

# **Exhibit K**

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION

THE CHRISTIAN MINISTERIAL	)	
ALLIANCE, PATRICIA	)	
BREWER, CAROLYN BRIGGS,	)	
LYNETTE BROWN, MABLE	)	
BYNUM, and VELMA SMITH,	)	
On Behalf of Themselves	)	CASE NUMBER
and All Other Similarly	)	4:23-CV-471-DPM-DRS-JM
Situated Persons,	)	
	)	
PLAINTIFFS,	)	
	)	
VS.	)	
	)	
JOHN THURSTON, In His	)	
Official Capacity as the	)	
Secretary of State of	)	
Arkansas,	)	
	)	
DEFENDANT.	)	

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ORAL DEPOSITION OF

JOHN THURSTON, BY AND THROUGH RULE 30(B)(6)

JOSHUA RYAN BRIDGES

August 21, 2024

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1 ORAL DEPOSITION OF JOHN THURSTON, BY AND THROUGH  
2 RULE 30(B)(6) JOSHUA RYAN BRIDGES, produced as a  
3 witness at the instance of the PLAINTIFFS, and duly  
4 sworn, was taken in the above-styled and numbered  
5 cause on the 21st day of August, 2024, from 9:36 a.m.  
6 to 5:57 p.m., before Tammie L. Foreman, CCR in and for  
7 the State of Arkansas, RPR, CRR, reported by machine  
8 shorthand, at the law offices of Mays, Byrd & O'Guinn,  
9 212 Center Street, Suite 700, Little Rock, Arkansas,  
10 pursuant to the Federal Rules of Civil Procedure.  
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APPEARANCES

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I N D E X

August 21, 2024

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WITNESS: JOSHUA RYAN BRIDGES

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## EXHIBITS

NO.	DESCRIPTION	MARKED
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<p>Page 7</p> <p>1 JOSHUA RYAN BRIDGES,</p> <p>2 having been first duly sworn, testified as follows:</p> <p>3 EXAMINATION</p> <p>4 BY MR. SKOCPOL:</p> <p>5 Q. All right. Good morning, Mr. Bridges.</p> <p>6 A. Good morning.</p> <p>7 Q. My name is Michael Skocpol. I'm one of the</p> <p>8 attorneys representing plaintiffs in this lawsuit,</p> <p>9 Ministerial Alliance, et al., versus Thurston. Could</p> <p>10 you please start by stating your full name for the</p> <p>11 record?</p> <p>12 A. Sure. Joshua Ryan Bridges.</p> <p>13 Q. And you are here on behalf of the secretary of</p> <p>14 state's office. Could you give the secretary of</p> <p>15 state's office's business address?</p> <p>16 A. Yes. It's 500 Woodlane Street, Room 256,</p> <p>17 Little Rock, Arkansas, 72201.</p> <p>18 Q. Thank you. All right. I'll now ask everyone</p> <p>19 who plans on making an appearance to do so, so start</p> <p>20 with plaintiff's counsel. Like I said, my name is</p> <p>21 Michael Skocpol from the Legal Defense Fund on behalf</p> <p>22 of plaintiffs. I'm joined today by Erin Kurvers of</p> <p>23 O'Melveny &amp; Myers. And --</p> <p>24 MR. BRASCHER: My name is Justin</p> <p>25 Brascher. I'm an Assistant Attorney General</p>	<p>Page 9</p> <p>1 A. Okay.</p> <p>2 Q. And that's so the transcript can be clear. Let</p> <p>3 me know if you don't understand a question. If you</p> <p>4 need me to repeat any part of it, I will do my best to</p> <p>5 rephrase or repeat as you need. I'm not trying to</p> <p>6 trick you with any questions. I want you to make sure</p> <p>7 you understand what I'm asking you.</p> <p>8 But if you do answer a question, I'm</p> <p>9 going to assume that you understood it and heard it</p> <p>10 fully. Does that make sense?</p> <p>11 A. Yes.</p> <p>12 Q. The primary people talking in this deposition</p> <p>13 should be you and me. And the court reporter may ask</p> <p>14 a question, if they need something from us, as we've</p> <p>15 already heard.</p> <p>16 You may also hear your counsel,</p> <p>17 Mr. Brascher or Ms. Cryer, object to my questions. If</p> <p>18 so, the objection will be noted by the court reporter,</p> <p>19 but you must still provide an answer unless</p> <p>20 Mr. Brascher or Ms. Cryer instructs you not to. You</p> <p>21 understand?</p> <p>22 A. Yes.</p> <p>23 Q. So is there any reason why you are unable to</p> <p>24 understand or answer my questions truthfully today?</p> <p>25 A. No, sir.</p>
<p>Page 8</p> <p>1 with the Arkansas Office of the Attorney</p> <p>2 General representing the secretary of state</p> <p>3 in this litigation, and I'm joined by my</p> <p>4 colleague, Senior Assistant Attorney General</p> <p>5 Christine Cryer.</p> <p>6 MR. SKOCPOL: And anyone joining</p> <p>7 remotely who plans to appear? All right.</p> <p>8 Maybe they can see and hear us.</p> <p>9 Yes. But joining us remotely for the</p> <p>10 plaintiffs are John Cusick and Leah Aden,</p> <p>11 both also of Legal Defense Fund.</p> <p>12 THE COURT REPORTER: If you'll slow down</p> <p>13 just a hair for me.</p> <p>14 MR. SKOCPOL: Sure.</p> <p>15 Q. (By Mr. Skocpol:) So to start with, for today's</p> <p>16 deposition, I want to identify a few basic ground</p> <p>17 rules so we're on the same page. So first, you're</p> <p>18 testifying under oath today, which means you're under</p> <p>19 the same duty to answer questions as you would in a</p> <p>20 courtroom. Do you understand?</p> <p>21 A. Yes.</p> <p>22 Q. And a court reporter is transcribing the</p> <p>23 deposition. With that in mind, please answer</p> <p>24 questions audibly and clearly. So no nodding or</p> <p>25 shaking your head. Say yes or no instead.</p>	<p>Page 10</p> <p>1 Q. How are you feeling today?</p> <p>2 A. I feel great.</p> <p>3 Q. Okay. Are you under the influence of alcohol,</p> <p>4 drugs, or any mind-altering substances?</p> <p>5 A. No.</p> <p>6 Q. This isn't an endurance contest. If, at any</p> <p>7 time, you would like to take a break please let me</p> <p>8 know. As we were discussing before we came on the</p> <p>9 record, it may get warm in here. So ask for a break</p> <p>10 whenever you need it. We can take a few minutes. And</p> <p>11 we will take some breaks whether you ask for them or</p> <p>12 not, including for lunch.</p> <p>13 The only thing I ask is, if I have</p> <p>14 already asked a question when you would like to take a</p> <p>15 break, please finish answering that question before</p> <p>16 asking for a break.</p> <p>17 A. Okay.</p> <p>18 Q. So one other thing, you shouldn't be</p> <p>19 communicating with anyone about the subject matter of</p> <p>20 your testimony during -- while the deposition is</p> <p>21 ongoing. That includes during any breaks today. Do</p> <p>22 you understand?</p> <p>23 A. Yes.</p> <p>24 Q. All right.</p> <p>25 MS. KURVERS: Can we move the microphone</p>



<p>1 in the middle?</p> <p>2 THE COURT REPORTER: Let's go off the</p> <p>3 record.</p> <p>4 (Discussion held off the record.)</p> <p>5 Q. (By Mr. Skocpol:) All right, sir. Let's go</p> <p>6 back on the record. So you're represented by counsel</p> <p>7 today?</p> <p>8 A. Yes.</p> <p>9 Q. And those are the lawyers from the attorney</p> <p>10 general's office who are here with you. Are there any</p> <p>11 other attorneys who represent the secretary of state</p> <p>12 for purposes of this case?</p> <p>13 A. Potentially Kenneth Burleson, who is our deputy</p> <p>14 secretary of state. I believe the roles and duties of</p> <p>15 litigation and representation are with -- solely with</p> <p>16 the attorney general's office --</p> <p>17 Q. Okay.</p> <p>18 A. -- for this case.</p> <p>19 Q. Thank you for clarifying that. I appreciate it.</p> <p>20 And have you personally sought -- like, so you</p> <p>21 personally, not the secretary of state's office,</p> <p>22 sought legal advice from any counsel in connection</p> <p>23 with this case?</p> <p>24 A. That's correct.</p> <p>25 Q. You have not?</p>	<p>Page 11</p> <p>1 A. I have been at the same location for about 15</p> <p>2 years.</p> <p>3 Q. Okay. And what's your educational background?</p> <p>4 Where did you go to college, for example?</p> <p>5 A. I went to college at Arkansas State University</p> <p>6 Beebe, graduated with my associate's degree.</p> <p>7 Transferred to University of Central Arkansas in</p> <p>8 Conway, where I got an additional associate's degree</p> <p>9 and a bachelor of science in history with a minor in</p> <p>10 sociology.</p> <p>11 Q. Okay. And what were the -- all of those degrees</p> <p>12 were in history with a minor in sociology, or what</p> <p>13 were the associate's degrees?</p> <p>14 A. My first associate's degree had an emphasis in</p> <p>15 psychology. It was a liberal arts degree. My other</p> <p>16 associate's degree had emphasis in secondary social</p> <p>17 studies education.</p> <p>18 Q. Okay. And do you have any -- beyond those</p> <p>19 degrees, do you have any professional certificates?</p> <p>20 A. Not that I currently recall.</p> <p>21 Q. So -- and I'd like to learn a little bit more</p> <p>22 about your employment history, especially at the</p> <p>23 secretary of state's office. So how long have you</p> <p>24 worked for the secretary of state's office?</p> <p>25 A. Over 11 years.</p> <p>Page 13</p>
<p>1 A. I have not, no.</p> <p>2 Q. Did you bring any printed materials with you to</p> <p>3 the deposition?</p> <p>4 A. No.</p> <p>5 Q. And do you have any documents or communications</p> <p>6 available to consult electronically today?</p> <p>7 A. Not that I'm aware of, no.</p> <p>8 MR. BRASCHER: I'm sorry. I'm just</p> <p>9 going to clarify the record quickly. I did</p> <p>10 bring copies of his deposition notice. And</p> <p>11 if that came up the topics, for example, I</p> <p>12 intended to give them to him to consult.</p> <p>13 MR. SKOCPOL: Okay. Great. And we have</p> <p>14 copies of that that we can share as well, if</p> <p>15 it comes up.</p> <p>16 Q. (By Mr. Skocpol:) So let's start, I just want</p> <p>17 to learn a little bit about your background</p> <p>18 personally. Where did you grow up? Are you from</p> <p>19 Arkansas?</p> <p>20 A. I am from Arkansas, yes. I grew up in White</p> <p>21 County.</p> <p>22 Q. Okay. And where do you live currently?</p> <p>23 A. I live in McRae, Arkansas, in White County.</p> <p>24 Q. In White County. Okay. How long have you lived</p> <p>25 there?</p> <p>Page 12</p>	<p>1 Q. What did you do before coming to the secretary</p> <p>2 of state's office?</p> <p>3 A. I worked part-time at Walmart in Cabot while I</p> <p>4 was going through college.</p> <p>5 Q. Okay. And while you've been at the -- so 11</p> <p>6 years you've been at the secretary of state's office.</p> <p>7 What jobs or roles have you held while you've been</p> <p>8 there?</p> <p>9 A. I was initially hired on as a business services</p> <p>10 representative, was in charge of inventory and helping</p> <p>11 with purchasing. I was the back-up mail clerk for the</p> <p>12 secretary of state.</p> <p>13 Eight months later after my hire date, I</p> <p>14 transferred to the elections division, where I became</p> <p>15 an elections services representative. I worked in our</p> <p>16 library. I then was promoted to administrative rules</p> <p>17 coordinator for about a year.</p> <p>18 After that, I was promoted to election</p> <p>19 coordinator in 2015, where I served in that role for</p> <p>20 five years. In 2020, I was promoted to elections --</p> <p>21 what was my title? I'm drawing a blank. Elections</p> <p>22 systems analyst. Sorry.</p> <p>23 Q. No. I appreciate you taking the time to make</p> <p>24 sure.</p> <p>25 A. Yeah. Yeah. I served in that role for a few</p> <p>Page 14</p>

<p>1 years. And in November of '23, I was promoted to 2 assistant director of elections. 3 Q. And is that the position you hold currently? 4 A. Yes. 5 Q. Have you held any other positions besides the 6 ones you've just listed? 7 A. Not that I recall, no, sir. 8 Q. And in those roles, have you done work on 9 congressional elections specifically? 10 A. We had assisted counties with the conduct of 11 elections. So in a sense, yes. 12 Q. But that would be elections generally, not which 13 might include congressional elections; is that fair to 14 say? 15 A. Yes. That's correct. 16 Q. But not specifically congressional elections? 17 A. Correct. 18 Q. So you said your current position is assistant 19 director of elections? 20 A. Yes. 21 Q. Can you tell me a little bit more about that 22 role? What are your responsibilities in that role? 23 A. I directly assist my director with personnel 24 issues, approving of time, difficult procedural 25 questions. I oversee our election coordinator team</p>	<p>Page 15</p>	<p>1 A. Around 10. 2 Q. And that's 10 direct reports? 3 A. The way our hierarchy works is, I supervise 4 everyone beneath me in the division. And we have, in 5 total, around 12 employees, including myself and my 6 director. 7 Q. Okay. So that's 12 in the elections division? 8 A. Yes. 9 Q. And they all report through you to 10 Director Bellamy? 11 A. Yes. 12 Q. Would you say you're familiar with the details 13 of the work of the employees that you supervise? 14 A. I like to be, yes. I feel like I'm comfortable 15 enough with the work that they do. 16 Q. And besides the direct reports, 17 Director Bellamy, are there -- who do you communicate 18 with regularly in your job other than those folks 19 we've already discussed? 20 A. I communicate with our executive team. Usually 21 Kevin Niehouse, who is one of our deputy secretaries 22 of state. 23 Q. Do you -- does much of your job involve 24 communicating with people outside of the secretary of 25 state's office?</p>	<p>Page 17</p>
<p>1 and assist them as needed as they assist the local 2 election officials with questions on election law, 3 election procedure, training on equipment, questions 4 on the voter registration database. 5 It's a little bit of my former election 6 coordinator and systems analyst role kind of meshes in 7 with my current assistant director role. 8 Q. Got it. Part of your job is supervising folks 9 who are in that election coordinator role that you 10 said you've held about five years? 11 A. Yes. 12 Q. Okay. And you said -- well, any other 13 responsibilities generally in that role other than the 14 ones you just mentioned? 15 A. Just assist as needed on any projects or 16 day-to-day needs. 17 Q. Okay. And you mentioned you assist the director 18 who you report to. Who is that? 19 A. Her name is Leslie Bellamy, B-E-L-L-A-M-Y. 20 Q. And what's her title or role? 21 A. Director of elections. 22 Q. And so you have team members who report to you 23 as well? 24 A. Yes. 25 Q. How many?</p>	<p>Page 16</p>	<p>1 A. Yes. 2 Q. Who would you regularly communicate with outside 3 the secretary of state's office? 4 A. Anywhere from general population to county 5 clerks to county election commissioners, other state 6 agencies, the state board of election commissioners, 7 anybody that calls with questions. So it could be a 8 litany of different entities that we converse with. 9 Q. And including members of the public or -- 10 A. Yes. 11 Q. Okay. Is your current position, is that a 12 politically-appointed role or is it a career position? 13 A. It is a career position. It's not politically 14 appointed at all. We actually are not even allowed to 15 partake publicly in anything political in order to 16 have this job. 17 Q. So you would consider your job to be 18 nonpartisan? 19 A. Yes. Very much. 20 Q. Is the -- in general, is the secretary of 21 state's office acting in a nonpartisan capacity when 22 it administers elections? 23 A. In terms of the administration of elections and 24 assistance, consultation that we provide to general 25 public, local election officials, yes. The secretary</p>	<p>Page 18</p>

<p>Page 19</p> <p>1 of state is a Republican in a political manner. But</p> <p>2 the conduct and any -- from a professional role in the</p> <p>3 elections division, it is all nonpartisan.</p> <p>4 Q. Got it. Are there -- well, we can maybe come</p> <p>5 back to that. And just wrapping up your own</p> <p>6 background, do you have any paid employment other than</p> <p>7 your position with the secretary of state's office?</p> <p>8 A. Not currently, no.</p> <p>9 Q. Are you a member of any community groups?</p> <p>10 A. I'm a deacon at our local church, but I don't</p> <p>11 know that that would be considered a community group.</p> <p>12 Q. Do you serve on the board of any organizations?</p> <p>13 A. No, sir.</p> <p>14 Q. And I think you already answered this but just</p> <p>15 confirm, are you involved in politics outside of your</p> <p>16 job in any way?</p> <p>17 A. Absolutely not. I don't like politics,</p> <p>18 ironically enough.</p> <p>19 Q. All right. And so I'd like to also just</p> <p>20 understand a little bit about your deposition</p> <p>21 experience. Have you ever been deposed before?</p> <p>22 A. Yes.</p> <p>23 Q. How many times?</p> <p>24 A. At this point, I would say probably seven or</p> <p>25 eight times.</p>	<p>Page 21</p> <p>1 couldn't promise 100 percent accuracy, but</p> <p>2 yeah. We could get together and compile</p> <p>3 one. Yes.</p> <p>4 MR. SKOCPOL: Okay.</p> <p>5 Q. (By Mr. Skocpol:) So in terms of preparing for</p> <p>6 this deposition today, how did you learn about today's</p> <p>7 deposition?</p> <p>8 A. I was informed by our general counsel at the</p> <p>9 attorney general's office.</p> <p>10 Q. That's Kenneth Burleson, who you mentioned</p> <p>11 earlier?</p> <p>12 A. No. I said general counsel incorrectly. I</p> <p>13 meant Justin Brascher.</p> <p>14 Q. Got it. Just to be clear for the record, when</p> <p>15 you say -- you said general counsel incorrectly, you</p> <p>16 mean just now, it was actually Mr. Brascher from the</p> <p>17 attorney general's office?</p> <p>18 A. Mr. Brascher informed me of this deposition of</p> <p>19 when it was going to be, yes.</p> <p>20 Q. But Kenneth Burleson is the general counsel of</p> <p>21 the -- in the secretary of state's office?</p> <p>22 A. Yes.</p> <p>23 Q. Do you remember when you were first contacted by</p> <p>24 counsel about potentially being deposed in this case?</p> <p>25 A. It's been about a month or two ago.</p>
<p>Page 20</p> <p>1 Q. Oh, wow. Okay. Old hand.</p> <p>2 A. Yeah.</p> <p>3 Q. Not your first rodeo. What -- and maybe that's</p> <p>4 enough that it may be challenging to remember. But</p> <p>5 what cases have you been deposed in?</p> <p>6 A. Several cases concerning initiative petition</p> <p>7 processes. I have been deposed in litigation</p> <p>8 concerning law on independent candidate ballot access.</p> <p>9 I was deposed in the Suttlar case back</p> <p>10 last year. I know I'm forgetting some. But that's,</p> <p>11 off the top of my head, all I can remember.</p> <p>12 Q. Sure. So will all -- fair to say all related to</p> <p>13 your role at the secretary of state's office?</p> <p>14 A. Yes, sir.</p> <p>15 Q. Any -- any cases that weren't about voting or</p> <p>16 elections connected with the secretary of state's</p> <p>17 office?</p> <p>18 A. Not that I recall.</p> <p>19 MR. SKOCPOL: And I think it will</p> <p>20 probably take too long to go through all of</p> <p>21 them. But if we were -- if we wanted to get</p> <p>22 a list of cases that he's been deposed in</p> <p>23 before, would that be --</p> <p>24 MR. BRASCHER: I'm sure we could compile</p> <p>25 one. I don't know that it would be -- I</p>	<p>Page 22</p> <p>1 (Exhibit 1 marked for identification.)</p> <p>2 Q. Okay. So I'd like to start -- I'd like to mark</p> <p>3 as Exhibit 1 the notice of deposition that was served</p> <p>4 on the secretary of state on July 18th.</p> <p>5 MR. BRASCHER: I think I've got some, so</p> <p>6 we should be okay.</p> <p>7 MS. CRYER: Thank you.</p> <p>8 Q. (By Mr. Skocpol:) Have you seen this document</p> <p>9 before?</p> <p>10 A. Yes.</p> <p>11 Q. And what is it?</p> <p>12 A. This is the notice of deposition sent to our</p> <p>13 office concerning this case.</p> <p>14 Q. And so do you understand that this -- pursuant</p> <p>15 to this notice, you've been designated to testify on</p> <p>16 behalf of the secretary of state's office under Rule</p> <p>17 30(b)(6) of the federal Rules of Civil Procedure?</p> <p>18 A. Yes.</p> <p>19 Q. What does that mean to you? Tell me in your own</p> <p>20 words.</p> <p>21 A. I'm not testifying on my individual capacity,</p> <p>22 but as a collective capacity as if I was the secretary</p> <p>23 of state.</p> <p>24 Q. You mentioned you've been deposed before. Were</p> <p>25 any of those as a Rule 30(b)(6) witness?</p>

<p>1 A. Yes.</p> <p>2 Q. How many of them?</p> <p>3 A. I believe this is my third 30(b)(6) case as a</p> <p>4 witness.</p> <p>5 Q. Okay. Maybe for those, do you remember which --</p> <p>6 this is the third. So there are two previous times</p> <p>7 you've served as a 30(b)(6) witness?</p> <p>8 A. I believe so.</p> <p>9 Q. What were those two cases?</p> <p>10 A. I don't recall which specific cases those were.</p> <p>11 They kind of blend together after a while, so --</p> <p>12 Q. Sure. Fair enough. So you remember that you</p> <p>13 were -- have been deposed a number of times at the</p> <p>14 secretary of state's office and can't remember which</p> <p>15 ones are personal capacity versus 30(b)(6)?</p> <p>16 A. That is correct. Yes.</p> <p>17 Q. So you understand that you're here to speak and</p> <p>18 testify on behalf of the secretary of state's office,</p> <p>19 not you personally?</p> <p>20 A. Yes.</p> <p>21 Q. Let's turn -- if I could have you turn to pages</p> <p>22 5 and 6 of the notice. What do you see on pages 5 and</p> <p>23 6 of the notice?</p> <p>24 A. The topics for this deposition.</p> <p>25 Q. And have you reviewed those topics before coming</p>	<p>Page 23</p>	<p>1 as a reflection for the response.</p> <p>2 Q. And anytime I ask you about, you know,</p> <p>3 preparation or whether you had a conversation with</p> <p>4 your attorneys, I'm not asking you to share anything</p> <p>5 about the substance of the conversations you've had</p> <p>6 with them?</p> <p>7 A. Of course.</p> <p>8 Q. How many hours would you say you spent preparing</p> <p>9 for the deposition today?</p> <p>10 A. Overall, probably five or six hours.</p> <p>11 Q. Did you review any documents?</p> <p>12 A. I looked at our internal records to see if there</p> <p>13 were any documents reflective to this court case, yes.</p> <p>14 And I also reviewed my previous deposition for the</p> <p>15 Suttlar case from last year.</p> <p>16 Q. So a previous deposition that you had done --</p> <p>17 A. Yes.</p> <p>18 Q. -- for the Suttlar case?</p> <p>19 A. Yes.</p> <p>20 Q. Could you spell the name of that case for the</p> <p>21 record?</p> <p>22 A. S-U-T-T-L-E-R.</p> <p>23 MR. BRASCHER: A-R, I believe.</p> <p>24 A. A-R.</p> <p>25 Q. I didn't mean to give you a pop quiz there?</p>	<p>Page 25</p>
<p>1 to the deposition today?</p> <p>2 A. Yes.</p> <p>3 Q. Are you prepared to testify on behalf of the</p> <p>4 secretary of state on behalf of all of those topics?</p> <p>5 A. Yes.</p> <p>6 Q. Are you aware that Rule 30(b)(6) required you to</p> <p>7 prepare for and educate yourself on matters relating</p> <p>8 to those topics?</p> <p>9 A. Yes.</p> <p>10 Q. And do you have, sitting here today, knowledge</p> <p>11 of the topics listed?</p> <p>12 A. Yes.</p> <p>13 Q. Do you believe there's anyone at the secretary</p> <p>14 of state's office who is more knowledgeable than you</p> <p>15 to answer questions on any of these topics?</p> <p>16 A. Not that I'm aware of, no.</p> <p>17 Q. And could you tell me generally, what did you do</p> <p>18 to prepare for today's deposition?</p> <p>19 MR. BRASCHER: I am just going to object</p> <p>20 and just remind you to not discuss any</p> <p>21 conversations that we specifically had that</p> <p>22 would violate the attorney/client privilege.</p> <p>23 Otherwise, go ahead and answer the question.</p> <p>24 A. I consulted with the attorneys and reviewed</p> <p>25 these topics, looked at any records that we may have</p>	<p>Page 24</p>	<p>1 A. That's okay. I thought this whole thing was a</p> <p>2 pop quiz.</p> <p>3 Q. Do you remember if that is one of the cases in</p> <p>4 which you served as a 30(b)(6) witness?</p> <p>5 A. I'm fairly certain I was 30(b)(6) for that case,</p> <p>6 yes.</p> <p>7 MR. BRASCHER: I'll just pop in and</p> <p>8 confirm that he was -- I was sitting right</p> <p>9 next to him for that one too. So yes. For</p> <p>10 sure.</p> <p>11 Q. And when was that deposition?</p> <p>12 A. January of 2023.</p> <p>13 THE WITNESS: Am I right?</p> <p>14 MR. BRASCHER: Yes. January 18th of</p> <p>15 2023.</p> <p>16 Q. What was that case about?</p> <p>17 A. It was concerning congressional redistricting.</p> <p>18 Q. Was that a case in state or federal court, if</p> <p>19 you know?</p> <p>20 A. I'm not sure.</p> <p>21 Q. And I think you mentioned, I want to make sure I</p> <p>22 understand your answer. You said that -- I think you</p> <p>23 said you may have reviewed some documents in</p> <p>24 connection -- documents from this case. So court</p> <p>25 documents? Did I understand that correctly?</p>	<p>Page 26</p>



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1 A. Other than this notice of deposition, I also  
2 reviewed, I believe, the request for interrogatory.  
3 Other than that, I don't believe I reviewed any  
4 additional court documents from this case, no.  
5 Q. Okay. I may have misunderstood part of your  
6 answer. Are there other -- besides the Suttlar  
7 deposition and the documents you just mentioned from  
8 this case, are there other documents that you  
9 reviewed?  
10 A. There are other documents I attempted to obtain  
11 in response to the requests for production. But in  
12 terms of reviewing to prepare, no. There were no  
13 others.  
14 Q. Okay. Did you review any emails or calendar  
15 events?  
16 A. I was made aware of some email and calendar  
17 invites that were found and obtained in response to  
18 discovery. And I was briefed on some of that, yes.  
19 Q. Again, without getting into the actual  
20 conversations, when you say "briefed on some of that,"  
21 you mean by the attorneys from the attorney general's  
22 office?  
23 A. Yes. And our attorneys at the secretary of  
24 state, yes.  
25 Q. Is there anything else that you did to prepare

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1 for today's deposition?  
2 A. Not that I recall.  
3 Q. Were there any subjects in the 30(b)(6) topics  
4 that you did not have personal knowledge of and that  
5 you needed to educate yourself on?  
6 A. I think my response to that is probably going to  
7 be more broad in nature, that I'm sure we'll get into  
8 at some point. But in terms of just congressional  
9 redistricting as a whole, I am not knowledgeable in  
10 that simply because we just don't play a part in that  
11 process when it comes to congressional redistricting.  
12 Q. So I want to make sure I understand your answer.  
13 You did not have personal knowledge of -- were there  
14 steps you had to take to educate yourself on the  
15 congressional redistricting process?  
16 A. No.  
17 Q. Okay. I think I -- just to make sure I'm  
18 understanding, your answer is that you didn't have  
19 much knowledge of the secretary of state's role in the  
20 congressional redistricting process because the  
21 secretary of state had a very limited role in that  
22 process?  
23 A. We have no role in that process.  
24 Q. No role at all?  
25 A. In terms of congressional redistricting, we have

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1 no role in that process.  
2 Q. Did you -- again, without getting into substance  
3 of the deposition -- of the conversations, you did  
4 meet with your counsel for the attorney general's  
5 office to prepare for the deposition today?  
6 A. Yes.  
7 Q. Did you discuss today's deposition with anyone  
8 else besides the lawyers that you mentioned?  
9 A. No.  
10 Q. All right. In terms of your understanding of  
11 this lawsuit, are you -- do you have a understanding  
12 of what this lawsuit is about?  
13 A. Yes.  
14 Q. What is that understanding?  
15 A. The plaintiffs in this case are alleging that  
16 the 2021 congressional redistricting boundaries in  
17 Arkansas were drawn with a racial bias.  
18 Q. When you say "drawn with a racial bias," again,  
19 that's your understanding of what the lawsuit is  
20 about. What does that mean to you?  
21 A. That means that there were certain people groups  
22 allegedly that were drawn out or in certain  
23 congressional districts in order to allow for a  
24 particular candidate of color to be voted into office.  
25 Q. Okay. Have you reviewed the amended complaint

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1 in this case, or the original -- have you reviewed any  
2 complaints in this case?  
3 A. Probably, yes.  
4 Q. Do you remember when -- when you would have  
5 reviewed the complaint in this case?  
6 A. I do not remember. No.  
7 Q. And so I'm going to name some individuals and I  
8 want to know if you know them, have ever met them,  
9 have any relationship with them. Patricia Brewer?  
10 A. No.  
11 Q. Carolyn Briggs?  
12 A. No.  
13 Q. Lynette Brown?  
14 A. No, sir.  
15 Q. Mable Bynum?  
16 A. No, sir.  
17 Q. Velma Smith?  
18 A. No.  
19 Q. And what about an organization called the  
20 Christian Ministerial Alliance?  
21 A. I have heard of that organization simply in  
22 terms of this court case.  
23 Q. You understand that they're one of the  
24 plaintiffs in this case?  
25 A. I understand.

