18 something like that. 19 So by and large, we focused on our 20 community college system to host us, to host these 21 meetings. So -- 22 Q. How many meetings did -- 23 A. I'm sorry. Go ahead. Your turn. 24 Q. I was just asking how many meetings did 25 the reapportionment committee hold in 2021? Page 62</p>	<p>1 Guidelines, May 5th. Okay. 2 3 (Plaintiff's Exhibit 5 was 4 marked for identification.) 5 6 Q. Have you seen this document before, 7 Senator McClendon? 8 A. Give me a second to look at it. Yes. 9 It looks -- it looks familiar. 10 Q. Where have you seen this document 11 before? 12 A. Where? At the state house. 13 Q. How do you recognize it? 14 A. I'm just looking at -- well, I look at 15 the title, I look at the date, I look at the plus or 16 minus 5 percent, and some of the other topics. And 17 those all appear to be the guidelines that we -- 18 that the redistricting or reapportionment committee 19 adopted prior to the map-making process. 20 Q. And did you endeavor to comply with 21 these policies in the 2021 redistricting -- 22 A. Did I -- 23 Q. -- process? 24 A. Did I try to comply with these policies? 25 Is that your question? Page 64</p>

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<p>1 Q. Did you comply with these -- yes. Did</p> <p>2 you comply with these policies in the 2021</p> <p>3 redistricting process as senate chair of the</p> <p>4 reapportionment committee?</p> <p>5 A. I did.</p> <p>6 Q. Section II f states, "Districts shall be</p> <p>7 drawn in compliance with the Voting Rights Act of</p> <p>8 1965, as amended. A redistricting plan shall have</p> <p>9 neither the purpose nor the effect of diluting</p> <p>10 minority voting strength, and shall comply with</p> <p>11 Section 2 of the Voting Rights Act and the United</p> <p>12 States Constitution."</p> <p>13 How did you go about complying with</p> <p>14 Section 2 of the Voting Rights Act?</p> <p>15 MR. WALKER: Are you -- may I ask,</p> <p>16 Kathryn, are you talking about for the congressional</p> <p>17 plan?</p> <p>18 MS. SADASIVAN: I'm asking -- he said</p> <p>19 Senator McClendon tried to comply with these</p> <p>20 guidelines as senate chair of the redistricting</p> <p>21 committee. I'm asking how in general did Senator</p> <p>22 McClendon, as senate chair of the reapportionment</p> <p>23 committee, go about ensuring compliance with this</p> <p>24 particular policy.</p> <p>25 A. Well, subsequent to us adopting these</p> <p style="text-align: right;">Page 65</p>	<p>1 southerner, so I talk quickly, and I'm probably</p> <p>2 using too many adjectives.</p> <p>3 I was asking you what is required to</p> <p>4 determine whether a map complies with the Voting</p> <p>5 Rights Act.</p> <p>6 A. Well, it's -- I would say it's a legal</p> <p>7 opinion first to be familiar with the Voting Rights</p> <p>8 Act and subsequent cases, and then to be able to</p> <p>9 compare what we have produced, what's in front of</p> <p>10 us, with the knowledge of the requirement of the</p> <p>11 Constitution and the Voting Rights Act.</p> <p>12 Q. And when did you compare what was</p> <p>13 produced by your demographer with the requirements</p> <p>14 of the Voting Rights Act?</p> <p>15 A. I think probably every time we talked,</p> <p>16 this was part of it. It came up in the conversation</p> <p>17 as we went through the map-drawing process. And</p> <p>18 both the attorney and the map drawer would be quick</p> <p>19 to say that could -- that particular line moved over</p> <p>20 there could be a problem, and we need to look at it.</p> <p>21 Q. And when you say "could be a problem,"</p> <p>22 you mean could be a problem under the Voting Rights</p> <p>23 Act?</p> <p>24 A. Yes.</p> <p>25 Q. And what was your understanding of what</p> <p style="text-align: right;">Page 67</p>
<p>1 guidelines, then I was dependent on the attorney,</p> <p>2 Dorman Walker, and the map drawer during the</p> <p>3 process, once they started actually putting lines</p> <p>4 down on paper, to stay inside those guidelines.</p> <p>5 Q. So your role was overseeing the</p> <p>6 map-drawing process to ensure that it complied with</p> <p>7 the guidelines?</p> <p>8 A. One of my goals was to be in compliance</p> <p>9 with the Voting Rights Act of 1965. That was one of</p> <p>10 my jobs. And, of course --</p> <p>11 Q. It was your job to ensure compliance</p> <p>12 with the Voting Rights Act of 1965?</p> <p>13 A. Yes.</p> <p>14 Q. And how did you go about doing that?</p> <p>15 A. Well, I counted on these experts that</p> <p>16 were working for me and working for the committee to</p> <p>17 follow those guidelines and be familiar with the</p> <p>18 court cases and with the law and with the rulings.</p> <p>19 Q. And what is required to determine if a</p> <p>20 map complies with Section 2 of the Voting Rights</p> <p>21 Act?</p> <p>22 A. Say that again. Once again -- something</p> <p>23 about the audio. It could be me. But go ahead and</p> <p>24 try it again.</p> <p>25 Q. It's probably me. I'm also a</p> <p style="text-align: right;">Page 66</p>	<p>1 was required to comply with the Voting Rights Act?</p> <p>2 A. Well, as far as what's in the Voting</p> <p>3 Rights Act, I couldn't quote it. But that's why I</p> <p>4 have an attorney.</p> <p>5 Q. How many times did you have a</p> <p>6 conversation where the map drawer said if you move</p> <p>7 this line, you could have a problem under the Voting</p> <p>8 Rights Act?</p> <p>9 A. I can say I heard that several times.</p> <p>10 Q. And who did you hear that from?</p> <p>11 A. I heard it both from the attorney and</p> <p>12 the map drawer, not necessarily at the same time.</p> <p>13 Q. You were --</p> <p>14 A. Pardon?</p> <p>15 Q. You were advised several times by your</p> <p>16 attorney and by the map drawer that the way that a</p> <p>17 particular line was drawn could violate the Voting</p> <p>18 Rights Act?</p> <p>19 A. Or the way a line was proposed to go.</p> <p>20 That was their job.</p> <p>21 Q. And did that occur with respect to the</p> <p>22 congressional map?</p> <p>23 A. Not to my knowledge. Because I was not</p> <p>24 involved in drawing the congressional map.</p> <p>25 Q. Who was involved in drawing the</p> <p style="text-align: right;">Page 68</p>

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<p>1 congressional map?</p> <p>2 A. The map drawer met with the</p> <p>3 congressional delegation or their representative</p> <p>4 sometimes in person, sometimes virtually like this,</p> <p>5 and really worked this out with the members of the</p> <p>6 congressional delegation.</p> <p>7 Q. Were the members of the congressional</p> <p>8 delegation responsible for ensuring that map</p> <p>9 complied with the Voting Rights Act?</p> <p>10 A. That's a good question. I don't know</p> <p>11 the answer to that question.</p> <p>12 Q. Were you responsible for ensuring that</p> <p>13 the congressional map complied with the Voting</p> <p>14 Rights Act?</p> <p>15 A. Yes. I would say that was one of my</p> <p>16 responsibilities.</p> <p>17 Q. In the conversations that you had</p> <p>18 regarding potential violations of the Voting Rights</p> <p>19 Act, did you or anyone else discuss racial</p> <p>20 polarization analysis?</p> <p>21 A. No. No.</p> <p>22 Q. Do you know what the basis for -- in</p> <p>23 these conversations when you heard there might be a</p> <p>24 potential Voting Rights Act violation, do you know</p> <p>25 what that was based upon?</p> <p style="text-align: right;">Page 69</p>	<p>1 communities of interest, communities that have a</p> <p>2 particularly common political interest, keep them</p> <p>3 together, keep them in the same whatever it is,</p> <p>4 house direct, congressional district, BOE district,</p> <p>5 if possible.