

<p style="text-align: right;">Page 1</p> <p>1 UNITED STATES DISTRICT COURT</p> <p>2 FOR THE NORTHERN DISTRICT OF ALABAMA</p> <p>3 SOUTHERN DIVISION</p> <p>4</p> <p>5 EVAN MILLIGAN, et al.,)</p> <p>6 Plaintiffs,)</p> <p>7) CASE NO:</p> <p>8 VS.) 2:21-CV-01530-AMM:</p> <p>9 WES ALLEN, in his official)</p> <p>10 capacity as Alabama)</p> <p>11 Secretary of State.)</p> <p>12 Defendant.)</p> <p>13 MARCUS CASTER, et al.,)</p> <p>14 Plaintiffs,)</p> <p>15) CASE NO:</p> <p>16 VS.) 2:21-CV-1536-AMM</p> <p>17 WES ALLEN, in his official)</p> <p>18 capacity as Alabama)</p> <p>19 Secretary of State.) DEPOSITION OF:</p> <p>20 Defendant.) MIKE SCHMITZ</p> <p>21</p> <p>22 S T I P U L A T I O N S</p> <p>23</p> <p>24 IT IS STIPULATED AND AGREED, by and</p> <p>25 between the parties through their respective counsel,</p>	<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE MILLIGAN PLAINTIFFS:</p> <p>4 HARMONY A. GBE</p> <p>5 Attorney at Law</p> <p>6 Hogan Lovells US, LLP</p> <p>7 1999 Avenue of the Stars</p> <p>8 Suite 1400</p> <p>9 Los Angeles, California 90067</p> <p>10 310-785-4600</p> <p>11 harmony.gbe@hoganlovells.com</p> <p>12</p> <p>13 BRITTANY CARTER</p> <p>14 TANNER LOCKHEAD</p> <p>15 Attorneys at Law</p> <p>16 NAACP Legal Defense & Educational Fund, Inc.</p> <p>17 40 Rector Street</p> <p>18 5th Floor</p> <p>19 New York, New York 10006</p> <p>20 212-965-2200</p> <p>21 bcarter@naacpldf.org</p> <p>22 tlockhead@naacpldf.org</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 2</p> <p>1 that the deposition of:</p> <p>2 MIKE SCHMITZ,</p> <p>3 may be taken before Merit Gilley, Commissioner and</p> <p>4 Notary Public, State at Large, with all parties</p> <p>5 appearing remotely, on the 10th day of August, 2023,</p> <p>6 commencing at approximately 10:10 a.m.</p> <p>7</p> <p>8 IT IS FURTHER STIPULATED AND AGREED that</p> <p>9 the signature to and reading of the deposition by the</p> <p>10 witness is waived, the deposition to have the same</p> <p>11 force and effect as if full compliance had been had</p> <p>12 with all laws and rules of Court relating to the</p> <p>13 taking of depositions.</p> <p>14</p> <p>15 IT IS FURTHER STIPULATED AND AGREED that</p> <p>16 it shall not be necessary for any objections to be</p> <p>17 made by counsel to any questions, except as to form or</p> <p>18 leading questions, and that counsel for the parties</p> <p>19 may make objections and assign grounds at the time of</p> <p>20 the trial, or at the time said deposition is offered</p> <p>21 in evidence, or prior thereto.</p> <p>22 ***</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 DEUEL ROSS</p> <p>2 Attorney at Law</p> <p>3 NAACP Legal Defense & Educational Fund, Inc.</p> <p>4 700 14th Street N.W.</p> <p>5 Suite 600</p> <p>6 Washington, DC 20005</p> <p>7 202-682-1300</p> <p>8 dross@naacpldf.org</p> <p>9</p> <p>10 LATISHA GOTELL FAULKS</p> <p>11 Attorney at Law</p> <p>12 American Civil Liberties Union of Alabama</p> <p>13 P.O. Box 6179</p> <p>14 Montgomery, Alabama 36106-0179</p> <p>15 334-265-2754</p> <p>16 tgfaulks@aclualabama.org</p> <p>17</p> <p>18 AMANDA NECOLE ALLEN</p> <p>19 Attorney at Law</p> <p>20 Hogan Lovells US, LLP</p> <p>21 Columbia Square</p> <p>22 555 Thirteenth Street NW</p> <p>23 Washington, DC 20004</p> <p>24 202-637-2521</p> <p>25 amanda.n.allen@hoganlovells.com</p>

<p>Page 5</p> <p>1 FOR THE CASTER PLAINTIFFS:</p> <p>2 JOSEPH POSIMATO</p> <p>3 Attorney at Law</p> <p>4 Elias Law Group</p> <p>5 250 Massachusetts Avenue NW</p> <p>6 Suite 400</p> <p>7 Washington DC 20001</p> <p>8 202-968-4591</p> <p>9 Jposimato@Elias.law</p> <p>10</p> <p>11</p> <p>12 FOR THE DEFENDANT SECRETARY WES ALLEN:</p> <p>13 MISTY S. FAIRBANKS MESSICK</p> <p>14 Constitutional Defense Division</p> <p>15 Office of the Attorney General</p> <p>16 State of Alabama</p> <p>17 501 Washington Avenue</p> <p>18 P.O. Box 300152</p> <p>19 Montgomery, Alabama 36130</p> <p>20 334-353-8674</p> <p>21 misty.messick@alabamaag.gov</p> <p>22</p> <p>23</p> <p>24 ALSO PRESENT:</p> <p>25 Robert Pacheco - Esquire Video Specialist</p>	<p>Page 7</p> <p>1 I, Merit Gilley, a Court Reporter of</p> <p>2 Birmingham, Alabama, and a Notary Public for the State</p> <p>3 of Alabama at Large, acting as Commissioner, certify</p> <p>4 that on this date, as provided by the Federal Rules of</p> <p>5 Civil Procedure and the foregoing stipulation of</p> <p>6 counsel, there came before me on the 10th day of</p> <p>7 August, 2023, with all parties appearing remotely,</p> <p>8 commencing at approximately 10:10 a.m., MIKE SCHMITZ,</p> <p>9 witness in the above cause, for oral examination,</p> <p>10 whereupon the following proceedings were had:</p> <p>11 THE VIDEOGRAPHER: We are now on the</p> <p>12 video record. Today's date is August the 10th, 2023.</p> <p>13 The time is 10:10 a.m. Central standard time. This</p> <p>14 begins the videoconference deposition of Mr. Michael</p> <p>15 Schmitz in the matter of Evan Milligan, et al. versus</p> <p>16 Wes Allen, et al.</p> <p>17 My name is Robert Pacheco. I am the</p> <p>18 remote videographer. Your court reporter today is</p> <p>19 going to be Ms. Merit Gilley; both representing</p> <p>20 Esquire Deposition Solutions. Would counsel please</p> <p>21 introduce yourselves and your affiliation, and the</p> <p>22 witness will be sworn in.</p> <p>23 MS. GBE: Good morning. My name is</p> <p>24 Harmony Gbe of Hogan Lovells; and I'm here on behalf</p> <p>25 of the Milligan plaintiffs.</p>