<p>Page 31</p> <p>1 Q. Okay. Outside of their role in this case, you</p> <p>2 don't have any familiarity -- you don't have any</p> <p>3 familiarity with that organization or any relationship</p> <p>4 with that organization?</p> <p>5 A. That's correct. I do not.</p> <p>6 Q. All right. So now I think I'd like to get into</p> <p>7 the substance a bit more. I'd like to start by asking</p> <p>8 you to help me understand generally what the secretary</p> <p>9 of state's office is, how it's organized, and who its</p> <p>10 leadership is. So to start, who is the current</p> <p>11 secretary of state?</p> <p>12 A. John Thurston.</p> <p>13 Q. How long has he been secretary of state?</p> <p>14 A. Since January of 2019.</p> <p>15 Q. And is he elected or appointed to that role?</p> <p>16 A. He is elected.</p> <p>17 Q. Is he affiliated with a political party?</p> <p>18 A. Yes. He is affiliated with the Republican</p> <p>19 party.</p> <p>20 Q. And I think you mentioned that earlier when I</p> <p>21 asked you if the secretary of state's office is</p> <p>22 nonpartisan when it administers elections. So you</p> <p>23 mentioned that the secretary of state himself is</p> <p>24 elected in a partisan election; is that right?</p> <p>25 A. That is correct.</p>	<p>Page 33</p> <p>1 in charge of the capitol police force.</p> <p>2 Q. Okay. Quite a range of responsibilities.</p> <p>3 A. We're all over the place.</p> <p>4 Q. How are those duties that you -- anything else</p> <p>5 you didn't just mention?</p> <p>6 A. Other than accounts payable, accounts receivable</p> <p>7 divisions, I believe that's about it.</p> <p>8 Q. How are those duties that you just listed, how</p> <p>9 are those determined? Do those come from state law</p> <p>10 or --</p> <p>11 A. I believe state law and the Arkansas</p> <p>12 constitution.</p> <p>13 Q. And in doing all those various tasks, how is the</p> <p>14 secretary of state's office structured internally? I</p> <p>15 imagine there are different offices or divisions that</p> <p>16 are responsible for different aspects of the secretary</p> <p>17 of state's role?</p> <p>18 A. Yes. We have several different divisions.</p> <p>19 First of all, we have our executive division, which</p> <p>20 encompasses Secretary Thurston, his chief deputy,</p> <p>21 along with his other deputy secretaries of state.</p> <p>22 We also have the elections division, of</p> <p>23 course. We have the business and commercial services</p> <p>24 division. We have the capitol police division. We</p> <p>25 have a communication and education division that</p>
<p>Page 32</p> <p>1 Q. So what aspect of his work or the office's work</p> <p>2 would you consider to be partisan?</p> <p>3 A. Honestly, none. All of the divisions that are</p> <p>4 ran operate with no political bias, most especially</p> <p>5 the elections division.</p> <p>6 Q. When you say "with no political bias," what do</p> <p>7 you mean by that?</p> <p>8 A. We're not going to cater to one party or</p> <p>9 another, or do any special favors or anything like</p> <p>10 that concerning someone's affiliation. We work with</p> <p>11 Democrats, Republicans, Libertarians, Independents,</p> <p>12 people with no party affiliation all across the state.</p> <p>13 Local election officials, voters everywhere.</p> <p>14 Q. What is Secretary Thurston's race?</p> <p>15 A. I believe he's Caucasian.</p> <p>16 Q. All right. So generally speaking, if you could</p> <p>17 give me sort of the big picture overview, what does</p> <p>18 the secretary of state's office do?</p> <p>19 A. Several things. The secretary is the chief</p> <p>20 election official for the state. He chairs the state</p> <p>21 board of election commissioners. The secretary is</p> <p>22 also responsible for the building and grounds of the</p> <p>23 state capitol facility and its monuments.</p> <p>24 He is also responsible for the filing of</p> <p>25 corporations, notaries, franchise taxes. He also is</p>	<p>Page 34</p> <p>1 handles tours, outreach to schools, exhibits. We have</p> <p>2 a purchasing and business office division as well.</p> <p>3 Q. Is there also a governmental affairs division?</p> <p>4 A. There is.</p> <p>5 Q. And is that separate from the other ones you</p> <p>6 just named or --</p> <p>7 A. Yes, it is.</p> <p>8 Q. Okay. Besides the one you -- the ones you just</p> <p>9 mentioned and the governmental affairs office, any</p> <p>10 others?</p> <p>11 A. Not that I recall. I believe that's it.</p> <p>12 Q. Do you know overall how many employees the</p> <p>13 secretary of state's office has?</p> <p>14 A. I believe we average around 120 to 130</p> <p>15 employees.</p> <p>16 Q. And of those 120, 130 employees, how many are</p> <p>17 either elected or politically appointed besides the</p> <p>18 secretary of state himself?</p> <p>19 A. They are all career employees. No appointees or</p> <p>20 any of that.</p> <p>21 Q. And does the secretary of state's office have</p> <p>22 any contractors or consultants it works with in</p> <p>23 addition to the employees you just mentioned?</p> <p>24 A. Could you be more specific?</p> <p>25 Q. I guess I'm asking are there -- does the</p>

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<p>1 secretary of state's office do its work entirely</p> <p>2 through employees of the office or are there -- does</p> <p>3 it contract out certain functions or have outside</p> <p>4 organizations that assist with its work?</p> <p>5 MR. BRASCHER: I am going to object to</p> <p>6 the form of the question. Go ahead and</p> <p>7 answer.</p> <p>8 A. We have contracts with vendors for different</p> <p>9 roles and reasons. Just an example, and hopefully</p> <p>10 this is kind of getting to the answer to your</p> <p>11 question, the elections division has multiple vendors</p> <p>12 that we work with that provide us products.</p> <p>13 We have contracts with vendors that house</p> <p>14 the election -- excuse me, the voter registration</p> <p>15 database, voting equipment in the state. We have a</p> <p>16 campaign finance system that's provided by an outside</p> <p>17 vendor with various other contracted vendors involved.</p> <p>18 And we also can and have hired outside temporary</p> <p>19 employees for certain tasks or projects coming up.</p> <p>20 Q. What -- help me understand the difference</p> <p>21 between a contracted vendor and a temporary outside</p> <p>22 employee.</p> <p>23 A. Okay. The contracted vendor provides us with</p> <p>24 one of their solutions, whatever it may be, in order</p> <p>25 for us to fulfill a role of our office. Like I</p>	<p>1 is deputy secretary of state and Kevin Niehouse is</p> <p>2 also deputy secretary of state.</p> <p>3 Q. Okay. And you mentioned Kenneth Burleson</p> <p>4 earlier. You said he was the general counsel?</p> <p>5 A. I believe he holds that title as well.</p> <p>6 Q. And Kevin -- Kevin -- is it Niehouse?</p> <p>7 A. Niehouse. N-I-E-H-O-U-S-E.</p> <p>8 Q. Does he have any titles or roles other than</p> <p>9 deputy secretary of state?</p> <p>10 A. Not that I'm aware of. I know he has worked in</p> <p>11 governmental affairs.</p> <p>12 Q. And is there anyone else other than Kevin</p> <p>13 Niehouse and -- excuse me, Niehouse and</p> <p>14 Kenneth Burleson?</p> <p>15 A. Other than just the receptionists, no.</p> <p>16 Q. Is there also a chief deputy secretary of state?</p> <p>17 A. Yes. Sorry. I forgot about Bill.</p> <p>18 Q. That's okay.</p> <p>19 A. Don't tell him. Bill Huffman is chief deputy</p> <p>20 secretary of state.</p> <p>21 Q. And so for each of those three individuals --</p> <p>22 well, let me start with Kenneth Burleson. What</p> <p>23 aspects of the offices work is he responsible for?</p> <p>24 A. He really leans more towards the legal aspect of</p> <p>25 things. He assists our legal division, along with our</p>
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<p>1 mentioned, one of our duties in the elections division</p> <p>2 is the filing of campaign finance documents. We have</p> <p>3 an online system for that. We did not build that</p> <p>4 system inhouse. We contracted with a vendor that</p> <p>5 provided us with that solution and custom-tailored it</p> <p>6 to our needs.</p> <p>7 The temporary help that we have hired in</p> <p>8 the past entails us contracting with a personnel</p> <p>9 agency here in Little Rock, I believe, to obtain and</p> <p>10 hire employees on a temporary basis to help with</p> <p>11 certain tasks.</p> <p>12 Q. Okay. So other than various examples of</p> <p>13 contracted vendors and temporary employees like you</p> <p>14 described, are there other ways -- are there other</p> <p>15 folks outside of the secretary of state's office who</p> <p>16 the secretary of state has a relationship with to help</p> <p>17 carry out its work?</p> <p>18 A. We liaise with other government entities. We</p> <p>19 have a good relationship with the state board of</p> <p>20 election commissioners, which is a separate agency, in</p> <p>21 order to accomplish similar tasks.</p> <p>22 Q. So you mentioned the executive office. I just</p> <p>23 want to make sure I understand who that is. Who are</p> <p>24 the people who make up the executive office?</p> <p>25 A. Aside from Secretary Thurston, Kenneth Burleson</p>	<p>1 division, in answering any difficult legal questions.</p> <p>2 He liaises quite a bit with the attorney general's</p> <p>3 office on different court cases.</p> <p>4 Q. Are there any components or divisions that</p> <p>5 report to the secretary through him?</p> <p>6 A. Not specifically. Any director of any division</p> <p>7 can report to Kenneth on any issues that they may</p> <p>8 have, or Kevin or Bill.</p> <p>9 Q. So do any of them have specific divisions who</p> <p>10 report through them to the secretary?</p> <p>11 A. Not that I'm aware of, no.</p> <p>12 Q. The elections division, example, how does the --</p> <p>13 you said Leslie Bellamy is the director of the</p> <p>14 elections division, so is she the head of that</p> <p>15 division?</p> <p>16 A. Yes.</p> <p>17 Q. And who does she report to or how -- yeah, who</p> <p>18 does she report to in the executive office?</p> <p>19 A. Any of the people that were named. I know Kevin</p> <p>20 typically is the one she reports to. Really, anybody</p> <p>21 that's available or around at the time.</p> <p>22 Q. And you mentioned Kevin Niehouse has had a role</p> <p>23 in governmental affairs. Does the governmental</p> <p>24 affairs office report to him, or what's his relation?</p> <p>25 Could you say more what his role is with respect to</p>

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1	governmental affairs?	1	house the official journals for the house and senate.	
2	A. He speaks with legislators on certain potential	2	We handle the filing of official acts of Arkansas.	
3	laws that may go into effect. I know he's testified	3	We also have our election coordinator	
4	in the legislative committee quite a bit. He will	4	subdivision, I guess you could call it, where the	
5	consult with any of our divisions in terms of any	5	election coordinators, along with myself, are in an	
6	issues that are going on.	6	office. And we handle and assist the county election	
7	Q. So is there a separate governmental affairs	7	officials with election-related procedures and	
8	office -- or let me ask that question a different way.	8	questions.	
9	Who else is involved in the governmental	9	Q. So other than the library and the election	
10	affairs functions of the secretary of state's office?	10	coordinator division, is there -- are there any other	
11	A. I'm not 100 percent sure. We have a couple of	11	components within the division of elections?	
12	different people that work in our communications	12	A. Yes. We have a couple of outreach coordinators	
13	division that may also assist in that role.	13	that will assist and handle any questions that county	
14	But in terms of governmental affairs,	14	clerks may have concerning voter registration. They	
15	especially around time for legislative session, the	15	go to voter registration drives, conferences to try to	
16	directors really step into that role of being the	16	register people to vote, or be the public face of the	
17	subject matter experts for their divisions. If, for	17	elections division, so to speak.	
18	example, someone needs to go testify in legislative	18	We also have an elections security	
19	committee on an election-related bill, it's usually	19	specialist who liaises with local, state, and federal	
20	either Leslie or myself. So the governmental affairs	20	entities concerning physical and cyber security.	
21	division is a little bit of everybody, from every	21	Q. Going back to the library, you mentioned they	
22	division, along with the executive team.	22	keep some records related to campaign finance. Would	
23	Q. So if I'm understanding correctly, for the	23	those include for federal elections? So campaign	
24	elections division, Leslie Bellamy is director and	24	finance for congressional campaigns?	
25	yourself as assistant director, you might have a piece	25	A. No. I believe those are filed with the federal	
	Page 40		Page 42	
1	of your work that is governmental affairs, but there's	1	election commission. We file campaign finance reports	
2	not someone who is solely focused on governmental	2	for state, district -- state and district offices.	
3	affairs?	3	Q. So the elections division, would the elections	
4	A. Not necessarily. Other than Kevin, I'm not	4	division keep any records related to campaign finance	
5	aware of any other employees that are simply that's	5	for congressional offices?	
6	their only task.	6	A. I don't believe so. I don't believe they would	
7	Q. All right. And so for each of the three of	7	have those campaign finance records. No. I don't	
8	them, I'm going to ask you. Bill Huffman, what is his	8	believe they're officially filed with us.	
9	race?	9	Q. And you mentioned oaths for boards or	
10	A. Caucasian.	10	commissions. That's also for state offices?	
11	Q. Kevin Niehouse?	11	A. Yes.	
12	A. Caucasian.	12	Q. Would someone who is representing Arkansas in	
13	Q. Kenneth Burleson?	13	congress, would they take any oaths that would -- you	
14	A. Caucasian.	14	would have records of?	
15	Q. So I'd like to make sure I'm understanding the	15	A. Yes. We would have their oaths of office, I	
16	elections division. I know you've already talked a	16	believe, after they're sworn in after their election.	
17	little bit about its structure. I believe you said	17	I would have to confirm that though.	
18	there are 12 people total in the elections division?	18	Q. And would your office be involved in swearing	
19	A. Yes.	19	them in?	
20	Q. And how is the elections division structured	20	A. Not necessarily swearing them in, no.	
21	internally? Does it have different suboffices or	21	Q. But you would have records of the oaths that	
22	subcomponents?	22	they took?	
23	A. Yes. In a way. We have our elections library	23	A. We may. Yes. Again, I'd have to confirm. I	
24	which handles the filing of campaign finance	24	believe there's documentation that we have	
25	documents, oaths for boards or commissions. We also	25	postelection on congressional winners. I'd have to	



<p>1 confirm what those specifically are.</p> <p>2 Q. So if you did have those, where would they be or</p> <p>3 where -- how would they be kept?</p> <p>4 A. We would have either physical or electronic</p> <p>5 copies on our -- in our division.</p> <p>6 Q. So I think you said the elections division does</p> <p>7 a lot of interacting with county -- county officials</p> <p>8 with the administration of elections. Is that the --</p> <p>9 is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. What -- generally, what are the other</p> <p>12 responsibilities of the elections division?</p> <p>13 A. Other than what I've already named?</p> <p>14 Q. Well, so you've named the components, and I</p> <p>15 guess you've named some of the things that they do.</p> <p>16 But yeah, are there other things that the elections</p> <p>17 division is responsible for that you haven't already</p> <p>18 discussed?</p> <p>19 A. I believe it was discussed earlier that we also</p> <p>20 have the contract for the voter registration database,</p> <p>21 which we work with the county clerks on quite a bit on</p> <p>22 the training of how to use the database and how to</p> <p>23 register people to vote within the system.</p> <p>24 We also train on voting equipment. We</p> <p>25 host trainings on the voter registration database.</p>	<p>Page 43</p>	<p>1 secretary of state's role in the administration of</p> <p>2 congressional elections. So I do want to talk about</p> <p>3 the redistricting process before we're done here</p> <p>4 today.</p> <p>5 But before we go back to that, let's -- I</p> <p>6 want to talk about when the districts are in place,</p> <p>7 what -- the various things that happen in the process</p> <p>8 of administering a congressional election.</p> <p>9 A. Sure.</p> <p>10 Q. So to start with, in a typical election cycle,</p> <p>11 what are the steps in the process of electing someone</p> <p>12 to represent Arkansas in the US house of</p> <p>13 representatives?</p> <p>14 A. In terms of the administration of the elections,</p> <p>15 it's a very involved, tedious process to make it</p> <p>16 happen. I'm trying to think of where to begin.</p> <p>17 Q. Well, maybe if there's a high level kind of</p> <p>18 bird's eye view you can give me to start out, that</p> <p>19 would be great. Otherwise, we can just start at the</p> <p>20 beginning.</p> <p>21 A. We'll go bird's eye view. So once an election</p> <p>22 cycle begins, the very first step in that process is</p> <p>23 for candidates to file for office. Now, before I</p> <p>24 delve into it too much, I want to make sure it's clear</p> <p>25 that in talking in terms of who files with the</p>	<p>Page 45</p>
<p>1 And just general questions on election law or election</p> <p>2 procedure.</p> <p>3 Q. And when you say you work with the counties on</p> <p>4 the voter registration database, tell me more what you</p> <p>5 mean by that. What is the division of responsibility</p> <p>6 between the counties and the secretary of state's</p> <p>7 office when it comes to voter registration?</p> <p>8 A. We simply assist and troubleshoot with issues</p> <p>9 that they may have with using the program. The county</p> <p>10 clerk is the official registrar of the voters in the</p> <p>11 county. They're the ones putting in the information,</p> <p>12 removing voters as they need to be. We never edit or</p> <p>13 touch the actual system.</p> <p>14 Q. And that's the database that you contract with</p> <p>15 the vendor to maintain for the State?</p> <p>16 A. Yes.</p> <p>17 Q. When you say "the program," you are referring to</p> <p>18 the database that you mentioned earlier?</p> <p>19 A. Yes.</p> <p>20 MR. SKOCPOL: I think we're at a good</p> <p>21 spot to take a break, if that sounds good.</p> <p>22 (Recess from 10:30 a.m. to 10:48 a.m.)</p> <p>23 Q. (By Mr. Skocpol:) So since we left off talking</p> <p>24 about -- a little bit about voter registration, I</p> <p>25 think it might make sense to next talk about the</p>	<p>Page 44</p>	<p>1 secretary of state for candidacy, we're talking</p> <p>2 federal, state, and district level offices. Okay?</p> <p>3 County level down to municipal down to school board,</p> <p>4 those documents are filed with the county clerk's</p> <p>5 offices. We don't see any of that.</p> <p>6 Q. For the county and local offices?</p> <p>7 A. Yes. Once the candidate filing period is</p> <p>8 complete and we know who is going to be on the ballot,</p> <p>9 the process of preparing the election begins. So the</p> <p>10 secretary of state is responsible for certifying the</p> <p>11 list of candidates to the local election officials, to</p> <p>12 the county clerks, to the county election commission.</p> <p>13 We are coming up on that deadline. For</p> <p>14 this election, it's actually tomorrow. So tomorrow,</p> <p>15 in a sense, we will certify the lists of candidates</p> <p>16 that have qualified to the counties. Okay? Once we</p> <p>17 certify that list --</p> <p>18 Q. When you say "tomorrow," would that be</p> <p>19 August 22nd?</p> <p>20 A. Yes. Sorry.</p> <p>21 Q. No. Great.</p> <p>22 A. Once we certify that list to the counties, they</p> <p>23 begin the process of preparing and coding the ballots</p> <p>24 for an election. That process is extremely tedious</p> <p>25 and very involved for the local election officials.</p>	<p>Page 46</p>

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<p>1 And it kind of happens in two parts.</p> <p>2 Part number one has to do with preparing</p> <p>3 ballot styles in the voter registration database.</p> <p>4 Counties, county clerks, have to go into the system</p> <p>5 and create ballot styles and assign precincts to those</p> <p>6 ballot styles based on where those precincts fall in</p> <p>7 relation to the different districts, whether it's</p> <p>8 congressional, house, state house, state senate,</p> <p>9 judicial, they have to ensure that the precincts are</p> <p>10 assigned to the correct ballot styles.</p> <p>11 Q. Let me -- when you say "precincts," what do you</p> <p>12 mean by precincts?</p> <p>13 A. An election precinct is a geographic area that</p> <p>14 encompasses different districts in the state. For</p> <p>15 example, the -- I'm not sure what districts I'm in.</p> <p>16 But my home is in an election precinct. Because of</p> <p>17 that, my ballot style is going to be unique in terms</p> <p>18 of what I get to vote on. Okay?</p> <p>19 If you take the congressional map and lay</p> <p>20 it on top of a Google map and then you take the state</p> <p>21 house map and lay it on top of that, you take the</p> <p>22 state senate map and lay it on top of that, and you</p> <p>23 continue on with all the different political</p> <p>24 subdivisions of the state, you end with not only</p> <p>25 district boundary lines everywhere, but you end up</p>	<p>1 style.</p> <p>2 Q. When you say ideally, has that ever happened or</p> <p>3 could that ever happen? Let me ask you, has that ever</p> <p>4 happened?</p> <p>5 A. Have -- is your question, have voters received</p> <p>6 the wrong ballot style based on their election</p> <p>7 precinct?</p> <p>8 Q. No. That a precinct would have two different</p> <p>9 ballot styles within it.</p> <p>10 A. Technically, no. No, sir. Not -- if it's all</p> <p>11 done correctly and properly, no. There should be one</p> <p>12 ballot style per precinct.</p> <p>13 Q. You are giving me a high level overview, so let</p> <p>14 me -- maybe we can come back to this. But so you were</p> <p>15 saying there are sort of two steps in the process</p> <p>16 of -- did you -- would you say coding the ballots?</p> <p>17 A. Coding the ballots is step two, yes.</p> <p>18 Q. So I think you were talking about creating the</p> <p>19 ballot styles. Maybe pick up with coding the ballots.</p> <p>20 A. Sure. So phase two is the coding and</p> <p>21 preparation of the ballots. That is a process of the</p> <p>22 local election officials using a vendor-provided</p> <p>23 software to enter in the different ballot styles and</p> <p>24 races for the coding of the election. That, in turn,</p> <p>25 will determine the ballot styles, the layout of the</p>
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<p>1 with a bird's eye view of all the different election</p> <p>2 precincts in Arkansas.</p> <p>3 Because I get to vote on a certain race</p> <p>4 that my neighbor 10 miles from me doesn't get to vote</p> <p>5 on simply means that he is in a different political</p> <p>6 subdivision, a different district boundary than me.</p> <p>7 Therefore, my precinct is different than his.</p> <p>8 So in a nutshell, a precinct is going to</p> <p>9 determine what races are going to be on my ballot, on</p> <p>10 my ballot style. Does that make sense?</p> <p>11 Q. I think it does. Let me make sure I'm</p> <p>12 understanding. A precinct is a group -- are you</p> <p>13 saying that a precinct is a group of voters who would</p> <p>14 all have the same combination of races that they're</p> <p>15 voting for?</p> <p>16 A. I think that's fair to say, yes. A precinct is</p> <p>17 a geographic area, and whoever is within that</p> <p>18 geographic area will receive the same ballot style.</p> <p>19 Q. Would that ever not be the case? Would you ever</p> <p>20 have two different voters in the same precinct getting</p> <p>21 different ballot styles?</p> <p>22 A. Ideally no. Not ideally because if the precinct</p> <p>23 assignments are correct and in relation to what ballot</p> <p>24 style they are assigned to, the people within an</p> <p>25 election precinct should all have the same ballot</p>	<p>1 ballots in what's called election media, which is</p> <p>2 defined as the encrypted as the USB flash drives and</p> <p>3 reporting keys that our vendor, Election Systems &amp;</p> <p>4 Software, will send back to the counties for testing</p> <p>5 and approval.</p> <p>6 Q. When you -- when you say coding, when you talk</p> <p>7 about coding ballots, election media on flash drives,</p> <p>8 does Arkansas use electronic voting or are there -- I</p> <p>9 think I might be hearing you say that Arkansas uses</p> <p>10 electronic voting. So when you say a ballot, is it</p> <p>11 something that appears on a screen or are there</p> <p>12 physical paper ballots as well?</p> <p>13 A. I can explain. We have a hybrid. We have</p> <p>14 absentee balloting. We have absentee voting in</p> <p>15 Arkansas where a absentee voter can request a</p> <p>16 preprinted paper ballot be sent to them under certain</p> <p>17 reasons.</p> <p>18 But in terms of actual voting, we do</p> <p>19 utilize electronic voting equipment. When a voter</p> <p>20 comes to the polls to vote, they are checked in on</p> <p>21 electronic poll book usually, and they are giving --</p> <p>22 they are given a blank ballot card, more or less.</p> <p>23 That ballot card is fed into the ballot-marking</p> <p>24 device, where the ballot style of that voter is</p> <p>25 populated based on what precinct they're in, where</p>

<p>Page 51</p> <p>1 they are allowed to make their choices for their races 2 on a touch screen.</p> <p>3       Once their choices are made, they -- the 4 choices are printed on that ballot. That ballot is 5 then exported out of the machine and given back to the 6 voter, where the voter can review their choices and 7 then cast their ballots in a ballot tabulator.</p> <p>8 Q. Got it. Thank you. That's a helpful overview. 9 So I broke your flow a little bit. But you were 10 walking me, at a high level, through the steps in the 11 process. You were talking about the preparation of 12 the ballots.</p> <p>13       Is there anything else to finish up about 14 getting from the beginning to the end of the 15 congressional -- of an election specifically for 16 congress?</p> <p>17 A. There is a lot of proofing and testing that also 18 takes place through that process. It's not simply a 19 matter of setting and forgetting it necessarily. 20 They -- the local election officials will test the 21 information that they have created in the voter 22 registration database and in the coding.</p> <p>23       There's actually a state law that requires 24 the local election officials to conduct what's called 25 logic and accuracy testing, where they are given their</p>	<p>Page 53</p> <p>1 account that Arkansas is an open primary state. 2 Therefore, the coding changes a little bit in order to 3 afford voters the option to be able to vote a 4 Democratic, Republican, or nonpartisan ballot in the 5 primary. But other than that, the setup and 6 everything else is more or less identical.</p> <p>7 Q. All right. So I guess since you mentioned that 8 Arkansas is an open primary state, can you -- what 9 does that mean?</p> <p>10 A. A voter does not have to affiliate with a 11 political party in order to vote in a party primary. 12 For example, I am not affiliated with a party on my 13 voter registration. I have the ability or the 14 opportunity to vote a Democratic ballot, a Republican 15 ballot, or a nonpartisan ballot in a primary.</p> <p>16       If -- for instance, but I'm not, 17 considered or registered a Democrat in the voter 18 registration system, I affiliate with the Democratic 19 party. I could even still vote a Republican ballot in 20 the preferential primary in Arkansas.</p> <p>21 Q. So any voter, when you have a primary for a 22 partisan office -- when you have a primary for the 23 house of representatives, any voter can choose which 24 party's primary they prefer to vote in?</p> <p>25 A. That is correct, yes.</p>
<p>Page 52</p> <p>1 election media from the vendor and they load it into 2 the ballot-marking devices, the ballot tabulators, to 3 test and ensure that, two things, the ballot style 4 layout and precinct assignment is correct and that the 5 ballot tabulator is correctly tabulating votes. So 6 there's a very involved process of proofing, testing, 7 and setting up before an election is conducted.</p> <p>8 Q. And then there's the voting. The election is 9 conducted and then there's some -- we can get into the 10 details later. But after that, there would be some 11 process of counting the votes and determining a 12 winner?</p> <p>13 A. Correct.</p> <p>14 Q. Now, again, in a typical election cycle for the 15 US house of representatives, would there be a primary 16 election and a general election?</p> <p>17 A. Yes.</p> <p>18 Q. And the process you just described would be -- 19 would that apply to both of those?</p> <p>20 A. Yes, it would.</p> <p>21 Q. Are there any differences in a process you just 22 described as it relates to a primary election or a 23 general election?</p> <p>24 A. In terms of preparation, coding, and setup, 25 there are minor differences in terms of taking into</p>	<p>Page 54</p> <p>1 Q. And just to be clear, for the US house of 2 representatives, so there would be -- that is a 3 partisan office, so there would be partisan primaries?</p> <p>4 A. If more than one candidate for a partisan office 5 filed. For instance, if two Republicans filed, yes. 6 That would trigger a preferential primary for that 7 race.</p> <p>8 Q. What if only one candidate -- or what if only 9 one candidate files in the party?</p> <p>10 A. Then they would run unopposed in the primary 11 election and their name would be placed on the general 12 election ballot.</p> <p>13 Q. And what other offices -- let me ask this more 14 clearly.</p> <p>15       Are there any offices that the secretary 16 of state's office administers elections for that don't 17 have party primaries?</p> <p>18 A. Yes.</p> <p>19 Q. Which are those?</p> <p>20 A. Those would be the nonpartisan judicial offices, 21 such as state supreme court justices, court of 22 appeals, circuit judges, district judges, and 23 prosecuting attorneys.</p> <p>24 Q. But for any other office, you could have a party 25 primary if there were multiple candidates from the</p>

<p>Page 55</p> <p>1 same party?</p> <p>2 A. That is correct.</p> <p>3 Q. Would that include statewide offices?</p> <p>4 A. Correct.</p> <p>5 Q. Other than the nonpartisan judicial offices that</p> <p>6 you mentioned?</p> <p>7 A. Correct. Yes.</p> <p>8 Q. All right. And we can get into some of the</p> <p>9 specifics of the process. But generally, at a high</p> <p>10 level in that process you described, what is the</p> <p>11 secretary of state's office's role in that process as</p> <p>12 opposed to the county officials?</p> <p>13 A. We oversee and assist the local election</p> <p>14 officials with any election deadlines, election</p> <p>15 procedures, troubleshooting with voting equipment,</p> <p>16 troubleshooting with the voter registration database,</p> <p>17 questions on election law, election procedure. We</p> <p>18 maintain a good relationship with the local election</p> <p>19 officials and make sure that they have everything that</p> <p>20 they need.</p> <p>21 Q. Okay. Anything else that -- any other role that</p> <p>22 the secretary of state's office has in the process?</p> <p>23 A. None that come to mind.</p> <p>24 Q. How about on the -- after the vote -- after</p> <p>25 votes have been cast, how about in the process of</p>	<p>Page 57</p> <p>1 such a way where, for instance, all counties that are</p> <p>2 involved with Congressional District 1 can upload</p> <p>3 their results at the county level to us, but it will</p> <p>4 aggregate and compile all results from all counties</p> <p>5 into the one race. So we are able to pool all of</p> <p>6 those files into one race into one total.</p> <p>7 Q. Okay. And you referred to what you've just been</p> <p>8 describing as the election night results or the</p> <p>9 unofficial results. That -- does that mean there are</p> <p>10 official results that are different than from the</p> <p>11 process you are just describing?</p> <p>12 A. The official results will come whenever the</p> <p>13 counties certify at the local level. They will still</p> <p>14 potentially have professional ballots that need to be</p> <p>15 counted and uploaded to us.</p> <p>16 They may also still have potential UOCAVA</p> <p>17 ballots, U-O-C-A-V-A, which is military overseas</p> <p>18 citizens ballots that have not been received by the</p> <p>19 county clerk's office yet. So the results are</p> <p>20 preliminary and unofficial until the county election</p> <p>21 commission certifies their results --</p> <p>22 Q. And --</p> <p>23 A. -- later on in the process. I'm sorry.</p> <p>24 Q. No. No. Please. I didn't mean to --</p> <p>25 A. Yeah.</p>
<p>Page 56</p> <p>1 counting the votes and determining a winner?</p> <p>2 A. Sure. So the secretary of state has a vendor --</p> <p>3 contracts with a vendor that provides us with election</p> <p>4 night reporting software. I personally am in charge</p> <p>5 of the building and setup of our election night</p> <p>6 reporting site for any state level election. That</p> <p>7 more or less encompasses on the election night the</p> <p>8 counties must upload their results to the secretary of</p> <p>9 state. They're unofficial. They're preliminary.</p> <p>10 But they're required to upload them, I</p> <p>11 believe, within 24 hours of polls close. So our</p> <p>12 office is very involved with ensuring that counties</p> <p>13 are doing that, assisting them in making sure they</p> <p>14 understand how to do that. So we do play an</p> <p>15 administrative part in tallying or uploading election</p> <p>16 results from the counties.</p> <p>17 Q. And when you say "in tallying or uploading," so</p> <p>18 for a congressional office, that would be an election</p> <p>19 that spans multiple counties, correct?</p> <p>20 A. Yes.</p> <p>21 Q. So would you be aggregating the results that you</p> <p>22 are getting from the counties?</p> <p>23 A. That is correct. Yes. In the building, in the</p> <p>24 rules -- excuse me. In the building and the</p> <p>25 configuration of our site, we test and we set it up in</p>	<p>Page 58</p> <p>1 Q. So what role does the secretary of state have</p> <p>2 with respect to those official certified results?</p> <p>3 A. Once the election results are certified, the</p> <p>4 counties will send us an abstract of ballots cast for</p> <p>5 recordkeeping. We also will issue certificates of</p> <p>6 election to the state and district elected officials</p> <p>7 after the results are certified.</p> <p>8 Q. So it's fair to say, again, for maybe just</p> <p>9 focusing on election for the US house of</p> <p>10 representatives, that's an election where a district</p> <p>11 would span multiple counties. So is it fair to say</p> <p>12 that the secretary of state is aggregating those</p> <p>13 official results from the different counties within</p> <p>14 its congressional district?</p> <p>15 A. Yes. Electronically, those results are</p> <p>16 aggregated.</p> <p>17 Q. And you said issuing a certificate of elections.</p> <p>18 Is it fair to say that it's the secretary of state who</p> <p>19 looks at all those -- who, after combining all those</p> <p>20 official results, determines who won the election?</p> <p>21 A. Yes.</p> <p>22 Q. Now, we just described a typical process. Does</p> <p>23 your office ever -- is your office ever involved in</p> <p>24 the conduct of a special election?</p> <p>25 A. Only at the federal, state, or district level.</p>



<div>Page 59</div> <div><div>1 Q. When you say "only at the federal, state, or</div><div>2 district level," what do you mean? Or what doesn't</div><div>3 that include?</div><div>4 A. We're heavily involved with the special election</div><div>5 as if it were a normal, regularly-scheduled election.</div><div>6 We assist with deadlines. We assist with, you know,</div><div>7 training procedure questions. And for one of those</div><div>8 types of elections, we will also have our election</div><div>9 night reporting solution available for counties to</div><div>10 upload their results.</div><div>11 Q. And you could have a special election for -- is</div><div>12 it state or federal offices?</div><div>13 A. Yes. I don't know what the legality is on a</div><div>14 federal special election. But for state level,</div><div>15 district level, absolutely. Yes.</div><div>16 Q. Has there ever been a special election for a</div><div>17 federal office in Arkansas?</div><div>18 A. I'm not sure.</div><div>19 Q. You're not sure whether there has been one or</div><div>20 not?</div><div>21 A. I'm not sure whether there has been a federal</div><div>22 special election in Arkansas.</div><div>23 Q. But you're not aware of any reason why there</div><div>24 couldn't be?</div><div>25 A. Correct.</div></div>	<div>Page 61</div> <div><div>1 add, edit, or take away any information from the</div><div>2 database itself.</div><div>3 Q. Again, you're aggregating data that you're</div><div>4 getting from the counties?</div><div>5 A. Yes. In terms of the voter registration</div><div>6 database, yes. We do have the ability to run reports</div><div>7 and look at voter registration statistics on a state</div><div>8 aggregated level.</div><div>9 Q. You mentioned the secretary of state holds the</div><div>10 contract for the voter registration database. Who is</div><div>11 the contractor of that database?</div><div>12 A. Election Systems &amp; Software.</div><div>13 Q. And what information would that database contain</div><div>14 about each registered voter?</div><div>15 A. Name; date of birth; residential address;</div><div>16 mailing address; political party affiliation, if any;</div><div>17 precinct or precinct part; vote history.</div><div>18 Some other items that are confidential and</div><div>19 protected under law: Driver's license number, last</div><div>20 four of Social Security number, and how the individual</div><div>21 registered to vote.</div><div>22 Q. I'll come back to a couple of those things, make</div><div>23 sure I have that. Are there any other information in</div><div>24 the database other than what you just listed?</div><div>25 A. I think that about covers it.</div></div>
<div>Page 60</div> <div><div>1 Q. If you did have to -- when you do have to hold a</div><div>2 special election, is there -- how would that differ</div><div>3 from a typical election cycle?</div><div>4 A. For a special election, the deadlines are very</div><div>5 much more advanced. They are -- it's a quicker time</div><div>6 table. The counties need to adhere to a quicker time</div><div>7 table to turn around the preparation, coding, and</div><div>8 testing of their election media and ballot styles.</div><div>9 Q. But when there have been special elections, it's</div><div>10 been possible to have that quicker timetable?</div><div>11 A. Yes.</div><div>12 Q. So we've talked some about voter registration,</div><div>13 the voter registration database. So I want to talk a</div><div>14 little bit more about the process of registering</div><div>15 voters and the information that's maintained about</div><div>16 registered voters.</div><div>17 So specifically in maintaining the voter</div><div>18 registration roles, what is the secretary of state's</div><div>19 role and what is the county's role?</div><div>20 A. As previously stated, we hold the contract for</div><div>21 the voter registration database that's used across all</div><div>22 75 counties. The county clerks are the official</div><div>23 registrars for their voters. They're adding,</div><div>24 changing, and removing voters nearly every day in</div><div>25 every county. But the secretary of state does not</div></div>	<div>Page 62</div> <div><div>1 Q. And is that data that's collected from the voter</div><div>2 when they registered to vote on their voter</div><div>3 registration form?</div><div>4 A. Yeah. The majority of what I just gave you was</div><div>5 information that is collected and data entered via the</div><div>6 voter registration application. The precinct and</div><div>7 precinct part, vote history, that information comes as</div><div>8 a result of where their geographic location is and the</div><div>9 history of them voting throughout their time as a</div><div>10 registered voter. So most of that, yes, will come</div><div>11 from the application itself.</div><div>12 Q. Got it. So the information in the database</div><div>13 would come from the registration application except</div><div>14 for what precinct or precinct part they're associated</div><div>15 with and their vote history. Are there any other --</div><div>16 is there any other parts of the database that are</div><div>17 collected not on the voter registration form?</div><div>18 A. Not off the top of my head. I think that's</div><div>19 about it.</div><div>20 Q. And is there data that is collected</div><div>21 systematically on registered voters that wouldn't be</div><div>22 reflected in that -- the registration database that</div><div>23 you just mentioned?</div><div>24 A. I don't believe so. Not at the secretary of</div><div>25 state's office anyway.</div></div>