</p> <p>6 Q. You said "common political interests."</p> <p>7 Is that your definition of community of interest?</p> <p>8 A. There's a -- there's a definition right</p> <p>9 here in whatever this is on Line 30. Line 30</p> <p>10 through 32 is a definition of communities of</p> <p>11 interest.</p> <p>12 Q. So you just mentioned a common political</p> <p>13 interest, and I was wondering if that was part of</p> <p>14 your definition of communities of interest.</p> <p>15 A. Oh, that's just one -- that's just one</p> <p>16 part of it, one part -- one way you could have a</p> <p>17 community of interest. There's a lot of different</p> <p>18 ways you can have a community of interest.</p> <p>19 Q. What do you consider to be communities</p> <p>20 of interest in Alabama?</p> <p>21 A. There are -- there's not a community of</p> <p>22 interest in Alabama. There are many communities of</p> <p>23 interest.</p> <p>24 Q. Such as?</p> <p>25 A. Well, a city. A city is a community of</p> <p style="text-align: right;">Page 71</p>
<p>1 A. Well, I think at different times there</p> <p>2 were different issues.</p> <p>3 Q. Such as?</p> <p>4 A. On the congressional side, I cannot --</p> <p>5 as far as the congressional districts go, I can't</p> <p>6 give you a single example because I simply wasn't</p> <p>7 involved in that process.</p> <p>8 Q. When did you adopt the guidelines that</p> <p>9 we're talking about right now?</p> <p>10 A. Maybe May the 5th of 2021. That's the</p> <p>11 date on the document. And that was one of the</p> <p>12 purposes of -- objectives of that particular meeting</p> <p>13 of the committee, was to have the guidelines in</p> <p>14 place before we got the data and before we started</p> <p>15 working with the elected officials.</p> <p>16 Q. So the third policy in Section II j</p> <p>17 (iii) in McClendon Exhibit 5 that we're talking</p> <p>18 about now, the May 5, 2021, redistricting criteria,</p> <p>19 says, "Districts shall respect communities of</p> <p>20 interest, neighborhoods, and political subdivisions</p> <p>21 to the extent practicable and in compliance with</p> <p>22 paragraphs a through l."</p> <p>23 What is your understanding of what that</p> <p>24 policy requires?</p> <p>25 A. Well, when possible, it's good to keep</p> <p style="text-align: right;">Page 70</p>	<p>1 interest.</p> <p>2 Q. Is Montgomery a community of interest?</p> <p>3 A. Yes. Montgomery is a city.</p> <p>4 Q. What are some other communities of</p> <p>5 interest?</p> <p>6 A. You can have parts of a city that are a</p> <p>7 community of interest. There are -- a county is a</p> <p>8 community of interest.</p> <p>9 Q. What is the black belt in Alabama?</p> <p>10 A. It's a geographic area pretty much</p> <p>11 across the middle of the state from east to west.</p> <p>12 And it has to do with the rich soil that's found in</p> <p>13 that area.</p> <p>14 Q. Do you know what counties are in the</p> <p>15 black belt?</p> <p>16 A. I couldn't name -- I could name a few</p> <p>17 counties. But I cannot -- I cannot name the</p> <p>18 counties in the black belt.</p> <p>19 Q. Is there anything other than the soil</p> <p>20 that might define the black belt?</p> <p>21 A. I don't know what you're fishing for.</p> <p>22 Q. I can ask the question again.</p> <p>23 What are other characteristics that you</p> <p>24 know of of the black belt?</p> <p>25 A. That's a better question.</p> <p style="text-align: right;">Page 72</p>

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<p>1 Well, I think there's a perception that</p> <p>2 there's a lower socioeconomic income level across</p> <p>3 the black belt. There's probably -- there may be --</p> <p>4 that would probably be the main thing.</p> <p>5 Q. Do you consider the black belt a</p> <p>6 community of interest?</p> <p>7 A. No, not necessarily, because it's</p> <p>8 multiple counties, multiple communities.</p> <p>9 Q. Going back to your testimony earlier</p> <p>10 about maintaining the core of districts. Does</p> <p>11 maintaining the core of the existing congressional</p> <p>12 districts require consideration of racial data?</p> <p>13 A. Say that again and slow down again. I'm</p> <p>14 not listening very fast today.</p> <p>15 Q. I'm sorry. I'm speaking quickly. And I</p> <p>16 like that term, "listening fast."</p> <p>17 So what I asked was you testified</p> <p>18 earlier that you were maintaining -- or attempting</p> <p>19 to maintain the core of exhibiting districts in the</p> <p>20 congressional map. And I'm asking whether that</p> <p>21 requires the consideration of racial data.</p> <p>22 A. Well, we don't -- no. We don't -- we</p> <p>23 don't use racial data except after the fact.</p> <p>24 Q. After what fact do you use racial data?</p> <p>25 A. After the lines are drawn.</p> <p style="text-align: right;">Page 73</p>	<p>1 So you said you met the Tuesday before</p> <p>2 the Alabama special legislative session began on</p> <p>3 redistricting?</p> <p>4 A. Correct.</p> <p>5 Q. And that was the second meeting in your</p> <p>6 memory of the reapportionment committee?</p> <p>7 A. That is -- I believe that is correct,</p> <p>8 yes.</p> <p>9 Q. Were there other meetings of the</p> <p>10 reapportionment committee outside of those two to</p> <p>11 draw the map that we're discussing today?</p> <p>12 A. No, not of the -- not of the committee.</p> <p>13 Not a regular committee meeting, no.</p> <p>14 Q. What about a subset of the committee?</p> <p>15 A. What about what?</p> <p>16 MS. WELBORN: A subset.</p> <p>17 Q. Were there other meetings of a subset of</p> <p>18 the committee?</p> <p>19 A. No.</p> <p>20 Q. What was the agenda for your October</p> <p>21 26th meeting, reapportionment committee meeting?</p> <p>22 A. To select -- so is that the date,</p> <p>23 October 26th? That was meeting number two?</p> <p>24 A goal for that committee was to select</p> <p>25 the bills, the maps, that would be introduced to the</p> <p style="text-align: right;">Page 75</p>
<p>1 Q. And how do you see that racial data when</p> <p>2 you decide to look at it?</p> <p>3 A. The software will produce that.</p> <p>4 Q. What software?</p> <p>5 A. The software used to draw the maps.</p> <p>6 Q. Do you know what that software is?</p> <p>7 A. Give me a multiple choice, and I'll give</p> <p>8 it to you. Not right off the bat, no. You know,</p> <p>9 it's like I know it when I see it. But, you know, I</p> <p>10 never used it. But it's a new system for us. We</p> <p>11 recently adopted it.</p> <p>12 Q. When was the second meeting of the</p> <p>13 reapportionment committee in 2021?</p> <p>14 A. If, in fact, there were just the two</p> <p>15 meetings, it would have been immediately -- let me</p> <p>16 see. It would have been on the Tuesday prior to the</p> <p>17 special session convening on a Thursday. So</p> <p>18 whatever those dates are.</p> <p>19 Q. Do you have reason to believe that there</p> <p>20 was another meeting of the reapportionment committee</p> <p>21 other than the two we're discussing now?</p> <p>22 A. No, I don't. But I wouldn't be</p> <p>23 surprised. But I just don't believe there was.</p> <p>24 Q. I unfortunately don't have the exhibits</p> <p>25 (inaudible) the meetings, so we'll just move on.</p> <p style="text-align: right;">Page 74</p>	<p>1 legislature on Thursday.</p> <p>2 Q. And how many congressional maps did the</p> <p>3 members of the reapportionment committee vote on?</p> <p>4 A. I think just the one. But I can't -- I</p> <p>5 can't swear to that.</p> <p>6 Q. So when you say "select the map," you</p> <p>7 mean to vote on the one map?</p> <p>8 A. I can't remember if a substitute</p> <p>9 congressional map was offered or not.</p> <p>10 Q. I am going to drop into chat, and I will</p> <p>11 share my screen, as well. I will represent to you</p> <p>12 that this is a certified transcript of the October</p> <p>13 26, 2021, meeting of the reapportionment committee.</p> <p>14</p> <p>15 (Plaintiff's Exhibit 6 was</p> <p>16 marked for identification.)</p> <p>17</p> <p>18 Q. Do you see this?</p> <p>19 A. I do.</p> <p>20 MS. SADASIVAN: I'm going to ask</p> <p>21 Mr. Walker if you would be so kind to mark this as</p> <p>22 Exhibit 6.</p> <p>23 MR. WALKER: I have done so. It is</p> <p>24 marked.</p> <p>25 MS. SADASIVAN: Thank you, sir.</p> <p style="text-align: right;">Page 76</p>