<p>Page 6</p> <p>1</p> <p>2 EXAMINATION INDEX</p> <p>3</p> <p>4 Mike Schmitz</p> <p>5 BY MS. GBE 8</p> <p>6 BY MS. FAIRBANKS MESSICK 35</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 EXHIBIT INDEX</p> <p>13</p> <p>14 Plaintiffs' Exhibit MAR</p> <p>15 1 Defendants' Joint Response to Milligan 21</p> <p>and Caster Plaintiffs' Objections and</p> <p>16 Request for Preliminary Injunction</p> <p>17 2 Declaration of Mike Schmitz 22</p> <p>18 3 Redistricting Map of Alabama 30</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 8</p> <p>1 MS. FAIRBANKS MESSICK: Good morning.</p> <p>2 I'm Misty S. Fairbanks Messick, and I am counsel for</p> <p>3 Secretary of State Wes Allen.</p> <p>4 MR. ROSBOROUGH: Deuel Ross also for the</p> <p>5 Milligan plaintiffs.</p> <p>6 MR. POSIMATO: This is Joe Posimato on</p> <p>7 behalf of the Caster plaintiffs.</p> <p>8 MR. CARTER: Brittany Carter for the</p> <p>9 Milligan plaintiffs.</p> <p>10 MS. ALLEN: Amanda Allen for the</p> <p>11 Milligan plaintiffs.</p> <p>12 MIKE SCHMITZ</p> <p>13 being first duly sworn, was examined and testified as</p> <p>14 follows:</p> <p>15 THE COURT REPORTER: Usual stipulations?</p> <p>16 MS. GBE: Agreed.</p> <p>17 MS. FAIRBANKS MESSICK: Yes, please.</p> <p>18 THE COURT REPORTER: Go ahead.</p> <p>19 EXAMINATION</p> <p>20 BY MS. GBE:</p> <p>21 Q All right. Good morning, Mr. Schmitz.</p> <p>22 How are you?</p> <p>23 A Morning. Fine. Thank you.</p> <p>24 Q As I mentioned, my name is Harmony; and</p> <p>25 I am counsel for the Milligan plaintiffs in this case.</p>

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<p style="text-align: right;">Page 9</p> <p>1 Have you been deposed before?</p> <p>2 A Yes, I have.</p> <p>3 Q How -- how many times have you been</p> <p>4 deposed?</p> <p>5 A I was deposed back in the '90's for an</p> <p>6 automotive thing. And then I don't know if this is a</p> <p>7 -- was a deposition, but I was asked to go to Mike</p> <p>8 Hubbard. They had a -- my mind just went blank. I</p> <p>9 went to a -- oh, my goodness what's it called? Grand</p> <p>10 jury.</p> <p>11 Q I see.</p> <p>12 A I apologize.</p> <p>13 Q No worries at all.</p> <p>14 A Those are the two things I've done.</p> <p>15 Q Understood.</p> <p>16 And the grand jury appearance, when was</p> <p>17 that if you remember?</p> <p>18 A Probably five years ago, six year ago.</p> <p>19 Q Okay.</p> <p>20 A I don't have an exact -- I don't</p> <p>21 remember the exact date, but it's been a few year.</p> <p>22 Q And did you testify in that case?</p> <p>23 A I did not -- wait. I did. I did. I</p> <p>24 did.</p> <p>25 Q And -- and what was your testimony</p>	<p style="text-align: right;">Page 11</p> <p>1 or testified in any other cases?</p> <p>2 A No, ma'am.</p> <p>3 Q And you understand that you're</p> <p>4 testifying under oath today; correct?</p> <p>5 A Yes.</p> <p>6 Q Is there anything that might prevent you</p> <p>7 from understanding my questions or answering</p> <p>8 truthfully?</p> <p>9 A No, I don't think so.</p> <p>10 Q Are you represented by counsel today?</p> <p>11 A I am not.</p> <p>12 Q Okay. So you've -- since you've been</p> <p>13 deposed before, I'll try to keep this brief; but I'll</p> <p>14 go over some ground rules for the deposition so that</p> <p>15 we're on the same page.</p> <p>16 As you're probably familiar with the</p> <p>17 process, I'll be asking you a series of questions; and</p> <p>18 you are going to answer them to the best of your</p> <p>19 ability.</p> <p>20 Do you understand that?</p> <p>21 A Yes.</p> <p>22 Q So we have a court reporter with us</p> <p>23 today, and she is going to be transcribing our</p> <p>24 conversation. So I ask that you speak slowly and</p> <p>25 clearly and provide verbal answers only; so no head</p>
<p style="text-align: right;">Page 10</p> <p>1 about?</p> <p>2 MS. FAIRBANKS MESSICK: Object to the</p> <p>3 form.</p> <p>4 Can I just be clear: Are you asking him</p> <p>5 about his testimony in the courtroom in public; or are</p> <p>6 you asking about grand jury testimony, which is</p> <p>7 protected by secrecy laws of this state?</p> <p>8 MS. GBE: I'm asking about his testimony</p> <p>9 in the courtroom, but let me rephrase.</p> <p>10 Q (By Ms. Gbe) So, Mr. Schmitz, did you</p> <p>11 testify in the courtroom?</p> <p>12 A Yes.</p> <p>13 Q And -- and what was your testimony</p> <p>14 about?</p> <p>15 A As mayor of Dothan, I was working with</p> <p>16 Mike Hubbard when he was speaker of the house to</p> <p>17 recruit a company to create 500 jobs; and they asked</p> <p>18 me about that. That was mostly the issue of -- of</p> <p>19 what we discussed.</p> <p>20 Q Understood.</p> <p>21 And that -- that testimony was five or</p> <p>22 six years ago?</p> <p>23 Is that correct?</p> <p>24 A Correct.</p> <p>25 Q Have you been deposed in any other cases</p>	<p style="text-align: right;">Page 12</p> <p>1 nods or "uh-huhs" or those types of responses.</p> <p>2 Do you understand?</p> <p>3 A I do.</p> <p>4 Q On a similar note, we are going to try</p> <p>5 not to speak over each other. So please wait until</p> <p>6 the end of my questions before you respond; and,</p> <p>7 similarly, I will try to wait until you are finished</p> <p>8 responding before asking the next question.</p> <p>9 Is that all right?</p> <p>10 A Yes.</p> <p>11 Q And you understand that we're here to</p> <p>12 take your deposition in this case; correct?</p> <p>13 A Yes.</p> <p>14 Q And you understand that you should give</p> <p>15 the same seriousness in answering my questions here</p> <p>16 today as if you were testifying in court before a</p> <p>17 judge or a jury; correct?</p> <p>18 A Absolutely. Yes.</p> <p>19 Q And if you don't understand a question I</p> <p>20 ask you, please tell me so that I can rephrase or help</p> <p>21 you with -- with understanding the question; all</p> <p>22 right?</p> <p>23 A I will.</p> <p>24 Q If any attorney on the call makes an</p> <p>25 objection, I ask that you still answer the question</p>