<div>Page 63</div> <div><div>1</div><div>Q. I think -- well, just to close that up, when you</div><div>2</div><div>say "vote history," what do you mean? What</div><div>3</div><div>information do you have about a registered voter's</div><div>4</div><div>vote history?</div><div>5</div><div>A. Vote history is kept and maintained for every</div><div>6</div><div>registered voter in the state. When they voted, what</div><div>7</div><div>election they voted in, where their polling place was,</div><div>8</div><div>or whether or not they voted absentee.</div><div>9</div><div>And if it's a preferential primary, what</div><div>10</div><div>party ballot did they choose, Democrat, Republican,</div><div>11</div><div>nonpartisan. How somebody voted, who somebody voted</div><div>12</div><div>for, obviously, none of that is ever kept or even</div><div>13</div><div>maintained or even obtainable.</div><div>14</div><div>(Exhibit 2 marked for identification.)</div><div>15</div><div>Q. All right. So I think I'd like to mark as</div><div>16</div><div>Exhibit 2 this document. Do you recognize this</div><div>17</div><div>document?</div><div>18</div><div>A. Yes.</div><div>19</div><div>Q. What is it?</div><div>20</div><div>A. This is the Arkansas voter registration</div><div>21</div><div>application.</div><div>22</div><div>Q. Would it appear to be the current Arkansas voter</div><div>23</div><div>registration application?</div><div>24</div><div>A. Unfortunately, it is not. We have a 2023</div><div>25</div><div>revision. This is an older revision of the document.</div></div>	<div>Page 65</div> <div><div>1</div><div>Q. So you mentioned that database would have name,</div><div>2</div><div>date of birth, address information. Are those</div><div>3</div><div>reflected in boxes 1, 2, 3, and 4 here?</div><div>4</div><div>A. Yes.</div><div>5</div><div>Q. And is that at the top of the first page?</div><div>6</div><div>A. Yes.</div><div>7</div><div>Q. Boxes -- if you compare those four boxes to</div><div>8</div><div>boxes 5, 6, and 7, do you see where -- do boxes 5, 6,</div><div>9</div><div>and 7 say "optional" in parentheses?</div><div>10</div><div>A. Yes.</div><div>11</div><div>Q. But boxes 1, 2, 3, and 4 do not?</div><div>12</div><div>A. Correct.</div><div>13</div><div>Q. And, in fact, are boxes 5, 6, and 7 the only</div><div>14</div><div>boxes on this document that are marked -- that say</div><div>15</div><div>optional?</div><div>16</div><div>A. Yes.</div><div>17</div><div>Q. And what are boxes 5, 6, and 7 on this one?</div><div>18</div><div>A. Box 5 asks for the home and work phone numbers.</div><div>19</div><div>Box 6 asks for party affiliation. Box 5 asks for</div><div>20</div><div>email address.</div><div>21</div><div>Q. What does that mean when it says optional?</div><div>22</div><div>A. It means it's not required to be completed in</div><div>23</div><div>order to register to vote.</div><div>24</div><div>Q. So the voter could fill out these forms leaving</div><div>25</div><div>any or all of boxes 5, 6, and 7 completely blank and</div></div>
<div>Page 64</div> <div><div>1</div><div>Q. Can you tell from looking at it what -- when</div><div>2</div><div>this would have been? When would this have been the</div><div>3</div><div>voter registration application that was in use?</div><div>4</div><div>A. At the time of the 2019 through 2022 time</div><div>5</div><div>period.</div><div>6</div><div>Q. When you say the "2019 time period," are you</div><div>7</div><div>seeing a date on this document that looks like that?</div><div>8</div><div>A. Yes. There's a revision date of January 24th of</div><div>9</div><div>2019.</div><div>10</div><div>Q. Is that in the upper right corner of the first</div><div>11</div><div>page?</div><div>12</div><div>A. Yes.</div><div>13</div><div>Q. And you think this document would be in effect</div><div>14</div><div>through 2022?</div><div>15</div><div>A. I believe it was. I think our most recent</div><div>16</div><div>update was in 2023. I don't believe there was an</div><div>17</div><div>update between this one and our 2023 revision.</div><div>18</div><div>Q. But that's your best recollection; that's not</div><div>19</div><div>reflected on the document here?</div><div>20</div><div>A. Yes.</div><div>21</div><div>Q. So this reflects the information that would have</div><div>22</div><div>been collected and included in the voter registration</div><div>23</div><div>database you are talking about in the years 2020 and</div><div>24</div><div>2021?</div><div>25</div><div>A. Yes.</div></div>	<div>Page 66</div> <div><div>1</div><div>they would still be registered to vote and included in</div><div>2</div><div>the voter registration database?</div><div>3</div><div>A. Correct.</div><div>4</div><div>Q. So earlier, when you said that the database</div><div>5</div><div>would contain information about party affiliation, I</div><div>6</div><div>believe you said "if any"; is that correct?</div><div>7</div><div>A. That is correct.</div><div>8</div><div>Q. You were referring to the fact that it's</div><div>9</div><div>optional to complete that portion of the voter</div><div>10</div><div>registration form?</div><div>11</div><div>A. Correct.</div><div>12</div><div>Q. And is that portion of the voter registration</div><div>13</div><div>form, does it -- are there any -- any sort of multiple</div><div>14</div><div>choice options provided there or is that a free</div><div>15</div><div>form -- is that a free response field?</div><div>16</div><div>A. Are you referring to a particular box on here?</div><div>17</div><div>Q. Yes. Sorry. I'm talking about box 6, party</div><div>18</div><div>affiliation?</div><div>19</div><div>A. No. It's free form. No options to select. The</div><div>20</div><div>voter would have to manually write in their party</div><div>21</div><div>affiliation.</div><div>22</div><div>Q. Do you -- well, why does the form ask for party</div><div>23</div><div>affiliation?</div><div>24</div><div>A. I believe it's required under Amendment 51 to</div><div>25</div><div>appear on the form. Amendment 51 of the Arkansas</div></div>

	Page 67		Page 69
<p>1 constitution.</p> <p>2 Q. So Amendment 51 is a provision of the Arkansas</p> <p>3 constitution that requires party affiliation</p> <p>4 information to be collected on the voter registration</p> <p>5 form?</p> <p>6 A. I'm not an attorney, but I believe, if I recall</p> <p>7 correctly, yes. I believe it talks about the required</p> <p>8 fields to be on the form, and party affiliation is one</p> <p>9 of them.</p> <p>10 Q. Well, when -- how is the information that's</p> <p>11 collected about party affiliation on the voter</p> <p>12 registration form used by the secretary of state's</p> <p>13 office, if at all?</p> <p>14 A. As mentioned before, the secretary of state does</p> <p>15 have the ability to compile reports, you know, at the</p> <p>16 statewide level of things, and we can see how many</p> <p>17 registered voters we have that have a political party</p> <p>18 affiliation. But other than that, we don't look at</p> <p>19 much else than that.</p> <p>20 Q. So you could run a report that would let you see</p> <p>21 what information has been provided in that field, but</p> <p>22 you -- other than that, do you use that information</p> <p>23 for any purpose?</p> <p>24 A. Not to my knowledge, no.</p> <p>25 Q. And do you know what percentage of voters tend</p>		<p>1 A. Yes, they can. They do not have to be</p> <p>2 affiliated with a political party on their voter</p> <p>3 registration information in order to publicly support</p> <p>4 a party. That's not required in Arkansas.</p> <p>5 Q. So the information that -- whether someone</p> <p>6 provides a response here doesn't necessarily reflect</p> <p>7 whether they have some preference for a political</p> <p>8 party in how they actually vote or conduct their</p> <p>9 lives?</p> <p>10 A. That is correct. Yes.</p> <p>11 Q. Do you know whether voters of -- do you know</p> <p>12 whether the likelihood of a voter filling out that</p> <p>13 field, like, vary in different parts of the state, for</p> <p>14 example?</p> <p>15 A. I do not know.</p> <p>16 Q. Whether it might be varied by a voter's</p> <p>17 political party preference?</p> <p>18 A. I do not know.</p> <p>19 Q. In your experience, is there any type of voter</p> <p>20 who is more likely than others to fill out that field,</p> <p>21 box 6?</p> <p>22 A. Not in my experience, no.</p> <p>23 Q. Would your experience allow you to say with</p> <p>24 confidence whether there's a particular voter, type of</p> <p>25 voter, who is more or less likely to fill out that</p>	
	Page 68		Page 70
<p>1 to fill out box 6, provide some kind of party</p> <p>2 affiliation on their form?</p> <p>3 A. We have about -- over 80 percent of voters are</p> <p>4 not affiliated with a political party in Arkansas. So</p> <p>5 less than 20 percent are affiliated with a political</p> <p>6 party.</p> <p>7 Q. And when you say 80 percent are not affiliated</p> <p>8 with a political party and 20 percent are, you're</p> <p>9 talking about 20 percent would have something in this</p> <p>10 field in the voter registration database?</p> <p>11 A. Correct.</p> <p>12 Q. And 80 percent would have no information in this</p> <p>13 field in the voter registration database?</p> <p>14 A. Correct.</p> <p>15 Q. If someone doesn't provide this information,</p> <p>16 does that mean they don't affiliate with a particular</p> <p>17 party?</p> <p>18 A. Correct. If this -- if box 6 is left blank, by</p> <p>19 default, that voter will not be affiliated with a</p> <p>20 local party on their registered record.</p> <p>21 Q. Let me ask the question a little differently.</p> <p>22 Could someone identify as a member of a political</p> <p>23 party or support a political party and leave this</p> <p>24 blank so that they wouldn't -- and leave this form</p> <p>25 blank? This box blank. Excuse me.</p>		<p>1 field?</p> <p>2 MS. CRYER: I am going to object to the</p> <p>3 form. You can answer.</p> <p>4 MR. SKOCPOL: I'll rephrase that one.</p> <p>5 Q. Do you know whether a certain type of voter, a</p> <p>6 certain category of voter, might be more likely to</p> <p>7 fill out that form than a different type of voter?</p> <p>8 MS. CRYER: Same objection. You can</p> <p>9 answer.</p> <p>10 A. My understanding would be that people who</p> <p>11 affiliate on their voter registration with a</p> <p>12 particular party are ones that are going to be more</p> <p>13 on either end of the spectrum, whether they're</p> <p>14 extremely left-leaning or extremely right-leaning</p> <p>15 because while it's not a required field, they want to</p> <p>16 be known and affiliated with whichever party of their</p> <p>17 choosing.</p> <p>18 So seeing the statistics and knowing that</p> <p>19 it's not an option, I feel like the 20 percent of</p> <p>20 those that are affiliated are ones that want to be</p> <p>21 known as a Democrat or a Republican.</p> <p>22 Q. But that's your kind of personal supposition</p> <p>23 about that, that the secretary of state's office --</p> <p>24 has the secretary of state's office conducted any kind</p> <p>25 of study to support what you just said?</p>	

<p>Page 71</p> <p>1 A. No.</p> <p>2 Q. So that is sort of your personal reasoning about</p> <p>3 what might be likely to happen?</p> <p>4 A. Yes.</p> <p>5 MS. CRYER: Objection to form. You can</p> <p>6 answer.</p> <p>7 A. That would be fair, yes. Just looking at</p> <p>8 statistics and knowing that it's not an option would</p> <p>9 probably be more of my personal supposition.</p> <p>10 Q. Just some other -- to quickly go through some</p> <p>11 other information that appears to be collected on this</p> <p>12 form. Does box 8 require voters to identify whether</p> <p>13 they have ever voted in a federal election in this</p> <p>14 state?</p> <p>15 A. It asks the question and allows them to check</p> <p>16 yes or no. But I don't believe that would be a reason</p> <p>17 to consider it a complete -- incomplete form if either</p> <p>18 of those boxes is not checked.</p> <p>19 Q. So box 8, a voter could not check either box and</p> <p>20 they would still be registered and allowed to vote</p> <p>21 based on that registration?</p> <p>22 A. I have never seen an application or heard of an</p> <p>23 application being considered incomplete based on the</p> <p>24 failure of the voter -- potential voter to check yes</p> <p>25 or no to box 8.</p>	<p>Page 73</p> <p>1 be included in the voter registration database?</p> <p>2 A. I don't believe that's included. This is a</p> <p>3 simple matter of whether or not this person can be</p> <p>4 registered to vote in relation to their responses to</p> <p>5 these questions. So their responses are not recorded,</p> <p>6 but they are a determining factor as to whether or not</p> <p>7 the clerk can proceed with registering them to vote.</p> <p>8 Q. What about information about a voter's race, is</p> <p>9 that information collected?</p> <p>10 A. No.</p> <p>11 Q. That's not something that the voter is asked to</p> <p>12 provide on -- when they registered to vote?</p> <p>13 A. Correct.</p> <p>14 Q. Has that ever been information -- you mentioned</p> <p>15 this is just one version of the form. Has that</p> <p>16 ever -- has that information ever been collected?</p> <p>17 A. Not to my knowledge.</p> <p>18 Q. Is that information -- outside of the voter</p> <p>19 registration application, is that information about</p> <p>20 voters by the secretary of state's office some other</p> <p>21 way?</p> <p>22 A. No.</p> <p>23 Q. Or by the county clerks?</p> <p>24 A. Not that I'm aware of, no.</p> <p>25 Q. Are you aware of anyone who collects that</p>
<p>Page 72</p> <p>1 Q. And why is that information collected?</p> <p>2 A. I do not know.</p> <p>3 Q. Box 9 asks for ID number. So is that the</p> <p>4 driver's license or last four digits of the Social</p> <p>5 Security number that you mentioned would be in the --</p> <p>6 is that correct, that box 9 asks for identification</p> <p>7 information?</p> <p>8 A. Yes.</p> <p>9 Q. And is that the driver's license or Social</p> <p>10 Security number information that you mentioned earlier</p> <p>11 would be in the database?</p> <p>12 A. Yes.</p> <p>13 Q. What information is asked of the voter in box</p> <p>14 10?</p> <p>15 A. There are four questions. Question 1, are you a</p> <p>16 citizen of the United States of America and an</p> <p>17 Arkansas resident, yes or no. Question 2, will you be</p> <p>18 18 years of age or older on or before election day,</p> <p>19 yes or no.</p> <p>20 Question 3, are you presently adjudged</p> <p>21 mentally incompetent by a court of competent</p> <p>22 jurisdiction, yes or no. Question 4, have you ever</p> <p>23 been convicted of a felony without your sentence</p> <p>24 having been discharged or pardoned, yes or no.</p> <p>25 Q. And would the information collected in that box</p>	<p>Page 74</p> <p>1 information about voters -- registered voters in</p> <p>2 Arkansas systematically?</p> <p>3 A. Not that I'm aware of, no.</p> <p>4 Q. So you mentioned this form was changed, you</p> <p>5 think, in 2022 or 2023?</p> <p>6 A. Yes.</p> <p>7 Q. What changes would have been made to the form</p> <p>8 since this one was in effect?</p> <p>9 A. I believe the verbiage in the identification</p> <p>10 requirements box in the bottom right corner was</p> <p>11 updated, in addition to the deadline information on</p> <p>12 the back of the application, to add a statement</p> <p>13 concerning whether or not the individual's application</p> <p>14 was being obtained by a third party that was in</p> <p>15 compliance with a law change in 2023.</p> <p>16 Q. Okay. So there hasn't been any change made to</p> <p>17 boxes 1 through 11 on the top half of the first page</p> <p>18 since this form was in effect?</p> <p>19 A. That is correct. Yes.</p> <p>20 Q. Do you know when any of those fields were last</p> <p>21 changed or when an update was last made to boxes 1</p> <p>22 through 11?</p> <p>23 A. I'm not sure.</p> <p>24 Q. Do you know what change would have been made</p> <p>25 when this form was adopted in 2019?</p>



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1 A. I do not recall. I was on staff, but I don't  
2 remember what the change was. But it would have been  
3 as a result of any law changes.  
4 Q. Any -- so you say it probably would have been  
5 based on law changes. The constitutional provision  
6 that you said you think is the reason box 6 is on  
7 there asking for party affiliation, has that law  
8 changed since you've been at the secretary of state's  
9 office?  
10 A. Yes, it has.  
11 Q. What was that change -- or tell me what changes  
12 you're aware of in that law.  
13 A. The only one that comes to mind, but I know it's  
14 not the only one, was the addition of the verification  
15 of voter registration, more or less photo ID whenever  
16 you are voting. Amendment 51, I believe, has been  
17 updated several times over the years. And the state  
18 legislature does have the authority to update, as they  
19 see fit, that amendment. Other than that, I don't  
20 recall any other specific changes.  
21 Q. So that amendment specifies all the information  
22 that needs to be collected on the registration form?  
23 A. I believe that is the case. Yes. I believe  
24 it's all encompassed in Amendment 51.  
25 Q. And so since when has the party affiliation box

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1 been on this form?  
2 A. I do not know for sure. I believe it's always  
3 been on the form, but I can't confirm that.  
4 Q. And has it -- during -- as long as it's been on  
5 the form, has it always been optional or has that ever  
6 been a required field?  
7 A. I do not know for sure.  
8 Q. Are you aware of it ever having been a required  
9 field in the past?  
10 A. I'm not aware of it ever being required, no.  
11 Q. Are you aware of any information that is now  
12 optional that used to be required?  
13 A. No.  
14 Q. Or any information that's now required that used  
15 to be optional?  
16 A. Not that I am aware of, no.  
17 MR. SKOCPOL: So you mentioned -- I'm at  
18 a topic break. I'm happy to keep going, but  
19 if you would like to take a break.  
20 MR. BRASCHER: It's really up to you.  
21 We would like to take lunch at 12:15 or  
22 12:20, if we can. So it's up to you if you  
23 want to take another break now. Josh, are  
24 you okay?  
25 THE WITNESS: I'm good.

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1 MR. BRASCHER: So it's up to you, if you  
2 want to power through up to then.  
3 MR. SKOCPOL: Let's keep going to 12:15  
4 or 12:20. Is that okay with you?  
5 MS. CRYER: Uh-huh. Thank you.  
6 MR. BRASCHER: Okay with you, Tammie?  
7 THE COURT REPORTER: I'm good. Thank  
8 you.  
9 MR. SKOCPOL: I'll try to keep an eye on  
10 the clock. But if you'll let me know if  
11 we're getting close.  
12 MR. BRASCHER: No problem.  
13 Q. Of course, if you do need a break sooner, just  
14 let me know.  
15 A. Sure.  
16 Q. So you mentioned -- I think you said the  
17 candidate is -- the candidate filing period is the  
18 very first step in the process of conducting a  
19 congressional election; is that correct?  
20 A. More or less, yes.  
21 Q. Why more or less?  
22 A. Well, in terms of our office, that is sort of  
23 the official kickoff to the election cycle. But in  
24 terms of candidates, I mean, I know a lot of them  
25 campaign well before that, that they're running for a

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1 particular office. But the candidate filing period is  
2 really the first step in the conduct of the election.  
3 Q. That's the first step that the secretary of  
4 state's office has a role in?  
5 A. Yes.  
6 Q. When does that occur in a typical congressional  
7 election cycle?  
8 A. The candidate filing period is based off of when  
9 the date of the primary election is going to be held.  
10 In Arkansas, the date of the primary election will  
11 depend on if it's a midterm election or a presidential  
12 election. Arkansas feels the need to participate in  
13 what's called Super Tuesday during a presidential  
14 election year. So our primary is in March during  
15 presidential election years.  
16 In turn, the candidate filing period is  
17 typically held in the November time frame. It's held  
18 so many days prior to the date of the primary  
19 election.  
20 Q. I want to make sure I'm understanding. So in a  
21 presidential election year, the primaries for all  
22 offices are held in March, or just the presidential?  
23 A. All offices.  
24 Q. All offices. All right. And that would include  
25 election to congress?

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1 A. Yes.  
2 Q. And when you say "presidential election year,"  
3 do you mean, you know, so in this decade, would that  
4 be, like, occurring in 2020, 2024, 2028?  
5 A. Yes.  
6 Q. And when you said "midterms," you would be  
7 referring to elections that occur in 2022, 2026, and  
8 2030?  
9 A. Yes.  
10 Q. For a midterm, when is the candidate filing  
11 period?  
12 A. The preferential primary election is held in May  
13 of the election year, which puts the candidate filing  
14 period usually near the end of February, beginning of  
15 March of the election year.  
16 Q. So just to make sure I'm understanding this  
17 year, this is 2024, this would be a presidential  
18 election year. So the primary for congressional  
19 offices would have been in March. And you said March  
20 of 2024; is that right?  
21 A. Yes.  
22 Q. And would have -- when would the very beginning  
23 of that process have been?  
24 A. Around November of 2023.  
25 Q. So what would have happened in -- so then

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1 looking ahead to 2026, that would happen -- the  
2 primary would be in May of 2026?  
3 A. Correct.  
4 Q. And what years -- so you are describing at the  
5 beginning of the candidate filing period would be  
6 in -- when would that be?  
7 A. Usually around the end of February, beginning of  
8 March. Pending any state law changes, of course.  
9 Q. So help me understand, what is the beginning of  
10 the candidate filing period and what marks the end of  
11 the candidate filing period?  
12 A. I believe it's an eight-day period of a time  
13 where candidates for office can come to the secretary  
14 of state's office and file their required paperwork  
15 with us to have their name placed on the ballot.  
16 Q. When you say "eight-day period," there are eight  
17 days in which -- they have eight days in which to file  
18 that paperwork with your office?  
19 A. Yes.  
20 Q. And so the candidate filing deadline would be at  
21 the end of that eight-day period?  
22 A. Yes.  
23 Q. What is that -- what does that paperwork that  
24 they're required to file consist of?  
25 A. What type of candidate are you referring to?

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1 Q. For the US house of representatives.  
2 A. Okay. It's more of a legal question in nature.  
3 But what we require for a congressional candidate is a  
4 candidate information form, along with a receipt from  
5 their political party saying that they have paid any  
6 required fees in order to have their name affiliated  
7 with their political party.  
8 Q. It sounds like a pretty short form.  
9 A. Yes, it is.  
10 Q. Do you know more specifically what the deadline  
11 will be to file that form in 2026?  
12 A. I have not calculated those dates yet, so I'm  
13 not sure. Under current law, I believe the deadline  
14 may be around March the 1st of 2026, but I can't  
15 confirm that at this time.  
16 Q. When you say under current law, where would that  
17 deadline be specified?  
18 A. I believe it's specified in Arkansas Code  
19 7-7-203.  
20 Q. Has a candidate filing period always been -- has  
21 that deadline always been when you described or has  
22 that changed over time?  
23 A. It has changed over time.  
24 Q. When was the last time it changed?  
25 A. I'm not sure. I believe 2021 maybe.

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1 Q. And before that, do you have any other examples?  
2 A. I'm not sure.  
3 Q. How would -- how has it changed?  
4 A. Well, as mentioned before, the candidate filing  
5 period is based off of when the preferential primary  
6 is held. So prior to our current way of handling the  
7 dates of the primary, all of our primaries were in May  
8 of the election year.  
9 Several years ago, the legislature found  
10 it necessary to update that to where, during a  
11 presidential election year, our primary is held in  
12 March. So, like, it's changed over the course of the  
13 past 10 years probably several times.  
14 Q. Okay. And is the candidate filing deadline,  
15 does that ever have to be changed or extended for a  
16 particular election?  
17 A. It has never been changed or extended for an  
18 election cycle that I'm aware of, no.  
19 Q. You're not aware of any example of that deadline  
20 ever having to be extended?  
21 A. No.  
22 Q. Are there circumstances under which the deadline  
23 could be extended?  
24 A. Not that I'm aware of, no.  
25 Q. Is there any -- does Arkansas law provide any

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1 grounds for extending that deadline in, say, -- does  
2 Arkansas law contemplate any circumstances under which  
3 that deadline could be extended?  
4 A. In my layman opinion, no. Not that I've ever  
5 seen.  
6 Q. I guess -- well, from -- once the candidates  
7 have filed their information, what does the secretary  
8 of state's office do with that candidate filings?  
9 A. We have a candidate filing database that we  
10 place that information in that allows us to scan in  
11 those documents electronically, run exports of a list  
12 of candidates, and also certify those candidates down  
13 to the counties in time for the deadline to do that.  
14 So more or less, we enter it into our system and when  
15 the time comes, we certify that list down to the local  
16 election officials.  
17 Q. When would that time -- I think you mentioned a  
18 deadline to certify it to the election officials, the  
19 county election officials. Can you say more about  
20 when that would happen or what that deadline is?  
21 A. It differs between whether it's the list before  
22 the primary or the list before the general. It's  
23 always a particular set number of days prior to the  
24 election. I can't recall what the deadline was for  
25 the primary election in 2024. I don't know what that

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1 deadline was. But for the general election,  
2 conveniently, that deadline is August 22nd, which is  
3 tomorrow.  
4 Q. That's the deadline that's tomorrow for the  
5 general election in November?  
6 A. Correct.  
7 Q. So do math on the spot, but that's about two and  
8 a half months before the general election in this  
9 specific instance?  
10 A. Around about, yes.  
11 Q. And when was the candidate filing period for  
12 this cycle? When was the candidate filing deadline  
13 for this cycle? Excuse me.  
14 A. Sometime in November -- late November of 2023, I  
15 believe, if I recall correctly.  
16 Q. So at least nine months ago?  
17 A. Roughly.  
18 Q. But that was also for the primary. So you  
19 mentioned the -- so it's pegged to the date of the  
20 election, and it's different for a primary and a  
21 general?  
22 A. Yes.  
23 Q. Is the length of time before the election  
24 different or just there's a different general election  
25 date and a different primary election date?

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1 A. The length of time from the election to our  
2 certification deadline remains the same, I believe,  
3 going through several different cycles. Again, I'd  
4 have to look at the law. We have an election calendar  
5 that's really handy that has all these dates, but I  
6 don't have it in front of me, so --  
7 Q. So in terms of what needs to happen between the  
8 candidate filing period and that deadline to certify  
9 the candidates to the counties, are there any other,  
10 like, deadlines that have to be met in between those  
11 two?  
12 A. In terms of our office, I don't believe so.  
13 Q. So what's happening between when you get the  
14 candidate -- when all the candidates have filed and  
15 when you certify that list of candidates to the  
16 states?  
17 A. Can you rephrase that?  
18 Q. Sure.  
19 A. I'm sorry.  
20 Q. I guess for the secretary of state's office,  
21 what do you need to do -- what do you need to get done  
22 after you have the candidate filing forms in order to  
23 meet that deadline to certify candidates to the  
24 states?  
25 A. We have to put it in our database. We have to

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1 make sure that the candidates' names are spelled  
2 correctly as they wish to appear on the ballot.  
3 So there's a process of data entry,  
4 scanning in documents, and proofing, ensuring that the  
5 races they're running for, their political party  
6 affiliations, and how their name is to appear on the  
7 ballot is all correct.  
8 Q. How long does that -- anything else that you  
9 have to do in between those two deadlines?  
10 A. Not that I can think of at this time.  
11 Q. How long does the process -- how long does that  
12 process take?  
13 A. It usually takes several weeks because we want  
14 to make sure it's correct. So we have usually our  
15 election coordinators are assisting me with that  
16 making sure that everything is approved and spelled  
17 and put in the system properly and correctly.  
18 Q. Several weeks, spending all of your time on just  
19 that task for those several weeks?  
20 A. In addition to our daily roles, yes. We  
21 would -- nothing else stops, just so we can, you know,  
22 proof the list. It's --  
23 Q. And that's several weeks to do it for all the  
24 elections, all the offices that are up for election?  
25 A. All that are filed with us, yes. Federal,

<p>1 state, and district offices, yes.</p> <p>2 Q. How long would that process take just for the</p> <p>3 congressional elections, or just for an election to</p> <p>4 the -- for US house of representatives? How much time</p> <p>5 would it take to complete that process?</p> <p>6 A. Depending on the number of candidates that file,</p> <p>7 not very long seeing as how that's usually a small</p> <p>8 handful of people that file.</p> <p>9 Q. Not very long, a few hours?</p> <p>10 A. I would say probably a good week, just to make</p> <p>11 sure it's all good, proofed.</p> <p>12 Q. Could you get it done more quickly than that if</p> <p>13 you had to?</p> <p>14 A. Depends on our current state of things, what</p> <p>15 we're currently working on. That's speculative. I'm</p> <p>16 not sure.</p> <p>17 Q. I guess setting aside other stuff that you're</p> <p>18 working on, just the time that you're spending to get</p> <p>19 it done for the US house of representatives race, how</p> <p>20 much -- how many honor hours is that?</p> <p>21 MS. CRYER: Object to the form.</p> <p>22 Q. How long would that take if you -- just the</p> <p>23 amount of time you're spending to check the US house</p> <p>24 of representatives?</p> <p>25 MR. BRASCHER: Same objection. Go ahead</p>	<p>Page 87</p> <p>1 A. Yes.</p> <p>2 Q. And when you say that takes several weeks,</p> <p>3 that's for all of the elections and offices that are</p> <p>4 on the ballot?</p> <p>5 A. Yes. Correct. That's federal all the way down</p> <p>6 to municipal and school board level.</p> <p>7 Q. Have you ever had to style and code ballots more</p> <p>8 quickly than that?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Could you if you needed to?</p> <p>11 MR. BRASCHER: Object to form. Go ahead</p> <p>12 and answer.</p> <p>13 A. Seeing as how I have personally never done that</p> <p>14 entire process myself for a live election, I don't</p> <p>15 think I could accurately answer that question. That</p> <p>16 happens at the county level. The counties are the</p> <p>17 ones that run the election. We simply oversee and</p> <p>18 administer and assist as needed.</p> <p>19 Q. And I guess I should clarify, when you say</p> <p>20 several weeks, can you be any more specific than that?</p> <p>21 A. Seeing as how there are additional deadlines</p> <p>22 rolling around the corner after candidates are</p> <p>23 certified, I believe the next major deadline after</p> <p>24 certification is our Uocava ballot deadline to send</p> <p>25 absentee ballots to military and overseas citizens,</p>
<p>1 and answer.</p> <p>2 A. Several days probably. That's a hard question</p> <p>3 to answer because we've never done that. We have 3-</p> <p>4 to 400 candidates that file for various offices. We</p> <p>5 never have had just that for congressional, so --</p> <p>6 Q. Sure. I'm trying just to understand for, like,</p> <p>7 a single office, you could get it done in less than a</p> <p>8 week?</p> <p>9 A. Possibly.</p> <p>10 MR. BRASCHER: Same objection. Go ahead</p> <p>11 and answer.</p> <p>12 A. Sorry. Possibly.</p> <p>13 Q. So I think you talked -- we talked some earlier</p> <p>14 about a process of designing the ballot styles and</p> <p>15 coding the ballots. That happens after you've</p> <p>16 certified the candidate list to the states or before?</p> <p>17 A. After the list is certified to the counties.</p> <p>18 Q. How long does that process take?</p> <p>19 A. The preparation and coding of the ballots?</p> <p>20 Several weeks. Preparation, coding, proofing, testing</p> <p>21 takes several weeks, and it's a very tedious, very</p> <p>22 involved process at the county level to get done in</p> <p>23 time to administer the election.</p> <p>24 Q. When you say "at the county level," it's the</p> <p>25 counties who are primarily handling that process?</p>	<p>Page 88</p> <p>1 which is roughly a month after the deadline is</p> <p>2 certified. So they have probably about four weeks for</p> <p>3 coding and proofing.</p> <p>4 Q. And for the non-Uocava ballots, when is the</p> <p>5 deadline relative to the election?</p> <p>6 A. The coding and proofing needs to be done before</p> <p>7 the Uocava deadline. The testing --</p> <p>8 Q. For all ballots?</p> <p>9 A. Yes. For all ballots. The testing of the</p> <p>10 equipment and everything can take place after that</p> <p>11 Uocava deadline. I don't know what the deadline is to</p> <p>12 test and perform logic and accuracy testing, but that</p> <p>13 does and can happen after the Uocava deadline.</p> <p>14 Q. But all of the coding and proofing for the</p> <p>15 ballots generally, including election day ballots and</p> <p>16 regular absentee ballots, has to happen by that Uocava</p> <p>17 deadline?</p> <p>18 A. Yes. Because once ballots are sent, everything</p> <p>19 needs to be good and approved in terms of the</p> <p>20 electronic media -- electronic ballots, paper ballots,</p> <p>21 whatever the case is, because if those ballots go out,</p> <p>22 that county is locked into that particular election</p> <p>23 definition.</p> <p>24 If there is a mistake in the coding after</p> <p>25 ballots go out, that causes what we would call in the</p>
<p>215-341-3616 transcripts@everestdepo.com</p> <p>Everest Court Reporting LLC</p>	<p>Page 89</p> <p>Page 90</p> <p>Page: 27 (87 - 90)</p>



<p>Page 91</p> <p>1 election realm a reburn of their election media, which</p> <p>2 produces a new election definition.</p> <p>3 It's not ideal. It would require them to</p> <p>4 manually count any of the ballots that have gone out</p> <p>5 prior to that reburn. So our goal is to have all</p> <p>6 counties coded and approved before the Uocava</p> <p>7 deadline.</p> <p>8 Q. Which is, you said, about four weeks after the</p> <p>9 candidates are certified?</p> <p>10 A. If I recall correctly, for the upcoming</p> <p>11 election, that deadline is September 20th, 2024.</p> <p>12 Q. And where would I look to find what that</p> <p>13 deadline is?</p> <p>14 A. I think it's Arkansas Code 7-5-405. It might be</p> <p>15 406. But again, we have an election calendar that has</p> <p>16 all that information and the code citation.</p> <p>17 Q. Got it. Well, I'm impressed with how many of</p> <p>18 the code citations you were --</p> <p>19 A. They're just burned into my skull. I've worked</p> <p>20 here too long.</p> <p>21 Q. So you mentioned that sometimes, there might be</p> <p>22 an error and the ballots may have to be redone after</p> <p>23 that deadline. Is that what you were referring to</p> <p>24 when you said a reburn?</p> <p>25 A. Correct.</p>	<p>Page 93</p> <p>1 days to a couple of weeks even, if they have to</p> <p>2 reprint already preprinted absentee ballots or if</p> <p>3 they -- the county, the local election officials have</p> <p>4 to shift their election media back to the vendor to be</p> <p>5 reburned. So a lot of factors go into that.</p> <p>6 Q. Okay. But it could potentially be as quick as a</p> <p>7 few days? And the fact -- so for paper ballots, it</p> <p>8 might be longer because you would need to reprint</p> <p>9 them?</p> <p>10 A. Yes.</p> <p>11 Q. How long does the process of printing the</p> <p>12 absentee ballots take?</p> <p>13 A. I do not know for sure.</p> <p>14 Q. Is that less than a week? more than a week?</p> <p>15 A. If I had to guess, it would be more than a week.</p> <p>16 Q. Less than -- like, more than two weeks?</p> <p>17 A. I'm not sure.</p> <p>18 Q. And what needs to happen during that process of</p> <p>19 the printing?</p> <p>20 A. Well, the coding needs to be corrected. The</p> <p>21 issue needs to be corrected in the coding of the</p> <p>22 election.</p> <p>23 Q. I'm just asking about the physical printing of</p> <p>24 the ballots.</p> <p>25 A. Oh, I don't think I could answer that. That's</p>
<p>Page 92</p> <p>1 Q. Has that happened in the past?</p> <p>2 A. Yes.</p> <p>3 Q. Does it happen -- would you say that happens</p> <p>4 with some reg- -- would you say that happens</p> <p>5 regularly?</p> <p>6 MR. BRASCHER: Object to the form. Go</p> <p>7 ahead and answer.</p> <p>8 A. I don't want to say it happens regularly. It's</p> <p>9 an anomaly. I want that to be clear, that one out of</p> <p>10 seventy-five counties may have an issue with a ballot</p> <p>11 style or precinct assignment or misspelling of the</p> <p>12 name for any given election. It's not a regular</p> <p>13 occurrence or a widespread occurrence, but it does</p> <p>14 happen usually every election cycle.</p> <p>15 Q. At least once every election cycle?</p> <p>16 A. At least once, yes.</p> <p>17 Q. And when that happens, how long does it take to</p> <p>18 fix the error or recode and reproof the ballots?</p> <p>19 A. It really depends on the nature of the issue and</p> <p>20 how many ballot styles are affected, the timing of</p> <p>21 when the mistake is found, whether or not early voting</p> <p>22 has started. So it -- it's not a really -- I can't</p> <p>23 really answer that because it just depends on the</p> <p>24 situation.</p> <p>25 But it can be anywhere from a couple of</p>	<p>Page 94</p> <p>1 done by our election vendor, so I don't know the ins</p> <p>2 and outs of the actual printing of those ballots. I'm</p> <p>3 not sure.</p> <p>4 Q. But how long is the -- a typical turnaround time</p> <p>5 to print ballots?</p> <p>6 MR. BRASCHER: Object to the form. Go</p> <p>7 ahead and answer.</p> <p>8 A. I'm not sure.</p> <p>9 Q. For this process of -- I want to hopefully</p> <p>10 briefly go back through this process for -- and how it</p> <p>11 might differ for a special election. For a special</p> <p>12 election, is there a different -- would there be a</p> <p>13 different candidate filing period?</p> <p>14 A. Yes.</p> <p>15 Q. How would it be different?</p> <p>16 A. If there is a special election for an office,</p> <p>17 the governor issues a proclamation that lays out all</p> <p>18 of the different dates and deadlines and the candidate</p> <p>19 filing period, based on when this election is to be</p> <p>20 held. The timetable, as mentioned before, is</p> <p>21 extremely advanced, for lack of a better term, is a</p> <p>22 very shorter turnaround time for candidate filing, for</p> <p>23 the coding preparation of the ballots, printing of the</p> <p>24 ballots, and any other election deadlines leading up</p> <p>25 to the special election. Everything is proportionally</p>