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<p>1 Q. I'll let you quickly scan -- it's quite</p> <p>2 a long document. I'll let you just scan through it.</p> <p>3 And if you wouldn't mind just letting me know if</p> <p>4 this looks familiar to you.</p> <p>5 A. Well, I've glanced through it. It looks</p> <p>6 familiar. But it's really --</p> <p>7 Q. Okay. Again, I'll represent to you that</p> <p>8 it's a transcript of the October 26, 2021, meeting</p> <p>9 of the reapportionment committee, as you likely</p> <p>10 remember. And as you can see from the transcript, a</p> <p>11 considerable portion of the meeting was about racial</p> <p>12 polarization analysis.</p> <p>13 What is your understanding of racial</p> <p>14 polarization in voting?</p> <p>15 A. In this case, this -- this is an</p> <p>16 additional evaluation or test of the data to any</p> <p>17 place it's suspicious that there could be racial</p> <p>18 discrimination. It's an extra test tacked on to</p> <p>19 what we normally do to see if, in fact, we are in or</p> <p>20 out of compliance with the Voting Rights Act and our</p> <p>21 own guidelines and the court cases.</p> <p>22 Q. And what would give rise to suspicious</p> <p>23 racial discrimination that would require a racial</p> <p>24 polarization analysis?</p> <p>25 A. What would -- what would make you think</p> <p style="text-align: right;">Page 77</p>	<p>1 one of the committee members.</p> <p>2 Q. Who?</p> <p>3 A. It might have been Representative</p> <p>4 England. I think that's who it was. I'm not a</p> <p>5 hundred percent sure. I think he had a good bit to</p> <p>6 say about it.</p> <p>7 Q. And why did -- what was your</p> <p>8 understanding of why Representative England was</p> <p>9 concerned about racially polarized voting?</p> <p>10 A. I didn't have an understanding of why he</p> <p>11 was concerned. He just let it be known that he was</p> <p>12 concerned.</p> <p>13 Q. Did anyone else express concerns about</p> <p>14 racially polarized voting?</p> <p>15 A. I don't remember.</p> <p>16 Q. What was the conversation?</p> <p>17 A. I don't know. If we've got the</p> <p>18 transcript, we can take a look at it.</p> <p>19 I think there was someone that may have</p> <p>20 even suggested we should have evaluated all 140</p> <p>21 races for this. I don't remember who that was.</p> <p>22 Q. So if you wouldn't mind turning to Page</p> <p>23 17 of McClendon Exhibit 5.</p> <p>24 MS. WELBORN: I think it's Exhibit 6.</p> <p>25 Q. Exhibit 6. I apologize.</p> <p style="text-align: right;">Page 79</p>
<p>1 that that's an issue? Is that what you're asking,</p> <p>2 that racial discrimination is an issue?</p> <p>3 I guess, you know, the first thing I</p> <p>4 would say is if we had an incumbent minority person</p> <p>5 and there was such a change in the composition of</p> <p>6 the voters in that district, that that -- that</p> <p>7 district may no longer have -- have less of a chance</p> <p>8 of having a minority representative. That would be</p> <p>9 -- I think that would be a red flag.</p> <p>10 Q. So a suspicious racial issue would be if</p> <p>11 a minority representative were no longer able to win</p> <p>12 an election in their district?</p> <p>13 A. Or threatened if they -- yeah. Roughly</p> <p>14 what you said. I don't exactly agree word for word.</p> <p>15 But yeah, that's the idea.</p> <p>16 Q. What is your understanding of why RPV --</p> <p>17 and when I say RPV, I mean racially polarized</p> <p>18 voting. What is your understanding of why RPV was</p> <p>19 discussed in the October 26th meeting?</p> <p>20 A. Wait a minute. I missed one word I</p> <p>21 didn't understand. Why is it what in the meeting?</p> <p>22 MS. WELBORN: Discussed.</p> <p>23 A. "Discussed," is that the word you used?</p> <p>24 Q. Yes, sir.</p> <p>25 A. Oh, okay. Well, it was brought up by</p> <p style="text-align: right;">Page 78</p>	<p>1 A. I'm on Page 17. Yep, Smitherman.</p> <p>2 Q. All right. So you'll see that</p> <p>3 Representative Laura Hall asked you about a racially</p> <p>4 polarized voting study done.</p> <p>5 Can you read where it says Senator</p> <p>6 McClendon beginning with "Because"?</p> <p>7 A. "Because of the black age voting</p> <p>8 population in Congressional District 7, there was</p> <p>9 not one needed because it was over 54 percent black</p> <p>10 voting age population."</p> <p>11 Q. And then will you also read what</p> <p>12 Representative Hall said in response?</p> <p>13 A. "So you're saying that we don't have a</p> <p>14 black -- we don't have a polarization, racially</p> <p>15 polarization study?"</p> <p>16 Q. And then please read your response.</p> <p>17 A. "None. Because the voting age" -- well,</p> <p>18 I suspect that's a transcript error. "What is it?</p> <p>19 I got it right here."</p> <p>20 "Because the voting age is 54." Don't</p> <p>21 you think that's the VAP, 54, instead of the voting</p> <p>22 age?</p> <p>23 Q. And then -- I'm sorry. Can you please</p> <p>24 just read it as it is on the transcript, what</p> <p>25 Representative Hall said after that beginning with</p> <p style="text-align: right;">Page 80</p>

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<p>1 "And"?</p> <p>2 A. "And you use District 7 as the basis for</p> <p>3 not having such a study done?"</p> <p>4 Q. And then please read your response.</p> <p>5 A. The black vote -- "The black VAP of the</p> <p>6 district is sufficient to where you don't need a</p> <p>7 study done."</p> <p>8 Q. Who makes the decision to undertake an</p> <p>9 RPV analysis?</p> <p>10 A. The attorney.</p> <p>11 Q. If you asked the attorney to undertake</p> <p>12 an RPV analysis, what would happen?</p> <p>13 A. We would discuss whether, in his</p> <p>14 opinion, the issue was actually there or not and</p> <p>15 needed to be decided and further information</p> <p>16 gathered on the outside. I mean, his job is not</p> <p>17 just to jump.</p> <p>18 Q. If you asked Mr. Walker to conduct an</p> <p>19 RPV analysis, would one be conducted?</p> <p>20 A. First, I don't think -- I would not ask</p> <p>21 Mr. Walker to do something. I would ask Mr. Walker,</p> <p>22 "What is your opinion? Do we need to do this or</p> <p>23 not?" That's how it works.</p> <p>24 Q. I understand. And if you asked him to</p> <p>25 undertake a racial polarization analysis, would one</p> <p style="text-align: right;">Page 81</p>	<p>1 A. You know, I don't know the answer to</p> <p>2 that question.</p> <p>3 Q. You don't know whether or not you could</p> <p>4 undertake --</p> <p>5 A. I don't know. The only way I would know</p> <p>6 is if I had exercised that and see how it worked</p> <p>7 out. But I've never exercised it, never thought</p> <p>8 about exercising it. So I don't know the answer to</p> <p>9 that.</p> <p>10 Q. You didn't think about asking for an RPV</p> <p>11 analysis when Representative England and</p> <p>12 Representative Hall asked for one to be undertaken?</p> <p>13 A. It's like -- it's highly probable that</p> <p>14 we discussed doing that afterwards, after the</p> <p>15 meeting. I may have discussed it with Mr. Walker.</p> <p>16 And if he had thought it was of value and worthwhile</p> <p>17 to do and would give us additional information that</p> <p>18 we needed, it would have been ordered. And if he</p> <p>19 had felt like it was an exercise in futility and a</p> <p>20 waste of time and money, he would have made that</p> <p>21 expression, as well.</p> <p>22 Q. And did you ask Mr. Walker to undertake</p> <p>23 an RPV analysis after the October 26th meeting?</p> <p>24 A. We may have talked about it. But I</p> <p>25 don't remember exactly doing that.</p> <p style="text-align: right;">Page 83</p>