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<p style="text-align: right;">Page 13</p> <p>1 unless you are instructed specifically not to do so.</p> <p>2 Do you understand?</p> <p>3 A I do.</p> <p>4 Q And if you need a break at any point,</p> <p>5 just let me know. The only thing I ask is that if</p> <p>6 there's a question pending, please answer that</p> <p>7 question before we take the break.</p> <p>8 A Okay.</p> <p>9 Q And as we go through the process, you</p> <p>10 may realize that a prior answer wasn't necessarily</p> <p>11 accurate or that you would like to add to it.</p> <p>12 So please let me know if that's the case</p> <p>13 so that we can correct the record.</p> <p>14 A Okay.</p> <p>15 Q So do you understand all those questions</p> <p>16 that we just discussed?</p> <p>17 A I believe so. Yes.</p> <p>18 Q Okay. So where are you right now?</p> <p>19 A I'm in my office at my dealership in</p> <p>20 Dothan, Alabama.</p> <p>21 Q And is there anyone else in the room</p> <p>22 with you right now?</p> <p>23 A There is not.</p> <p>24 Q Do you have any email or chat or text</p> <p>25 devices currently open?</p>	<p style="text-align: right;">Page 15</p> <p>1 correct?</p> <p>2 A Correct.</p> <p>3 Q And she contacted you a few days ago as</p> <p>4 well; correct?</p> <p>5 A Correct.</p> <p>6 Q And what was that in regards to?</p> <p>7 A About whether I would give the testimony</p> <p>8 and whether I would -- when I would be available to --</p> <p>9 to do this. Basically, that's it.</p> <p>10 Q And by "this," are you referring to</p> <p>11 today's deposition?</p> <p>12 A Yes, ma'am. I'm sorry.</p> <p>13 Q No problem.</p> <p>14 Okay. Did you speak to anyone besides</p> <p>15 Misty about today's deposition?</p> <p>16 A Well, I told my wife I was being</p> <p>17 deposed. I mean, not anybody in an official</p> <p>18 situation.</p> <p>19 Q Did you speak to anyone for -- from the</p> <p>20 State of Alabama or affiliated with the state</p> <p>21 legislature?</p> <p>22 A Not about this deposition. No.</p> <p>23 Q But you have spoken to them in the past;</p> <p>24 correct?</p> <p>25 A Oh, yes.</p>
<p style="text-align: right;">Page 14</p> <p>1 A I do not.</p> <p>2 Q Okay. So let's discuss what you did to</p> <p>3 prepare for today's deposition; all right?</p> <p>4 A Okay.</p> <p>5 Q So what did you do to prepare for today?</p> <p>6 A I -- I don't know that I did anything.</p> <p>7 I'm speaking from my heart from 30 years of living in</p> <p>8 this community, so I -- I'm just going to answer your</p> <p>9 questions the best of my ability.</p> <p>10 Q Did you meet with anyone before -- to</p> <p>11 prepare for today's deposition?</p> <p>12 A I have not met with anybody. You know,</p> <p>13 Misty called and -- or emailed me and asked me to do</p> <p>14 this. And, of course, I responded and -- and then she</p> <p>15 went over a deposition and what it is. And other than</p> <p>16 that; of course, the number one thing she kept saying</p> <p>17 was, Tell the truth, which I will. And other than</p> <p>18 that, except for my normal life; I haven't met with</p> <p>19 anything specific on this -- on this.</p> <p>20 Q And when did Misty call you?</p> <p>21 A Well, she called me yesterday about the</p> <p>22 deposition. I think she contacted me a few days ago</p> <p>23 in an email.</p> <p>24 Q So she -- just to clarify: So you</p> <p>25 received a call yesterday about today's deposition;</p>	<p style="text-align: right;">Page 16</p> <p>1 Q Okay. About this case?</p> <p>2 A About the map that -- before they</p> <p>3 designed it or -- or were drawing it, I -- I called</p> <p>4 them and told them my concerns about us staying</p> <p>5 together in southeast Alabama.</p> <p>6 Q Understood.</p> <p>7 A So I -- I did that.</p> <p>8 Q Okay. So we're going to speak a little</p> <p>9 bit about that a little later.</p> <p>10 But just in terms of preparing for this</p> <p>11 deposition, did you speak to anyone from the state</p> <p>12 legislature?</p> <p>13 A I did not.</p> <p>14 Q Have you ever seen any transcripts from</p> <p>15 depositions in this case?</p> <p>16 A I have not.</p> <p>17 Q Did you review any websites to prepare</p> <p>18 for today's deposition?</p> <p>19 A I have not.</p> <p>20 Q Did you review any documents at all to</p> <p>21 prepare for today?</p> <p>22 A I guess just the statement that I gave.</p> <p>23 I made sure I read it this morning.</p> <p>24 Q Okay. Did you do anything else to</p> <p>25 prepare for today's deposition?</p>