<div>Page 95</div> <div><div>1</div><div>shrunk compared to what it would be in a normal</div><div>2</div><div>fashion.</div><div>3</div><div>Q. All of the steps in the process happen more</div><div>4</div><div>quickly for a special election?</div><div>5</div><div>A. Exactly.</div><div>6</div><div>Q. So the candidate filing period, you had</div><div>7</div><div>previously said was eight days. It might be -- it</div><div>8</div><div>would be fewer days than that potentially?</div><div>9</div><div>A. Yes. Potentially.</div><div>10</div><div>Q. What has -- how long has a candidate filing</div><div>11</div><div>period been in other special election -- in special</div><div>12</div><div>elections that you are aware of?</div><div>13</div><div>A. I don't know a specific number of days for that,</div><div>14</div><div>but it's definitely been less than what the law allows</div><div>15</div><div>for, for a normal candidate filing period.</div><div>16</div><div>Q. And maybe one way to ask this is, what's the</div><div>17</div><div>shortest -- like, from start to finish, what's the</div><div>18</div><div>shortest time frame you've seen between a candidate</div><div>19</div><div>filing deadline and a special election?</div><div>20</div><div>A. I'm not sure.</div><div>21</div><div>Q. Are we talking a matter of weeks?</div><div>22</div><div>MR. BRASCHER: Object to the form. Go</div><div>23</div><div>ahead and answer if you can.</div><div>24</div><div>A. I'm not sure.</div><div>25</div><div>Q. I think I want to make sure I understand. What</div></div>	<div>Page 97</div> <div><div>1</div><div>Applications -- let me back up.</div><div>2</div><div>Absentee ballots can be sent to voters who</div><div>3</div><div>have applied as soon as they're ready. The deadlines</div><div>4</div><div>and when someone can receive a ballot, or even apply</div><div>5</div><div>for a ballot, will differ, depending on the</div><div>6</div><div>methodology used. So no later than 25 days prior to</div><div>7</div><div>an election is when anyone who has applied for an</div><div>8</div><div>absentee ballot up to that point must be sent a ballot</div><div>9</div><div>by the clerk with the exception of Uocava voters.</div><div>10</div><div>They're under a different timeline.</div><div>11</div><div>Q. What is the timeline for Uocava voters?</div><div>12</div><div>A. I don't know what it would be for a special</div><div>13</div><div>election. I believe that would be one of the dates</div><div>14</div><div>determined specifically in a governor's proclamation.</div><div>15</div><div>But normal course, the deadline for clerks to mail out</div><div>16</div><div>the ballots for Uocava voters are 46 days prior to the</div><div>17</div><div>election.</div><div>18</div><div>Q. And when you said 25 days for other absentee</div><div>19</div><div>ballots, that's in the normal course for a typical</div><div>20</div><div>election cycle?</div><div>21</div><div>A. Yes.</div><div>22</div><div>Q. And both of those periods could be shorter for a</div><div>23</div><div>special election?</div><div>24</div><div>A. Potentially, yes. I believe so.</div><div>25</div><div>Q. I want to --</div></div>
<div>Page 96</div> <div><div>1</div><div>are the different forms -- other than voting on</div><div>2</div><div>election day, what are the other ways in which voters</div><div>3</div><div>might cast votes in the state of Arkansas?</div><div>4</div><div>A. They can early vote or they can vote by</div><div>5</div><div>absentee.</div><div>6</div><div>Q. For early voting -- in a typical -- well, for</div><div>7</div><div>early voting, what is the early voting period?</div><div>8</div><div>A. Fifteen days prior to the date of the election.</div><div>9</div><div>Q. So early voting can occur at any point in the 15</div><div>10</div><div>days before the election?</div><div>11</div><div>A. Early voting is available for voters between the</div><div>12</div><div>hours of 8:00 a.m. and 5:00 p.m. Monday through</div><div>13</div><div>Friday, and 10:00 a.m. through 4:00 p.m. on Saturdays</div><div>14</div><div>leading up to the day of the election. Yes.</div><div>15</div><div>Q. Is that true for both primary and general</div><div>16</div><div>elections?</div><div>17</div><div>A. Yes.</div><div>18</div><div>Q. And would that period be shorter for a special</div><div>19</div><div>election?</div><div>20</div><div>A. Yes. It would be seven days prior to the date</div><div>21</div><div>of the general election -- or the special election.</div><div>22</div><div>Sorry.</div><div>23</div><div>Q. And that's absentee ballot you mentioned, what's</div><div>24</div><div>the -- what is the time period for absentee voting?</div><div>25</div><div>A. That depends on the method of absentee voting.</div></div>	<div>Page 98</div> <div><div>1</div><div>MR. BRASCHER: Are you transitioning at</div><div>2</div><div>this point?</div><div>3</div><div>MR. SKOCPOL: No. I'm just making sure</div><div>4</div><div>I'm wrapping up.</div><div>5</div><div>MR. BRASCHER: Yeah.</div><div>6</div><div>MR. SKOCPOL: I'm tracking the time.</div><div>7</div><div>MR. BRASCHER: Not a problem. No. If</div><div>8</div><div>you were transitioning, I was going to say</div><div>9</div><div>we can call it here. But go ahead and wrap</div><div>10</div><div>it up.</div><div>11</div><div>MR. SKOCPOL: Loose ends from earlier.</div><div>12</div><div>One second.</div><div>13</div><div>MR. BRASCHER: Yeah. No worries.</div><div>14</div><div>Q. So I just want to come back briefly to a topic</div><div>15</div><div>we touched on earlier. And here, I think we can focus</div><div>16</div><div>in just on US house of representatives. I know for</div><div>17</div><div>some of these other things, we've been talking about</div><div>18</div><div>intertwined with other elections.</div><div>19</div><div>You know, tell me if that's the case</div><div>20</div><div>here. But for that US house of representatives, I</div><div>21</div><div>believe you said earlier that after the votes are</div><div>22</div><div>cast, the secretary of state would have a role in</div><div>23</div><div>receiving and aggregating from the counties unofficial</div><div>24</div><div>results on election night, or within the 24 hours</div><div>25</div><div>after the polls close; is that correct?</div></div>

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<p>1 A. Yes.</p> <p>2 Q. And then also separately official results</p> <p>3 thereafter?</p> <p>4 A. Yes.</p> <p>5 Q. So with respect to the official results, what do</p> <p>6 the counties send to the secretary of state's office?</p> <p>7 A. They make sure that the electronic election</p> <p>8 results on our election night reporting solution are</p> <p>9 current and accurate, based on what they're</p> <p>10 certifying. Once they have done that --</p> <p>11 Q. I'm sorry. When you say based -- current and</p> <p>12 accurate based on what they're certifying, earlier,</p> <p>13 you mentioned that there would be potentially</p> <p>14 provisional ballots or other things that need to be</p> <p>15 reflected in the results. So whatever they send you</p> <p>16 on election night, or in those first 24 hours, may</p> <p>17 have been updated and they're confirming that that --</p> <p>18 that it matches the final official certified number?</p> <p>19 A. Correct. Yes. In addition to that, they will</p> <p>20 generate a report from the election night reporting</p> <p>21 solution that has their official ballots cast, their</p> <p>22 official election results that they will sign and send</p> <p>23 in to our office for recordkeeping.</p> <p>24 Q. When you say "they will sign," that's the</p> <p>25 relevant county official certifying those official</p>	<p>1 Q. And is there -- you mentioned the county</p> <p>2 officials, what they send you is signed as an official</p> <p>3 certification of the final results. Does the</p> <p>4 secretary of state similarly certify a final official</p> <p>5 vote count for the entire district?</p> <p>6 A. I believe we do, and I believe that we're</p> <p>7 talking about the same thing that is sent to congress.</p> <p>8 I believe so, yes.</p> <p>9 Q. And does that official certified -- does that</p> <p>10 include officially certifying a winner of the</p> <p>11 election?</p> <p>12 A. Yes.</p> <p>13 Q. And that's based on -- I'm withdrawing that.</p> <p>14 Would that process be the same for a</p> <p>15 special election?</p> <p>16 A. I believe it would.</p> <p>17 Q. Just to be clear about this, you mentioned</p> <p>18 sending something to congress. Does your office also</p> <p>19 keep records of the official final results and winners</p> <p>20 of congressional elections in Arkansas?</p> <p>21 A. Yes.</p> <p>22 Q. Going back how far?</p> <p>23 A. I'm not sure.</p> <p>24 Q. But at least 20 years?</p> <p>25 A. Probably not that far back. In terms of just</p>
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<p>1 results?</p> <p>2 A. Yes.</p> <p>3 Q. And is that -- when you receive those certified</p> <p>4 official results from the counties, what does the</p> <p>5 secretary of state's office do with those?</p> <p>6 A. The hard copies are eventually bound and kept</p> <p>7 with our office for recordkeeping.</p> <p>8 Q. And again, we're talking about US house of</p> <p>9 representatives. So I would expect there to be</p> <p>10 multiple counties involved that you have to aggregate</p> <p>11 the results from. Does the secretary of state's</p> <p>12 office produce its own kind of complete tally for each</p> <p>13 district?</p> <p>14 A. I believe we do for congressional races, yes.</p> <p>15 We do produce an official tally to send -- I believe</p> <p>16 we have to send something to congress on that, but I</p> <p>17 don't recall the specifics.</p> <p>18 Typically, our attorneys have kind of</p> <p>19 handled most of that in the past because it's the</p> <p>20 federal government and they're very particular.</p> <p>21 Q. Is there something official that the federal</p> <p>22 government is very particular about that the secretary</p> <p>23 of state's office sends to congress certifying who won</p> <p>24 the election?</p> <p>25 A. I believe that is correct. Yes.</p>	<p>1 general recordkeeping, previous administrations were</p> <p>2 not the best on keeping that. But some of those older</p> <p>3 records could be housed at Arkansas archives. They</p> <p>4 may have been turned over to them at some point, but I</p> <p>5 don't -- I don't know. The past several election</p> <p>6 cycles, though, we should have some documentation on</p> <p>7 that.</p> <p>8 Q. If there was ever a question about who won an</p> <p>9 election to the US house of representatives, and was</p> <p>10 entitled to hold that office, the secretary of state</p> <p>11 would have the official record that would answer that</p> <p>12 question?</p> <p>13 A. For certain years, yes. We should have those</p> <p>14 documents, yes.</p> <p>15 Q. Is there any other role that the secretary of</p> <p>16 state has in congressional elections -- in</p> <p>17 administering congressional elections that we haven't</p> <p>18 already discussed?</p> <p>19 A. Not that I'm aware of.</p> <p>20 MR. SKOCPOL: Okay. I think we can</p> <p>21 break it up.</p> <p>22 (A recess was taken for lunch from</p> <p>23 12:17 p.m. to 1:17 p.m.)</p> <p>24 Q. All right. Welcome back, Mr. Bridges, from</p> <p>25 lunch. During the break, did you discuss the</p>

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<p>1 substance of your testimony with anyone?</p> <p>2 A. No.</p> <p>3 Q. So I'd like to pick up with the secretary of</p> <p>4 state's role in the redistricting process, the</p> <p>5 congressional redistricting process, as well as the</p> <p>6 census process that precedes that. I guess before we</p> <p>7 get into some -- specifically what happened in 2020</p> <p>8 and 2021, you may have already answered this this</p> <p>9 morning. But what role does the secretary of state</p> <p>10 play in the congressional redistricting process</p> <p>11 generally?</p> <p>12 A. We do not have a role in that process.</p> <p>13 Q. And is that different for congressional</p> <p>14 redistricting as opposed to state and local</p> <p>15 redistricting?</p> <p>16 A. Yes.</p> <p>17 Q. How so?</p> <p>18 A. The secretary of state is only involved with the</p> <p>19 redistricting of the lines for the state and</p> <p>20 legislature, being the state house and state senate</p> <p>21 district boundaries. The secretary of state is one of</p> <p>22 three members of the Arkansas board of apportionment,</p> <p>23 who is officially charged under the constitution to</p> <p>24 redraw the boundary lines for state house and state</p> <p>25 senate districts.</p>		<p>1 district boundaries, I believe. I would have to</p> <p>2 confirm that, but I believe that is the case. That</p> <p>3 would be their only involvement for those boundaries.</p> <p>4 Q. So help me make sure I'm understanding the</p> <p>5 distinction here. For the state legislative</p> <p>6 districts, those are drawn by the board of</p> <p>7 apportionment, which selects a plan and proposes that,</p> <p>8 the legislature then would vote to approve or</p> <p>9 disapprove?</p> <p>10 MS. CRYER: Object to the form. You can</p> <p>11 answer.</p> <p>12 A. I don't believe the legislature approves or</p> <p>13 disapproves of the state house or state senate</p> <p>14 boundaries, no. The board of apportionment agrees on</p> <p>15 a boundary plan.</p> <p>16 Q. Okay. But for the congressional districts of</p> <p>17 the US house of representatives, that process of</p> <p>18 drawing and choosing a map is handled by the</p> <p>19 legislature?</p> <p>20 A. The state legislature, yes.</p> <p>21 Q. The general assembly?</p> <p>22 A. Correct.</p> <p>23 Q. So focusing specifically on congressional</p> <p>24 districts, the districts for the US house of</p> <p>25 representatives, I want to understand a little better</p>	
<p>1 Q. The board of apportionment has responsibility in</p> <p>2 Arkansas for the state level redistricting?</p> <p>3 A. Correct.</p> <p>4 Q. So those are the districts for the state</p> <p>5 legislature?</p> <p>6 A. Yes.</p> <p>7 Q. And the secretary of state is a member of the</p> <p>8 board of apportionment?</p> <p>9 A. Yes.</p> <p>10 Q. And that's different from the congressional</p> <p>11 redistricting process. Who plays that role in the</p> <p>12 congressional redistricting process?</p> <p>13 A. The Arkansas general assembly, or the Arkansas</p> <p>14 state legislature is charged with the redrawing of</p> <p>15 congressional district boundaries for the state.</p> <p>16 Q. And does the legislature have any role in the --</p> <p>17 in the state level districts that the board of</p> <p>18 apportionment is responsible for?</p> <p>19 A. In terms of drawing the new boundaries, no.</p> <p>20 They're not.</p> <p>21 Q. What about other than -- is it involved in</p> <p>22 enacting those boundaries into law?</p> <p>23 A. Yes. Yes. They're -- I believe that the</p> <p>24 legislature does have to pass the legislation to</p> <p>25 officially recognize the state house and state senate</p>	Page 104	<p>1 when you say there's no role whatsoever. I'm going to</p> <p>2 tell you some specific things I could imagine the</p> <p>3 secretary of state might do with respect to that</p> <p>4 process. And can you tell me if, generally speaking,</p> <p>5 the secretary of state, or anyone working for him,</p> <p>6 does ever do these things in connection with</p> <p>7 congressional redistricting?</p> <p>8 A. Sure.</p> <p>9 Q. Draw redistricting maps?</p> <p>10 A. No.</p> <p>11 Q. Propose one or more redistricting maps to be</p> <p>12 considered by the legislature?</p> <p>13 A. No.</p> <p>14 Q. Evaluate proposals that have been made by</p> <p>15 someone else that are under consideration by the</p> <p>16 legislature?</p> <p>17 A. No.</p> <p>18 Q. Would the secretary of state ever support or</p> <p>19 oppose a congressional -- a proposed congressional</p> <p>20 redistricting map?</p> <p>21 A. No.</p> <p>22 Q. Would the secretary of state ever collect data</p> <p>23 that might be used in the congressional redistricting</p> <p>24 process?</p> <p>25 MS. CRYER: Object to the form. You can</p>	Page 106



1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 107 <p>answer.</p> <p>A. Not to my knowledge, no.</p> <p>Q. Would they -- would the secretary of state have data that might be -- would the secretary of state provide data to others for use in the congressional redistricting process?</p> <p>A. Not to my knowledge, no. Because the data that's used is available to them just as it is available to us, referring to the 2020 census data.</p> <p>So we would not provide that to the legislature as -- if they didn't already have access to it. They had access to whatever they needed in order to draw their boundaries. There was no need for us to provide anything, is what I'm saying.</p> <p>Q. So when you say the census data, and I think we'll -- when you say the census data, what are you referring to?</p> <p>A. The 2020 census data that came out after the 2020 census process.</p> <p>Q. So the data that was collected during the census that was taken in 2020?</p> <p>A. Yes.</p> <p>Q. But to make sure I'm understanding your answer, you're saying that is data that the secretary of state has and might use in its work; is that correct?</p>	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 109 <p>data, provide an analysis of that data for use in the redistricting process?</p> <p>A. No.</p> <p>Q. Would the secretary of state ever give advice or consult about topics related to the congressional redistricting process?</p> <p>A. No.</p> <p>Q. And that would -- your no would include any -- giving any legal advice?</p> <p>A. Correct. Yeah. We would not give legal advice on the process at all.</p> <p>Q. The secretary of state wouldn't have a role in advising about whether proposed congressional redistricting plans comply with state or federal law?</p> <p>A. Correct. We would not.</p> <p>Q. Or whether they comply with traditional redistricting principles?</p> <p>A. Correct. We would not.</p> <p>Q. Would the secretary of state's office provide trainings on redistricting-related processes -- related topics?</p> <p>A. No, we would not.</p> <p>Q. Would the secretary of state's office attend trainings on redistricting related topics?</p> <p>A. Not for the purposes of congressional</p>
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 108 <p>A. For --</p> <p>MS. CRYER: Object to the form. You can answer. Sorry.</p> <p>A. For our own purposes, yes. Within our purview, absolutely. But we didn't independently provide that to any member of the legislature.</p> <p>Q. I guess here, I'm asking about in this last redistricting cycle. At no point did the secretary of state's office provide census data to the legislature for use in the congressional redistricting process?</p> <p>A. Not to my knowledge, no.</p> <p>Q. Did it provide that data to the legislature for any other purpose?</p> <p>A. No.</p> <p>Q. So I think you might be saying, tell me if this is correct, any data that the secretary of state's office has from the 2020 census is also publicly available from the census bureau?</p> <p>A. I believe that is correct, yes.</p> <p>Q. And that's why the legislature could independently get it directly from the census?</p> <p>A. That is correct. Yes.</p> <p>Q. Would the secretary -- so going back to a list of things I could imagine the secretary of state might do, would the secretary of state's office ever analyze</p>	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	Page 110 <p>redistricting, no.</p> <p>Q. Produce any public education materials?</p> <p>A. Not to my knowledge, no.</p> <p>Q. And when you say that, are you speaking for the office? You mentioned earlier that there's an elections division. There's also an office of communications and education. Would either of those -- would any part of the secretary of state's office have produced public education materials related to the congressional redistricting process?</p> <p>A. Not in terms of the process, no. The only thing we would have done that may even be in the ballpark of your question was simply providing copies or PDFs of the congressional district map after the fact. But in terms of public outreach or any kind of other materials, no.</p> <p>Q. And would the secretary of state's office host any meetings related to the congressional redistricting process?</p> <p>A. No.</p> <p>Q. For any of the things we've just went through -- let me start the question again.</p> <p>Are there any of the things we just went through that the secretary of state doesn't do for congressional redistricting but does do for state and</p>

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<p>1 local redistricting?</p> <p>2 A. Yes.</p> <p>3 Q. I can -- we can go back through them if it's</p> <p>4 helpful, but which ones?</p> <p>5 A. Well, I know for sure that we attend a training</p> <p>6 on the software that was used for state redistricting.</p> <p>7 We had meetings around the state concerning questions</p> <p>8 and concerns from local constituents on their</p> <p>9 districts concerning state redistricting. There may</p> <p>10 have been a couple of your other items that we also</p> <p>11 did. I'm not sure.</p> <p>12 Q. Well, we don't have to -- would -- in the state</p> <p>13 and local redistricting process, would the secretary</p> <p>14 of state's office ever draw maps?</p> <p>15 A. Yes. For state redistricting, yes. For local,</p> <p>16 no. We were not involved with that either.</p> <p>17 Q. Thank you for that --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- clarification. Would you evaluate or analyze</p> <p>20 those maps under consideration?</p> <p>21 A. For what level?</p> <p>22 MS. CRYER: Object to the form. Yeah.</p> <p>23 Q. For -- well, let's start with state.</p> <p>24 A. Yes.</p> <p>25 Q. Local?</p>		<p>1 involved in collecting or distributing data</p> <p>2 specifically during the drawing and consideration of</p> <p>3 different proposed maps at that stage of the process?</p> <p>4 A. For what level?</p> <p>5 Q. For the state level redistricting.</p> <p>6 A. Yes.</p> <p>7 Q. And what data would that be?</p> <p>8 A. Other than what I've previously stated, I'm not</p> <p>9 sure. But, I mean, of course, we obtained the 2020</p> <p>10 census data to use. We obtained data or information</p> <p>11 from local constituents on their concerns about their</p> <p>12 districts from communities of interest, that sort of</p> <p>13 thing. But in terms of anything else, I'm not 100</p> <p>14 percent sure.</p> <p>15 Q. So when you say "from communities of interest,"</p> <p>16 let me know if I'm restating this incorrectly. But</p> <p>17 when you say "from communities of interest with</p> <p>18 concerns about their districts," are you referring to</p> <p>19 their state legislative districts?</p> <p>20 A. Yes.</p> <p>21 Q. Would you ever hear concerns -- would you ever</p> <p>22 receive concerns about other types of districts in</p> <p>23 that process?</p> <p>24 A. Not that I recall, no.</p> <p>25 Q. Would you receive -- in the state -- for the</p>	
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<p>1 A. No.</p> <p>2 Q. Collect or distribute data for use in that</p> <p>3 process?</p> <p>4 A. For the state level, possibly, yes. I'm not</p> <p>5 sure in what terms. But most likely, yes.</p> <p>6 Q. What kinds of data would the secretary of state</p> <p>7 collect or distribute for the state redistricting</p> <p>8 process?</p> <p>9 A. We would -- after the boundary lines are drawn</p> <p>10 for state redistricting, we'd disseminate that</p> <p>11 information down to the local election officials so</p> <p>12 that they can update the voter registration database</p> <p>13 and anything else that they may have that may need to</p> <p>14 be updated in regards to new district assignments for</p> <p>15 their precincts.</p> <p>16 Q. But that's not something you would do with -- at</p> <p>17 the congressional districts?</p> <p>18 A. We would, after the fact, also do the same in</p> <p>19 providing them with a map or a list of counties in</p> <p>20 relation to which congressional district they are now</p> <p>21 a part of. Simply taking the information that's</p> <p>22 already been decided upon by the state legislature and</p> <p>23 disseminating down to the counties so that they can</p> <p>24 update all of their records accordingly.</p> <p>25 Q. And so then in the state process, would you be</p>		<p>1 state level legislative redistricting process, would</p> <p>2 you give advice or consult about redistricting-related</p> <p>3 topics?</p> <p>4 A. I believe we did at some point, yes.</p> <p>5 Q. Who would you give advice or consultation to in</p> <p>6 that process?</p> <p>7 A. There were discussions that were had with state</p> <p>8 representatives and state senators on their concerns</p> <p>9 about their districts. Any information that the</p> <p>10 general public would call and ask questions about, we</p> <p>11 would answer those questions accordingly. I'm not</p> <p>12 sure what else there would have been.</p> <p>13 Q. Did the secretary of state's office have any</p> <p>14 role in giving legal advice about the state level</p> <p>15 redistricting process?</p> <p>16 A. I'm not sure.</p> <p>17 Q. What about advice or consultation on</p> <p>18 redistricting guidelines?</p> <p>19 A. On a request -- as a requested basis, yes. We</p> <p>20 would provide any kind of information or guidelines</p> <p>21 pertaining to redistricting to whoever would ask for</p> <p>22 that information.</p> <p>23 Q. Okay. And in providing those -- who in the</p> <p>24 secretary of state's office would be responsible for</p> <p>25 providing that advice or consultation in connection</p>	

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<p>1 with the state redistricting process?</p> <p>2 A. Either myself or Kevin Niehouse. We were really</p> <p>3 the main ones for the secretary of state that were</p> <p>4 involved with the board of apportionment and with the</p> <p>5 redistricting process.</p> <p>6 Q. Without getting into the substance of any</p> <p>7 particular conversations, you mentioned state</p> <p>8 representatives or state senators might consult with</p> <p>9 the secretary of state's office about the state level</p> <p>10 redistricting process. Would that -- who --</p> <p>11 specifically for those members of the legislature, who</p> <p>12 would be responsible for consulting with them in the</p> <p>13 secretary of state's office?</p> <p>14 A. Kevin Niehouse.</p> <p>15 Q. Anyone else?</p> <p>16 A. I'm not sure. Mainly, it was Kevin though.</p> <p>17 They kept me in the basement quite a bit.</p> <p>18 Q. And I believe you said that in connection with</p> <p>19 the state level redistricting process, the secretary</p> <p>20 of state's office would host meetings?</p> <p>21 A. In conjunction with the other members of the</p> <p>22 board of apportionment and the director of the board,</p> <p>23 yes.</p> <p>24 Q. What types of meetings would the secretary of</p> <p>25 state, in conjunction with the board of apportionment,</p>		<p>1 local level and sent to us simply for filing as a</p> <p>2 repository manner.</p> <p>3 Q. Is there anything else that the secretary of</p> <p>4 state does do for state or local redistricting that we</p> <p>5 haven't just discussed?</p> <p>6 A. Not to my knowledge, no.</p> <p>7 Q. You mentioned Kevin Niehouse. Other than</p> <p>8 Kevin Niehouse, is there anyone outside the elections</p> <p>9 division who would have responsibility for any of</p> <p>10 those state and local redistricting tasks that you</p> <p>11 just mentioned?</p> <p>12 A. Not to my knowledge.</p> <p>13 Q. You mentioned the census and the 2020 census</p> <p>14 process. What role does the secretary of state have</p> <p>15 in the census process?</p> <p>16 A. We really do not have a role in that process</p> <p>17 that I'm aware of.</p> <p>18 Q. Okay. Just to drill down on that, I am going to</p> <p>19 do the same thing. I am going to say some things I</p> <p>20 can imagine you might do, and you tell me if you do</p> <p>21 them or not. Does the secretary of state have any</p> <p>22 involvement with encouraging Arkansans to return their</p> <p>23 census form?</p> <p>24 A. Not to my knowledge, no.</p> <p>25 Q. Did the secretary of state interact with federal</p>	
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<p>1 hold?</p> <p>2 A. They were kind of town-hall style. We traveled</p> <p>3 around the state. I only attended a couple myself.</p> <p>4 But the board traveled around the state to different</p> <p>5 regions to host meetings for the public to come in and</p> <p>6 voice their concerns about what they needed, what</p> <p>7 their district makeup was in order for us to make as</p> <p>8 much of a quality map as possible.</p> <p>9 Q. And would you also host meetings in connection</p> <p>10 with local redistricting?</p> <p>11 A. No.</p> <p>12 Q. Would you give advice or consult about topics</p> <p>13 for local redistricting?</p> <p>14 A. No.</p> <p>15 Q. Provide any legal advice?</p> <p>16 A. No.</p> <p>17 Q. Draft or evaluate proposed redistricting plans?</p> <p>18 A. There were times where I believe Shelby Johnson</p> <p>19 with Arkansas GIS got involved with that. But in</p> <p>20 terms of us, the board of apportionment, drawing any</p> <p>21 kind of maps for proposals, no. We did not.</p> <p>22 Q. What about collecting or distributing data for</p> <p>23 use in the local redistricting processes?</p> <p>24 A. No. We would be on the receiving end of local</p> <p>25 redistricting plans that were already approved at the</p>		<p>1 officials about the census?</p> <p>2 A. Other than nagging them as to when we were going</p> <p>3 to get the data, no.</p> <p>4 Q. Well, when you say "nagging them as to when we</p> <p>5 were going to get the data," what interaction did you</p> <p>6 have with federal officials about the census?</p> <p>7 A. We -- I don't remember anybody individually with</p> <p>8 the census bureau that we discussed with. But</p> <p>9 internally and collectively as the board, we were</p> <p>10 waiting on the census data in 2020 because it was</p> <p>11 late. So -- but other than that, there was no</p> <p>12 communication that I am aware of.</p> <p>13 Q. What about receiving and processing data when</p> <p>14 census results are released?</p> <p>15 A. Once the data was released, we began working on</p> <p>16 the process of redistricting.</p> <p>17 Q. I think you may have already addressed this, but</p> <p>18 did the secretary of state have any role in</p> <p>19 distributing census data to others within Arkansas?</p> <p>20 A. No.</p> <p>21 Q. Are there records that the secretary of state</p> <p>22 keeps -- let me ask this differently.</p> <p>23 Does the secretary of state have any role</p> <p>24 in updating records to reflect new census data?</p> <p>25 MS. CRYER: Object to the form. You can</p>	

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<p>1 answer.</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. What data does the secretary of state maintain</p> <p>4 that comes from the census?</p> <p>5 A. I don't think we maintain any data that comes</p> <p>6 from the census other than just in simply the terms of</p> <p>7 beginning the process of redistricting using the data.</p> <p>8 But maintain, I'm not sure we maintain anything that</p> <p>9 comes from the census.</p> <p>10 Q. So you may retrieve census data for particular</p> <p>11 purposes, but -- am I understanding that correctly?</p> <p>12 A. Yes.</p> <p>13 Q. Does the secretary of state's office -- I can</p> <p>14 try to use a different word than "maintain" if you're</p> <p>15 getting hung up on that. But does the secretary of</p> <p>16 state's office maintain any data from the census about</p> <p>17 racial demographics within the state?</p> <p>18 A. Only in a sense that it's encompassed in the</p> <p>19 census data, but we don't maintain any of the data.</p> <p>20 We received it from the census. We drew the maps</p> <p>21 accordingly, based off of the data that was in the</p> <p>22 census file.</p> <p>23 Q. Yeah. I think maybe "maintain" is not a helpful</p> <p>24 word, so let me try to ask this a slightly different</p> <p>25 way. The secretary of state's office uses census data</p>	<p>1 available to the general public?</p> <p>2 A. Not that I'm aware of.</p> <p>3 Q. I believe you said that a redistricting process</p> <p>4 is triggered by the census and the release of new</p> <p>5 census data that happens every 10 years; is that</p> <p>6 correct?</p> <p>7 A. That is my understanding, yes.</p> <p>8 Q. So more precisely, what is the new data that you</p> <p>9 receive from the census that initiates a round of</p> <p>10 redistricting?</p> <p>11 A. It's the most recent and updated information</p> <p>12 concerning people's residences, where they live, how</p> <p>13 many are in their household. Is your question, like,</p> <p>14 what is the census data or maybe --</p> <p>15 Q. Yeah. I mean, so yeah. What is the information</p> <p>16 in that data?</p> <p>17 A. Off the top of my head, name, date of birth,</p> <p>18 residential address, racial demographics. Probably a</p> <p>19 bunch of other stuff, but I don't remember. It's been</p> <p>20 years since I've actually laid eyes on it.</p> <p>21 Q. Is it -- when would -- so setting aside 2020, do</p> <p>22 you know when generally that data would be made</p> <p>23 available by the census?</p> <p>24 A. I believe near the beginning of the next year.</p> <p>25 For example, beginning of 2011, I believe. There are</p>
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<p>1 for certain purposes?</p> <p>2 A. For the purposes of redistricting, yes.</p> <p>3 Q. For purposes of redistricting. For any other</p> <p>4 purposes other than redistricting?</p> <p>5 A. Not that I'm aware of, no.</p> <p>6 Q. So is there any purpose for which the secretary</p> <p>7 of state would use racial demographic data from the</p> <p>8 census?</p> <p>9 A. No.</p> <p>10 Q. May just be -- well, did the secretary of state</p> <p>11 have that data in its records for any reason, meaning</p> <p>12 racial demographic data from the census?</p> <p>13 A. Only as a result of receiving the census data,</p> <p>14 possibly. But I don't even know if that data is still</p> <p>15 in existence in our files, whether electronically or</p> <p>16 physically.</p> <p>17 Q. Do you happen to use any census data that is not</p> <p>18 available to the general public?</p> <p>19 A. Not that I'm aware of, no.</p> <p>20 THE COURT REPORTER: Can we go off the</p> <p>21 record just a second?</p> <p>22 (Discussion held off the record.)</p> <p>23 Q. I apologize. I can't remember if you completed</p> <p>24 this answer before we went off the record, but does</p> <p>25 the secretary of state use any census data that is not</p>	<p>1 deadlines in place for that to happen, I believe.</p> <p>2 I know 2020 was kind of an anomaly given</p> <p>3 the circumstances. I don't know what those deadlines</p> <p>4 are specifically, though. But there is also a</p> <p>5 deadline for the board of apportionment even to</p> <p>6 complete redistricting, and I can't recall what that</p> <p>7 is.</p> <p>8 Q. I'll come back to that. So for current</p> <p>9 purposes, I think I'm asking you about redistricting</p> <p>10 at any level. When would the secretary of state start</p> <p>11 preparing for a redistricting cycle?</p> <p>12 A. For this past redistricting cycle, we began</p> <p>13 preparing in 2019.</p> <p>14 Q. In 2019 for the census that occurred in 2020 and</p> <p>15 the redistricting that occurred in 2021?</p> <p>16 A. Yes.</p> <p>17 Q. What would be the earliest step in those</p> <p>18 preparations?</p> <p>19 A. I believe the earliest step in the process was</p> <p>20 to put out a request for proposal to obtain</p> <p>21 redistricting software from a vendor, I think.</p> <p>22 Q. That would have happened in 2019 this time</p> <p>23 around?</p> <p>24 A. I believe it did, yes.</p> <p>25 Q. Okay. Are there other things that the secretary</p>



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1 of state's office would do to prepare for a  
2 redistricting cycle before the census data that you  
3 referred to earlier is released?  
4 A. Aside from obtaining the software, actually  
5 learning the software. Getting familiar with it.  
6 Making sure that we understand the employees that are  
7 involved -- that are going to be involved with the  
8 process.  
9 Q. When the census data becomes available, then  
10 what happens or then what would the secretary of  
11 state's office do for -- let me ask that question.  
12 What would the secretary of state's  
13 office do with the census data when it becomes  
14 available?  
15 A. I believe we would begin working on creating  
16 proposals for new districts.  
17 Q. And that's at the state -- at the state level?  
18 A. Yes.  
19 Q. In connection with the board of apportionment?  
20 A. Correct. Yes.  
21 Q. Again, setting aside the 2022 redistricting  
22 cycle specifically and just speaking generally how the  
23 process would work, do you know how long it would  
24 usually take between when the census releases data and  
25 when -- well, here, I am going to ask when a new