<p>1 be undertaken?</p> <p>2 A. You know, that's a hypothetical. And</p> <p>3 I'm not going to do a hypothetical.</p> <p>4 Q. Do you have the power, as senate chair</p> <p>5 of the reapportionment committee, to ensure that the</p> <p>6 individuals, the attorney, and the map drawer, for</p> <p>7 example, comply with the Voting Rights Act?</p> <p>8 A. Well, yes. That's their responsibility.</p> <p>9 Q. And if you decided that you needed a</p> <p>10 racially polarized voting study done, could you</p> <p>11 insist that they undertake one?</p> <p>12 A. Well, once again, you're doing something</p> <p>13 hypothetical. I depend on Mr. Walker for his legal</p> <p>14 opinion and his experience. He's got many more</p> <p>15 years of experience than I do.</p> <p>16 And what I most likely do with him is</p> <p>17 say, "Dorman, what do you think about this? Do we</p> <p>18 need to do this or not? Does it make any sense?"</p> <p>19 Q. Senator McClendon, I understand that</p> <p>20 you're very personable and you rely on the opinions</p> <p>21 of your attorneys.</p> <p>22 What I'm asking you is if you have the</p> <p>23 power to insist, as senate chair of the</p> <p>24 reapportionment committee, that a racially polarized</p> <p>25 voting study be undertaken?</p> <p style="text-align: right;">Page 82</p>	<p>1 Q. How much did Alabama's population change</p> <p>2 between 2011 and 2021?</p> <p>3 A. I believe it increased about 5 percent.</p> <p>4 I think it went from 4.88 to a little over 5</p> <p>5 million, 5,020,000 or something like that.</p> <p>6 Q. In this redistricting cycle, was</p> <p>7 District 7 over or underpopulated?</p> <p>8 A. I think it was under. Yes, I'm sure it</p> <p>9 was under.</p> <p>10 Q. I'm going to go back to McClendon</p> <p>11 Exhibit 6. If you wouldn't mind please turning to</p> <p>12 Page 19.</p> <p>13 And if you could look at the second</p> <p>14 paragraph on the page after Representative England</p> <p>15 said, "It would appear that District 7 would look</p> <p>16 like that would need to be done," referring to an</p> <p>17 RPV analysis.</p> <p>18 He goes on, "So it appears to me that if</p> <p>19 we're doing this in the logical way, that District 7</p> <p>20 just -- as it appears on a map, would produce a</p> <p>21 certain percentage."</p> <p>22 And he asks, "And what is the</p> <p>23 relationship between the 54 percent that you're</p> <p>24 citing and the actual results or potential results</p> <p>25 of a racial polarization study? What is the</p> <p style="text-align: right;">Page 84</p>

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<p>1 relationship between the two?"</p> <p>2 A. Let me --</p> <p>3 Would you read your response?</p> <p>4 A. I'm sorry. I thought you were done. Go</p> <p>5 ahead.</p> <p>6 Q. Would you please read your response?</p> <p>7 A. Let me read this sentence you just read.</p> <p>8 So I would like to request that the study be done on</p> <p>9 District 7. And what is the relationship between</p> <p>10 the 54 percent that you're citing and a racial</p> <p>11 polarization study? What is the relationship?</p> <p>12 My response is, "I got no clue."</p> <p>13 Q. Does this seem like an accurate</p> <p>14 representation of your conversation in the meeting,</p> <p>15 the October 26 reapportionment committee meeting?</p> <p>16 A. I think it's fairly accurate. I've</p> <p>17 certainly found some errors in here. But it's</p> <p>18 probably close enough.</p> <p>19 Q. And do you still have no clue what the</p> <p>20 relationship between the 54 percent number that you</p> <p>21 cited earlier as not a threshold by which you would</p> <p>22 consider an RPV analysis and the actual or potential</p> <p>23 results of a racial polarization analysis?</p> <p>24 A. Okay. Give me -- break that up. That</p> <p>25 was a couple of questions. Give me the first one.</p> <p style="text-align: right;">Page 85</p>	<p>1 What did you mean by that?</p> <p>2 A. What I meant by that was it didn't look</p> <p>3 like it was -- that a minority congresswoman was at</p> <p>4 risk. If she wanted to be elected again -- and</p> <p>5 apparently she does -- there was nothing to suggest</p> <p>6 it was close enough to think there was a threat to</p> <p>7 her reelection.</p> <p>8 Q. And how is that related to the black</p> <p>9 voting age population in District 7 at 54 percent?</p> <p>10 A. Well, most of the voters are a minority.</p> <p>11 Q. And so you were assuming that black</p> <p>12 voters would vote for a black representative?</p> <p>13 A. That's pretty -- a pretty safe bet here</p> <p>14 in Alabama.</p> <p>15 Q. And where did the 54 percent number come</p> <p>16 from?</p> <p>17 A. Those -- those numbers are generated by</p> <p>18 the software when the district is drawn. But they</p> <p>19 are generated after the district is drawn.</p> <p>20 Q. Did you talk to Representative Sewell</p> <p>21 about the black voting age population in her</p> <p>22 district?</p> <p>23 A. No, I did not.</p> <p>24 Q. Did you talk to Representative Sewell</p> <p>25 about the congressional map?</p> <p style="text-align: right;">Page 87</p>
<p>1 Q. It's just one question, but it's long.</p> <p>2 I'm asking you if you still have no clue</p> <p>3 with respect to the question that Representative</p> <p>4 England asked you and that you just read?</p> <p>5 A. Here -- here's the issue.</p> <p>6 Representative England apparently was targeting that</p> <p>7 number of 54 percent of BVAP as if it were some sort</p> <p>8 of threshold of do or die.</p> <p>9 And even the courts, to my knowledge,</p> <p>10 have never come up with a number that says you've</p> <p>11 got to have this percent or you can't go below this</p> <p>12 percent. It's never happened.</p> <p>13 So when somebody picks out a number of</p> <p>14 54 percents and says that's good or bad, well,</p> <p>15 Congresswoman Sewell was happy with it. And she's</p> <p>16 probably got a whole lot more information on her</p> <p>17 electability in her own district than I have.</p> <p>18 Q. So I'm just going to point you back to</p> <p>19 Page 17 of the transcript of your October 26th</p> <p>20 meeting of the reapportionment committee where</p> <p>21 before Representative England brought that up, you</p> <p>22 had said, "Because of the black voting age</p> <p>23 population in Congressional District 7, there was</p> <p>24 not one needed," referring to an RPV analysis,</p> <p>25 because it was over 54 percent BVAP.</p> <p style="text-align: right;">Page 86</p>	<p>1 A. No, I did not.</p> <p>2 Q. How do you know that Representative</p> <p>3 Sewell was okay with the district, as you suggested,</p> <p>4 based on the BVAP?</p> <p>5 A. I was told that by the map drawer who</p> <p>6 interviewed Representative Sewell I think once in</p> <p>7 person and once virtually. Or it may have been a</p> <p>8 staff person. But they were okay with the district.</p> <p>9 Q. So you wanted to ensure that the BVAP in</p> <p>10 districts with a minority candidate representing</p> <p>11 them was not too low?</p> <p>12 A. Correct.</p> <p>13 Q. Did you take any steps to ensure that</p> <p>14 the BVAP in any district was not too high?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. Who drew the maps for you in 2021?</p> <p>17 A. Randy Hinaman.</p> <p>18 Q. What is Randy Hinaman's role in the</p> <p>19 redistricting process?</p> <p>20 A. He's the map drawer.</p> <p>21 Q. When did you first meet with Mr. Hinaman</p> <p>22 about the redistricting cycle in 2021?</p> <p>23 A. In the spring of 2021, I guess. I</p> <p>24 don't -- I don't remember an exact date.</p> <p>25 Q. Who did you meet with Mr. Hinaman with?</p> <p style="text-align: right;">Page 88</p>