<p>Page 17</p> <p>1 A I have not.</p> <p>2 Q And are you being compensated by anyone</p> <p>3 for being here today?</p> <p>4 A No.</p> <p style="color: red;">Redacted</p>	<p>Page 19</p> <p>1 A High school.</p> <p>2 Q And where did you attend high school?</p> <p>3 A Monroe High School; Monroe, Wisconsin.</p> <p>4 Q And did you graduate?</p> <p>5 A Yes.</p> <p>6 Q And what do you do for a living?</p> <p>7 A I'm in the automobile business. I have</p> <p>8 new car franchises, a body shop. We also sell boats.</p> <p>9 I'm in the retail business.</p> <p>10 Q And you -- you served at -- as mayor of</p> <p>11 Dothan previously; correct?</p> <p>12 A I did.</p> <p>13 Q And what were the dates of your term?</p> <p>14 A October 2009 to October 2017.</p> <p>15 Q Okay. So now I'm going to ask you a few</p> <p>16 questions about this case in particular.</p> <p>17 Can you tell me a little bit about what</p> <p>18 you know about the lawsuit at issue today.</p> <p>19 A What I know is the Supreme Court said</p> <p>20 that Alabama needed to draw a district where an</p> <p>21 African-American has the ability to win and serve.</p> <p>22 And -- and then I didn't really pay much attention to</p> <p>23 it. Then a map came out that showed -- and I don't</p> <p>24 know who came up with the map. But the map basically</p> <p>25 showed separating Dothan and Houston County and</p>
<p>Page 18</p> <p style="color: red;">Redacted</p> <p>24 Q What is the highest level of education</p> <p>25 you've completed?</p>	<p>Page 20</p> <p>1 putting us out -- putting us with the west of Alabama,</p> <p>2 which is Mobile and Baldwin County, and that concerned</p> <p>3 me. So that's how I'm -- I got involved.</p> <p>4 Q And okay. So let's talk a little -- a</p> <p>5 little bit how you got involved.</p> <p>6 Did anyone contact you about getting</p> <p>7 involved in the lawsuit or -- or how did that process</p> <p>8 work?</p> <p>9 A Yeah. I -- I never meant to get</p> <p>10 involved in a lawsuit. But what I -- what I meant to</p> <p>11 do: I called Senator Chesteen -- he's our state</p> <p>12 senator -- and I called Steve Clouse -- he's a state</p> <p>13 representative that represents my district -- and just</p> <p>14 told them my concerns about us moving out west in</p> <p>15 Alabama. And although they're good people, they just</p> <p>16 have different needs. And -- and what they would</p> <p>17 focus on are different than what we do in southeast</p> <p>18 Alabama. So I talked to both of them. And -- and</p> <p>19 then Senator Chesteen basically said, There's a public</p> <p>20 hearing. Why don't you come up and talk. And that's</p> <p>21 what I did.</p> <p>22 Q So prior to your calls to Senator</p> <p>23 Chesteen, did -- did -- had anyone contacted you about</p> <p>24 the lawsuit?</p> <p>25 A No.</p>

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<p style="text-align: right;">Page 21</p> <p>1 Q Do you know any of the plaintiffs in the</p> <p>2 lawsuit?</p> <p>3 A I don't. No. I don't think so. I</p> <p>4 don't -- I don't even know who they are.</p> <p>5 Q Do you -- all right.</p> <p>6 Do you know anyone named Latisha</p> <p>7 Jackson?</p> <p>8 A I'm sure I did. It's -- she's from</p> <p>9 Dothan I think. I don't -- I'm sure I do. I don't --</p> <p>10 not on a personal level. No.</p> <p>11 Q Okay. So, Mr. Schmitz, did you produce</p> <p>12 a declaration as part of Alabama's response to</p> <p>13 Plaintiffs' objections in this case?</p> <p>14 A I did.</p> <p>15 Q Okay. So I'm going to show you a</p> <p>16 document that you may or may not have seen before.</p> <p>17 Give me a second.</p> <p>18 Mr. Schmitz, do you see a document on</p> <p>19 your screen?</p> <p>20 A I do.</p> <p>21 Q It is -- so I'm going to mark and</p> <p>22 publish this as Exhibit Number 1.</p> <p>23 (Plaintiffs' Exhibit 1 was</p> <p>24 marked for identification.)</p> <p>25 Q The document is 73 pages. I'm going to</p>	<p style="text-align: right;">Page 23</p> <p>1 the declaration you submitted in support of</p> <p>2 defendants' response?</p> <p>3 A Yes.</p> <p>4 Q And turning to -- or going to the</p> <p>5 signature page -- or let's look at that. There we go.</p> <p>6 Do you recognize that as your</p> <p>7 signature --</p> <p>8 A It is.</p> <p>9 Q -- on page four?</p> <p>10 A Yes.</p> <p>11 Q Great.</p> <p>12 So who drafted this declaration?</p> <p>13 MS. FAIRBANKS MESSICK: Object to the</p> <p>14 form.</p> <p>15 A The -- Misty, the Attorney General</p> <p>16 folks.</p> <p>17 Q (By Ms. Gbe) And who contacted you</p> <p>18 about submitting a declaration?</p> <p>19 A Well, I think the first contact I had</p> <p>20 was a little over a week ago. Mr. LaCour called me --</p> <p>21 I was in San Francisco -- and asked me if I would</p> <p>22 consider doing something like this. And I said, Yes.</p> <p>23 And then Misty emailed me, and that's how we ended up</p> <p>24 with this.</p> <p>25 Q And when you say "doing something like</p>