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1 congressional redistricting plan would be in place?  
2 A. I do not know. I was -- this is the only  
3 redistricting cycle I've ever been involved in. I was  
4 not employed in the 2010/2011 redistricting time  
5 frame.  
6 Q. Is there someone else in the secretary of  
7 state's office who would know that question?  
8 A. No.  
9 Q. Do you know if it -- generally or -- and/or  
10 typically, it would be -- withdraw that. Let me  
11 start.  
12 I'm still trying to get, again, a big  
13 picture of here before going into some more specifics.  
14 But here, I think I am asking again about a  
15 congressional redistricting map. Let's focus on that.  
16 When a new congressional districting map  
17 is selected and enacted into law, then what happens  
18 from -- in the secretary of state's office with that  
19 newly-enacted map?  
20 A. We provide, by request, copies of the map or  
21 copies of the PDF of the map to anyone. We ensure  
22 that the county clerk has the information that they  
23 need in order to update any of their records.  
24 Q. What information might the county clerk need  
25 other than, I believe you said, a PDF of the enacted

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1 map?  
2 A. They would need to know if the congressional  
3 district that they're a part of changed, so providing  
4 them with that information.  
5 Q. You mentioned a map in PDF format. Would you  
6 provide information about the enacted plan in any  
7 other format for the county?  
8 A. I know we may have had an Excel spreadsheet that  
9 may have a list of counties with the congressional  
10 district assignment. But other than that, no.  
11 Q. Is there any information -- are there any  
12 records that the secretary of state keeps that would  
13 need to be updated when you received a new  
14 congressional map?  
15 A. Not that comes to mind other than the map  
16 itself. If we have a link to the older congressional  
17 map on our website, obviously, you know, that would  
18 need to be refreshed and updated. But --  
19 Q. Anything else besides that?  
20 A. Not that I can think of. No, sir.  
21 Q. Are there any -- let me ask it this way.  
22 We talked earlier about the process of  
23 administering a congressional election and some  
24 deadlines that you would have for steps in preparing  
25 for an election. Are there any deadlines in that

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1 process for which you would need to have a newly  
2 enacted map in place in order to proceed with those?  
3 MS. CRYER: Object to the form. You can  
4 answer.  
5 A. We would need to have that information before  
6 candidate filing.  
7 Q. That's candidate filing period -- the eight-day  
8 candidate filing period you referred to that, I  
9 believe you said for 2026, would likely fall sometime  
10 in early March or at the beginning of March?  
11 A. Yes.  
12 Q. Recognizing that I'm not asking you whether  
13 2026, in fact, follows a redistricting cycle, but just  
14 makes identifying what -- that deadline that you are  
15 talking about.  
16 A. Yes. I understand. That information has to be  
17 known before candidate filing -- before the candidate  
18 filing period.  
19 (Exhibit 3 marked for identification.)  
20 Q. I'd like to go -- I'm marking as Exhibit 3 a  
21 document, the first page which is Bates stamped  
22 TSS\_CMA\_3806. Have you seen this document before?  
23 A. I believe at some point I have, yes.  
24 Q. What is it?  
25 A. It looks like an email thread between myself and

<p>Page 127</p> <p>1 Jennifer Wheeler and the Independence County clerk.</p> <p>2 Q. All right. And if you look back to the earliest</p> <p>3 email on the thread, which would be at the bottom of</p> <p>4 the second page carrying over onto the third and final</p> <p>5 page, is that an email that you sent?</p> <p>6 A. Yes.</p> <p>7 Q. On May 6th, 2019?</p> <p>8 A. Yes.</p> <p>9 Q. Who did you send this email to?</p> <p>10 A. This would have been sent to the county clerks</p> <p>11 and voter registration clerks underneath the county</p> <p>12 clerks' office and possibly the county election</p> <p>13 commission.</p> <p>14 Q. If you -- why did you send this email to those</p> <p>15 individuals?</p> <p>16 A. I believe it's for informational purposes. I'm</p> <p>17 trying to read over it to jog my own memory.</p> <p>18 Q. Take as much time as you need.</p> <p>19 A. Okay. Yes. This was an attempt to get ahead of</p> <p>20 the game in terms of ensuring that the counties'</p> <p>21 precinct data that the state had a record of was still</p> <p>22 current and complete.</p> <p>23 One of the issues that we've had</p> <p>24 historically for -- probably predates myself is,</p> <p>25 counties don't always update their records like</p>	<p>Page 129</p> <p>1 Q. Was that referring to the congressional</p> <p>2 districts that were enacted in 2011?</p> <p>3 A. Yes.</p> <p>4 Q. So before 2011, no county had ever been split in</p> <p>5 Arkansas as part of a congressional districting map?</p> <p>6 A. According to this, that is correct.</p> <p>7 Q. Is that your understanding?</p> <p>8 A. I believe that is my understanding, yes.</p> <p>9 Q. Are you aware of any county ever having been</p> <p>10 split in the congressional districting plan before</p> <p>11 2011?</p> <p>12 MS. CRYER: Object to the form.</p> <p>13 A. I am not aware.</p> <p>14 Q. Do you know which counties were split in 2011?</p> <p>15 A. Newton and Sebastian, I believe. I'd have to</p> <p>16 confirm. I used to know.</p> <p>17 Q. You say several counties. Do you remember how</p> <p>18 many? Do you know how many were split? You can just</p> <p>19 say yes or no. If you don't know, that's fine.</p> <p>20 A. I don't remember.</p> <p>21 Q. Tell me if I'm reading the next sentence</p> <p>22 correctly. "As we march toward the 2020 census, and</p> <p>23 redistricting in 2021 we are certain of one important</p> <p>24 fact. Your election precinct boundary will be used</p> <p>25 once again to support the redistricting process." Did</p>
<p>Page 128</p> <p>1 they're supposed to with the State. So this was an</p> <p>2 attempt to confirm their current election precinct</p> <p>3 boundaries.</p> <p>4 Q. And was that for the purposes of preparing for</p> <p>5 congressional redistricting?</p> <p>6 A. This was for the purpose of preparing for all</p> <p>7 redistricting, I believe.</p> <p>8 Q. All right. If you look at the first sentence of</p> <p>9 your email, it says -- well, could you read the first</p> <p>10 sentence of the email?</p> <p>11 A. "In 2011, the Arkansas general assembly</p> <p>12 performed their duty of redistricting the</p> <p>13 congressional districts of our state."</p> <p>14 Q. So this specifically refers to redistricting of</p> <p>15 congressional districts?</p> <p>16 A. Yes.</p> <p>17 Q. After that, the next sentence it says, "For the</p> <p>18 first time in Arkansas history, counties were split in</p> <p>19 order to create the districts"; is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And then after that, "The general assembly used</p> <p>22 the election precinct boundaries from the census block</p> <p>23 file to split several counties." Did I read that</p> <p>24 correctly?</p> <p>25 A. Yes.</p>	<p>Page 130</p> <p>1 I read that correctly?</p> <p>2 A. Yes.</p> <p>3 Q. Why were you certain?</p> <p>4 A. Because the election precinct boundaries gave us</p> <p>5 a compass in terms of where we could begin drawing</p> <p>6 state redistricting maps. Any redistricting map,</p> <p>7 congressional, state, local.</p> <p>8 Q. But including congressional districts?</p> <p>9 A. Yes.</p> <p>10 Q. Can you explain why -- so the first paragraph of</p> <p>11 this email mentioned the importance of election</p> <p>12 precinct boundaries; is that fair to say?</p> <p>13 A. Yes.</p> <p>14 Q. And it also mentions the fact that in 2011,</p> <p>15 counties were split in the congressional redistricting</p> <p>16 map; is that fair to say?</p> <p>17 A. Yes.</p> <p>18 Q. What -- why are -- why are those things related?</p> <p>19 How are those two things connected?</p> <p>20 MS. CRYER: Object to the form. You can</p> <p>21 answer.</p> <p>22 MR. SKOCPOL: Yeah. I can ask that</p> <p>23 differently.</p> <p>24 Q. How does the election precinct boundary -- well,</p> <p>25 let me just ask, why did you discuss those two facts</p>

<div>1 in the same paragraph in this email?</div> <div>2 A. Similar to what I previously stated, the</div> <div>3 election precinct boundary gives, for lack of a better</div> <div>4 term, a roadmap for an already existing line. It was</div> <div>5 our goal at secretary of state's office, the Arkansas</div> <div>6 GIS office, to do the best that we could to drive home</div> <div>7 the importance, at any level of redistricting, to use</div> <div>8 already created election precinct boundaries because</div> <div>9 if those boundaries are not used, it's going to create</div> <div>10 what's called a precinct split, and we already have</div> <div>11 enough of those in Arkansas. We don't need more.</div> <div>12 A precinct split would warrant another --</div> <div>13 basically, another election precinct and another</div> <div>14 ballot style. So in terms of the importance of using</div> <div>15 the already existing boundaries, number one,</div> <div>16 confirming that their boundaries are good; and number</div> <div>17 two, using those already existing boundaries was</div> <div>18 tantamount to preparation, coding, and ensuring that</div> <div>19 the correct ballot style is provided for each voter in</div> <div>20 any election.</div> <div>21 Q. I want to make sure I understand what you just</div> <div>22 said about precinct splits. So what -- what is a</div> <div>23 precinct split?</div> <div>24 A. When you have more than one political</div> <div>25 subdivision, let's just say you have a house district</div>	<div>1 avoid precinct splits within the counties; is that</div> <div>2 correct?</div> <div>3 A. That is correct. Yes.</div> <div>4 Q. So is it a precinct split when a redistricting</div> <div>5 boundary line goes through an existing preexisting</div> <div>6 precinct?</div> <div>7 A. Yes, it is.</div> <div>8 Q. Then I think you separately said that when that</div> <div>9 happens, part of the solution to that may -- a result</div> <div>10 of that is, there may now be different ballot styles</div> <div>11 within that preexisting precinct; is that right?</div> <div>12 A. Exactly.</div> <div>13 Q. And that might necessitate moving precinct lines</div> <div>14 or subdividing a precinct?</div> <div>15 A. If it's still an opportunity and still feasible</div> <div>16 to change those precinct boundaries, then yes. But</div> <div>17 we're talking in terms of, you know, the damage is</div> <div>18 already done. The precinct boundaries are set. The</div> <div>19 redistricting boundaries are set. Everything is</div> <div>20 approved.</div> <div>21 Now we have this map with all these</div> <div>22 precincts in precinct parts that we now have to code</div> <div>23 for an election. So yes. I don't even know if that</div> <div>24 answered your question, to be honest.</div> <div>25 Q. I think it did.</div>
<div>1 and a senate district, they're not going to correlate.</div> <div>2 Those lines are not going to match up completely.</div> <div>3 They're going to intersect.</div> <div>4 And I usually have a white board for this</div> <div>5 when I tried to explain it to my coworkers. But when</div> <div>6 those lines intersect, they create a split in a</div> <div>7 precinct because on the -- let's say the west side of</div> <div>8 the house district versus the east side of the house</div> <div>9 district, they could be in the same senate district</div> <div>10 but they're in different house districts. Therefore,</div> <div>11 that's a different ballot style.</div> <div>12 So a precinct split or a precinct part is</div> <div>13 the emergence of a new boundary coming into play or a</div> <div>14 line being moved that creates a new precinct within a</div> <div>15 precinct, for lack of a better term. But a precinct</div> <div>16 split.</div> <div>17 Q. I think that may be where I'm potentially</div> <div>18 getting tripped up, so I want to make sure the record</div> <div>19 is clear. It sounds -- in your -- a minute ago, you</div> <div>20 said that a precinct was a preexisting area within the</div> <div>21 county and this email was about verifying the existing</div> <div>22 boundaries of those; is that correct?</div> <div>23 A. That is correct. Yes.</div> <div>24 Q. And then I think you said that part of the</div> <div>25 reason for verifying those boundaries was to help</div>	<div>1 A. Okay.</div> <div>2 Q. So a goal in sending this email was to avoid</div> <div>3 those kinds of discrepancies between the redistricting</div> <div>4 plans that would be enacted and the existing precinct</div> <div>5 boundaries at that time?</div> <div>6 A. Yes. This was a proactive approach to making</div> <div>7 sure that the counties' current precinct boundaries on</div> <div>8 file at the state level were still correct and that we</div> <div>9 were not missing anything going into this.</div> <div>10 Q. If you look at the second paragraph, it refers</div> <div>11 to -- well, am I reading the second sentence of the</div> <div>12 second paragraph correctly, "The elections division of</div> <div>13 the secretary of state's office, and the Arkansas GIS</div> <div>14 office have teamed together to create an opportunity</div> <div>15 for a final review of your election precincts before</div> <div>16 they are submitted to the US census bureau"; is that</div> <div>17 correct?</div> <div>18 A. Yes.</div> <div>19 Q. Who submits the precinct boundaries to the US</div> <div>20 census bureau?</div> <div>21 A. The Arkansas GIS office.</div> <div>22 Q. Does the secretary of state's office have a role</div> <div>23 in submitting those precinct boundaries to the US</div> <div>24 census bureau?</div> <div>25 A. No.</div>

<p>Page 135</p> <p>(Exhibit 4 marked for identification.)</p> <p>Q. Next, I'd like to mark Exhibit 4. Exhibit 4 is a document, the first page is Bates stamp number BLR-CMA-02827. Have you seen this document before?</p> <p>A. I believe I have, yes.</p> <p>Q. And what is it?</p> <p>A. This is a email thread that was sent to Shelby Johnson, Leslie Bellamy, and some attorneys and deputies on staff with our office at the time. Bless you.</p> <p>Q. Was sent by you?</p> <p>A. It appears so, yes.</p> <p>Q. So looking at that the first email on the thread, at the bottom of the first page, that's an email that you sent on January 20th, 2021; is that correct?</p> <p>A. Correct.</p> <p>Q. And then above that, at the top of the document, is an email on the same thread sent by Shelby Johnson that same -- later that same day; is that correct?</p> <p>A. Correct.</p> <p>Q. Who is Shelby Johnson?</p> <p>A. He is the director for the Arkansas GIS office.</p> <p>Q. Shelby Johnson's email at the top of the thread, it begins, "Following the census announcement today";</p>	<p>Page 137</p> <p>idea of how long counties were going to need in order to prepare and code the election.</p> <p>Q. When you say "prepare and code the election," are you referring to redistricting?</p> <p>A. No. I'm referring to preparing for the 2022 election cycle.</p> <p>Q. So when you say in the -- in the first sentence of the email, I believe it refers to -- you refer to calling a random sample of counties to get an idea of how much time they believe they will need in order to complete their tasks at the county/school/city level. What tasks are you referring to there?</p> <p>A. So this is -- and I probably should have clarified in my previous statement. This -- the tasks that I'm referring to is a process of updating the voter registration database with all of the new precinct boundaries, potential precinct splits, and district assignments to those precincts in preparation for the 2022 election cycle.</p> <p>There is a ton of work that had to -- there was a ton of work that had to be done as a result of any redistricting efforts at any level that the county clerk needed enough time to perform before the election cycle kicked off for 2022.</p> <p>Q. Got it. And I realize this is an email from a</p>
<p>Page 136</p> <p>is that correct?</p> <p>A. Correct.</p> <p>Q. What is the census announcement today that is referred to in that email?</p> <p>A. I believe that was their announcement that their census data would not be released during their normal time frame.</p> <p>Q. And in your email, in the first sentence, you refer to the news of the delay with receiving the census data; is that correct?</p> <p>A. Yes.</p> <p>Q. Is that the same as the census announcement today that Shelby Johnson was referring to?</p> <p>MS. CRYER: Object to the form. You can answer.</p> <p>A. I believe that's fair to say, yes.</p> <p>Q. So in the email that you sent at the beginning of the thread, the subject line of that email is "Timeline for Redistricting"?</p> <p>A. Yes.</p> <p>Q. And can you say, why did you send this email, or what was -- let me ask it differently.</p> <p>What was the purpose of this email?</p> <p>A. To inform Shelby, along with the rest of the people on this email, of our attempt to try and get an</p>	<p>Page 138</p> <p>few years ago and you're maybe ingesting it now. But in the second sentence of the email, it refers to -- it describes the response from the counties; is that correct?</p> <p>A. Yes.</p> <p>Q. And there, you say, "At least a couple months would be needed to be able to accurately perform and complete all necessary duties that come with redistricting." What does "all necessary duties that come with redistricting" mean there?</p> <p>A. Basically, what I just previously described. Better wording, looking at this, probably would have been, quote, "Perform and complete all necessary duties that come as a result of redistricting," post-redistricting, so to speak.</p> <p>Q. But it's not referring to redistricting at the county/school/city levels?</p> <p>A. Not in the sense that the clerks perform it, no. This is -- it's referring to it as the clerks are on the receiving end of those redistricting -- that redistricting information with the new precinct boundaries for cities, schools, counties, townships.</p> <p>Q. But this email is about elections at the county school and city level, not statewide or federal elections?</p>



<p>Page 139</p> <p>1 A. Really, all of it, to be honest, because any 2 change from the city level all the way up to the 3 federal level, when it comes to boundary changes, has 4 to be done in the voter registration database by the 5 county clerk or his or her staff. And that can't 6 happen until the redistricting plans are complete and 7 that information is given to the clerks in order to 8 update those records in preparation for the election 9 cycle.</p> <p>10 Q. Okay. If you look at the fourth paragraph -- 11 actually, let me ask you about the third paragraph 12 first. Third paragraph, second sentence, you say, 13 "Previously, I mentioned that December 1st, 2021 was 14 the first day that school board candidates may begin 15 circulating their petitions for filing for office." 16 Did I read that correctly?</p> <p>17 A. Yes.</p> <p>18 Q. Does what you are discussing there apply to all 19 offices or is that specific to school board elections?</p> <p>20 A. It's specific to school board elections.</p> <p>21 Q. Is that -- okay. So then in the fourth 22 paragraph, I believe you say, "We feel like we have a 23 little more breathing room than previously thought." 24 Did I read that correctly?</p> <p>25 A. Yes.</p>	<p>Page 141</p> <p>1 the last paragraph there, in order to give the 2 counties enough time to draw lines, change street 3 segments, update political subdivisions, and mail out 4 cards to voters.</p> <p>5 Q. Before getting to that fifth paragraph, why do 6 you say it should be one week prior to the candidate 7 filing period?</p> <p>8 A. In order to give the counties a hard deadline, 9 that was the agreement that we came up on for them to 10 be complete 'cause if we are one week out from 11 candidate filing, we have technically a little bit of 12 wiggle room in terms of, we can afford a day or two of 13 them not having this done. But we don't have much 14 wiggle room.</p> <p>15 We did not want to say -- to give the 16 counties a, quote, unquote, deadline of the first day 17 of candidate filing, like, be done with your stuff 18 because candidates need to know what districts they 19 are in in order to file. And that was the discussion 20 that we had as a team. That was why we chose and 21 decided, as a collective, that this needs to be done 22 before candidate filing begins because candidates have 23 to know what districts they're in at the school board 24 level, congressional level, whatever.</p> <p>25 Q. Tell me if I'm understanding this correctly.</p>
<p>Page 140</p> <p>1 Q. "The next big deadline coming up would be the 2 party filing period which begins on February 22nd, 3 2022." Did I read that correctly?</p> <p>4 A. Yes.</p> <p>5 Q. Is that the -- that is the beginning of the 6 eight-day period, filing period, that we discussed 7 this morning?</p> <p>8 A. Yes.</p> <p>9 Q. And it -- there, are you talking about all 10 elections?</p> <p>11 A. Yes.</p> <p>12 Q. Including congressional elections?</p> <p>13 A. Yes.</p> <p>14 Q. If you could just -- the last sentence of that 15 paragraph says, "I would personally recommend that the 16 absolute deadline should be February 15th, 2022, one 17 week prior to the candidate filing period"; is that 18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. The absolute deadline for what were you 21 referring to there?</p> <p>22 A. For redistricting to be complete, for precinct 23 information to be updated, for district assignments to 24 be updated in the voter registration database.</p> <p>25 And I would refer to the first sentence in</p>	<p>Page 142</p> <p>1 Everything that technically would need to be in place 2 for the candidate filing period to begin, all of it -- 3 all of the technical details that need to be updated 4 to prepare for the candidate filing period would be 5 complete by February 15th, as you are contemplating 6 here. And the purpose of having a week before the 7 candidate filing period actually begins would be for 8 the potential candidates to have that information for 9 a period of time?</p> <p>10 A. The intent behind putting this deadline a week 11 before candidate filing starts was to give ourselves a 12 little bit of a buffer in case a county doesn't 13 complete by the 15th or if a county completes by the 14 15th but then realizes that they have discovered an 15 issue, they had a little bit of time to rectify that.</p> <p>16 That was -- I think I'm answering your 17 question. But that was the intent behind pushing this 18 deadline back a week before the beginning of candidate 19 filing.</p> <p>20 And yes, to be able to have that new 21 updated precinct and district information to 22 candidates that may not know what district they're in. 23 If a, you know, justice of the peace candidate or 24 quorum court member, whatever you want to call it, 25 wants to file for office but they completely are in a</p>

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1 different district now, they're not going to know what  
2 district they're in unless their information has been  
3 approved and put into the voter registration database.  
4 Q. So the purpose of that week is, one, time to get  
5 information to the candidates before the beginning of  
6 the filing period; and two, time to troubleshoot  
7 issues or follow up with counties that may have missed  
8 the deadline? Am I accurately summarizing there?  
9 A. Yes.  
10 Q. Anything other than -- any reason other than  
11 those two reasons for why you recommended the deadline  
12 be a week before the beginning of the candidate filing  
13 period?  
14 A. Not that I can recall, no.  
15 Q. And then in the fifth paragraph, you say, to  
16 give -- you began reading that earlier. Part way  
17 through but in the middle of the paragraph, you say,  
18 "I believe the State should try their best to finish  
19 up by the end of November 2021"; did I read that  
20 correctly?  
21 A. Yes.  
22 Q. You believe the State should try to finish up  
23 what exactly? What are you referring to there?  
24 A. The state redistricting process.  
25 Q. When you say "the state redistricting process,"

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1 do you mean specifically for the state legislature or  
2 for redistricting at all levels?  
3 A. For the state legislature.  
4 Q. What you are referring to here also, do the  
5 timing recommendations you are making in this email  
6 also apply to congressional redistricting?  
7 A. No.  
8 Q. Why not?  
9 A. Because we could not saddle the Arkansas  
10 legislature with a deadline for them to finish their  
11 congressional redistricting processes. I don't  
12 remember what the time frame was on that, how quickly  
13 they got theirs done. But we simply could not apply  
14 that deadline to the state legislature.  
15 Q. But the practical considerations you are talking  
16 about here would be the same for congressional  
17 redistricting?  
18 MS. CRYER: Object to the form. You may  
19 answer.  
20 A. Not necessarily. The reason why we needed to  
21 get the state level redistricting process done by  
22 November of 2021 is because the counties were going to  
23 do their best to follow the boundary lines that we  
24 created based off of the house and the senate  
25 districts in order for them to -- it was a

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1 trickle-down effect, basically.  
2 We would finish the house and senate  
3 boundaries at the state level, get them approved, send  
4 that information down to the county level so anybody  
5 that's going to redistrict at that point can follow  
6 those similar boundaries lines as best as they can in  
7 order to avoid precinct splits.  
8 Q. But to the party filing period that you refer to  
9 in the fourth paragraph, which begins on February  
10 22nd, 2022, that's the same for congressional  
11 districts as for state legislative -- for  
12 congressional elections as for state legislative  
13 elections; is that correct?  
14 A. Yes.  
15 Q. So when you say, "It is at this point, in our  
16 opinion, all redistricting procedures, tasks, and  
17 changes need to be implemented and completely in place  
18 at all levels of government first"; did I read that  
19 correctly?  
20 A. Yes.  
21 Q. That would be true of congressional districts as  
22 well as state legislative districts; is that correct?  
23 A. I think you can make that argument because of  
24 the same fact that, you know, candidates for congress  
25 also need to know what district they're in. So under

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1 that premise, yes.  
2 Q. But for congressional elections, it might  
3 actually be later?  
4 A. I don't know.  
5 MS. CRYER: I was going to say, object  
6 to the form. You can answer.  
7 A. Yeah. I don't know the answer to that.  
8 Q. And when you say, "I believe the state should  
9 try their best to finish up by the end of November  
10 2021 --" never mind. I'll start a new question.  
11 Let me ask you this. Your email that you  
12 sent at the beginning of the thread here, who did you  
13 send that to?  
14 A. Shelby Johnson, Leslie Bellamy,  
15 Michael Fincher --  
16 Q. I don't need to ask you to read the whole list,  
17 but I guess you sent it to some people in the  
18 secretary of state's office?  
19 A. Yes. In addition to Arkansas GIS office.  
20 Q. Arkansas GIS office, that's Shelby Johnson?  
21 A. Yes.  
22 Q. Is Shelby Johnson the only person outside the  
23 secretary of state's office you sent this to?  
24 A. I believe so, yes.  
25 Q. Now, looking at Shelby Johnson's email, the

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1 subject line, "FW: Timeline for Redistricting"?  
2 A. Yes.  
3 Q. What do you understand "FW:" to mean there?  
4 A. He forwarded the email that I originally sent to  
5 another group of people.  
6 Q. Okay. So that email has a different set of  
7 recipients?  
8 A. Correct.  
9 Q. Who did he forward your email to? What --  
10 THE COURT REPORTER: Can we take a break  
11 for just a second?  
12 MR. SKOCPOL: Yes.  
13 (Recess from 2:35 p.m. to 2:37 p.m.)  
14 Q. Yeah. And I don't need you to read every name  
15 on the "To" field. But looking over the names in the  
16 "To" field and the "cc" field, who else in the  
17 Arkansas state government did he appear to be sharing  
18 this with?  
19 A. He sent this to members of the attorney  
20 general's office, governor's office, the Bureau of  
21 Legislative Research, and he copied some of us at the  
22 secretary of state's office.  
23 Q. You mentioned the Bureau of Legislative  
24 Research. Is that -- is that part of the legislature?  
25 A. No. The bureau is a state agency that assists

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1 the state legislature with the drafting of state  
2 legislation.  
3 Q. And would that include assisting the state  
4 legislature with the redrawing of congressional  
5 districts?  
6 A. I don't know.  
7 Q. Okay. I think we're done with that document.  
8 MR. SKOCPOL: We can take a break here.  
9 (Recess from 2:38 p.m. to 2:48 p.m.)  
10 (Exhibit 5 marked for identification.)  
11 Q. I'd now like to mark as Exhibit 5, that is a  
12 one-page document that's Bates stamped  
13 BLR-Byrd-FOIA-01035. Have you seen this document  
14 before?  
15 A. I believe I have, yes.  
16 Q. What is it?  
17 A. This is an email from Shelby Johnson informing  
18 us that the census data had been published on the  
19 census website.  
20 Q. And what date was that sent?  
21 A. August 12, 2021.  
22 Q. And to whom was that sent? Let's start with,  
23 who in the secretary of state's office -- or actually,  
24 tell me if this is correct. It appears, assuming the  
25 email addresses are right, it looks like this was sent

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1 to Dwight Southerland; Kurt Naumann; yourself,  
2 Josh Bridges; Kenneth Burleson. And in the cc line --  
3 no, not in the cc line. Kevin Niehouse.  
4 A. Yes.  
5 Q. Is that correct?  
6 A. Sorry. Yes. That is correct.  
7 Q. And outside of the secretary of state's office,  
8 who was it sent to?  
9 A. Members of the governor's office, the attorney  
10 general's office, Bureau of Legislative Research,  
11 other members of the Arkansas GIS office, and the  
12 director of the board of apportionment, Betty Dickey.  
13 Q. Who are the Bureau of Legislative Research names  
14 that you recognize here?  
15 A. Lori Bowen, Marty Garrity.  
16 Q. Any others?  
17 A. Michelle Davenport. There's other names on here  
18 I don't recognize that may or may not be employees of  
19 the Bureau of Legislative Research.  
20 Q. Do you recognize the name Matthew B. Miller?  
21 A. No, I do not.  
22 Q. When you say, "The 2020 census redistricting  
23 data has just been published" in the first paragraph,  
24 what data are you referring to there?  
25 MS. CRYER: I am going to --

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1 Q. Let me I'll ask a -- if you look at the third  
2 paragraph, it says, does it -- am I reading this  
3 correctly, "While the data is being released today, we  
4 do not expect to actually have it functional in the  
5 state GIS nor the redistricting software until later  
6 because the data --" well, did I read that sentence  
7 correctly?  
8 A. Yes.  
9 Q. A little farther down, is this paragraph  
10 describing the data that was released today when it  
11 talks about five separate files?  
12 MS. CRYER: I am going to object to the  
13 form. To the extent you understand, you can  
14 answer. Like, he's not the author of the  
15 email, so I just wanted to -- okay.  
16 Q. Yeah. Is that your understanding?  
17 A. You'll have to rephrase the question. I'm not  
18 sure what you mean by that.  
19 Q. Well, based on this email, as -- to the extent  
20 it helps you recall, what was released on August 12th?  
21 A. The 2020 census data.  
22 Q. And you see in the third paragraph, second  
23 sentence, where it says, "The data being released is  
24 the legacy format." Do you know what legacy format  
25 refers to?

<div>Page 151</div> <div><p>1 A. I believe it was referring to just an old format</p><p>2 that was used in prior redistricting efforts.</p><p>3 Q. Then the next sentence, when it says, "The</p><p>4 legacy format is not published in an easy to use</p><p>5 manner," do you know what that's referring to?</p><p>6 A. No. Other than the fact that it's just simply</p><p>7 in an older format not used. Or not easily used, I</p><p>8 should say.</p><p>9 Q. It says, "It is composed of five separate</p><p>10 files." Do you understand that to be describing the</p><p>11 legacy format?</p><p>12 A. Yes.</p><p>13 Q. Then the next sentence says, "The GIS component</p><p>14 containing all the census blocks and then four other</p><p>15 data tables, composed age, race, voting age, and other</p><p>16 metrics." Did I read that correctly?</p><p>17 A. Yes.</p><p>18 Q. Are those the five separate -- do you understand</p><p>19 those to be the five separate files that he's</p><p>20 referring to there?</p><p>21 A. I believe so, yes.</p><p>22 Q. So do you know what other metrics that's talking</p><p>23 about?</p><p>24 A. I do not.</p><p>25 Q. Do you know if the census data that was released</p></div>	<div>Page 153</div> <div><p>1 Q. Do you -- what is the redistricting software</p><p>2 that City Gate provided?</p><p>3 A. I believe the name of it was autoBound.</p><p>4 Q. The previous document -- in the previous</p><p>5 document we looked at, you were discussing news of a</p><p>6 delay in census data in January 2021; is that correct?</p><p>7 A. Yes. That is correct.</p><p>8 Q. Is the data that's being discussed in this email</p><p>9 the data that was delayed?</p><p>10 MS. CRYER: Object.</p><p>11 Q. The data that you were -- the same data being</p><p>12 discussed in this email as you were talking about</p><p>13 being delayed in your January 2021 email?</p><p>14 MS. CRYER: Object to the form. You can</p><p>15 answer.</p><p>16 A. Yes.</p><p>17 Q. Why would you and others from the secretary of</p><p>18 state's office have been copied on this email, or</p><p>19 included as recipients on this email, excuse me?</p><p>20 A. On Exhibit 5?</p><p>21 Q. Yes.</p><p>22 A. As an informational purpose, to let us know that</p><p>23 the redistricting data was now available.</p><p>24 (Exhibit 6 marked for identification.)</p><p>25 Q. I am going to mark as Exhibit 6 -- I am marking</p></div>
<div>Page 152</div> <div><p>1 on August 12th included -- I'm just asking whether you</p><p>2 know or not. Do you know whether it included</p><p>3 political affiliation data?</p><p>4 A. I don't know. I don't believe it did.</p><p>5 Q. That's not -- after that, there's a reference to</p><p>6 City Gate. Do you know who City Gate is?</p><p>7 A. Yes.</p><p>8 Q. Who is City Gate, or who or what is City Gate?</p><p>9 A. That was the company that the State contracted</p><p>10 with to provide the redistricting software for</p><p>11 redistricting purposes.</p><p>12 Q. When you say the State contracted with City</p><p>13 Gate, was that the secretary of state's office?</p><p>14 A. I don't believe so. I'm not sure where that</p><p>15 contract had landed. I'm not sure.</p><p>16 Q. Okay. And when you say for the redistricting</p><p>17 process, is that for federal redistricting, state</p><p>18 redistricting, local redistricting?</p><p>19 A. State.</p><p>20 Q. State. Would the City Gate have also -- would</p><p>21 City Gate have also been the software provider for</p><p>22 federal redistricting?</p><p>23 MS. CRYER: Object to the form. You can</p><p>24 answer.</p><p>25 A. I'm not sure.</p></div>	<div>Page 154</div> <div><p>1 as Exhibit 6 a document which is --</p><p>2 MR. SKOCPOL: Could we go off the record</p><p>3 for just a second?</p><p>4 (Discussion held off the record.)</p><p>5 Q. Go back on the record. I am going to mark as</p><p>6 Exhibit 6 a document BLR-Byrd-FOIA-00001. Have you</p><p>7 seen this document before?</p><p>8 A. I am copied or this was sent to me, yes. It</p><p>9 doesn't ring a bell, but I'm sure I have seen this</p><p>10 before.</p><p>11 Q. What is it?</p><p>12 A. This is an email from Shelby Johnson to certain</p><p>13 people informing them that there is a YouTube video</p><p>14 that covered the training on what I believe to be the</p><p>15 autoBound software, along with additional information</p><p>16 on draft plans for testing.</p><p>17 Q. And you're one of the recipients of that email?</p><p>18 A. Yes.</p><p>19 Q. From the secretary of state's office, are Dwight</p><p>20 Southerland, Kurt Naumann, Kenneth Burleson, and</p><p>21 Kevin Niehouse also recipients of that email?</p><p>22 A. Yes.</p><p>23 Q. If you look at the first sentence of the email,</p><p>24 am I reading it correctly, "Thank you for joining the</p><p>25 training this morning"; is that correct?</p></div>