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<p>1 A. I don't remember who was there.</p> <p>2 Q. What was discussed?</p> <p>3 A. Pardon me? What was what?</p> <p>4 Q. What did -- what did you all discuss?</p> <p>5 A. I would just guess. And I would say we</p> <p>6 probably discussed when are we going to see the data</p> <p>7 so we can go to work.</p> <p>8 Q. Did you provide any instructions to</p> <p>9 Mr. Hinaman in the spring of 2021?</p> <p>10 A. No.</p> <p>11 Q. Why not?</p> <p>12 A. He was -- he was more experienced than</p> <p>13 me.</p> <p>14 Q. Did you provide Mr. Hinaman with any</p> <p>15 materials throughout any of the process of him</p> <p>16 drawing the 2021 Alabama maps?</p> <p>17 A. No.</p> <p>18 Q. Why?</p> <p>19 A. There was no need to.</p> <p>20 Q. Why was there no need to?</p> <p>21 A. Well, he was the map drawer. He knew</p> <p>22 his job.</p> <p>23 Q. Where was his job description?</p> <p>24 A. Where was his job description?</p> <p>25 Q. Defined.</p> <p style="text-align: right;">Page 89</p>	<p>1 BVAP of around 54 percent?</p> <p>2 A. I was told that in any of the districts</p> <p>3 that were drawn that needed this additional</p> <p>4 analysis, it had been requested.</p> <p>5 Q. Can you repeat your answer, please?</p> <p>6 A. I was told that any of the districts</p> <p>7 that needed additional analysis, that that analysis</p> <p>8 had been requested.</p> <p>9 Q. And were you told which districts</p> <p>10 required analysis?</p> <p>11 A. No.</p> <p>12 Q. Did you know any criteria for which</p> <p>13 districts required an analysis?</p> <p>14 A. I did not know the criteria.</p> <p>15 Q. When did you determine that your plan</p> <p>16 didn't violate the Voting Rights Act?</p> <p>17 A. Well, sometime -- sometime prior to</p> <p>18 submitting it to the redistricting committee for</p> <p>19 consideration. That was like part of the process,</p> <p>20 to make sure we were in compliance before</p> <p>21 introducing it for consideration for the other</p> <p>22 committee members.</p> <p>23 Q. And when did you submit the</p> <p>24 congressional redistricting bill for consideration</p> <p>25 by the reapportionment committee?</p> <p style="text-align: right;">Page 91</p>
<p>1 A. You know, he -- I don't know the answer</p> <p>2 to that.</p> <p>3 MS. SADASIVAN: Would you mind if we</p> <p>4 take a five-minute break?</p> <p>5 THE VIDEOGRAPHER: We are off the</p> <p>6 record. The time is 4:26 p.m.</p> <p>7 (Recess was taken.)</p> <p>8 THE VIDEOGRAPHER: We are back on the</p> <p>9 record. The time is 4:37 p.m.</p> <p>10 Q. Senator McClendon, thank you again for</p> <p>11 sitting for the deposition and for your time.</p> <p>12 Following up on McClendon Exhibit 6</p> <p>13 where we were discussing the quote where you said</p> <p>14 that because of the black voting age population in</p> <p>15 Congressional District 7, there was not one needed</p> <p>16 with respect to an RPV analysis because the district</p> <p>17 was over 54 percent BVAP. That was the October 26th</p> <p>18 meeting of the reapportionment committee.</p> <p>19 Did Mr. Walker tell you that a racial</p> <p>20 polarization analysis was unnecessary because</p> <p>21 District 7 had a BVAP of 54 percent?</p> <p>22 MR. WALKER: Object on the basis of</p> <p>23 attorney-client privilege.</p> <p>24 Q. Were you told that a racial polarization</p> <p>25 analysis was unnecessary because District 7 had a</p> <p style="text-align: right;">Page 90</p>	<p>1 A. The date -- the date we met that Tuesday</p> <p>2 prior to the special session convening on Thursday.</p> <p>3 Q. So you determined before the October</p> <p>4 26th meeting that your map, the congressional</p> <p>5 redistricting map you introduced, didn't violate the</p> <p>6 VRA?</p> <p>7 A. I felt confident that was the case, yes.</p> <p>8 Q. Do you know if an RPV analysis was</p> <p>9 conducted for Congressional District 1?</p> <p>10 A. Do I know if it was conducted? Is that</p> <p>11 your question?</p> <p>12 No, I don't know if it was conducted.</p> <p>13 Q. Who would know?</p> <p>14 A. The attorney.</p> <p>15 Q. And who is that?</p> <p>16 A. His name is Dorman Walker.</p> <p>17 Q. When did the special legislative session</p> <p>18 on redistricting begin in Alabama in 2021?</p> <p>19 A. The Thursday of that week following the</p> <p>20 redistricting committee meeting. And I don't</p> <p>21 remember what the date was.</p> <p>22 Q. Did you do anything to prepare for the</p> <p>23 special session?</p> <p>24 A. Well, yes.</p> <p>25 Q. What did you do to prepare for the</p> <p style="text-align: right;">Page 92</p>

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<p>1 special session?</p> <p>2 A. I tried to get the -- first, we handled</p> <p>3 -- the senate handled the senate and the BOE map</p> <p>4 first. And so I wanted my information in place in</p> <p>5 my hand that I would present to the standing</p> <p>6 committee and ultimately to the senate floor. So my</p> <p>7 preparation was to have my bullet points convenient</p> <p>8 before those meetings.</p> <p>9 Q. Did you review any maps of two majority</p> <p>10 black districts in 2021?</p> <p>11 A. No.</p> <p>12 Q. Did you have the opportunity to vote on</p> <p>13 any two majority black congressional district plans</p> <p>14 in 2021?</p> <p>15 MR. WALKER: Did you say have the</p> <p>16 opportunity to vote?</p> <p>17 MS. SADASIVAN: Yes.</p> <p>18 MR. WALKER: Okay.</p> <p>19 A. There may -- I don't -- and I'm not</p> <p>20 certain. But I think one was introduced on the</p> <p>21 senate floor. But I'm not sure.</p> <p>22 Q. You think that a bill creating two</p> <p>23 majority minority districts was introduced on the</p> <p>24 senate floor?</p> <p>25 MR. WALKER: May.</p> <p style="text-align: right;">Page 93</p>	<p>1 congressional plan?</p> <p>2 Q. Let me just scroll down.</p> <p>3 I guess my question was initially -- and</p> <p>4 I'm seeing on Page 27 there's the beginning of a</p> <p>5 discussion between Senator McClendon and Senator</p> <p>6 Singleton.</p> <p>7 But I had first asked, Senator</p> <p>8 McClendon, if you could look through the transcript</p> <p>9 and see if it generally appears accurate of the</p> <p>10 senate floor debate on November 3, 2021, in the</p> <p>11 Alabama senate. I will represent to you that it's</p> <p>12 the transcript from the video that we received.</p> <p>13 A. And I'll accept that, that it is a</p> <p>14 transcript of the senate floor.</p> <p>15 Q. And in this transcript, you vote against</p> <p>16 a map introduced by Senator Singleton and Senator</p> <p>17 Hatcher. Can you --</p> <p>18 A. What page is that on?</p> <p>19 Q. I believe the motion is -- the</p> <p>20 substitute was offered by Senator Hatcher on Page</p> <p>21 39.</p> <p>22 A. Okay.</p> <p>23 Q. And Senator McClendon moved it for an up</p> <p>24 or down vote on Page 40, and then votes against it</p> <p>25 on Page 41. Do you see that?</p> <p style="text-align: right;">Page 95</p>