<p style="text-align: right;">Page 22</p> <p>1 scroll through it fairly slowly for you. The title of</p> <p>2 the document is "Defendants' Joint Response to</p> <p>3 Milligan and Caster Objections and Request for</p> <p>4 Preliminary Injunction."</p> <p>5 Do you see that?</p> <p>6 A I do.</p> <p>7 Q Have you seen this document before?</p> <p>8 A I have not.</p> <p>9 Q Okay. So I will then take it down, and</p> <p>10 I will show you another document.</p> <p>11 Do you see another document on your</p> <p>12 screen?</p> <p>13 A I do.</p> <p>14 Q Okay. So I'm going to mark and publish</p> <p>15 this document as Exhibit Number 2 and scroll down to</p> <p>16 the title.</p> <p>17 (Plaintiffs' Exhibit 2 was</p> <p>18 marked for identification.)</p> <p>19 Q This document is four pages, and it is</p> <p>20 titled "Declaration of Mike Schmitz."</p> <p>21 Do you see that?</p> <p>22 A I do.</p> <p>23 Q Have you seen this document before?</p> <p>24 A Yes.</p> <p>25 Q And do you recognize this document as</p>	<p style="text-align: right;">Page 24</p> <p>1 this," what do you mean?</p> <p>2 A Oh, I'm sorry. The statement.</p> <p>3 Q The declaration?</p> <p>4 A The declaration. Yes, ma'am.</p> <p>5 Q And what did Mr. LaCour say to you</p> <p>6 during that conversation?</p> <p>7 A He apparently heard what I said when I</p> <p>8 was -- spoke at the public hearing and wanted to know</p> <p>9 if I would say the same thing in a document, I guess,</p> <p>10 or testify.</p> <p>11 Q And what were you told was the purpose</p> <p>12 of your declaration?</p> <p>13 A Well, I hope my purpose was to have</p> <p>14 people understand how I feel that whatever map they</p> <p>15 draw up; southeast Alabama, we need to stick together</p> <p>16 and work together like we have for many years.</p> <p>17 Q And what were you told to say in the</p> <p>18 declaration?</p> <p>19 A I was --</p> <p>20 MS. FAIRBANKS MESSICK: Object to form.</p> <p>21 A I wasn't told to say anything.</p> <p>22 Q (By Ms. Gbe) And why did you agree to</p> <p>23 submit a declaration?</p> <p>24 A Because I'm -- even though at my age it</p> <p>25 won't matter, but I really love this community. And I</p>

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<p style="text-align: right;">Page 25</p> <p>1 truly feel the map they had, that puts us -- isolates 2 us with -- you know, will hurt all the citizens in our 3 area and, truthfully, will take away our voice and -- 4 and our vote. I -- I just feel passionately that our 5 community, which is the wiregrass and southeast 6 Alabama, we've been working together for years. So 7 whatever map they draw up, I simply would prefer us 8 staying together in some way. 9 Q Mr. Schmitz, are you a member of the 10 Republican party? 11 A I am. 12 Q How long have you been a member? 13 A 25 years. 14 Q Have you held any positions in the 15 party? 16 A No. 17 Q Okay. Do you identify as a Republican? 18 A I do. Now, when I ran for mayor, you 19 didn't have to declare a party; so I did not do that. 20 Because I really felt the position as mayor and the 21 council, there are -- we're neighbors. It's not about 22 a party; it's about working together. So I did not do 23 that as mayor. 24 Q A few follow-up questions on your -- the 25 declaration that you submitted.</p>	<p style="text-align: right;">Page 27</p> <p>1 doing this is not about the map. It's about where we 2 are going to end up. And so -- so I just believe all 3 the partnerships we've built up over these years, we 4 need to continue that. 5 Q Did Misty ask you to include anything 6 specific in your declaration? 7 A No. I don't -- I don't remember 8 anything like that. 9 Q And, I'm sorry, I don't think I actually 10 got this answer. But did you -- so you received the 11 draft. 12 Did you suggest any changes in terms of 13 phrasing or anything, or did you just sign the 14 declaration that you received? 15 A Yeah. It pretty much was what I said 16 and what I wanted; so I just signed it. 17 Q Okay. So let's talk about the hearing 18 that I think you referenced a few times during this, 19 the hearing on July 13th. 20 So did you attend the Alabama Permanent 21 Committee on Reapportionment and Redistricting public 22 hearing on July 13th? 23 A I did. 24 Q And how did you find out about that 25 hearing?</p>
<p style="text-align: right;">Page 26</p> <p>1 Did you type up the declaration? 2 A I did not. 3 Q Did you see a draft and provide edits? 4 A I saw a draft and -- I don't know if 5 edits. Basically, they sent what I asked them to -- 6 to put in there. 7 Q And when you say "them," who are you 8 referring to? 9 A Misty and their office. 10 Q Did you propose any edits to the 11 declaration before signing it? 12 A I -- I think probably the day before, I 13 sent a bunch of information and -- and this is -- this 14 is where -- I did call the Chamber of Commerce and ask 15 them, like the 40 percent peanuts grown in -- in -- 16 within 100 miles; we are the peanut capital of the 17 world. I just wanted to make sure all that was true, 18 and so I did that. And -- and sent just some ideas, I 19 guess, to Misty about that. 20 Q Did you speak -- so you spoke to Misty 21 before she drafted the declaration? 22 A I did. 23 Q Okay. So what did you say to her? 24 A Pretty much what's in the document. I 25 mean, again, what I just said: My -- the reason I'm</p>	<p style="text-align: right;">Page 28</p> <p>1 A When I called Senator Chesteen, he -- he 2 told me there will be a public hearing and asked me if 3 I would speak. 4 Q Did he tell you anything else? 5 A No. Just he gave me where it was and 6 the time. 7 Q And how do you know Senator Chesteen? 8 A Well, he's from our area; and I've known 9 him a long time. He was a football coach in Geneva. 10 And he was always involved with, like I was and have 11 been, with creating workforce development; trying to 12 in our high schools train our kids and help them get 13 some skills. He would -- he was always involved in 14 that, and so was I. So I've just -- I've known him a 15 long time. 16 Q And did he ask you to address anything 17 specific at the hearing? 18 A No. When I -- when I called and I -- 19 basically, what I said in the declaration; I told -- I 20 told him. And he said, Well, you know, here's a 21 public hearing. Why don't you come and say that. So 22 that's what I did. 23 Q Did anyone else ask you to address 24 anything at the hearing? 25 A No.</p>