<p>Page 155</p> <p>1 A. Yes.</p> <p>2 Q. Did you attend a training on autoBound EDGE on</p> <p>3 August 16th, 2021?</p> <p>4 A. It is highly likely that I did, yes. At some</p> <p>5 point, I was trained on the software. Whether it was</p> <p>6 that date or not, I can't necessarily confirm. I</p> <p>7 don't recall. But probably.</p> <p>8 Q. So you remember attending a training on the use</p> <p>9 of the autoBound EDGE software?</p> <p>10 A. Yes.</p> <p>11 Q. But you don't remember whether it was on</p> <p>12 August 16th?</p> <p>13 A. Correct.</p> <p>14 Q. Could the training that you remember attending</p> <p>15 have been on August 16th?</p> <p>16 A. Yes.</p> <p>17 Q. Had the training that you remember attending, do</p> <p>18 you remember whether -- let me ask, were any other --</p> <p>19 was anyone else from the secretary of state's office</p> <p>20 also at that training?</p> <p>21 A. I don't remember for sure.</p> <p>22 Q. But they might have been?</p> <p>23 THE COURT REPORTER: I'm sorry?</p> <p>24 Q. But they might have been?</p> <p>25 A. I can't rule that out.</p>	<p>Page 157</p> <p>1 census block.</p> <p>2 Q. Okay. So I want to make sure I'm understanding</p> <p>3 some different components of that. I believe you</p> <p>4 referred to a map on the screen. So when you're using</p> <p>5 the software and you see map of the state of</p> <p>6 Arkansas -- is that correct?</p> <p>7 A. That is correct.</p> <p>8 Q. And you're able to make decisions about where</p> <p>9 district lines fall on that map?</p> <p>10 A. That is correct.</p> <p>11 Q. And move those district lines around to change</p> <p>12 the shape of potential districts?</p> <p>13 A. You can assign or unassign the precincts or</p> <p>14 census blocks accordingly which would, in turn, change</p> <p>15 that boundary line. Yes.</p> <p>16 Q. Got it. Thank you. And when you say</p> <p>17 "precincts," those are -- let me say that a little --</p> <p>18 the 2019 email that we looked at earlier was about</p> <p>19 confirming the boundaries of precincts; is that</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. So are those the precincts that would be -- that</p> <p>23 you would be assigning to districts in autoBound EDGE?</p> <p>24 A. Yes.</p> <p>25 MS. CRYER: Object to the form. You can</p>
<p>Page 156</p> <p>1 Q. Are you familiar with the features of the</p> <p>2 autoBound EDGE software?</p> <p>3 A. Yes.</p> <p>4 Q. And what was that software used for?</p> <p>5 A. The drawing of district boundaries.</p> <p>6 Q. For -- I believe you said earlier, it was used</p> <p>7 for the state level redistricting process?</p> <p>8 A. Yes.</p> <p>9 Q. And you don't know whether it was also used for</p> <p>10 the federal level redistricting process?</p> <p>11 A. I don't know. I do not know if it was or was</p> <p>12 not used.</p> <p>13 Q. When you say "used for drawing the maps," what</p> <p>14 do you mean?</p> <p>15 A. The software had the ability to couple current</p> <p>16 geographies with census data to where you could add</p> <p>17 precincts or census blocks to a district. It was used</p> <p>18 in terms of, you could set the software to drawing</p> <p>19 house districts.</p> <p>20 And you literally would start clicking</p> <p>21 different census blocks or different election</p> <p>22 precincts on the actual map to assign those blocks or</p> <p>23 precincts to the district selected. And it would give</p> <p>24 you a real time count of the population for that</p> <p>25 district, based off of your selection of precinct or</p>	<p>Page 158</p> <p>1 answer.</p> <p>2 THE WITNESS: I'm sorry.</p> <p>3 MS. CRYER: That's all right.</p> <p>4 Q. And when you say "census block," what is a</p> <p>5 census block?</p> <p>6 A. A census block is a geographic square that</p> <p>7 contains a certain amount population within it. I</p> <p>8 don't know the schematics or the official definition</p> <p>9 of that. That's kind of out of my wheelhouse on what</p> <p>10 a definition of a census block would actually be.</p> <p>11 Q. Sure. Do you know who defines the boundaries of</p> <p>12 a census block?</p> <p>13 A. I believe it would be the US census bureau.</p> <p>14 Q. Okay. And is a census block a smaller or larger</p> <p>15 unit of geography than a precinct?</p> <p>16 MS. CRYER: Object to the form. You can</p> <p>17 answer.</p> <p>18 A. It honestly depends. I think it varies. It is</p> <p>19 a fairly small geography. But depending on if there</p> <p>20 is a very small election precinct, they could be</p> <p>21 comparable. Typically, they are smaller.</p> <p>22 Q. And were you trained on how to use autoBound</p> <p>23 EDGE -- let me start that question again.</p> <p>24 I believe you said you can use autoBound</p> <p>25 EDGE to assign precincts or census blocks. So are</p>



<p>1 you -- is that correct?</p> <p>2 A. That is correct.</p> <p>3 Q. So you're either working with precincts or</p> <p>4 census blocks, not both at the same time?</p> <p>5 A. I don't recall if you could work with both at</p> <p>6 the same time. I knew that -- I do know that you</p> <p>7 could work with one or the other to draw a map. I</p> <p>8 don't recall if it was interchangeable. I don't</p> <p>9 recall if you could do it at the same time. I'm not</p> <p>10 sure.</p> <p>11 Q. Understood. Were you trained on how to work</p> <p>12 with both precincts and census blocks in the software?</p> <p>13 A. Yeah. The concept was the same.</p> <p>14 Q. And you -- I believe you said that while you're</p> <p>15 assigning precincts or census blocks in autoBound</p> <p>16 EDGE, you see population information for the</p> <p>17 districts; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. What do you mean by "population information"?</p> <p>20 A. The population that was encompassed within that</p> <p>21 election precinct would populate into a table on the</p> <p>22 screen.</p> <p>23 Q. And would that be the total population of the</p> <p>24 area --</p> <p>25 A. Yes.</p>	<p>Page 159</p> <p>1 or practice maps as you say, with the actual census</p> <p>2 data once it was ready, or the 2020 census data. What</p> <p>3 other data could you see about a district as you were</p> <p>4 drawing it other than total population of a district?</p> <p>5 A. I believe age might have been available. I</p> <p>6 believe race was available. I can't think of anything</p> <p>7 else.</p> <p>8 Q. When you say "age," what do you mean?</p> <p>9 A. I believe voting age was one of the data points</p> <p>10 that was available within using autoBound that would</p> <p>11 populate to the table.</p> <p>12 Q. I think you might be saying, tell me if this is</p> <p>13 correct, in addition to seeing the total population of</p> <p>14 the district -- of a district, you could also see the</p> <p>15 population of the district that was of voting age?</p> <p>16 MS. CRYER: Object to the form. You can</p> <p>17 answer.</p> <p>18 A. That is correct. Yes.</p> <p>19 Q. And is voting age in the state of Arkansas 18?</p> <p>20 A. Yes.</p> <p>21 Q. You said there was also race data available.</p> <p>22 What do you mean by that?</p> <p>23 A. There were racial demographics available in</p> <p>24 relation to that geographic area in conjunction or in</p> <p>25 relation to the census data.</p>
<p>Page 160</p> <p>1 Q. -- based on the 2020 census data?</p> <p>2 A. Yes. But at the time that this training took</p> <p>3 place, I believe we were using the 2019 ACS data file</p> <p>4 while we were awaiting the file for census. So yes.</p> <p>5 The American Community Survey file from 2019 was what</p> <p>6 we were trained on.</p> <p>7 Q. But it was -- the goal of using the features you</p> <p>8 were trained on for the 2020 census data once it was</p> <p>9 ready to be used in autoBound EDGE?</p> <p>10 A. Correct. That was the goal, obviously, was to</p> <p>11 draw official maps based off of the 2020 census, but</p> <p>12 we were trained on a separate dataset.</p> <p>13 Q. After you were trained on the use of autoBound</p> <p>14 EDGE, did you then, in fact, use autoBound EDGE to</p> <p>15 draw a draft redistricting plan at any level?</p> <p>16 A. For the state level, yes.</p> <p>17 Q. For the state level. With the census data once</p> <p>18 it was ready?</p> <p>19 A. Yes. But I never drew anything that -- anything</p> <p>20 official that made it to, you know, the full board.</p> <p>21 You know, I more or less drew practice maps, played</p> <p>22 with the data. I never presented an official drawing</p> <p>23 of anything that I did to the board at all.</p> <p>24 Q. Okay. Well, thank you for clarifying that. I</p> <p>25 do want to ask about when you were drawing draft maps,</p>	<p>Page 162</p> <p>1 Q. When you say "that geographic area," you mean</p> <p>2 for each precinct or census block that you were</p> <p>3 working with, you could see the racial demographics of</p> <p>4 that precinct or census block?</p> <p>5 A. Yes.</p> <p>6 Q. And could you see the overall racial</p> <p>7 demographics of a draft or potential district as you</p> <p>8 were assigning precincts or census blocks to</p> <p>9 districts?</p> <p>10 MS. CRYER: Object to the form. You can</p> <p>11 answer.</p> <p>12 A. I believe you could, yes.</p> <p>13 Q. And would that update as you reassigned</p> <p>14 precincts or census blocks from one district to</p> <p>15 another?</p> <p>16 A. Yes, it would.</p> <p>17 Q. So that would show you the total number of --</p> <p>18 let me ask, do you remember if that was expressed as a</p> <p>19 percentage or a total number for different demographic</p> <p>20 categories?</p> <p>21 A. I believe both was available.</p> <p>22 Q. So you could see both the percentage and total</p> <p>23 number of black population in a draft district?</p> <p>24 A. Yes.</p> <p>25 Q. And a percentage or total number of white</p>

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1 population in a draft district?  
2 A. Yes.  
3 Q. Were there any other racial demographic  
4 categories visible as you are working in the document?  
5 A. Yes. I believe there's Hispanic or Latino  
6 available, Pacific Islander, Native American. There  
7 may have been more as well.  
8 Q. You said there was age and race information that  
9 you could see. Could you see that -- let me ask this  
10 a different way.  
11 Could you see the total number or  
12 percentage of black voting age population in a draft  
13 district as you were working with the software?  
14 A. I believe you could, yes.  
15 Q. And that was visible on the screen as you were  
16 assigning precincts and census blocks?  
17 A. I believe it was, yes.  
18 Q. Did you have to -- did you see any political  
19 data on the screen as you were assigning precincts or  
20 census blocks?  
21 A. Not that I recall. No, sir.  
22 Q. Any information about how a census block had  
23 voted in past elections?  
24 A. Not that I recall, no.  
25 Q. The election returns from a precinct in past

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1 elections?  
2 A. No.  
3 Q. Or any data about the partisan affiliation of  
4 voters in a precinct or census block?  
5 A. Not that I recall. No.  
6 Q. And would you see any of those types of  
7 political data at the district level as you were  
8 drawing draft districts?  
9 A. Not that I recall. No.  
10 Q. A couple more quick questions on this document.  
11 If you'll look at the second paragraph, center of the  
12 email, Shelby Johnson says, "We have developed draft  
13 plans in autoBound EDGE." Did I read the beginning of  
14 that part of the sentence correctly?  
15 A. Yes.  
16 Q. So it's possible that people who attended this  
17 training might have -- or might have previously  
18 drafted plans using autoBound EDGE before August 16th?  
19 MS. CRYER: Object to the form.  
20 A. That is correct.  
21 Q. And in the last paragraph, he says, "Finally,  
22 for the house and senate incumbent residential  
23 addresses we are finalizing those edits and will be  
24 providing an updated version of incumbents soon." Did  
25 I read that correctly?

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1 A. Yes, you did.  
2 Q. Do you understand that to be referring to  
3 Arkansas general assembly house and senate incumbent  
4 residential addresses or US congress house and senate  
5 incumbent residential addresses?  
6 MS. CRYER: Object to the form. You can  
7 answer.  
8 Q. Or something else if not either of those?  
9 MS. CRYER: Same objection.  
10 A. This refers to the state house and state senate  
11 incumbent residential addresses.  
12 Q. When he says, "We'll be providing an updated  
13 version of incumbents soon," what do you understand  
14 him to be referring to?  
15 MS. CRYER: Object to the form. You can  
16 answer.  
17 A. The list of the residential addresses for the  
18 house and senate members.  
19 Q. The Arkansas general assembly house and senate  
20 members?  
21 A. Yes.  
22 Q. And is that information that you could see in  
23 autoBound EDGE where the members of the general  
24 assembly lived?  
25 A. Yes. You can drop a pin on an address, if you

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1 so choose, and that information was baked into the  
2 software.  
3 Q. Anytime you were working in the software, you  
4 didn't see information about -- did you -- let me ask,  
5 did you ever see information in the software about  
6 where US congress house members or senators lived?  
7 MS. CRYER: Object to the form. You can  
8 answer.  
9 A. I don't know for sure if that information was  
10 ever put in the system. I'm not sure.  
11 Q. So you don't remember ever seeing that  
12 information in the system?  
13 MS. CRYER: Same objection. You can  
14 answer.  
15 A. Correct. I do not remember.  
16 (Exhibit 7 marked for identification.)  
17 Q. That's all for that document. Next, let's go to  
18 tab 5, which that's for our internal. I'm marking as  
19 Exhibit Number 7 a document, the first page of which  
20 is Bates stamped TSS\_CMA\_0000748.  
21 MS. CRYER: Have you got an extra copy?  
22 Thank you.  
23 Q. Have you seen this document before?  
24 A. At some point, yes. I have.  
25 Q. What is it?

<p>Page 167</p> <p>1 A. It's an email from Shelby Johnson concerning 2 bill draft congressional districts. 3 Q. Is it fair to say it's a series of emails on 4 that document? 5 A. Yes. 6 Q. So I want to start at the earliest part of the 7 email thread and work up. Who is the sender of the 8 earliest email on this thread at the bottom of page 2, 9 carrying over on to page 3? 10 A. Shelby Johnson. Wait. Sorry. Yeah. 11 Shelby Johnson. 12 Q. Okay. That email he sent on September 15th, 13 2021? 14 A. Yes. 15 Q. From the secretary of state's office are you, 16 Kevin Niehouse, Kenneth Burleson? Are those three 17 individuals recipients of this email? 18 A. Yes. 19 Q. Generally, who were the -- do you recognize the 20 other individuals on this email and who are they? 21 A. Members from the governor's office, Arkansas 22 attorney general's office, the director of the board 23 of apportionment, and other members of the Arkansas 24 GIS office. 25 Q. Is it fair to say the subject line is, "Bill</p>	<p>Page 169</p> <p>1 software? 2 A. I'm not sure if they did or did not. 3 Q. Did you personally? 4 A. I don't recall if I did or did not. 5 Q. If you look chronologically, at the next email 6 chronologically on the thread, is that an email sent 7 by Shelby Johnson on September 22nd, 2021? 8 A. Yes. 9 Q. That's in the middle of page 2? 10 A. Yes. 11 Q. That is sent to the same three individuals from 12 the secretary of state's office, including yourself? 13 A. Yes. 14 Q. Shelby Johnson there says, "Attached is a map, 15 report and the shapefiles representing Senate Bill 721 16 by Senator Hester amending the congressional district 17 which was filed yesterday"; did I read that correctly? 18 A. Yes. 19 Q. What do you understand him to be referring to 20 when he says "map"? 21 A. He is referring to the map that would be 22 potentially implemented if Senate Bill 721 was adopted 23 as the official congressional map. So it is a draft 24 map, most likely created in autoBound EDGE, that was 25 sent to us from Shelby.</p>
<p>Page 168</p> <p>1 Draft Congressional Districts"? 2 A. Yes. 3 Q. Why did you -- why were you copied on this -- 4 why were you a recipient of this email? 5 MS. CRYER: Object to the form. You can 6 answer. 7 A. I do not know, honestly. I think it was more of 8 an informational purposes because this email included 9 the files of the proposed bills from the legislators. 10 Q. Okay. If you look at the third paragraph, 11 "Attached are the shapefile records that you can use 12 to import into your autoBound EDGE software at your 13 convenience"; did I read that correctly? 14 A. Yes. 15 Q. We've discussed what autoBound EDGE is. What is 16 a shapefile? 17 A. A shapefile is a reference to the -- how do I 18 say this? The file needed in order to create a 19 geography in a software such as autoBound EDGE. It is 20 the -- referring to what is required in order to 21 produce that district in a GIS product. It's the best 22 I got. 23 Q. That's pretty good. Did anyone from the 24 secretary of state's office ever import draft 25 congressional redistricting bills into autoBound EDGE</p>	<p>Page 170</p> <p>1 Q. And what do you understand him to be referring 2 to when he says "report"? 3 A. I would think that the report is going to be the 4 demographic and population data as a result of the 5 creation of this map. 6 Q. When you say "the demographic and population 7 data," what do you mean by that? 8 A. The census data. 9 Q. And is that a report that would be generated by 10 autoBound EDGE? 11 A. I believe so, yes. 12 Q. So a minute ago, when we were discussing the 13 data that autoBound EDGE can show on the screen when 14 you're drawing a draft map, it can also generate a 15 report showing -- showing that data for a proposed or 16 draft set of districts? 17 A. That is correct. Yes. 18 Q. So when he says "report" there, he's likely 19 referring to a document that has information about the 20 population of proposed districts, including total and 21 voting age population -- I'll pause there. Is that 22 correct? 23 A. I believe so, yes. 24 Q. And he's likely also referring to a document 25 that would have information about the racial</p>

<p>Page 171</p> <p>1 demographics of proposed districts?</p> <p>2 A. I believe so, yes.</p> <p>3 Q. Including the absolute and percentage of white</p> <p>4 and black voters in a proposed district?</p> <p>5 A. Yes.</p> <p>6 Q. But that report would not have political data in</p> <p>7 it; is that correct?</p> <p>8 A. I believe that is correct. It would not.</p> <p>9 Q. Now, if you look at the next email</p> <p>10 chronologically on this thread also sent, is that also</p> <p>11 sent on September 22nd, 2021?</p> <p>12 A. Yes.</p> <p>13 Q. And here, I'm at the bottom of page 1 carrying</p> <p>14 over in the signature block at the top of page 2.</p> <p>15 A. Yes.</p> <p>16 Q. That is sent to the same individuals -- same</p> <p>17 three individuals, including yourself, from the</p> <p>18 secretary of state's office?</p> <p>19 A. Yes.</p> <p>20 Q. Does that also refer to maps, reports, and</p> <p>21 shapefile data for proposed congressional bill -- the</p> <p>22 proposed congressional bills that were filed in the</p> <p>23 legislature?</p> <p>24 A. Yes.</p> <p>25 Q. And do you understand maps and reports have the</p>	<p>Page 173</p> <p>1 receive"; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. Why was he sending this email to you?</p> <p>4 A. Because -- well, number one, I believe he tried</p> <p>5 sending it again due to the bounce back because our</p> <p>6 servers can only accept emails with a certain amount</p> <p>7 of attachments data-wise. It caps at a certain point</p> <p>8 and will kickback an email if the files attached are</p> <p>9 too large. And that also applies to sending that</p> <p>10 information out too.</p> <p>11 So I think he sent this to me Kevin and</p> <p>12 Kenneth because all the rest of the other folks got</p> <p>13 it. This was an attempt for him to send it make sure</p> <p>14 we had it as well.</p> <p>15 Q. Okay. So he wanted to make sure you</p> <p>16 specifically had all of the congressional bills --</p> <p>17 proposed congressional districts that had been filed?</p> <p>18 MS. CRYER: Object to the form. You can</p> <p>19 answer.</p> <p>20 A. Yes. I believe this was a -- an attempt to make</p> <p>21 sure that we had all the information that he had</p> <p>22 created, or they collectively had created. I'm not</p> <p>23 sure who on his team did this work. But it wasn't us.</p> <p>24 Q. In the last sentence, he says, "If there is a</p> <p>25 particular draft, just let me know and we'll get it to</p>
<p>Page 172</p> <p>1 same meaning there as maps and reports did in the</p> <p>2 previous email?</p> <p>3 A. Yes.</p> <p>4 Q. All right. And then looking at the top email on</p> <p>5 the thread, is that an email that was sent on</p> <p>6 September 23rd, 2021?</p> <p>7 A. Yes.</p> <p>8 Q. From Shelby Johnson, is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And this one is sent to the same three</p> <p>11 individuals from the secretary of state's office,</p> <p>12 including yourself; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. And unlike the previous emails on this thread,</p> <p>15 it is sent only to those three individuals; is that</p> <p>16 correct?</p> <p>17 A. Yes.</p> <p>18 Q. Does that email begin, "Gents, this email</p> <p>19 bounced back yesterday"; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. "We have mapped all of the bills that have been</p> <p>22 filed"; is that correct?</p> <p>23 A. Correct.</p> <p>24 Q. "I attached all of them with shapefile data, but</p> <p>25 it must have been too large for your system to</p>	<p>Page 174</p> <p>1 you"; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. What do you understand him to mean by</p> <p>4 "congressional draft" there?</p> <p>5 MS. CRYER: Object to the form. You can</p> <p>6 answer.</p> <p>7 A. Drafts of the map that was created by him and/or</p> <p>8 his team as a result of one of the proposed house or</p> <p>9 senate bills being filed.</p> <p>10 Q. So a proposed congressional redistricting plan?</p> <p>11 A. Yes.</p> <p>12 Q. Why would the secretary of state's office need a</p> <p>13 congressional draft?</p> <p>14 MS. CRYER: Object to the form. You can</p> <p>15 answer.</p> <p>16 A. I really don't know, to be honest. I think this</p> <p>17 was an attempt for Shelby to keep all of these members</p> <p>18 informed on what was being potentially proposed by the</p> <p>19 legislature. I believe this email thread was</p> <p>20 informative in nature because the work was already</p> <p>21 done.</p> <p>22 These proposed bills that the legislature</p> <p>23 was trying to get passed through the legislative</p> <p>24 process was work not done by us. But it was Shelby's</p> <p>25 attempt at taking a legislative bill and baking it</p>



<p style="text-align: right;">Page 175</p> <p>1 into a GIS software and then, in turn, making sure</p> <p>2 these entities, secretary of state, attorney general,</p> <p>3 governor, were abreast of the information.</p> <p>4 Q. Is that because the secretary of state's office</p> <p>5 would be responsible for implementing one of these</p> <p>6 bills once it was enacted into law?</p> <p>7 MS. CRYER: Object to the form. You can</p> <p>8 answer.</p> <p>9 A. We would not be in charge of implementing the</p> <p>10 bills, no. We don't have any involvement with the</p> <p>11 drawing of the congressional district boundaries.</p> <p>12 The only involvement we would have here is</p> <p>13 if -- if and when those legislative bills were passed,</p> <p>14 those bills come to us simply for filing as an act.</p> <p>15 We are the official record keeper of the acts of</p> <p>16 Arkansas. But in terms of the information contained</p> <p>17 therein, the actual creation of the maps, the</p> <p>18 implementation of those maps, we don't -- did not play</p> <p>19 a part.</p> <p>20 Q. When you say the secretary of state's office is</p> <p>21 the official record keeper of the acts of Arkansas,</p> <p>22 does that mean that when a congressional redistricting</p> <p>23 plan is enacted into law, you are the official keeper</p> <p>24 of the record of what those districts are in law?</p> <p>25 A. We are the official keeper of that document.</p>	<p style="text-align: right;">Page 177</p> <p>1 marking Exhibit 8, which is a document the first page</p> <p>2 of which is Bates stamped TSS_CMA_389. Have you seen</p> <p>3 this document before?</p> <p>4 A. I believe I have, yes.</p> <p>5 Q. What is it?</p> <p>6 A. It is an email from Shelby Johnson concerning</p> <p>7 the new version of Senate Bill 743, updating us on a</p> <p>8 incorrect record that he sent initially.</p> <p>9 Q. And what was that record? What was he sending</p> <p>10 you on this email thread?</p> <p>11 A. He sent me map and report for the amended</p> <p>12 version of Senate Bill 743 that was passed by both the</p> <p>13 house and the senate.</p> <p>14 Q. Okay. Do you know what Senate Bill 743 is</p> <p>15 referring to?</p> <p>16 A. I am going to assume that it's referring to the</p> <p>17 congressional district boundaries that were proposed</p> <p>18 within that bill.</p> <p>19 Q. And would it be fair to say this email</p> <p>20 represents Shelby Johnson sending the congressional</p> <p>21 redistricting plan that was ultimately enacted by the</p> <p>22 legislature?</p> <p>23 MS. CRYER: Object to the form. You can</p> <p>24 answer.</p> <p>25 A. I'm not sure what the -- I'm not sure what bill</p>
<p style="text-align: right;">Page 176</p> <p>1 House Bill 1962, let's say, for instance, that's the</p> <p>2 one they want to go with. When that's passed by both</p> <p>3 chambers and signed or not signed by the governor,</p> <p>4 that will become an act and comes to us simply for</p> <p>5 recordkeeping as a repository. We don't enforce,</p> <p>6 enact, implement any of those laws.</p> <p>7 Q. Secretary of state is also responsible --</p> <p>8 once -- let me start again.</p> <p>9 As we discussed earlier, once the</p> <p>10 congressional districting plan is enacted, it's the</p> <p>11 secretary of state's office who is responsible for</p> <p>12 certifying the results of elections in those</p> <p>13 districts; is that correct?</p> <p>14 A. That's fair to say, yes.</p> <p>15 Q. And the secretary of state's office would also</p> <p>16 be responsible for certifying a winner from each of</p> <p>17 those districts; is that correct?</p> <p>18 A. Yes. That's correct.</p> <p>19 Q. And in order to do that, the secretary of</p> <p>20 state's office needs to know what the districts are?</p> <p>21 MS. CRYER: Object to the form. You can</p> <p>22 still answer.</p> <p>23 A. That is correct yes.</p> <p>24 (Exhibit 8 marked for identification.)</p> <p>25 Q. That's all for that document. All right. I'm</p>	<p style="text-align: right;">Page 178</p> <p>1 was officially adopted and enacted. I don't recall.</p> <p>2 It may or may not have been Senate Bill 743.</p> <p>3 Q. This email was sent on October 7th, 2021; is</p> <p>4 that right?</p> <p>5 A. Yes.</p> <p>6 Q. In the first email in the thread, Shelby Johnson</p> <p>7 says that was passed by both house and senate; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. What do you understand that to mean?</p> <p>11 MS. CRYER: Object to the form. You can</p> <p>12 answer.</p> <p>13 A. Based on what he's saying, I would assume that</p> <p>14 Senate Bill 743 was the official bill passed that</p> <p>15 created the 2021 congressional districts.</p> <p>16 Q. And from the secretary of state's office, were</p> <p>17 these emails -- I believe this is correct, but correct</p> <p>18 me if I'm wrong. Both of these emails were sent to</p> <p>19 Kevin Niehouse; you, Josh Bridges; and</p> <p>20 Kenneth Burleson?</p> <p>21 A. That is correct.</p> <p>22 Q. As well as other individuals who are copied</p> <p>23 there?</p> <p>24 A. Correct.</p> <p>25 Q. Why was this sent to the secretary of state's</p>



<p>1 office?</p> <p>2 MS. CRYER: Object to the form. You can</p> <p>3 answer.</p> <p>4 A. I believe for informational purposes.</p> <p>5 Q. And when -- do you see where Shelby Johnson</p> <p>6 says, "Attached is the map report for the amended</p> <p>7 version of Senate Bill 743"?</p> <p>8 A. Yes.</p> <p>9 Q. What do you understand map report to refer to</p> <p>10 there?</p> <p>11 MS. CRYER: Object to the form. You can</p> <p>12 answer.</p> <p>13 A. The report generated from the autoBound program</p> <p>14 concerning the makeup of the districts.</p> <p>15 Q. Do you understand that to be the same as when he</p> <p>16 used the word "report" in earlier emails?</p> <p>17 MS. CRYER: Same objection. Sorry.</p> <p>18 A. I believe that is the case. Yes.</p> <p>19 Q. If you'll flip to the subsequent pages of this</p> <p>20 document, is this -- does this appear to be an example</p> <p>21 of the autoBound EDGE reports that you are referring</p> <p>22 to?</p> <p>23 A. Yes.</p> <p>24 Q. Are these reports for the amended Senate Bill</p> <p>25 743?</p>	<p>Page 179</p> <p>1 immediately under total population, do you understand</p> <p>2 that to be the total population of Congressional</p> <p>3 District 2 in this plan?</p> <p>4 A. Yes.</p> <p>5 Q. And next to that, where it says ideal</p> <p>6 population, what is ideal population?</p> <p>7 A. That is the ideal population based on the total</p> <p>8 number of -- the total population in the state of</p> <p>9 Arkansas divided by four because the districts should</p> <p>10 be as evenly distributed as possible.</p> <p>11 Q. So it's what the population of each district</p> <p>12 would be if they were as identical as possible?</p> <p>13 A. Correct.</p> <p>14 Q. And below that, where it says, "Deviation 0.05</p> <p>15 percent," what is that?</p> <p>16 A. That is the -- I'm sorry. That is the</p> <p>17 difference in the ideal population to the actual</p> <p>18 assigned population or the total population.</p> <p>19 Q. Over on the right side of the page, at the top</p> <p>20 where it says "Racial Demographics," that's</p> <p>21 information about the racial composition of the</p> <p>22 district; is that right?</p> <p>23 A. Yes.</p> <p>24 Q. And it shows the number of white voters in a</p> <p>25 congressional district; is that right?</p>
<p>Page 180</p> <p>1 A. Yes.</p> <p>2 Q. So let's -- let me start by asking you this. If</p> <p>3 you look through -- is there a separate report for</p> <p>4 each district in the redistricting plan?</p> <p>5 A. Yes.</p> <p>6 Q. And so how many reports are there total?</p> <p>7 A. Four.</p> <p>8 Q. Because there are four congressional districts</p> <p>9 in the state of Arkansas?</p> <p>10 A. Yes.</p> <p>11 Q. And does it appear that the same types of</p> <p>12 information are included for each district in the</p> <p>13 plan?</p> <p>14 A. Yes.</p> <p>15 Q. So maybe let's look at District 2, just so we're</p> <p>16 looking at the same thing. Is that on page 3 of the</p> <p>17 autoBound EDGE report?</p> <p>18 A. Yes.</p> <p>19 Q. So what data is included here?</p> <p>20 A. Population, racial demographics, the different</p> <p>21 counties that are involved, the different cities that</p> <p>22 are involved, a description of the geography,</p> <p>23 deviation percentage.</p> <p>24 Q. If we're looking at the left side of the</p> <p>25 document, the figure immediately under -- the number</p>	<p>Page 182</p> <p>1 A. Yes. Sorry.</p> <p>2 Q. And then there's a bar that says "AFR AMR."</p> <p>3 What do you understand that to refer to?</p> <p>4 A. African-American.</p> <p>5 Q. So that represents the number of black voters in</p> <p>6 that district?</p> <p>7 A. Yes.</p> <p>8 Q. Below that, there's a circular figure with color</p> <p>9 coding for Hispanic and not Hispanic; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. Do you also understand that to be describing the</p> <p>12 racial -- the composition of the Second Congressional</p> <p>13 District in the plan?</p> <p>14 A. Yes.</p> <p>15 Q. And is that -- that appears to be reported</p> <p>16 separately here from the racial demographics. So do</p> <p>17 you understand Hispanic and not Hispanic to be a</p> <p>18 separate category from the racial breakdowns that are</p> <p>19 provided above?</p> <p>20 A. Yes.</p> <p>21 Q. Next to that, it says, "Incumbent, No incumbent</p> <p>22 information in the system." Did I read that</p> <p>23 correctly?</p> <p>24 A. Yes.</p> <p>25 Q. What do you understand that to mean?</p>

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<p>1 A. I believe it's referring to the incumbent for</p> <p>2 Congressional District 2, that box could have</p> <p>3 contained the name and potentially residential address</p> <p>4 of the incumbent if it were imported into the system.</p> <p>5 Q. You say "if it were imported into the system."</p> <p>6 Can you tell, based on this report, whether it was in</p> <p>7 the system when this -- when this redistricting plan</p> <p>8 was drafted?</p> <p>9 A. It does not appear that it was imported into the</p> <p>10 system.</p> <p>11 Q. So if there had been information about where --</p> <p>12 about the incumbent congressman for this district,</p> <p>13 that would be reported in this box here?</p> <p>14 A. Yes.</p> <p>15 Q. You mentioned there's a list of counties and</p> <p>16 cities in this district. Is that in the lower right</p> <p>17 here?</p> <p>18 A. Yes.</p> <p>19 Q. Why is that information included in a autoBound</p> <p>20 EDGE report?</p> <p>21 A. I believe just for informational purposes.</p> <p>22 Q. Is it important for the secretary of state's</p> <p>23 office to know that information for any reason?</p> <p>24 A. In terms of ensuring that the counties are aware</p> <p>25 of that as well, yes. Making sure that we're able to</p>		<p>1 state's office needs to know about a congressional</p> <p>2 district?</p> <p>3 A. I would refer back to my previous statements,</p> <p>4 that's simply for informational purposes.</p> <p>5 Q. To be clear on the record, still looking at</p> <p>6 District 2, for example, these demographics, the</p> <p>7 population and demographic information seen here, is</p> <p>8 for the Second Congressional District in this plan as</p> <p>9 a whole; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. I believe you said earlier that the autoBound</p> <p>12 EDGE software also allows you to see that same</p> <p>13 information for a specific precinct or census block;</p> <p>14 is that correct?</p> <p>15 A. That is correct. Yes.</p> <p>16 Q. Is there any political data or information about</p> <p>17 the partisan composition of the district in this</p> <p>18 report?</p> <p>19 A. Not that I see, no.</p> <p>20 Q. Any information about how the geography within</p> <p>21 the district has voted in past elections?</p> <p>22 A. No.</p> <p>23 Q. I think that's all for that document. So what</p> <p>24 knowledge does the secretary of state have of how the</p> <p>25 congressional redistricting plan was enacted in 2021</p>	
<p>1 pass down that information to the counties.</p> <p>2 Q. Is it important for county election</p> <p>3 administrators to know which cities are in a</p> <p>4 congressional district?</p> <p>5 MS. CRYER: Object to the form. You can</p> <p>6 answer.</p> <p>7 A. Yes.</p> <p>8 Q. Why? Why do they need to know that information?</p> <p>9 MS. CRYER: Same objection. You can</p> <p>10 answer.</p> <p>11 A. I feel like simply for informational purposes.</p> <p>12 I don't know of any specifics as to why.</p> <p>13 Q. Do you see, next to geography, that says,</p> <p>14 "Asterisks, partially in district," correct?</p> <p>15 A. Correct.</p> <p>16 Q. What do you understand that to mean?</p> <p>17 A. That the geography that has an asterisk beside</p> <p>18 it is only partially within District Number 2.</p> <p>19 Q. So looking at the counties box, do any counties</p> <p>20 there have an asterisk?</p> <p>21 A. Yes. Pulaski County.</p> <p>22 Q. Does that mean only part of Pulaski County is in</p> <p>23 that congressional district?</p> <p>24 A. Correct.</p> <p>25 Q. Is that information that the secretary of</p>	Page 184	<p>1 came to be drawn?</p> <p>2 MS. CRYER: Object to the form. You can</p> <p>3 answer if you can.</p> <p>4 A. The congressional districts were drawn by the</p> <p>5 legislature in terms of the information we've already</p> <p>6 seen via the house and senate bills that were</p> <p>7 proposed.</p> <p>8 Q. Does the secretary of state know who the primary</p> <p>9 map drawers were for the enacted 2021 congressional</p> <p>10 redistricting plan in the legislature?</p> <p>11 MS. CRYER: Object to the form. You can</p> <p>12 answer.</p> <p>13 A. No, sir. I can tell you it was nobody with the</p> <p>14 secretary of state's office, but I do not know who</p> <p>15 specifically drew these maps.</p> <p>16 Q. Do you know who the legislature -- legislators</p> <p>17 were who proposed that map from the legislature?</p> <p>18 MS. CRYER: Same objection. You can</p> <p>19 answer.</p> <p>20 A. I believe it said it in the email.</p> <p>21 Q. Let me -- let me ask it, that's information that</p> <p>22 you could get if you don't know it sitting here now?</p> <p>23 MS. CRYER: Object to the form.</p> <p>24 A. Yes, we could obtain the sponsors of the house</p> <p>25 and senate bills.</p>	Page 186