<p>1 A. May have been introduced on the senate</p> <p>2 floor. Introduced on the senate floor.</p> <p>3 Q. So I am dropping into the chat and I'll</p> <p>4 ask Mr. Walker to mark as Exhibit 7 or McClendon</p> <p>5 Exhibit 7 a document that is the transcript of the</p> <p>6 senate floor debate in Alabama on November 3, 2021.</p> <p>7 Do you recognize the document? It's on</p> <p>8 my screen so you can see it.</p> <p>9 MR. WALKER: Oh, okay. This is 7?</p> <p>10 MS. WELBORN: Yes.</p> <p>11 MS. SADASIVAN: Yes, sir.</p> <p>12</p> <p>13 (Plaintiff's Exhibit 7 was</p> <p>14 marked for identification.)</p> <p>15</p> <p>16 Q. And I have the exhibit pulled up, as</p> <p>17 well. Take a minute to look at it, Senator</p> <p>18 McClendon, please.</p> <p>19 A. What did you say?</p> <p>20 Q. Will you just take a minute to look at</p> <p>21 the transcript, and at the end confirm yes or no</p> <p>22 whether it generally appears accurate of the senate</p> <p>23 floor debate in 2021 on the various redistricting</p> <p>24 bills in the special legislative session.</p> <p>25 A. Where does this start dealing with the</p> <p style="text-align: right;">Page 94</p>	<p>1 A. Okay. Yeah, I do. I do.</p> <p>2 Q. Can you tell me why you voted against</p> <p>3 Senator Hatcher's two majority minority district</p> <p>4 plan?</p> <p>5 A. You know, if I recall correctly, his map</p> <p>6 pitted -- put two incumbent congressional members in</p> <p>7 the same district.</p> <p>8 Did you hear me?</p> <p>9 Q. I can. I asked you why you voted</p> <p>10 against Senator Hatcher's plan.</p> <p>11 A. And my response was that, among other</p> <p>12 things, the most blatant thing and easiest to notice</p> <p>13 was that he had put two incumbents in the same</p> <p>14 district.</p> <p>15 Q. You agree that the black voting age</p> <p>16 population of the state of Alabama is approximately</p> <p>17 27 percent of the state?</p> <p>18 A. Approximately.</p> <p>19 Q. Did that factor in to how you voted on</p> <p>20 Senator Hatcher's map?</p> <p>21 A. It had nothing to do with it.</p> <p>22 Q. Did you have the opportunity to vote on</p> <p>23 Senator Singleton's proposed map?</p> <p>24 A. I did.</p> <p>25 Q. And how did you vote?</p> <p style="text-align: right;">Page 96</p>

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<p>1 A. A nay.</p> <p>2 Q. And why did you vote nay?</p> <p>3 A. I think the blatant problem with his map</p> <p>4 was that no minority candidate had a majority</p> <p>5 district. He had --</p> <p>6 Q. And when you say a minority candidate</p> <p>7 had a majority district, what do you mean?</p> <p>8 A. I think he drew two districts they</p> <p>9 called opportunity districts. But no minority</p> <p>10 candidate had a majority of the voters in either of</p> <p>11 those districts.</p> <p>12 Q. With respect to Senator Hatcher's map,</p> <p>13 you said you voted against it because two incumbents</p> <p>14 were paired?</p> <p>15 A. I think that is -- I think that's</p> <p>16 correct.</p> <p>17 Q. And what is -- in terms of your</p> <p>18 understanding of the law, what is a more important</p> <p>19 criteria for a map proposed by the Alabama</p> <p>20 legislature? Compliance with federal law and the</p> <p>21 Voting Rights Act or ensuring incumbents are not</p> <p>22 paired?</p> <p>23 A. You're asking me to say what's most</p> <p>24 important among those three or what takes precedent?</p> <p>25 Is that what your question is?</p> <p style="text-align: right;">Page 97</p>	<p>1 hearings occurred between the hours of 9:00 a.m. and</p> <p>2 5:00 p.m.</p> <p>3 A. Most all of them did. I guess there's</p> <p>4 one exception to that. And that would have been the</p> <p>5 meeting at the state house in Montgomery.</p> <p>6 Q. How many public hearings were held at</p> <p>7 the same time as another public hearing?</p> <p>8 A. Zero.</p> <p>9 Q. In other words, how many public hearings</p> <p>10 overlapped with another one of the public hearings?</p> <p>11 A. Zero.</p> <p>12 Q. No public hearings occurred at the same</p> <p>13 time as another public hearing?</p> <p>14 A. Correct.</p> <p>15 Q. And when did you finalize the times of</p> <p>16 the public hearings?</p> <p>17 A. It would have been sometime in July,</p> <p>18 early July. Actually, it was done twice. The first</p> <p>19 time, it was targeted to be completed by June 30th.</p> <p>20 And then we added six more, and that just tacked</p> <p>21 them on the end. So it was in the early part of</p> <p>22 July.</p> <p>23 Q. So you added six more why?</p> <p>24 A. Representative Hall requested it.</p> <p>25 Q. How did she request additional hearings?</p> <p style="text-align: right;">Page 99</p>
<p>1 Q. Yes, sir.</p> <p>2 A. Well, you always have to assume that</p> <p>3 federal law supersedes state law. But in this case,</p> <p>4 it was -- it didn't matter. It was just -- it was</p> <p>5 an -- it was an inappropriate situation.</p> <p>6 Actually, what happens when you pit two</p> <p>7 incumbents, suddenly the redistricting committee is</p> <p>8 picking winners and losers. And that should be up</p> <p>9 to the voters.</p> <p>10 Q. The reapportionment committee -- just to</p> <p>11 go back a little bit to the public hearings that you</p> <p>12 held on redistricting. How many were there?</p> <p>13 A. Still 28.</p> <p>14 Q. And how many occurred between the hours</p> <p>15 of 9:00 and 5:00?</p> <p>16 A. Well, I don't know. I would have to --</p> <p>17 I would have to go back. I think most -- most of</p> <p>18 them did, yeah.</p> <p>19 Q. If I say the McClendon exhibit, I'm</p> <p>20 afraid I will get it wrong. But it has the schedule</p> <p>21 of the public hearings.</p> <p>22 A. That would be Number 4.</p> <p>23 Q. Thank you, sir.</p> <p>24 A. Okay. What is your question, now?</p> <p>25 Q. I asked how many of the 28 public</p> <p style="text-align: right;">Page 98</p>	<p>1 A. Email.</p> <p>2 Q. Sir, I am going to drop in the chat and</p> <p>3 I will share my screen and ask Mr. Walker if he</p> <p>4 could please mark this as, I believe, McClendon</p> <p>5 Exhibit 7.</p> <p>6 MR. WALKER: Eight.</p> <p>7 MS. SADASIVAN: Eight. Gosh. Why am I</p> <p>8 always one off? It's Friday.</p> <p>9 Q. So I'm showing you what I've asked</p> <p>10 Mr. Walker to mark as McClendon Exhibit 8. I'm</p> <p>11 scrolling down to the bottom where it says RC</p> <p>12 045704.</p> <p>13 MS. WELBORN: Kathryn, can you scroll</p> <p>14 all the way up? We don't know what the document is.</p> <p>15 MS. SADASIVAN: So the document says RC</p> <p>16 045697. This was produced by Mr. Walker yesterday.</p> <p>17 MS. WELBORN: What does it look like on</p> <p>18 the first page so we can figure out which one it is?</p> <p>19 MS. SADASIVAN: It looks like this.</p> <p>20 MR. WALKER: Okay.</p> <p>21</p> <p>22 (Plaintiff's Exhibit 8 was</p> <p>23 marked for identification.)</p> <p>24</p> <p>25 A. Is this -- okay. Exhibit 8.</p> <p style="text-align: right;">Page 100</p>