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<p style="text-align: right;">Page 29</p> <p>1 Q Okay. So I'm going to ask you about the</p> <p>2 enacted plan -- the plan that was enacted in 2023 that</p> <p>3 you've referenced earlier in this deposition.</p> <p>4 Did you -- have you seen that plan</p> <p>5 before?</p> <p>6 MS. FAIRBANKS MESSICK: Object to the</p> <p>7 form.</p> <p>8 A I'm not sure what you're ask -- I'm not</p> <p>9 sure what plan you're --</p> <p>10 Q (By Ms. Gbe) Let me just make this</p> <p>11 easier.</p> <p>12 I'll just show you the document, and</p> <p>13 then you can let me know if you -- if it looks</p> <p>14 familiar.</p> <p>15 MS. FAIRBANKS MESSICK: Beverly, we can</p> <p>16 see your deposition outline. I'm sorry, Harmony.</p> <p>17 A It went away.</p> <p>18 Q (By Ms. Gbe) Can you see the map now?</p> <p>19 A No. Whatever you sent is not showing</p> <p>20 up. Here we go. There.</p> <p>21 Q So sorry.</p> <p>22 A Right. Apologies for that. Okay.</p> <p>23 So this is the map that I was referring</p> <p>24 to that was enacted in 2023.</p> <p>25 Does it look familiar to you?</p>	<p style="text-align: right;">Page 31</p> <p>1 A Right. So, no, the map that I -- the</p> <p>2 map that I saw -- and a lot of folks from Dothan were</p> <p>3 wearing T-shirts were showing us over -- just</p> <p>4 isolating us, moving us over to the west coast of</p> <p>5 Alabama up to Mobile and Mobile County. That's what I</p> <p>6 remember.</p> <p>7 Q And what -- where did you see this map</p> <p>8 that you're referring to?</p> <p>9 A Probably the Dothan Eagle.</p> <p>10 Q And you mentioned just now that folks</p> <p>11 were wearing T-shirts with this map?</p> <p>12 So where were these people with the</p> <p>13 T-shirts?</p> <p>14 A Well, when I went up to the state house;</p> <p>15 a bus pulled up. And a lot of folks that I know from</p> <p>16 Dothan got off with all these T-shirts, and that's</p> <p>17 when I saw that map with what they were wearing. And</p> <p>18 that's -- I guess that's what I really saw the</p> <p>19 T-shirts.</p> <p>20 Q And was that different than the map that</p> <p>21 you saw in the Dothan Eagle?</p> <p>22 A I didn't get really close to them to</p> <p>23 look at their -- the map. But it -- it looked just</p> <p>24 like a -- it -- it -- again, it had us -- it had us</p> <p>25 and then going over west and up to Mobile.</p>
<p style="text-align: right;">Page 30</p> <p>1 A I don't know. I need to see the bottom</p> <p>2 of the map. I can't see that.</p> <p>3 Q Can you see the bottom now?</p> <p>4 A So what you're saying is, if I'm</p> <p>5 correct, this is the map that the state legislature</p> <p>6 approved; right?</p> <p>7 Q Yes.</p> <p>8 A Okay. Yeah. They put it in the Dothan</p> <p>9 Eagle. I saw it.</p> <p>10 Q Okay. So I'm going to mark and publish</p> <p>11 this document as Exhibit 3.</p> <p>12 (Plaintiffs' Exhibit 3 was</p> <p>13 marked for identification.)</p> <p>14 Q So did you -- did you look at this map</p> <p>15 before you agreed to testify at the hearing,</p> <p>16 Mr. Schmitz?</p> <p>17 A No. When I -- well, let me understand</p> <p>18 the question.</p> <p>19 Before I agreed to testify today?</p> <p>20 Q At the hearing on July 13th --</p> <p>21 A Oh.</p> <p>22 Q -- had you seen this map before?</p> <p>23 A No. At that time they hadn't passed</p> <p>24 this map.</p> <p>25 Q Great.</p>	<p style="text-align: right;">Page 32</p> <p>1 (Indicating throughout.) And so, yes, I assumed it's</p> <p>2 the same map.</p> <p>3 Q Have -- so based on your -- give me a</p> <p>4 second.</p> <p>5 So based on your understanding, these</p> <p>6 people from Dothan with the T-shirts; they supported</p> <p>7 the map that included Dothan with the black belt?</p> <p>8 A Is Mobile part of the black belt?</p> <p>9 I don't know that.</p> <p>10 Q Yeah.</p> <p>11 A So okay, then yes. It included Mobile.</p> <p>12 That's what it included.</p> <p>13 Q I see.</p> <p>14 A And the west side of Alabama. I didn't</p> <p>15 really look at all the towns and stuff. I just looked</p> <p>16 what we were going away from the area of folks that I</p> <p>17 know and people we've been working together for 25</p> <p>18 years to over to the west side.</p> <p>19 Q And were these people with the T-shirts,</p> <p>20 were they black?</p> <p>21 A Yes.</p> <p>22 Q How many people were wearing the</p> <p>23 T-shirts if you can estimate for me?</p> <p>24 A Yeah. A bunch; probably 25, 30 people</p> <p>25 got off the bus. I've known a lot of them for many</p>