<p>Page 187</p> <p>1 Q. Do you know whether the legislators who</p> <p>2 sponsored the redistricting plan that was enacted in</p> <p>3 2021 are the individuals who drew that map?</p> <p>4 MS. CRYER: Object to the form. You can</p> <p>5 answer.</p> <p>6 A. Seeing as how I don't know who drew the maps to</p> <p>7 begin with, I do not know. I can't answer that.</p> <p>8 Q. Is the secretary of state's office aware of</p> <p>9 anyone outside of the legislature, other than</p> <p>10 legislatures or their legislative staff, who was</p> <p>11 involved in the creation of the congressional</p> <p>12 redistricting plan that was enacted in 2021?</p> <p>13 MS. CRYER: Object to the form. You can</p> <p>14 answer if you can.</p> <p>15 A. I am not aware of anyone else who may or may not</p> <p>16 have been involved.</p> <p>17 MR. SKOCPOL: Are there any -- this</p> <p>18 would be a good place to take a break.</p> <p>19 (Recess from 3:56 p.m. to 4:04 p.m.)</p> <p>20 (Exhibit 9 marked for identification.)</p> <p>21 Q. I am going to mark as Exhibit 9 a letter and</p> <p>22 attached supplemental interrogatory responses that</p> <p>23 were sent to plaintiffs by counsel for the secretary</p> <p>24 of state on August 14th, 2024. I am going to ask this</p> <p>25 in two parts. The first two pages of this document</p>	<p>Page 189</p> <p>1 general assembly's redistricting decisions related the</p> <p>2 drafting of the 2021 congressional redistricting</p> <p>3 plan." Did I read that correctly?</p> <p>4 A. Yes.</p> <p>5 MS. CRYER: My apologies did you start</p> <p>6 on the second sentence?</p> <p>7 MR. SKOCPOL: The second sentence.</p> <p>8 MS. CRYER: Okay. Thank you.</p> <p>9 Q. What information does Defendant Thurston expect</p> <p>10 to rely on obtained through discovery in this case?</p> <p>11 A. I think this is a way of us basically stating</p> <p>12 that in absence of this information coming from our</p> <p>13 office, it would be incumbent upon the plaintiff to</p> <p>14 obtain somehow, some way, that information to argue</p> <p>15 this case.</p> <p>16 In other words, we put the ball in your</p> <p>17 court in terms of, we don't have any of the</p> <p>18 information that is trying to be obtained from these</p> <p>19 interrogatories.</p> <p>20 Q. So is the secretary aware of information other</p> <p>21 than expert witness testimony that would -- let me ask</p> <p>22 this a different way.</p> <p>23 What basis does Defendant Thurston have</p> <p>24 for believing that partisan motivation explains the</p> <p>25 general assembly's redistricting decisions related to</p>
<p>Page 188</p> <p>1 are a letter dated August 14th, 2024. Have you seen</p> <p>2 this document before?</p> <p>3 A. No.</p> <p>4 Q. Is it fair to say that it appears to be a letter</p> <p>5 from your counsel, Ms. Cryer, to counsel for the</p> <p>6 plaintiffs in this case?</p> <p>7 A. Yes.</p> <p>8 Q. And then following that, as an attachment to</p> <p>9 this letter, you should see a document entitled,</p> <p>10 "Defendant's Supplemental Responses to Plaintiff's</p> <p>11 Second Set of Interrogatories to Defendant."</p> <p>12 A. Yes.</p> <p>13 Q. Have you seen this document before?</p> <p>14 A. Yes.</p> <p>15 Q. What is it?</p> <p>16 A. Exactly as you stated, this is a response to</p> <p>17 interrogatories from our office.</p> <p>18 Q. And on the first page of that document, the</p> <p>19 third page of the exhibit, in the paragraph</p> <p>20 immediately under the word "Introductory Statement," I</p> <p>21 am going to read a sentence. Tell me if this is</p> <p>22 correct. "Defendant Thurston expects to rely on</p> <p>23 information obtained through discovery and</p> <p>24 expert-witness testimony in arguing that partisan, as</p> <p>25 opposed to racial, motivations better explain the</p>	<p>Page 190</p> <p>1 the 2021 proposed congressional redistricting plan?</p> <p>2 MS. CRYER: Object to the form. If you</p> <p>3 can answer, feel free to.</p> <p>4 A. We don't know one way or the other if there were</p> <p>5 any of those -- how did you word it, partisan or</p> <p>6 racial motivations when the general assembly drafted</p> <p>7 these proposed and finalized congressional</p> <p>8 redistricting plans. We don't know.</p> <p>9 And I think that sums it up, the fact that</p> <p>10 our office does not have information on whether or not</p> <p>11 they had any racial or political motivations in how</p> <p>12 they drew those maps.</p> <p>13 Q. So as you sit here today, the secretary of state</p> <p>14 is not aware of any information that would suggest the</p> <p>15 legislature had a partisan motivation in the drafting</p> <p>16 of the 2021 proposed congressional redistricting plan?</p> <p>17 MS. CRYER: Object to the form.</p> <p>18 A. That is correct. We have no way of knowing</p> <p>19 that.</p> <p>20 Q. And that would include information that's</p> <p>21 available to the public currently, the secretary is</p> <p>22 not aware of any information in the public record that</p> <p>23 would suggest the legislature had a partisan</p> <p>24 motivation in drafting the 2021 congressional</p> <p>25 redistricting plan?</p>

<p>Page 191</p> <p>1 MS. CRYER: Object to the form. What do 2 you mean by public record? 3 Q. I think I'll ask you to answer the question as 4 asked. 5 MS. CRYER: Okay. Then I still object 6 to the form. 7 A. Not that I'm aware of, no. We're not aware of 8 any information in the public record, in our records, 9 that has led to a belief that there were any racial or 10 political motivations by the general assembly in how 11 they decided to draw the congressional boundaries. 12 Q. Right now, I'm just trying to ask about partisan 13 motivations. 14 A. Okay. 15 Q. You are not aware of any information -- the 16 secretary is not aware of any information in the 17 public record that would suggest the legislature had 18 partisan motivations in enacting the congressional 19 redistricting plan? 20 MS. CRYER: Same objection. 21 A. No. 22 Q. If you would look at page 3 -- page 5 of the 23 exhibit, where it says "Supplemental Answer to 24 Interrogatory Number 6." 25 A. Okay.</p>	<p>Page 193</p> <p>1 assess that? 2 MS. CRYER: Object to the form. You can 3 answer. 4 A. Could look at the political composition of the 5 incumbents of those districts. Could potentially look 6 at voting trends. But that's not something we 7 actively perform. That's not an analysis that we 8 actively do in our daily duties. 9 Q. Understood. When you say "look to the 10 incumbents," meaning the party affiliation of the 11 incumbent in that district? 12 A. Yes. 13 Q. And when you say "voting trends," you mean look 14 to election returns in recent elections? 15 A. Yes. And, I mean, there's additional resources 16 that from data companies and other entities that track 17 voting trends in a partisan standpoint. So, I mean, 18 that information is out there for public consumption, 19 so anybody could obtain it. 20 Q. If you wanted to know the party affiliation of 21 voters in a particular congressional district, is 22 there -- if the secretary of state needed to know 23 that, what information could the secretary of state 24 look to to find out the party affiliation of voters in 25 a congressional district?</p>
<p>Page 192</p> <p>1 Q. The last sentence of that paragraph, tell me if 2 I'm reading this correctly, "Depositions are currently 3 scheduled and it is anticipated testimony responsive 4 to this interrogatory will be identified at that 5 time"; is that correct? 6 A. That is correct, yes. 7 Q. What depositions is the secretary referring to 8 there? 9 A. I believe any depositions that have been 10 scheduled for this case in its entirety, because we 11 believe that the burden of proof to identify the 12 partisan motivation is incumbent upon the plaintiff 13 through obtaining and scheduling depositions for 14 anybody they so choose that may be able to provide 15 that information. 16 Q. So which depositions in this case does the 17 secretary think will yield testimony responsive to 18 interrogatory number 6? 19 MS. CRYER: Object to the form. 20 A. I have no earthly clue. I'm not even aware of 21 any other depositions who has actually been asked to 22 be deposed. So -- 23 Q. If the secretary of state needed to know the 24 political composition of a congressional district, 25 what data would the secretary of state look to to</p>	<p>Page 194</p> <p>1 MS. CRYER: Object to the form. You can 2 answer. 3 A. The only resource that comes to mind in terms of 4 party affiliation for any given district would be 5 what's available in the voter registration database. 6 Q. And that's the responses that are given on the 7 voter registration form in box 6, party affiliation, 8 parentheses optional, that we discussed earlier? 9 A. Correct. 10 Q. And that's a free response box that voters are 11 not obligated to complete? 12 A. Correct. 13 Q. I believe you said earlier that about 80 percent 14 of voters don't put anything in that box? 15 A. Correct. 16 Q. Could you look to -- I believe you also said 17 earlier that Arkansas has an open primary system, 18 meaning a voter can choose in a -- which partisan 19 primary to participate in; is that correct? 20 A. Yes. 21 Q. So could you look to the -- which, if any, 22 partisan primary a voter -- voters in that district 23 had chosen to participate in in recent elections? 24 MS. CRYER: Object to the form. You can 25 answer.</p>



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1 A. Yes. But that doesn't necessarily give a good		1	been asked to provide data to the legislature -- let
2 representation of the political affiliation of that		2	me ask in this most recent redistricting cycle, was
3 voter or that geographical area, seeing as how we have		3	the secretary of state's office ever asked to provide
4 an open primary. Party affiliation isn't required.		4	data about partisan affiliation to the legislature?
5 And a Republican could vote a		5	MS. CRYER: Object to the form. You can
6 Democratic -- in a Democratic primary if they so		6	answer.
7 choose. So it doesn't necessarily give us a good		7	A. Not directly to the legislature. No. Not that
8 identification or breakdown of the party affiliation		8	I recall.
9 of the geographical area or voter.		9	Q. Were you asked to provide that data to somewhere
10 Q. I guess I'm not asking your opinion about		10	else?
11 whether it's good data or not. I'm just asking is		11	MS. CRYER: Same objection.
12 that data that exists that someone could consult?		12	A. Well, just to be clear, we do have access to the
13 MS. CRYER: Object to the form. You can		13	statewide voter registration database. We can run
14 answer.		14	reports, and we do fulfill public data requests on a
15 A. You can obtain vote history for voters, yes.		15	nearly daily basis that sends out the statewide voter
16 Q. Including which partisan primaries they chose to		16	registration file that contains, if it exists, party
17 participate in in the open primary system?		17	affiliation, vote history, registrant information.
18 MS. CRYER: Same objection. You can		18	So we're pumping that out to anybody that
19 answer.		19	requests it at any given time. But we did not send a
20 A. Correct. Yes.		20	list of voters to the legislature by request that I
21 Q. Is the secretary of state ever asked to provide		21	remember. But other entities have -- they request it
22 data about the partisan composition of particular		22	all the time.
23 districts?		23	Q. And those requests for information from the
24 A. No. Not that I have ever recalled.		24	statewide voter registration database that you get on
25 Q. I have to wrap up a line of questioning, but I		25	a regular -- I think you said almost daily basis, do
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1 want to go back and clarify a couple of things. So		1	you keep records of what those requests were?
2 one, I think earlier, kind of shortly after lunch, I		2	A. A lot of times, they are requests that are sent
3 was asking you about the different things that the		3	by email. So our -- you know, we don't necessarily
4 secretary of state -- I could imagine the secretary of		4	keep these. Then if we have a paper copy of a data
5 state might do in a congressional redistricting		5	request that is sent in, I believe I keep those for
6 process, and you -- do you recall that line of		6	the current year and then the previous year, if we
7 questioning?		7	have a paper copy. So we don't have an official
8 A. Yes.		8	policy on the books on keeping those request forms
9 Q. I think I may have asked you whether secretary		9	necessarily.
10 of state ever provides census data to the legislature		10	Q. So if I wanted to know what requests for
11 with respect to either congressional or state and		11	information the secretary of state got from the voter
12 local redistricting. And I believe you said the		12	registration database in 2020 and 2021, would those
13 answer is no, because the census data is publicly		13	records exist?
14 available; is that correct?		14	A. No. I don't believe they do. No.
15 A. That is correct. Yes.		15	Q. What if the request was made by an email?
16 Q. Is there -- I'm not sure I asked it as directly		16	A. I don't believe those are obtainable either
17 as I wanted to. Is there other information that the		17	because it's so far back.
18 secretary of state's office, other data that the		18	Q. When would those records -- those records did
19 secretary of state's office provides to the		19	exist at some point?
20 legislature in connection with redistricting either at		20	A. Yes. As we received them. Yes.
21 the congressional or the state and local level?		21	Q. And for a period of time thereafter?
22 MS. CRYER: Object to the form. You can		22	A. Until they were deleted, yes. We do occasional
23 answer.		23	cleanup of our in boxes just for memory storage
24 A. Not that comes to mind, no.		24	purposes.
25 Q. And has the secretary of state's office ever		25	Q. When would -- starting with email requests for



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1 information from the voter registration database that  
2 the secretary of state received in, let's say, the  
3 year 2021, when would those have been deleted?  
4 MS. CRYER: Object to the form. You can  
5 answer if you can.  
6 A. On occasion, as needed for cleanup and storage  
7 capacity. So I don't --  
8 Q. How often is email storage needed?  
9 MS. CRYER: Same objection.  
10 A. Usually, around every 30 days or so.  
11 Q. I'll come back to that. Other than requests for  
12 information from the statewide voter registration  
13 database, was the secretary of state's office asked to  
14 provide data about party affiliation from anyone  
15 during the 2021 redistricting cycle?  
16 MS. CRYER: Object to the form. You can  
17 answer.  
18 A. No. Not that I'm aware of.  
19 Q. And then I believe I asked when we were -- just  
20 a minute ago, when we were looking at the  
21 interrogatory, the supplemental interrogatory  
22 responses -- do you remember that?  
23 A. Yes.  
24 Q. I asked whether the secretary of state is aware  
25 of anything in the public record that would support

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1 partisan motivation on the part of the legislature in  
2 enacting the 2021 redistricting plan. Do you remember  
3 that?  
4 A. Yes.  
5 Q. Okay. Is the secretary of state aware of  
6 anything in the nonpublic record that would support  
7 the conclusion that the legislature had partisan  
8 motivation in enacting the 2021 congressional  
9 redistricting plan?  
10 MS. CRYER: Object to the form. You can  
11 answer.  
12 A. Not that I'm aware of. No.  
13 Q. Or partisan motivation in the process of  
14 creating and drawing the proposed plan that was  
15 ultimately enacted?  
16 MS. CRYER: Same objection. You can  
17 answer.  
18 A. Not that I'm aware of. No.  
19 Q. Any other proposed plans, congressional  
20 redistricting plans, for any other congressional  
21 redistricting plans other than the one that was  
22 ultimately enacted, is the secretary of state aware of  
23 any nonpublic information that would support a  
24 partisan motivation?  
25 MS. CRYER: Same objection.

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1 Q. -- in the drafting of the --  
2 MS. CRYER: I'm sorry I cut you off.  
3 You can answer.  
4 A. No.  
5 Q. And what about any information in the public  
6 record as to proposed congressional maps other than  
7 the one that was enacted?  
8 MS. CRYER: Same objection. You can  
9 answer.  
10 A. Not that I'm aware of. No.  
11 (Exhibit 10 marked for identification.)  
12 Q. Okay. I think we can turn to an entirely  
13 different topic here. I am going to mark as  
14 Exhibit 10 a document, the first page of which has the  
15 Bates stamp IMG000030. Actually, before I have you  
16 look at that document, let me just ask you one  
17 question. You can go ahead and mark it, but let me  
18 just ask. What is Impact Management?  
19 A. I believe that is a lobbying company in  
20 Arkansas.  
21 Q. What is Impact Management Group's relationship  
22 to the secretary of state's office?  
23 A. I believe Richard Bearden is a member of that  
24 lobbying group and had played a little bit of a part  
25 in the state redistricting process, if I recall

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1 correctly.  
2 Q. You say "played a little bit of a part in the  
3 state redistricting process," what do you mean?  
4 A. I mean he -- he had a part in basically what I  
5 just previously stated. I don't know how in-depth his  
6 role was with the state redistricting process working  
7 with and on -- or with Kevin Niehouse and the board of  
8 apportionment.  
9 Q. Was Impact Management hired by the secretary of  
10 state to assist in redistricting in the 2021?  
11 MS. CRYER: Object to the form. You can  
12 answer.  
13 A. I don't know.  
14 Q. So now that document that was just marked as  
15 Exhibit 10, I want to ask you to take a look at that.  
16 Have you seen this document before?  
17 A. No.  
18 Q. Okay. I'll give you a moment to review it. I'm  
19 going to -- I said I am going to ask you to review it.  
20 And based on your review, can you say what this  
21 document is?  
22 A. It appears to be a service contract between the  
23 secretary of state and Impact Management Group.  
24 Q. Okay. So at the very top of the document on the  
25 first page, do you see where it says "Professional

<p>1 Consultant Services Contract"?</p> <p>2 A. Yes.</p> <p>3 Q. What do you understand that to mean?</p> <p>4 A. This is a services contract for a request to</p> <p>5 have a professional consultant.</p> <p>6 Q. And a little bit below that, in paragraph 1,</p> <p>7 procurement, do you see a checked box next to "Sole</p> <p>8 Source by Justification"?</p> <p>9 A. Yes.</p> <p>10 Q. What do you understand that check box -- that</p> <p>11 checked box to mean?</p> <p>12 A. I do not know.</p> <p>13 Q. Above that, do you see where it says "Minority</p> <p>14 Vendor," and the next checked box is for yes and no,</p> <p>15 and no is checked?</p> <p>16 A. Yes.</p> <p>17 Q. What do you understand that to mean?</p> <p>18 MS. CRYER: Object to the form. You can</p> <p>19 answer.</p> <p>20 A. My understanding is that Impact Management Group</p> <p>21 is alleging that they are not a minority vendor.</p> <p>22 Q. Do you know what it -- do you have an</p> <p>23 understanding of what minority vendor means there?</p> <p>24 MS. CRYER: Object to the form. You can</p> <p>25 answer if you can.</p>	<p>Page 203</p>	<p>1 identified as the source of the funds for this</p> <p>2 contract?</p> <p>3 A. State funds.</p> <p>4 Q. And then in the column next to that, under</p> <p>5 "Identified Source of Funds"?</p> <p>6 A. Secretary of state.</p> <p>7 Q. Does that mean that the payments for this vendor</p> <p>8 came from the secretary of state?</p> <p>9 MS. CRYER: Object to the form. You can</p> <p>10 answer.</p> <p>11 A. I believe that is the case.</p> <p>12 Q. Okay. When you see the -- next to that, do you</p> <p>13 see code "HSC"6300 under "Funds"?</p> <p>14 A. Yes.</p> <p>15 Q. Do you have an understanding of what that code</p> <p>16 means -- or what that code means?</p> <p>17 MS. CRYER: Object to the form. You can</p> <p>18 answer if you can.</p> <p>19 A. No, I don't know what that means.</p> <p>20 Q. Have you seen codes like that before in your</p> <p>21 work at the secretary of state's office?</p> <p>22 MS. CRYER: Object to the form. You can</p> <p>23 answer if you can.</p> <p>24 A. No.</p> <p>25 Q. What about the "003" under "Funds Center"?</p>	<p>Page 205</p>
<p>1 A. I believe that would refer to a vendor that is</p> <p>2 owned and/or operated by a minority person of color.</p> <p>3 Q. So if the box next to no is checked, does that</p> <p>4 mean that the vendor for this particular contract is</p> <p>5 not owned or operated by a minority or person of</p> <p>6 color?</p> <p>7 MS. CRYER: Object to the form. You can</p> <p>8 answer.</p> <p>9 A. They're indicating that they are not a minority</p> <p>10 vendor. Yes.</p> <p>11 Q. If you look at section 2, term dates, what dates</p> <p>12 are the term of this contract?</p> <p>13 A. January 1 of 2021, through August 31st, 2021.</p> <p>14 Q. If you look at the contracting party section,</p> <p>15 agency number and name, what do you see in those</p> <p>16 fields?</p> <p>17 A. Secretary of state.</p> <p>18 Q. Does that mean that the secretary of state's</p> <p>19 office is the agency that entered into this contract?</p> <p>20 A. I believe so, yes.</p> <p>21 Q. Do you see, under 4A, total projected contract</p> <p>22 cost, the dollar amount provided there?</p> <p>23 A. Yes. \$40,000.</p> <p>24 Q. And then if you look at the top of the second</p> <p>25 page, under "Source of Funds," who or what is</p>	<p>Page 204</p>	<p>1 A. I don't know what that means.</p> <p>2 Q. If you would look to the last page of the</p> <p>3 document, the one with the Bates number ending in 35.</p> <p>4 At the top, it says, "Justification of Sole Source</p> <p>5 Procurement -- Impact Management Group." Would you</p> <p>6 take a minute to just review what's written on that</p> <p>7 page?</p> <p>8 A. Okay.</p> <p>9 Q. Let me ask, have you seen this document before?</p> <p>10 A. No.</p> <p>11 Q. Just this page?</p> <p>12 A. Sorry. No, I have not.</p> <p>13 Q. When the secretary of state says that the</p> <p>14 position of contract employee for advising and</p> <p>15 assisting Arkansas secretary of state staff during the</p> <p>16 decennial redistricting process, is that -- do you</p> <p>17 understand that to be the position that Impact</p> <p>18 Management Group is contracting to fill?</p> <p>19 MS. CRYER: Object to the form. You can</p> <p>20 answer if you can.</p> <p>21 A. It appears so, yes.</p> <p>22 Q. So -- and did the secretary of state prepare --</p> <p>23 did someone in the secretary of state's office prepare</p> <p>24 this description?</p> <p>25 MS. CRYER: Object to the form. You can</p>	<p>Page 206</p>

<p>1 answer if you can. Page 207</p> <p>2 A. I do not know.</p> <p>3 Q. I don't understand what this means, but it says</p> <p>4 "familiarity with Arkansas law and politics."</p> <p>5 A. Is there a question in there? I'm sorry. I</p> <p>6 didn't hear it.</p> <p>7 Q. I'm asking if you know what is meant by that?</p> <p>8 MS. CRYER: Object to the form. You can</p> <p>9 answer if you can.</p> <p>10 A. Yeah. I think it just simply relates back to</p> <p>11 the redistricting process, that you probably need to</p> <p>12 have a fair understanding of Arkansas law and</p> <p>13 politics. But I don't know what the context of</p> <p>14 politics is there.</p> <p>15 Q. The last sentence of that paragraph, do you know</p> <p>16 what federally-mandated undertaking that's referring</p> <p>17 to?</p> <p>18 MS. CRYER: Object to the form. You can</p> <p>19 answer if you can.</p> <p>20 A. I do not know.</p> <p>21 Q. If you look at the last paragraph here, "This</p> <p>22 position furthermore must be filled immediately." Do</p> <p>23 you know why the position needed to be filled</p> <p>24 immediately?</p> <p>25 MS. CRYER: Object to the form. You can</p>	<p>1 of state with anything related to congressional Page 209</p> <p>2 redistricting?</p> <p>3 MS. CRYER: Same objection. You can</p> <p>4 answer if you can.</p> <p>5 A. No. Because we weren't involved with</p> <p>6 congressional redistricting.</p> <p>7 Q. Did Impact Management Group assist anyone else</p> <p>8 with congressional redistricting?</p> <p>9 MS. CRYER: Same objection. You can</p> <p>10 answer if you can.</p> <p>11 A. I don't -- I don't know.</p> <p>12 Q. Did Impact Management Group do any work on</p> <p>13 the -- did Impact Management Group have any</p> <p>14 involvement in the congressional redistricting</p> <p>15 process?</p> <p>16 MS. CRYER: Same objection. You can</p> <p>17 answer if you can.</p> <p>18 A. I don't know.</p> <p>19 Q. If you look at the second page of the contract,</p> <p>20 section 7, where it says "Objectives and Scope:"</p> <p>21 Would you take a minute to review what's written</p> <p>22 there?</p> <p>23 A. Okay.</p> <p>24 Q. Do you see in the first sentence where it says,</p> <p>25 "Assist secretary of state staff." What secretary of</p>
<p>1 answer if you can. Page 208</p> <p>2 A. No.</p> <p>3 Q. And the rest of that sentence, do you know what</p> <p>4 federal law is being referred to there?</p> <p>5 MS. CRYER: Object to the form. You can</p> <p>6 answer if you can.</p> <p>7 A. I'm assuming the law concerning the process of</p> <p>8 redistricting congressional district boundaries.</p> <p>9 Q. And what federal law would that be?</p> <p>10 MS. CRYER: Same objection. You can</p> <p>11 answer if you can.</p> <p>12 A. I don't know.</p> <p>13 Q. Setting aside what is written specifically here,</p> <p>14 is it fair to say that Impact Management Group was</p> <p>15 contracted by the secretary of state's office to</p> <p>16 assist with the decennial redistricting process?</p> <p>17 MS. CRYER: Object to the form. You can</p> <p>18 answer if you can.</p> <p>19 A. I believe that is the case, yes.</p> <p>20 Q. And was Impact Management Group assisting with</p> <p>21 state level redistricting?</p> <p>22 MS. CRYER: Object to the form. You can</p> <p>23 answer if you can.</p> <p>24 A. I don't know.</p> <p>25 Q. Did Impact Management Group assist the secretary</p>	<p>1 state staff was Impact Management Group assisting? Page 210</p> <p>2 MS. CRYER: Object to the form. You can</p> <p>3 answer if you can.</p> <p>4 A. I believe Kevin Niehouse.</p> <p>5 Q. So would Kevin Niehouse have information</p> <p>6 about -- if I wanted to know more about Impact</p> <p>7 Management Group's role, he might have more</p> <p>8 information than you do about this?</p> <p>9 MS. CRYER: Object to the form. You can</p> <p>10 answer if you can.</p> <p>11 A. I don't know if he would or not.</p> <p>12 Q. How do you know Kevin Niehouse is the secretary</p> <p>13 of state staff referred to here?</p> <p>14 MS. CRYER: Object to the form. You can</p> <p>15 answer if you can.</p> <p>16 A. It was mainly Kevin and I that were involved</p> <p>17 with the state redistricting process. But my role was</p> <p>18 not one of consulting or speaking with or liaising</p> <p>19 between legislators or anything like that. So by</p> <p>20 default, I believe it must have been Kevin.</p> <p>21 Q. Later in that sentence, it says, "Gather</p> <p>22 information from and provide information to SOS staff</p> <p>23 members." First, does SOS mean secretary of state?</p> <p>24 A. Yes.</p> <p>25 Q. And what SOS staff members is that referring to?</p>

<p>Page 211</p> <p>1 MS. CRYER: Object to the form. You can 2 answer if you can.</p> <p>3 A. I believe anybody that -- at the time that this 4 was written might have needed any of the information 5 that was gathered. So that could have been me or 6 Kevin or possibly even Kenneth Burleson.</p> <p>7 Q. Did Image Management Group ever gather 8 information from you?</p> <p>9 MS. CRYER: Object to the form. You can 10 answer if you can.</p> <p>11 A. From me?</p> <p>12 Q. Yes.</p> <p>13 MS. CRYER: Same objection.</p> <p>14 A. No. I don't ever remember even speaking to a 15 member of Image Management Group during this process.</p> <p>16 Q. And in the next sentence, where it refers to 17 meetings with citizens, do you know what meetings -- 18 what meetings with citizens did Impact Management 19 Group -- was Impact Management Group contracted to set 20 up?</p> <p>21 MS. CRYER: Object to the form. You can 22 answer if you can.</p> <p>23 A. I don't know what meetings Impact Management 24 Group specifically set up, but I'll go back to a 25 previous statement I made earlier in the deposition</p>	<p>Page 213</p> <p>1 in one of these meetings. But to keep communities of 2 interest intact as much as possible was one of the 3 goals of the board of apportionment.</p> <p>4 Q. To clarify the first example you gave, is 5 Little Rock an example of a community of interest?</p> <p>6 MS. CRYER: Object to the form. You can 7 answer if you can.</p> <p>8 A. I believe it is, but I don't know if Little Rock 9 as a whole would be a community of interest or if 10 certain areas of the city would be considered their 11 own communities of interest. I don't live here. I'm 12 not privy to that information.</p> <p>13 Q. How does the secretary of state's office -- how 14 does the secretary of state's office identify what is 15 or isn't a community of interest?</p> <p>16 MS. CRYER: Object to the form. You can 17 answer if you can.</p> <p>18 A. I believe there is a definition of a community 19 of interest. But specific examples within the state 20 had to have been brought to our attention by citizens 21 or other means. Whatever that may be, I don't know. 22 But we did not -- we had to be given that information, 23 more or less.</p> <p>24 Q. Given that information by whom?</p> <p>25 A. Citizens or other affected parties, whatever</p>
<p>Page 212</p> <p>1 where, there were regional meetings held around the 2 state to talk with citizens about their concerns on 3 the state redistricting boundary lines. Concerns of 4 their areas. So whether Impact Management set those 5 meetings up or not, I have no idea.</p> <p>6 Q. Where it says "Meetings with citizens and 7 affected parties," what affected parties would Impact 8 Management have set up meetings with?</p> <p>9 MS. CRYER: Object to the form. You can 10 answer if you can.</p> <p>11 A. I do not know.</p> <p>12 Q. The end of that sentence where it says, "Takes 13 into consideration of communities of interest," what 14 does it mean to the secretary of state to take into 15 consideration communities of interest?</p> <p>16 MS. CRYER: Object to the form. You can 17 answer if you can.</p> <p>18 A. Taking into consideration communities of 19 interest was one of the criteria that was used when 20 the state redistricting boundaries were proposed and 21 drawn. If, for instance, Little Rock is a community 22 of interest as a whole, that was taken into 23 consideration. If Beebe, Arkansas, was a community of 24 interest as a whole, that was taken into 25 consideration, if that information was presented to us</p>	<p>Page 214</p> <p>1 that -- I mean, like, it's -- you know, if somebody 2 came to us -- if a legislator came to us and said, 3 hey, you know, Prairie Grove is a community of 4 interest. If you can keep it intact, that will be 5 great. Okay. Cool. We'll take that into 6 consideration.</p> <p>7 So any information coming in to us in 8 terms of what encompasses a community of interest 9 within that area was taken into consideration. But we 10 were on the receiving end of that. We did not come to 11 a determination on our own what those communities of 12 interest were because we didn't have that information.</p> <p>13 Q. Does the secretary of state have records 14 reflecting what communities of interest have been 15 identified to it?</p> <p>16 A. Not to my knowledge, no. I believe that 17 probably would have been word of mouth.</p> <p>18 Q. Does the secretary of state have notes of 19 meetings where communities of interest were discussed?</p> <p>20 A. Not to my knowledge, no.</p> <p>21 Q. When this -- so after that, it says "Avoid 22 gerrymandering"; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. What does it mean to the secretary of state to 25 avoid gerrymandering?</p>



<p>Page 215</p> <p>1 MS. CRYER: Object to the form. You can 2 answer if you can.</p> <p>3 A. Gerrymandering is a process that -- in which the 4 drawing of the boundary line will draw it in such a 5 way that will include or exclude a certain people 6 group from that district. A lot of times, 7 gerrymandering takes on a weird geographical shape as 8 opposed to a concise shape, which is another one of 9 the standards for redistricting is, you keep the 10 shapes of the boundaries as concise and realistic as 11 possible.</p> <p>12 Q. When you say "certain people groups," what do 13 you mean?</p> <p>14 A. Racial minorities.</p> <p>15 Q. So avoiding to -- what does avoid gerrymandering 16 mean to the secretary of state with respect to racial 17 minorities?</p> <p>18 MS. CRYER: Object to the form. You can 19 answer.</p> <p>20 A. It means that that was something that we sought 21 to completely avoid. We did not draw -- the board of 22 apportionment did not draw boundaries with intentional 23 gerrymandering, by any stretch.</p> <p>24 Q. So avoiding -- you say "avoid gerrymandering 25 certain people groups," that means racial minorities;</p>	<p>Page 217</p> <p>1 A. No. Partisan advantage or disadvantage is not a 2 standard of the board of apportionment. We don't try 3 to sway one party or another or add districts to a 4 political party or take away from a political party.</p> <p>5 Q. Looking in the next section down, "Performance 6 Standards," I don't know that -- well, take as much 7 time as you want to review that section. My question 8 is about the first sentence, when you're ready. Okay? 9 Do you see where it begins, "Vendor will meet on a 10 regular basis with SOS staff"?</p> <p>11 A. Yes.</p> <p>12 Q. Did Impact Management Group meet on a regular 13 basis with secretary of state staff?</p> <p>14 MS. CRYER: Object to the form.</p> <p>15 A. I'm sure they did, yes. But I was not 16 personally involved with those meetings.</p> <p>17 Q. So just to be clear, do you know whether they 18 met on a regular basis with secretary of state staff?</p> <p>19 A. There were meetings held, yes. Whether they 20 were on a regular or irregular basis, I'm not sure.</p> <p>21 Q. And what SOS staff would Impact Management Group 22 meet with?</p> <p>23 A. I'm not sure.</p> <p>24 Q. If you flip to page 4 of 5, Bates number ending 25 in 33. Section 13, "Terms." Do you see where it says</p>
<p>Page 216</p> <p>1 is that correct?</p> <p>2 MS. CRYER: Object to the form.</p> <p>3 A. Yes. That is -- sorry. Yes. That's correct.</p> <p>4 Q. Does certain people groups mean anything else?</p> <p>5 MS. CRYER: Same objection.</p> <p>6 A. I'm not sure.</p> <p>7 Q. When you say that, do you mean anything other 8 than racial minorities?</p> <p>9 MS. CRYER: Same objection.</p> <p>10 A. That is my understanding of gerrymandering is 11 historically, it's been a way to target and include or 12 exclude racial minorities in or out of a district. 13 That is my understanding.</p> <p>14 Q. Earlier, you said the secretary of state's 15 office is nonpartisan in all of its election-related 16 work; isn't that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. So when the secretary of state's office directs 19 a vendor to avoid gerrymandering, does that mean they 20 should also avoid partisan gerrymandering?</p> <p>21 MS. CRYER: Object to the form.</p> <p>22 A. I believe that's fair to say, yes.</p> <p>23 Q. Is pursuit of partisan advantage a traditional 24 redistricting principally in Arkansas?</p> <p>25 MS. CRYER: Object to the form.</p>	<p>Page 218</p> <p>1 "N/A" after, "This contract may be extended until"?</p> <p>2 A. Yes.</p> <p>3 Q. What does "N/A" mean there?</p> <p>4 MS. CRYER: Object to the form.</p> <p>5 A. I believe it means not applicable.</p> <p>6 Q. Looking at the last page, page 5 of 5 of the 7 contract, Bates number ending in 34, who is listed as 8 an agency contact for questions regard this contract 9 here?</p> <p>10 A. Bill Huffman and Kenneth Burleson.</p> <p>11 Q. Do you know what role did -- why are they the 12 agency contacts for Impact Management Group?</p> <p>13 MS. CRYER: Object to the form.</p> <p>14 A. I don't know. I'm assuming it's because they 15 are members of the executive staff and they are deputy 16 secretaries of state.</p> <p>17 Q. At the very bottom of the page, you see where it 18 says "Approved" and then "N/A"?</p> <p>19 A. Yes.</p> <p>20 Q. What does "N/A" mean there?</p> <p>21 MS. CRYER: Object to the form.</p> <p>22 A. I'm assuming it means not applicable.</p> <p>23 Q. Was this -- was this contract -- was this 24 contract approved by the Department of Finance &amp; 25 Administration?</p>