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<p>1 MR. WALKER: She's turned it back a page 2 or two. 3 Q. So if you look on Page 12 of the exhibit 4 that Mr. Walker handed you, it's marked at the 5 bottom with Bates number RC 045712. 6 A. 712. Okay. I've got 712. What page? 7 Q. 045712. It's page 12 of that PDF. 8 A. 712. I've got Page 1. 9 Q. Do you recognize on Page -- I guess the 10 page that we just landed on, did you recognize the 11 document that you're looking at, Mr. McClendon? 12 A. Yes. Well, I have it in front of me. 13 Let me look at it. 14 Yes, I've seen this before. 15 Q. Where have you seen it before? 16 A. I probably -- I probably received a copy 17 of it, of the email. 18 Q. What is this that you're looking at? 19 A. This is Representative Hall, I guess. 20 Yes. This is when she made a request for additional 21 meetings. And she sent that to the staff office and 22 they forward a copy to me. 23 Q. So in her email that we're looking at 24 right now, Representative Hall says, "During the May 25 5th committee meeting, members agreed to hearing Page 101</p>	<p>1 A. But I cannot discuss what he said to me. 2 Q. You stated earlier that the time and 3 manner of the public hearings is not governing by 4 Alabama law, correct? 5 A. Not to my knowledge. 6 Q. So when Representative Hall asked for 7 other times for the public hearings, was there any 8 legal constraints to the times that you could select 9 for the public hearings? 10 A. Not to my knowledge. 11 Q. Why did you not change the times of the 12 public hearings based on this email? 13 A. That was being -- we used our staff and 14 we used our liaison from the community college 15 system to contact the local community colleges and 16 locations and to see what would work out for 17 everybody involved. And that's how it came about. 18 MS. SADASIVAN: I think that's all the 19 questions I have. The Singleton and the Caster 20 plaintiffs may have questions. 21 MR. OSHER: I have a few questions. 22 Jim, if you want to go first for Singleton, you're 23 more than welcome to. He might not be on. 24 Okay. Senator, give me one moment, sir. 25 Page 103</p>
<p>1 locations that would not require constituents to 2 travel more than one county. However, the proposed 3 location map will require interested parties to 4 travel significant distances to participate." 5 Going down, it says, "While it may not 6 be feasible for all committee members to attend 7 every public hearing, the proposed schedule requires 8 members to 'pick and choose' hearings and will not 9 have the full benefit of the public hearing 10 testimony and discussion of any alternative maps 11 introduced." 12 On the second page -- on the following 13 page, which is Bates number RC 045713, 14 Representative Hall says, "In addition, the timing 15 of each hearing is unsatisfactory. Hearings held 16 during working days cannot be viewed objectively as 17 providing the opportunity for public input." 18 How did you respond to Representative 19 Hall's concerns about the timing of the public 20 hearings? 21 A. I think I called my attorney and 22 basically said, "How do you want to handle this? 23 What do you think we need to do?" And -- 24 MR. WALKER: Do not discuss what I said 25 to you. Page 102</p>	<p>1 EXAMINATION BY MR. OSHER: 2 Q. Senator McClendon, can you hear me? 3 A. I can hear you very well. 4 Q. Oh, well that's a surprise. That never 5 happens. Thank you for your time today. I just 6 have a few questions. 7 I believe -- am I correct that you were 8 in the room when Representative Pringle was taking 9 his deposition? 10 A. You are correct. 11 Q. Or I should say was having his 12 deposition taken. 13 And so I assume that you heard the 14 questions that I asked him. Is that correct? 15 A. That is correct. 16 Q. I'm just going to ask you the same 17 questions. 18 How long have you been serving in the 19 Alabama legislature? 20 A. 19 years. 21 Q. 19 years. And have you been a member of 22 the republican party that whole time? 23 A. Well, I've always run as a republican. 24 And I believe I've been a dues-paying member of the 25 county republican group that whole time. Page 104</p>

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<p>1 Q. And have you -- have you always been a 2 member of the republican party?</p> <p>3 A. Well, "always been" goes back a long 4 way. I think I've been a member of the republican 5 party as long as I've been a candidate or an elected 6 official.</p> <p>7 Q. And how long does that date back until 8 in the -- in the past?</p> <p>9 A. 2001.</p> <p>10 Q. Okay. Based your 19 years serving in 11 the legislature, in your view, do the views of the 12 members of the democratic party in Alabama generally 13 differ from the members of the republican party in 14 Alabama when it comes to the issue of removing 15 confederate monuments from public spaces?</p> <p>16 A. You know, I think if you make that broad 17 and say generally, I think I can agree with that 18 statement. There -- there are definitely 19 exceptions. But I think with the "general" in 20 there, I can say I generally agree with your 21 statement.</p> <p>22 Q. So the answer to my question was yes?</p> <p>23 A. Yes.</p> <p>24 MR. WALKER: Objection to form. He 25 answered that he can generally agree.</p> <p style="text-align: right;">Page 105</p>	<p>1 Q. Thank you. I appreciate it. A few 2 more.</p> <p>3 Based on your 19 years in the Alabama 4 legislature, do the views of the members of the 5 democratic party in Alabama generally differ from 6 the members of the republican party in Alabama when 7 it comes to the issue of affirmative action?</p> <p>8 A. And we'll get back to the discussion you 9 had earlier on affirmative action. I'm not even 10 exactly sure of a definition of affirmative action. 11 I remember hearing that term some years ago. But it 12 hasn't been around in a while. So I'm real hesitant 13 about answering that question.</p> <p>14 One other thing I would like to point 15 out. You're talking about members of the democratic 16 party, members of the republican party, right? 17 That's who you're asking me about.</p> <p>18 Well, I don't attend any of the 19 democratic party meetings. Now, I know a lot of 20 democrats that are in the legislature. So I'm more 21 likely to have a feeling for a democratic rather 22 than a member of the democratic party. Do you 23 understand what I'm saying?</p> <p>24 Q. So let me ask you this: In your 19 25 years serving in the -- in the Alabama legislature,</p> <p style="text-align: right;">Page 107</p>
<p>1 Q. My question was do the members of the 2 democratic party, generally do their views generally 3 -- I should start over.</p> <p>4 Do the views of the members of the 5 democratic party generally differ from the views of 6 the members of the republican party in Alabama 7 generally when it comes to removal of confederate 8 monuments in public spaces?</p> <p>9 A. I think I can agree with that.</p> <p>10 Q. You think you can agree? Can you give 11 me a yes or no answer on that question?</p> <p>12 MR. DAVIS: Objection, asked and 13 answered.</p> <p>14 THE WITNESS: So objection, what does 15 that mean for me?</p> <p>16 MR. WALKER: That means you don't 17 answer.</p> <p>18 Q. Well, it doesn't mean you don't answer. 19 I believe that's a form objection.</p> <p>20 MR. WALKER: Excuse me. Forgive me.</p> <p>21 You're right. Sorry, Dan.</p> <p>22 MR. OSHER: That's okay.</p> <p>23 Q. Senator, if you wouldn't mind answering 24 the question.</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 106</p>	<p>1 have you worked with your democratic party -- your 2 democratic party colleagues on issues related to 3 pending legislation?</p> <p>4 A. Yes.</p> <p>5 Q. And have you worked with republican 6 members of the Alabama legislature on pending 7 legislation and other issues?</p> <p>8 A. Yes.</p> <p>9 Q. And in that time, have you gained a 10 general view of what the democratic party in Alabama 11 supports and what the republican party in Alabama 12 supports?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. So you -- in terms of affirmative 15 action, let's define affirmative action as giving 16 preference to individual -- considering individual 17 race when making certain decisions about admission 18 to programs or access to benefits.</p> <p>19 Using that definition, based on your 20 experience in the legislature, do the views of the 21 democratic party in Alabama generally differ from 22 the members -- the views of the members of the 23 republican party in Alabama?</p> <p>24 A. I really don't have an opinion on that. 25 And the reason is the issue simply has not come up,</p> <p style="text-align: right;">Page 108</p>