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<p style="text-align: right;">Page 33</p> <p>1 years, so -- anyway. Yes.</p> <p>2 Q What do you mean by "you've known a lot</p> <p>3 of them for many years"?</p> <p>4 A Well, the folks that got off the bus</p> <p>5 live in Dothan or live in our community; which could</p> <p>6 be a small town. But I -- I've been involved --</p> <p>7 heavily involved in this community for a long, long</p> <p>8 time. And we all try to work together on issues,</p> <p>9 so -- and as mayor I definitely did that, so that's</p> <p>10 how I got to know them.</p> <p>11 Q Did you recognize anyone in particular?</p> <p>12 A You know, I -- I recognize faces; names</p> <p>13 I'm not so good at. So, I mean, I can't think of any</p> <p>14 of the names.</p> <p>15 Q But your -- your understanding is that</p> <p>16 these people with the T-shirts were also familiar with</p> <p>17 the Dothan community?</p> <p>18 A Oh, yeah.</p> <p>19 MS. FAIRBANKS MESSICK: Object to the</p> <p>20 form.</p> <p>21 Q (By Ms. Gbe) Have you reviewed any</p> <p>22 other maps, Mr. Schmitz, besides the one that we spoke</p> <p>23 -- the ones that we've spoken about in terms of the</p> <p>24 T-shirt, the news article; have you seen any other</p> <p>25 maps in any other places?</p>	<p style="text-align: right;">Page 35</p> <p>1 manager to get my computer back up. That's all.</p> <p>2 Q I just have a few more questions for</p> <p>3 you. It shouldn't take very long.</p> <p>4 A Okay.</p> <p>5 Q Did you review any performance analysis</p> <p>6 for the 2023 plan?</p> <p>7 A I did not.</p> <p>8 Q Okay. That is all I have.</p> <p>9 EXAMINATION</p> <p>10 BY MS. FAIRBANKS MESSICK:</p> <p>11 Q All right. I do have some questions for</p> <p>12 you, Mr. Schmitz, if you don't mind sticking around</p> <p>13 with us a little bit longer.</p> <p>14 A I'm here. Let's go.</p> <p>15 Q All right. Thank you.</p> <p>16 Since Eddie LaCour first reached out to</p> <p>17 you approximately two weeks ago, have there been a</p> <p>18 number of conversations and emails that you have had</p> <p>19 with people at this office?</p> <p>20 A Yes.</p> <p>21 Q And is it possible that it's hard to</p> <p>22 remember exactly what happened when and what came</p> <p>23 first and what came next and what was next?</p> <p>24 A Well, for me that's challenging every</p> <p>25 day. But, yeah, I mean, I was in San Francisco. I</p>
<p style="text-align: right;">Page 34</p> <p>1 A I have not.</p> <p>2 Q Have you been shown any maps by either</p> <p>3 someone from the legislature -- actually, let me</p> <p>4 rephrase.</p> <p>5 Were you shown any maps by anyone from</p> <p>6 the legislature?</p> <p>7 A No.</p> <p>8 Q Were you shown any maps by anyone from</p> <p>9 the Attorney General's office?</p> <p>10 A No.</p> <p>11 Q I think that's all I have, but let me</p> <p>12 take a few minutes just to confirm with my cocounsel</p> <p>13 that that's all we have for you.</p> <p>14 A Okay.</p> <p>15 THE VIDEOGRAPHER: Going off video</p> <p>16 record; 10:49 a.m.</p> <p>17 (Short recess.)</p> <p>18 THE VIDEOGRAPHER: We are now back on</p> <p>19 video record; 11:05 a.m.</p> <p>20 Q (By Ms. Gbe) Mr. Schmitz, I understand</p> <p>21 that during the break you had a computer issue?</p> <p>22 A I did.</p> <p>23 Q Did you speak to anyone during the break</p> <p>24 about your deposition testimony?</p> <p>25 A Oh, no. No. I just got my office</p>	<p style="text-align: right;">Page 36</p> <p>1 was traveling. I came back to Dothan. I have</p> <p>2 businesses I run. Yeah.</p> <p>3 Q Do you remember speaking with me and</p> <p>4 Richard Mink after you got back from San Francisco?</p> <p>5 A I do.</p> <p>6 Q And do you remember if it was after we</p> <p>7 spoke that we sent you a draft declaration?</p> <p>8 A Yes.</p> <p>9 Q Okay. And do you remember asking to be</p> <p>10 able to think about it overnight?</p> <p>11 A I did.</p> <p>12 Q And did you -- what do you remember</p> <p>13 about what you did with that time overnight with</p> <p>14 respect to your declaration?</p> <p>15 A Well, it's like I said earlier. I</p> <p>16 wanted to make sure some of the facts that I gave in</p> <p>17 -- in the declaration were still true. I -- I -- you</p> <p>18 know, as mayor, I went to a lot of economic</p> <p>19 development meetings and agricultural meetings. And</p> <p>20 just -- so I -- I called the Chamber and talked to the</p> <p>21 president of the Chamber.</p> <p>22 Q And did you propose to include</p> <p>23 information in your declaration that you got from</p> <p>24 other people that was not your own knowledge?</p> <p>25 A Yes. From him --</p>

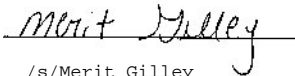