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<p>1 it's not in front of me, and I have no experience 2 with members of the democrats or the republicans on 3 that issue. So I can't speak for something that 4 hasn't happened.</p> <p>5 Q. Sure.</p> <p>6 Based of your experience in the Alabama 7 legislature, do the views of members of the 8 democratic party in Alabama generally differ from 9 the members of the republican party in Alabama when 10 it comes to criminal justice reform?</p> <p>11 A. Okay. And your question is they have 12 disparate or different views? Republicans have 13 different views from democrats on criminal justice 14 reform? That's your question, correct?</p> <p>15 Q. As a general matter, correct.</p> <p>16 A. As a general matter, I agree with that 17 statement.</p> <p>18 Q. And based on your experience in the 19 legislature, do the views of the members of the 20 democratic party in Alabama differ from the views of 21 the members of the republican party in Alabama when 22 it comes to whether there is a significant amount of 23 discrimination against black residents of the state 24 today?</p> <p>25 A. Once again, I need to take a party</p> <p style="text-align: right;">Page 109</p>	<p>1 MR. DAVIS: Any questions from the 2 Singleton plaintiffs?</p> <p>3 I've got just a couple.</p> <p>4 EXAMINATION BY MR. DAVIS:</p> <p>5 Q. Hello, Senator.</p> <p>6 A. Hello.</p> <p>7 Q. Jim Davis representing Secretary 8 Merrill.</p> <p>9 Senator, how many members are there of 10 the Alabama senate?</p> <p>11 A. 35.</p> <p>12 Q. And do they all have a vote on 13 legislation?</p> <p>14 A. Yes, they do.</p> <p>15 Q. Does that include redistricting 16 litigation?</p> <p>17 A. That is correct.</p> <p>18 Q. Excuse me. I said "litigation." I 19 meant legislation.</p> <p>20 A. Legislation.</p> <p>21 Q. Do all senators' votes count the same?</p> <p>22 A. Yes.</p> <p>23 Q. Do you know why any other member of the 24 Alabama senate voted for or against a redistricting 25 plan?</p> <p style="text-align: right;">Page 111</p>
<p>1 business out. I see the party as these two 2 organizations. These people I know claim to be 3 democrats. Some of them claim to be republicans. 4 Whether they belong to -- are active in a party or 5 not, I have no idea.</p> <p>6 Now let's go back to the heart of your 7 question, and I'll try to answer it. With that in 8 mind, ask me your -- ask me your question. What is 9 the topic here?</p> <p>10 Q. The fourth topic that I'm asking if the 11 members -- if the views of the members of the 12 democratic party generally differ from the views of 13 the members of the republican party generally.</p> <p>14 Based on your experience working in the 15 legislature with members of both parties, do their 16 views generally differ when it comes to the issue of 17 whether there is a significant amount of 18 discrimination against black residents of Alabama 19 today?</p> <p>20 A. Yes.</p> <p>21 MR. OSHER: Thank you very much. That's 22 all I have for you. Thank you for your time, 23 Senator.</p> <p>24 A. You're very welcome.</p> <p>25 MR. WALKER: Are we done?</p> <p style="text-align: right;">Page 110</p>	<p>1 A. No. That's an individual decision.</p> <p>2 Q. And how many members are there of the 3 Alabama house of representatives?</p> <p>4 A. 105.</p> <p>5 Q. And they all have votes on legislation?</p> <p>6 A. They certainly do.</p> <p>7 Q. Including redistricting legislation?</p> <p>8 A. Correct.</p> <p>9 Q. And their votes all count the same as 10 one anothers?</p> <p>11 A. That's correct.</p> <p>12 Q. Do you know why any member of the 13 Alabama house of representatives voted for or 14 against any plan, any redistricting plan?</p> <p>15 A. No. That's an individual decision.</p> <p>16 Q. Did you instruct Randy Hinaman to be 17 sure to include a majority black district in an 18 Alabama congressional plan draft?</p> <p>19 A. I did not.</p> <p>20 Q. Did you decide ahead of time that 21 Alabama's plan must include a majority black 22 district?</p> <p>23 A. I did not.</p> <p>24 Q. Was your understanding that those 25 districts, when drafted, would be done so without</p> <p style="text-align: right;">Page 112</p>

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<p>1 consideration of race?</p> <p>2 A. That is correct.</p> <p>3 Q. To the best of your knowledge, was that,</p> <p>4 in fact, how it was done?</p> <p>5 A. That is exactly how it was done.</p> <p>6 MR. DAVIS: Thank you, Senator.</p> <p>7 A. You're welcome.</p> <p>8 MR. WALKER: Do we have anything</p> <p>9 further?</p> <p>10 MS. SADASIVAN: Nothing from the</p> <p>11 Milligan plaintiffs. Thank you, Senator, for your</p> <p>12 time and sitting for the deposition. I appreciate</p> <p>13 it.</p> <p>14 MR. OSHER: Nothing from the Caster</p> <p>15 plaintiffs. Thank you all.</p> <p>16 MR. WALKER: Kathryn, I need to get to</p> <p>17 you, in addition to my privilege log, the final</p> <p>18 statement of -- you know, the sheet where I state</p> <p>19 the request for production and then I state</p> <p>20 underneath the documents. Can I get that to you on</p> <p>21 Monday? You've got all the documents. I just need</p> <p>22 to give you the sheet that says which ones refer to</p> <p>23 which of your requests.</p> <p>24 THE REPORTER: Are we on the record?</p> <p>25 MS. WELBORN: Can we go off the record</p> <p style="text-align: right;">Page 113</p>	<p>1 STATE OF ALABAMA)</p> <p>2 JEFFERSON COUNTY)</p> <p>3</p> <p>4 I hereby certify that the above</p> <p>5 proceedings were taken down by me and transcribed by</p> <p>6 me using computer-aided transcription and that the</p> <p>7 above is a true and correct transcript of said</p> <p>8 proceedings taken down by me and transcribed by me.</p> <p>9 I further certify that I am neither of</p> <p>10 kin nor of counsel to any of the parties nor in</p> <p>11 anywise financially interested in the result of this</p> <p>12 case.</p> <p>13 I further certify that I am duly</p> <p>14 licensed by the Alabama Board of Court Reporting as</p> <p>15 a Certified Court Reporter as evidenced by the ACCR</p> <p>16 number following my name found below.</p> <p>17 So certified on December 17, 2021.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23 <u>LeAnn Maroney, Commissioner</u> ACCR# 134, Expires 9/30/25 505 North 20th Street, Suite 1250 Birmingham, AL 35203</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 115</p>
<p>1 now?</p> <p>2 MR. WALKER: Yeah, sure.</p> <p>3 THE VIDEOGRAPHER: This ends the</p> <p>4 deposition of Jim McClendon. The time is now</p> <p>5 5:12 p.m.</p> <p>6</p> <p>7 (DEPOSITION ENDED AT 5:12 P.M.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 114</p>	

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