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<p style="text-align: right;">Page 37</p> <p>1 MS. GBE: Objection. Leading.</p> <p>2 A Yes.</p> <p>3 Q (By Ms. Fairbanks Messick) And was that</p> <p>4 information ultimately included in your declaration?</p> <p>5 A I don't believe --</p> <p>6 Q Take a few minutes and look -- I'm</p> <p>7 sorry. I didn't mean to speak over you. I was going</p> <p>8 to say if you want to look at it, you're certainly</p> <p>9 welcome to take the time to do that.</p> <p>10 A I don't -- I don't -- I can't think of</p> <p>11 anything that they told me that I put in this. I -- I</p> <p>12 mean, I -- I may have, but I don't think so.</p> <p>13 Q Can you take a minute and look at your</p> <p>14 deposition -- I'm sorry -- your declaration --</p> <p>15 A Right.</p> <p>16 Q -- and let us know if there's anything</p> <p>17 in there that you do not believe to be your firsthand</p> <p>18 knowledge.</p> <p>19 A (Witness complies.) I definitely have</p> <p>20 years of experience in all that -- all these</p> <p>21 statements.</p> <p>22 Q And did you review your declaration</p> <p>23 before you signed it?</p> <p>24 A I did.</p> <p>25 Q And did you understand when you signed</p>	<p style="text-align: right;">Page 39</p> <p>1 yourself, please. And then I'm going to ask you if</p> <p>2 anything was added to that paragraph after we spoke.</p> <p>3 A (Witness complies.) Well, I remember</p> <p>4 talking to you about flying with Senator Tuberville</p> <p>5 over Fort Novosel. That may have been added. I don't</p> <p>6 know if I said that the first time or not. And while</p> <p>7 I was doing that, I definitely impressed, you know, my</p> <p>8 opinion on how important Fort Novosel is to -- to us</p> <p>9 and to our nation.</p> <p>10 Q Harmony asked you when I contacted you</p> <p>11 or when the office contacted you about sitting for</p> <p>12 this deposition.</p> <p>13 A Right.</p> <p>14 Q And I believe your testimony was that</p> <p>15 you thought that that happened on Wednesday.</p> <p>16 Is -- is that accurate to the best of</p> <p>17 your recollection at this time?</p> <p>18 A I don't remember what day. I -- I just</p> <p>19 don't.</p> <p>20 Q It was some time this week though;</p> <p>21 right?</p> <p>22 A Yes. Yes.</p> <p>23 Q You mentioned earlier that Senator</p> <p>24 Chesteen used to be a football coach in Geneva?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 38</p> <p>1 it it was like giving testimony in court; it was sworn</p> <p>2 testimony?</p> <p>3 A I did.</p> <p>4 Q Okay. And do you remember receiving a</p> <p>5 second draft of the declaration after we talked</p> <p>6 further and you sent us additional information?</p> <p>7 A Yes.</p> <p>8 Q Can you look at paragraph one of your</p> <p>9 declaration and read it to yourself silently, please.</p> <p>10 A (Witness complies.) Okay.</p> <p>11 Q Do you remember adding anything to that</p> <p>12 paragraph?</p> <p>13 A No, ma'am; I don't remember adding</p> <p>14 anything. I remember we had conversations. But I --</p> <p>15 I --</p> <p>16 Q Okay. Do you remember if we made any --</p> <p>17 if any changes were made to paragraph four after we</p> <p>18 spoke?</p> <p>19 A Yes. You put in the website -- website</p> <p>20 from the Army about the CASA and explained basically</p> <p>21 what the website says in paragraph four.</p> <p>22 Q So as you sit here today, it's your</p> <p>23 recollection that that was added in the second draft?</p> <p>24 A Yes.</p> <p>25 Q In paragraph six; would you read that to</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Is Geneva a city? A county?</p> <p>2 What is your reference to?</p> <p>3 A Well, city -- it's a city and a county.</p> <p>4 Q Okay.</p> <p>5 A And I -- I don't remember where he was a</p> <p>6 coach, which one of those because I didn't follow</p> <p>7 Geneva High School football.</p> <p>8 Q You spoke with Harmony about seeing 25</p> <p>9 to 30 people, approximately, get off the bus at the</p> <p>10 legislative hearing in mid July.</p> <p>11 Were all of those people from Dothan so</p> <p>12 far as you know?</p> <p>13 A Yes. When I say "Dothan," they -- the</p> <p>14 area. Because we have a lot of small towns, so I</p> <p>15 don't know where they actually live. I know them from</p> <p>16 Dothan. Yes.</p> <p>17 Q Were there other people at the hearing</p> <p>18 wearing those T-shirts who were not from Dothan?</p> <p>19 A I didn't notice it. There -- there may</p> <p>20 have been. I did -- I was -- they actually sat me</p> <p>21 right next to the folks with the T-shirts, so that's</p> <p>22 how I was focused on that.</p> <p>23 Q Okay. Do you stand by your --</p> <p>24 everything that's in your declaration?</p> <p>25 A I do.</p>

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<p style="text-align: right;">Page 41</p> <p>1 Q All right. I don't have any further 2 questioning -- questions. Harmony might have 3 additional questions for you. 4 MS. GBE: I don't have anything further. 5 MS. FAIRBANKS MESSICK: Thank you so 6 much for your time, Mr. Schmitz. We really appreciate 7 it. 8 MS. GBE: Yes. Thank you. It was nice 9 meeting you. 10 THE WITNESS: Thank you. 11 THE VIDEOGRAPHER: This concludes 12 today's videotaped deposition. The time is 11:16 a.m. 13 Going off the record now. 14 (THE DEPOSITION WAS CONCLUDED AT 11:16 A.M.) 15 16 17 18 19 20 21 22 23 24 25</p>	
<p style="text-align: right;">Page 42</p> <p>1 2 C E R T I F I C A T E 3 4 STATE OF ALABAMA) 5 JEFFERSON COUNTY) 6 7 I hereby certify that the above 8 and foregoing deposition was taken down 9 by me in stenotype, and the questions and 10 answers thereto were reduced to computer 11 print under my supervision, and that the 12 foregoing represents a true and correct 13 transcript of the deposition given by 14 said witness upon said hearing. 15 16 I further certify that I am 17 neither of counsel nor of kin to the 18 parties to the action, nor am I in 19 anywise interested in the result of said 20 cause. 21 22 23  24 /s/Merit Gilley Merit Gilley, Commissioner 25 ACCR NO. 67</p>	