<p>1 MS. CRYER: Object to the form.</p> <p>2 A. I do not know.</p> <p>3 (Exhibit 11 marked for identification.)</p> <p>4 Q. All right. Let's -- I'd like to next mark as</p> <p>5 Exhibit 11 a document, the first page of which has the</p> <p>6 Bates number IMG000036. Have you seen this document</p> <p>7 before?</p> <p>8 A. No.</p> <p>9 Q. Take the time you need to review it and then</p> <p>10 I'll ask you what this document is.</p> <p>11 A. Okay. Yeah. I'm ready.</p> <p>12 Q. What is this document?</p> <p>13 A. It is another professional consultant services</p> <p>14 contract.</p> <p>15 Q. Is Impact Management Group also the vendor for</p> <p>16 this one?</p> <p>17 A. Yes.</p> <p>18 Q. And in the "Term Dates" section on the first</p> <p>19 page, what are the term dates of this contract?</p> <p>20 A. Term shall begin on September the 1st, 2021, and</p> <p>21 shall end on monthly.</p> <p>22 Q. Contracting party, is the secretary of state</p> <p>23 still the contracting agency?</p> <p>24 A. Yes.</p> <p>25 Q. On the next page, under "Source of Funds," is</p>	<p>Page 219</p> <p>1 number ending 39, section 13, "Terms." Does this</p> <p>2 contract still say "N/A" after, "This contract may be</p> <p>3 extended until"?</p> <p>4 A. Yes.</p> <p>5 Q. If you look further down that section, do you</p> <p>6 see where it says, "Contracts will require review by</p> <p>7 Legislative Council or Joint Budget Committee prior to</p> <p>8 the approval of the Department of Finance and</p> <p>9 Administration/Director of Office of State Procurement</p> <p>10 and before the execution date if the total initial</p> <p>11 contract amount or the total projected amount is</p> <p>12 greater than or equal to \$50,000, including any</p> <p>13 amendments or possible extensions"?</p> <p>14 A. Yes.</p> <p>15 Q. Was this contract reviewed by the Legislative</p> <p>16 Council or by the Joint Budget Committee?</p> <p>17 MS. CRYER: Object to the form.</p> <p>18 A. I do not know.</p> <p>19 Q. What was the total projected amount for this</p> <p>20 contract?</p> <p>21 A. I don't know.</p> <p>22 Q. Was this contract an amendment or extension of</p> <p>23 the other IMG contract?</p> <p>24 MS. CRYER: Object to the form.</p> <p>25 A. I don't know.</p>
<p>Page 220</p> <p>1 the secretary of state still the source of the funds</p> <p>2 for this contract?</p> <p>3 A. Yes.</p> <p>4 Q. And under the "Amount of Funding" column there,</p> <p>5 what is specified as the amount of funding for this</p> <p>6 contract with Impact Management Group?</p> <p>7 A. Five thousand dollars per month.</p> <p>8 Q. In this section below that, "Rendering of</p> <p>9 Compensation:" Do you see the -- could you read</p> <p>10 what's written there beginning with "Market Rate"?</p> <p>11 A. "Market rate: To be renewed on a month-to-month</p> <p>12 basis until terminated with 30 days notice by either</p> <p>13 party."</p> <p>14 Q. Was this contract terminated by either party?</p> <p>15 MS. CRYER: Object to the form.</p> <p>16 A. I do not know.</p> <p>17 Q. Do you know if the -- do you know if this</p> <p>18 contract was renewed on a month-to-month basis?</p> <p>19 MS. CRYER: Same objection.</p> <p>20 A. I do not know.</p> <p>21 Q. What was the market rate for this contract?</p> <p>22 MS. CRYER: Object to the form. You can</p> <p>23 answer if you can.</p> <p>24 A. I do not know.</p> <p>25 Q. All right. If you look at page 4 of 5, Bates</p>	<p>Page 222</p> <p>1 Q. If you look at the paragraph below that, do you</p> <p>2 see where it says, "Any amendment which increases the</p> <p>3 dollar amount or involves major changes in the</p> <p>4 objectives and scope of the contract will require</p> <p>5 review by Legislative Council or Joint Budget</p> <p>6 Committee"?</p> <p>7 A. Yes.</p> <p>8 Q. This contract increased the dollar amount of</p> <p>9 IMG's contract with the secretary of state?</p> <p>10 MS. CRYER: Object to the form.</p> <p>11 A. I don't know.</p> <p>12 Q. Did this change the scope of IMG's contract with</p> <p>13 the secretary of state?</p> <p>14 MS. CRYER: Same objection.</p> <p>15 A. I don't know.</p> <p>16 Q. Okay. In its work on the redistricting process,</p> <p>17 how often did Impact Management Group meet with the</p> <p>18 secretary of state staff?</p> <p>19 A. I don't know.</p> <p>20 Q. We're done with that document. We're in the</p> <p>21 home stretch, but would you like to take a break or</p> <p>22 keep going?</p> <p>23 A. I'm good. I'm good to finish.</p> <p>24 Q. I'm going to ask a little bit a -- to better</p> <p>25 understand what records or documents exist within the</p>

	Page 223		Page 225
1	secretary of state's office. So how do employees of	1	A. I don't know if all secretary of state employees
2	the secretary of state's office typically communicate	2	delete their emails after every 30 days, but I do know
3	in the course of their work?	3	that in boxes fill up. Memory has to be established
4	A. By either email or word of mouth.	4	for in-coming emails. So there has to be some culling
5	Q. Do you ever communicate by text message?	5	of emails at some point.
6	A. On occasion, yes. Are you referring to the	6	Q. So some secretary of state office employees
7	elections division or the secretary of state as a	7	might keep emails longer than 30 days?
8	whole?	8	A. That's fair to say.
9	Q. Well, let's start with the elections division.	9	Q. And after an employee deletes an email, is there
10	A. Okay. Just to make sure I understand.	10	any way of retrieving it?
11	Q. No. I appreciate you clarifying.	11	A. That I'm not 100 percent sure. I did visit with
12	A. The same answer applies. Yes.	12	our IT director on that to try and get a clear answer,
13	Q. Same answer applies to the secretary of state's	13	but I did not get a clear answer. I do believe emails
14	office as a whole as well?	14	can be restored, but it's a very tedious process and
15	A. Yes. That's fair to say.	15	you have to know the day as to which day of emails
16	Q. Any other type of messaging platforms that the	16	needs to be restored. I'm not really sure how that
17	secretary of state's office used to communicate in the	17	works.
18	course of their work?	18	(Exhibit 12 marked for identification.)
19	A. No. Not currently.	19	Q. I want to mark 12. So I'm marking as
20	Q. What about hard copy correspondence, traditional	20	Exhibit 12, a letter that the secretary of state's
21	snail mail?	21	counsel sent to plaintiffs in this case on March 14th
22	A. Not that I'm aware of, no.	22	of this year. Have you seen this document before?
23	Q. You ever communicate by hard copy memos?	23	A. I believe I have, yes.
24	A. There may have been a note scribbled on a sticky	24	Q. What is this -- well, what is this document?
25	note at some point, but no. No official memos or	25	A. This appears to be a response to a request for
	Page 224		Page 226
1	anything. We usually just yell at each other.	1	proposal sent from counsel from AG -- counsel from the
2	Q. How and where are emails stored in the secretary	2	attorney general's office to the person requesting it.
3	of state's office?	3	Q. Is it possible that "RFP" here refers to request
4	A. On internal servers.	4	for production?
5	Q. How long are emails kept on those servers?	5	A. Yes. Sorry.
6	A. I believe until they are deleted by the	6	Q. No problem. Probably in your day-to-day work,
7	employee, which is around every 30 days, as mentioned	7	it means proposal a lot more often.
8	before. In addition to that, I'm not sure.	8	A. I hate acronyms.
9	Q. So the secretary -- I'm not sure I understood	9	Q. You and me both. If you -- do you see the third
10	that answer. What happened -- an email is sent or	10	paragraph on the first page under RFP Number 1, do you
11	received by a secretary of state's office employee.	11	see where it says, first sentence of that paragraph,
12	It is stored on a server at that point. And then	12	"Work emails in Defendant Thurston's office are
13	30 -- after 30 days, it's deleted from the server?	13	maintained for 30 days, after which time they are
14	A. Yes. In a manual sense though. That's	14	automatically moved to the office's server." Did I
15	incumbent upon the employee to clean up their in boxes	15	read that correctly?
16	or their email -- their Outlook boxes.	16	A. Yes.
17	So it's not an automated 30-day deletion.	17	Q. Is that an accurate statement of the Defendant
18	But around every 30 days or so, we try to clean up our	18	Thurston's email management practices?
19	email for storage purposes.	19	A. I don't know for sure. That would be more of a
20	Q. Try to. Does the secretary of state's office	20	question for our IT director. I do not have a 100
21	direct its employees to delete emails after 30 days?	21	percent firm understanding of the ins and outs of
22	A. Not necessarily, no.	22	that.
23	Q. But that's a practice that all secretary of	23	Q. Do you know -- I'm not trying to be too coy
24	state's office employees have? I mean, I want to make	24	here. This sounds potentially different to me than
25	sure I understand what you're saying.	25	what you were just describing. Does this -- but I may

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1 not be understanding what you were describing before.  
2 Is this -- when you were referring to deleting emails  
3 after 30 days, is that the same process that's being  
4 described here?  
5 A. I believe so, but that's -- what I described to  
6 you is more of a manual process, whereas this  
7 response says that it's automatic. I think we're kind  
8 of getting into a little bit of the weeds with this.  
9 I don't 100 percent know when an email  
10 moves from my in box to the server. If I deleted it,  
11 it's out of my in box and that's all I know. I'm not  
12 technologically savvy enough to know how that  
13 specifically operates or works.  
14 Q. Got it. But there's someone in the secretary of  
15 state's office who I could talk to who would be more  
16 knowledgeable about the email management practices?  
17 A. Yes. Our IT director, Vipin, V-I-P-I-N,  
18 Nischal, N-I-S-C-H-A-L.  
19 THE COURT REPORTER: Thank you.  
20 THE WITNESS: You're welcome.  
21 Q. So tell me if I'm accurately restating this.  
22 Your understanding is that employees in the secretary  
23 of state's office tend to manually delete emails after  
24 30 days, but you don't -- you aren't sure what happens  
25 to the emails after they have been manually deleted by

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1 an employee?  
2 A. That is correct. Yes.  
3 Q. And I think that's all on that document. Are  
4 any secretary of state's office employees issued work  
5 cell phones by the office?  
6 A. Yes.  
7 Q. Who would be issued a work cell phone?  
8 A. Several people within the elections division.  
9 Myself, our election coordinators, our team lead over  
10 the elections library, and additional secretary of  
11 state employees throughout the agency.  
12 Q. Would members of the executive office be issued  
13 work cell phones?  
14 A. Potentially, yes.  
15 Q. Potentially? Do you know whether they are or  
16 aren't?  
17 A. I don't know specifically which members of the  
18 executive office have work cell phones assigned to  
19 them.  
20 Q. And secretary of state's office employees would  
21 have work cell phones where they communicate by text  
22 message on those cell phones?  
23 A. They have the capability to communicate through  
24 text message, yes.  
25 Q. I guess I'm asking, beyond the capability, does

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1 that actually happen? Do secretary of state's  
2 employees text about their work?  
3 A. I think that's fair to say, yes. There are  
4 occasional text messages sent.  
5 Q. What records would exist of text messages that  
6 the secretary of state's office employees send using  
7 their work cell phones?  
8 A. Other than the text messages and emails, I don't  
9 know. I'm not aware of anything else.  
10 Q. But are records of text messages kept somewhere?  
11 A. I don't know.  
12 Q. Is there someone else at the secretary of  
13 state's office who would know more about how text  
14 messages are stored in those phones?  
15 A. I would say Vipin may know the answer to that.  
16 Q. What rule does the secretary of state's office  
17 have to comply with concerning the retention of  
18 documents or of records?  
19 A. It depends on the document.  
20 Q. What do you mean by that?  
21 A. Well, we are the repository for several  
22 different documents, and the retention policy could be  
23 different under the law for one document in relation  
24 to another.  
25 Q. What are -- in the elections division, for

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1 example, what are some document retention requirements  
2 that you have to abide by?  
3 A. We have to abide by document retention for  
4 campaign finance records, oaths and commissions,  
5 rules, agency rules, election results. And what those  
6 specifically are in terms of how many years they have  
7 to be kept, off the top of my head, I don't know  
8 without reviewing and researching.  
9 Q. Do you know what document retention requirements  
10 apply to the governmental affairs office?  
11 A. I don't know.  
12 Q. Does the secretary of state's office have an  
13 official policy concerning the retention of documents?  
14 A. Other than what is already existent in Arkansas  
15 law, I'm not aware of any other document retention  
16 policies.  
17 Q. What about an official policy concerning the  
18 retention of communications, such as emails?  
19 A. I'm not sure.  
20 Q. Earlier, you described a practice of  
21 periodically deleting emails. Is that written down as  
22 a policy somewhere or is that a practice that isn't  
23 written down?  
24 MS. CRYER: Object to the form. You can  
25 answer.

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<p>1 A. I think it's probably more of a practice than an 2 official formal policy. 3 Q. Is there a policy -- I just want to make sure 4 your answer is clear. You said it's probably more of 5 a practice. Is there some policy? Is there any part 6 of it that is a written policy? 7 MS. CRYER: Object to the form. 8 A. I don't know. 9 Q. Is there someone else in the secretary of 10 state's office who would know the answer to that 11 question? 12 A. Specifically in terms of keeping communications, 13 Vipin may know, or one of our executive team members 14 or someone from our human resources division. 15 Q. Does the secretary of state's office have any 16 document retention policies for hard copy documents? 17 MS. CRYER: Object to the form. 18 A. I think that goes back to my previous statement 19 is, it just depends on the document. 20 Q. Well, when you say "it depends on the document," 21 what types of document might be subject to a document 22 retention policy? 23 MS. CRYER: Same objection. 24 A. Are we talking documents that are filed with the 25 secretary of state or are we talking communications,</p>	<p>1 of state attorneys. 2 Q. Does the secretary of state's office ever direct 3 its employees to preserve certain types of documents 4 that are relevant to litigation? 5 A. Yes. 6 MS. CRYER: Object to the form. Sorry. 7 Go ahead. 8 A. Yes. If need be. 9 Q. How are those directions communicated? 10 A. Either audibly or via email. 11 Q. It could be one or the other? 12 A. Yes. 13 Q. And did that happen with respect to this case? 14 MS. CRYER: Object to the form. You can 15 answer. 16 A. The one instance I remember that it happened 17 with this case was the preservation of the statewide 18 voter registration file. We take a snapshot of that 19 file for our day-to-day data requests, and that was 20 one of the responsive items to the request for 21 production. 22 I was advised that I probably need to hold 23 on to those as they are refreshed. So I have a folder 24 on my desktop at work that contains our monthly 25 statewide voter registration file as it was refreshed</p>
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<p>1 emails, texts? Like, hard copies of those? 2 Q. Well, I think you told me it would depend on 3 what type of document. So is there a difference as 4 between the types of documents you just mentioned? 5 MS. CRYER: Same objection. 6 A. Yes. The time of retention depends on the 7 document. I'm not sure I follow. 8 Q. Well, setting aside, you know, a hard copy 9 record that might exist of all text message or email, 10 which is also something that exists electronically, 11 are there any policies for documents that would only 12 exist in hard copy? 13 MS. CRYER: Same objection. 14 A. Not that I am aware of, no. 15 Q. So when you say "it depends on the type of 16 document," what about documents that are relevant to a 17 lawsuit involving -- in which the secretary of state's 18 office is involved, is there a policy about how those 19 documents should be treated? 20 MS. CRYER: Same objection. 21 A. I'm sure there is a policy in terms of keeping 22 those documents during the period of litigation. If 23 there is an official, formal policy, I would have to 24 rely on legal counsel to show me where that's at, 25 whether it's attorney general attorneys or secretary</p>	<p>1 on a month-by-month basis. 2 Q. Other than the preservation of the voter 3 registration file that you just described, did the 4 secretary of state's office direct its employees to 5 preserve any other documents relevant to this case? 6 MS. CRYER: Object to the form. You can 7 answer. 8 A. If there were documents relevant to the case, 9 they would have been preserved. Yes. But I'm not 10 aware of any documents coming into existence other -- 11 that would have been pertinent to this case or that 12 would have been deleted as a result of cleaning 13 something up or -- 14 Q. I'm not sure you answered my question so let me 15 ask it again. 16 A. Okay. 17 Q. Did the secretary of state's office ever direct 18 any of its employees to preserve documents relevant to 19 this case? 20 MS. CRYER: Same objection. 21 A. No. Because there were no employees other than 22 myself that were relevant to this case that needed to 23 preserve documents. 24 Q. And did any -- did anyone direct you to preserve 25 documents relevant to this case?</p>



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1 A. Yes. Our counsel did.  
2 Q. Other than the voter registration database  
3 direction that you just discussed?  
4 MS. CRYER: I am going to object, to the  
5 extent that it's getting into  
6 attorney/client privilege. But other than  
7 that, if there's anything else that you can  
8 share with him that does not include what we  
9 talked about, you can answer.  
10 A. I was directed that if there is anything that  
11 would be pertinent to this case, that needed to be  
12 preserved, to preserve it. So that was what I did.  
13 MR. SKOCPOL: And I'm going to ask this,  
14 and you might -- let me see if you have an  
15 objection.  
16 MS. CRYER: Okay.  
17 Q. Without getting into the substance of what that  
18 direction was, did you have -- did you receive  
19 direction about how to determine what was relevant to  
20 this case?  
21 MS. CRYER: I am going to object to the  
22 extent that it's calling for an answer that  
23 is anything other than yes or no. My  
24 concern is, it's going to get into the --  
25 what we have discussed.

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1 Q. I mean it as a yes-or-no question. So just yes  
2 or no.  
3 A. Repeat it one more time just so I'm sure.  
4 Q. Did you receive direction about how to determine  
5 what documents are relevant to this case?  
6 A. Yes.  
7 Q. And did you preserve documents that you  
8 understand to be relevant to this case?  
9 A. Yes.  
10 Q. Are there any documents that you understand to  
11 be relevant to this case that you have deleted?  
12 A. Not to my knowledge, no.  
13 Q. What about communications, emails?  
14 A. Not to my knowledge, no.  
15 Q. Text message?  
16 A. No, sir.  
17 MR. SKOCPOL: Let me take a break. We  
18 may be close to done.  
19 (Recess from 5:27 p.m. to 5:33 p.m.)  
20 (Exhibit 13 marked for identification.)  
21 Q. So I'm marking as Exhibit 13 Defendant's  
22 Responses to Plaintiffs's First Set of Request for  
23 Production of Documents. Have you seen this document  
24 before?  
25 A. Yes.

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1 Q. What is it?  
2 A. Responses to Plaintiffs's First Set of Request  
3 for Production of Documents.  
4 Q. If you look at the first page, Request for  
5 Production Number 1 and the secretary's response. Do  
6 you see that at the bottom of the page?  
7 A. Yes.  
8 Q. The request is for all documents and  
9 communications concerning the district boundaries  
10 adopted in the 2021 congressional redistricting plan  
11 and any 2021 proposed congressional redistricting  
12 maps; is that correct?  
13 A. Yes.  
14 Q. And in response, the secretary says that the  
15 districts enacted by Act 1116 of the Arkansas State  
16 Legislature Map is attached?  
17 A. Yes.  
18 Q. Is that the only document that the secretary of  
19 state produced in response to this request?  
20 A. Yes.  
21 Q. Earlier in this deposition, we reviewed various  
22 communications that you and other members of the  
23 secretary of state's office had with Shelby Johnson  
24 about the 2021 proposed congressional maps; is that  
25 correct?

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1 A. That's correct.  
2 Q. Those emails were not produced to us by the  
3 secretary of state; is that correct?  
4 A. I do not know if they were or were not. I don't  
5 know how you obtained those emails. But I know in  
6 response to this, the only thing that I was able to  
7 produce was the copy of the map.  
8 Q. Why were those emails not produced by the  
9 secretary of state in response to this request?  
10 MS. CRYER: Object to the form. You can  
11 answer if you can.  
12 A. I don't know why they were not produced in terms  
13 of this. It may have been a situation where I  
14 performed -- because this was sent to me, I performed  
15 a search of my existing emails in my email -- in my  
16 Outlook application at the time I received this  
17 request.  
18 Therefore, I had no responsive documents  
19 at that time because they had been more or less  
20 deleted because this was three years ago. So the only  
21 thing I could find on my -- on our elections network  
22 drive in response to this was the map because that was  
23 what we retained.  
24 So this was not one of those situations  
25 where, like, oh, we're not going to produce these



<div>Page 239</div> <div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div><div>25</div></div> <div><p>emails because we deleted them for nefarious reasons. This was simply me searching our drive in my in box for documents reflective of this because I did search and just simply did not find the emails that we have discussed today.</p><p>Q. The searches that you ran on your -- I want to make sure I'm understanding your answer. I think you're saying, and tell me if this is correct. You ran searches on your in box that would have identified the emails we discussed today had they still been in your Outlook application; is that correct?</p><p>A. That is correct, yes.</p><p>Q. So it's your understanding, they weren't -- that they weren't identified and they weren't produced because they were no longer in your Outlook -- available to you in your Outlook application?</p><p>A. That is correct. Yes.</p><p>Q. Do you know when -- so is it fair to say that some of the emails we were discussing were from September and October 2021?</p><p>A. Yes.</p><p>Q. When would those emails have ceased to be in your Outlook in box?</p><p>MS. CRYER: Object to the form. You can answer.</p></div>	<div>Page 241</div> <div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div><div>25</div></div> <div><p>some of them, on many of them, Kenneth Burleson and --</p><p>A. Kevin.</p><p>Q. -- Kevin Niehouse, excuse me, were also recipients. Were their in boxes -- were their Outlook applications searched for emails in response to this request for production?</p><p>A. I don't know that they were. I don't recall that.</p><p>MS. KURVERS: Go off the record. (Discussion held off the record.)</p><p>Q. Were any -- were the emails of any state department -- excuse me, secretary of state's office employees other than you searched for communications responsive to this request?</p><p>A. Not that I'm aware of, no. (Exhibit 14 marked for identification.)</p><p>Q. And did you also search your -- I think that's all for that one. I'm next going to mark as Exhibit 14 a document that is being handed to you now that the first line of which at the top of the first page is "Redistricting Criteria Standards and Requirements."</p><p>MS. CRYER: And for clarification, there are no Bates numbers on here, correct?</p><p>MR. SKOCPOL: Correct.</p></div>
<div>Page 240</div> <div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div><div>25</div></div> <div><p>A. I don't recall. There are certain instances where I do hold on to email correspondence just for my own recollection of certain projects or tasks longer than 30 days. But that just depends on the situation, so I don't know when I would have deleted those emails.</p><p>Q. But let me ask you this: You are in the habit of deleting your emails approximately every 30 days?</p><p>A. Yes.</p><p>Q. Unless you choose to preserve specific emails?</p><p>A. Correct. Yes.</p><p>Q. And would that have been your practice -- had that been your practice -- how long has that been your practice?</p><p>A. Since I've been employed with the secretary of state. And I'm not religiously tied to 30 days. Usually, it ends up being where I get a notification that my in box is almost full and I need to clear some memory. That's when I usually initiate a cleanup of my Outlook application.</p><p>Q. And that would have been your practice in 2021?</p><p>A. Yes.</p><p>Q. There were other secretary of state -- I think you will recall I asked you which other secretary of state's office employees were on those emails, and on</p></div>	<div>Page 242</div> <div><div>1</div><div>2</div><div>3</div><div>4</div><div>5</div><div>6</div><div>7</div><div>8</div><div>9</div><div>10</div><div>11</div><div>12</div><div>13</div><div>14</div><div>15</div><div>16</div><div>17</div><div>18</div><div>19</div><div>20</div><div>21</div><div>22</div><div>23</div><div>24</div><div>25</div></div> <div><p>MS. CRYER: Okay.</p><p>Q. This is a document that was produced by the secretary of state's office, but I don't think it came to us with a Bates number. Have you seen this document before?</p><p>A. I don't believe I have, no.</p><p>Q. Well, take a moment to review it. Can you tell what this documents is?</p><p>MS. CRYER: I object to the form. Go ahead and answer if you can. You're good.</p><p>A. It looks like guidance regarding different criteria and standards to take into account during the redistricting process.</p><p>Q. Is this a kind of document that the secretary of state's office produces?</p><p>MS. CRYER: Object to the form. You can answer.</p><p>A. I've never seen this document before, so I don't -- I can't say that we produced it.</p><p>Q. Do you know who would have authored this document?</p><p>MS. CRYER: Object to the form. Answer if you can.</p><p>A. No. I don't know.</p><p>Q. Do you know when this document would have been</p></div>

<p>1 created?</p> <p>2 MS. CRYER: Same objection.</p> <p>3 A. No, I don't.</p> <p>4 (Exhibit 15 marked for identification.)</p> <p>5 Q. All right. We can move on from that one. I am</p> <p>6 going to mark Exhibit 15. Do you have -- you seen</p> <p>7 this document before?</p> <p>8 A. Yes.</p> <p>9 Q. What is it?</p> <p>10 A. It's a email correspondence concerning lists of</p> <p>11 precincts.</p> <p>12 Q. Are you involved in this email correspondence?</p> <p>13 A. Yes.</p> <p>14 Q. And who are you corresponding with?</p> <p>15 A. Matthew Miller from the Bureau of Legislative</p> <p>16 Research.</p> <p>17 Q. I believe I asked you earlier if you recognized</p> <p>18 the name Matthew B. Miller, and at that time you</p> <p>19 didn't. Does this document refresh your recollection</p> <p>20 as to who Matthew B. Miller is?</p> <p>21 A. Only because his email domain is on this</p> <p>22 document as BLR.Arkansas.gov. Earlier, when you asked</p> <p>23 me, it was simply his name in the -- on the recipient</p> <p>24 line, and I didn't recollect his name at that time.</p> <p>25 So only because his email domain is here do I</p>	<p>Page 243</p>	<p>1 Q. What was the -- and is it my accurate reading</p> <p>2 that Kenneth Burleson asked you to please pull this</p> <p>3 information and send to Matthew and Michelle?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know who Michelle is referred to there?</p> <p>6 A. She is another employee under the Bureau of</p> <p>7 Legislative Research.</p> <p>8 Q. Is that Michelle Davenport?</p> <p>9 A. Yes.</p> <p>10 Q. And what was the information that you were being</p> <p>11 asked to provide to Matthew and Michelle?</p> <p>12 A. They requested a list of precincts. They were</p> <p>13 attempting to verify that the precincts generated by</p> <p>14 the redistricting software were accurate and they</p> <p>15 thought that a list of precincts from the voter</p> <p>16 registration database would suffice.</p> <p>17 Q. I mean, is it fair to say that there are -- you</p> <p>18 provided the information -- you were providing</p> <p>19 information in response to that request?</p> <p>20 A. Yes, sir.</p> <p>21 Q. And then Matthew Miller asks you follow-up</p> <p>22 questions after that?</p> <p>23 A. Yes.</p> <p>24 Q. In the second to the last -- second most recent</p> <p>25 email on the thread on September 28th, near the top of</p>	<p>Page 245</p>
<p>1 recognize that he was or is with the bureau.</p> <p>2 Q. With the Bureau of Legislative Research?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. What is the time period -- so this is --</p> <p>5 is it fair to say that this is several emails in a</p> <p>6 thread?</p> <p>7 A. Yes.</p> <p>8 Q. And from the earliest email to the latest email,</p> <p>9 what is the time period that the email thread spans?</p> <p>10 A. Between September 8th, 2021, through</p> <p>11 September 28th, 2021.</p> <p>12 Q. Is it fair to say that the first email in this</p> <p>13 thread was not sent to you but it was sent to -- by</p> <p>14 Matthew Miller to other individuals in the secretary</p> <p>15 of state's office?</p> <p>16 A. Yes.</p> <p>17 Q. And would that be -- I suppose one other</p> <p>18 individual. Would that one other individual be</p> <p>19 Kenneth Burleson?</p> <p>20 A. Yes.</p> <p>21 Q. And then is it fair to say that also on</p> <p>22 September 8th, Kenneth Burleson brings you into the</p> <p>23 email thread, putting you in touch with Matthew</p> <p>24 Miller?</p> <p>25 A. Correct.</p>	<p>Page 244</p>	<p>1 the first page, do you see where Matthew Miller says,</p> <p>2 "I really appreciate your help over the past week"?</p> <p>3 A. Yes.</p> <p>4 Q. What help was Matthew Miller referring to that</p> <p>5 you provided to him in September 2021?</p> <p>6 A. I mean, aside from this email correspondence,</p> <p>7 I'm not aware of any additional help I may have</p> <p>8 provided him. I don't recall any conversations or</p> <p>9 meetings or anything like that that I had with either</p> <p>10 Matthew or Michelle.</p> <p>11 Q. Is it possible you did provide him help that</p> <p>12 isn't reflected in this email thread?</p> <p>13 A. I can't rule that out 100 percent. I just don't</p> <p>14 recall anything aside from this thread.</p> <p>15 Q. And then in the very last email in this thread,</p> <p>16 do you see where you say, "If you need anything else,</p> <p>17 just holler"?</p> <p>18 A. Yes. Some Arkansas lingo for you.</p> <p>19 Q. Yeah. No. I can ask this. Did he subsequently</p> <p>20 holler?</p> <p>21 A. I like that.</p> <p>22 THE WITNESS: Did you get that in the</p> <p>23 record?</p> <p>24 A. I don't think he did. No.</p> <p>25 Q. So maybe to ask that question more directly,</p>	<p>Page 246</p>

<p>Page 247</p> <p>1 after September 28th, did Matthew Miller request your 2 assistance, if you recall? 3 A. Not that I recall, no. 4 Q. What about Michelle Davenport? Do you recall 5 providing any help for Michelle Davenport other than 6 what's reflected in the emails? 7 A. Not in terms of this subject matter, no. 8 Q. No, you didn't provide any, or no, you don't 9 remember? 10 A. I do not believe I provided any additional help 11 or information regarding this. 12 Q. Okay. That's it for the documents. I want to 13 go back and just clarify a few points from earlier. 14 You recall that earlier, I was asking you 15 whether the secretary of state had any information in 16 the public record that would suggest there was a 17 partisan motivation for the congressional plan that 18 was enacted? 19 A. I do recall that, yes. 20 Q. And you said no, the secretary of state did not? 21 MS. CRYER: I think I objected first and 22 then you answered. Anyway, go ahead. 23 THE WITNESS: Chances are high, but 24 yeah. 25 A. No, not that I'm aware of. We have no</p>	<p>Page 249</p> <p>1 answer if you can. 2 A. Not aware of anything from any of those public 3 hearings or anything that would have -- that would 4 have alluded to any of that. No. 5 Q. Just to confirm, the secretary of state -- your 6 testimony is that the secretary of state was not 7 involved in discussion with legislators about the 8 motivations for the congressional map? 9 MS. CRYER: Object to the form. You can 10 answer. 11 A. That is an accurate statement. Yes. We were 12 not involved. 13 Q. Including any discussions about partisan 14 motivation? 15 MS. CRYER: Same objection. You can 16 answer. 17 A. Same answer. Correct. There was none. 18 Q. I believe your testimony was the secretary of 19 state does not know what criteria were used to develop 20 the redistricting plan that was enacted in 2021 for 21 congressional districts? 22 A. Not -- that is correct. We are not aware of 23 what criteria was used as we weren't involved. 24 MR. SKOCPOL: Okay. I think that's it. 25 I just want to -- before we wrap up, I just</p>
<p>Page 248</p> <p>1 information regarding that. 2 Q. Does the public record include the legislative 3 record -- does the public record that you included in 4 that answer include the legislative record leading to 5 the enactment of the congressional map? 6 A. I think it's -- 7 MS. CRYER: Object to the form. I 8 apologize for interrupting. Go ahead. 9 A. We need to define "public record" because that's 10 a very loose term. So if you are referring to any 11 documents that are publicly obtainable, bills, acts, 12 house and senate journals, anything from the 13 legislature just about is publicly obtainable. So I'm 14 not 100 percent sure. 15 Q. Would the public legislative record, as you 16 understand it, include legislative hearings? 17 A. They are open to the public, yes. I believe 18 they are recorded. I believe Bureau of Legislative 19 Research keeps copies of those recordings. 20 Q. And is the secretary of state's office aware of 21 any facts from the legislative hearings in this, 22 leading to the enactment of the 2021 congressional 23 map, that would support partisan motivation for that 24 map? 25 MS. CRYER: Object to the form. You can</p>	<p>Page 250</p> <p>1 want to say for the record that we may have 2 to continue this deposition to account for 3 any relevant material that was discussed 4 today but has not been produced. And I'd 5 also like to note for the record that we 6 have requested for the secretary of state's 7 office to identify and produce relevant 8 emails and have been told that the secretary 9 of state's office was running searches to do 10 so. 11 We have not yet received documents. So 12 for those reasons, I'm stating for the 13 record that this deposition is being held 14 open pending any outstanding production of 15 documents. 16 MS. CRYER: Pursuant to the Federal 17 Rules of Civil Procedure, you've had your 18 seven hours. So I am going to object, to 19 the extent that there is any request to hold 20 this deposition open. 21 I will tell you that we do have emails 22 that are being produced, and they will be 23 placed in a Dropbox that will be sent 24 tomorrow. 25 MR. SKOCPOL: Okay. Off the record.</p>

The Christian Ministerial Alliance, et al. v. John Thurston

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(The deposition was concluded at 5:57 p.m.)

\* \* \* \* \*

REPORTER CERTIFICATION

I, TAMMIE L. FOREMAN, Certified Court Reporter  
for the State of Arkansas, do hereby certify to the  
following:

1) that on 08/21/2024, the witness,  
JOSHUA RYAN BRIDGES, was duly sworn by me prior to the  
taking of testimony as to the truth of the matters  
attested to and contained therein;

2) that the foregoing pages contain and are a  
true and correct transcription of the proceedings as  
reported verbatim by me via realtime stenography to  
the best of my ability and transcribed at or under my  
direction and supervision, and subject to appropriate  
changes submitted by witness, if any, during his/her  
requested reading and signing of this deposition  
according to the Arkansas Rules of Civil Procedure;

3) that I am neither counsel for, related to,  
nor employed by any of the parties to the action in  
which this proceeding was taken; and that I am not a  
relative or employee of any attorney employed by the  
parties hereto;

4) that I am not financially interested or  
otherwise interested in the outcome of this action  
that affects or has substantial tendency to affect  
impartiality or requires me to relinquish control of



1 an original or copies of a deposition transcript  
2 before it is certified, or that requires me to provide  
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4 action; and

5 5) that I have no contract with the parties,  
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7 and that I am not knowingly identified on a preferred  
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11 6) that signature of the witness is not  
12 waived.

13 This transcript is prepared at request of  
14 counsel for PLAINTIFFS, and all fees are billed  
15 directly to them in compliance with Arkansas Board of  
16 Court Reporter Examiners Regulations Section 19.

17 Witness my hand and seal this 22nd of  
18 August, 2024.

19  
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SIGNATURE OF WITNESS

I, JOSHUA RYAN BRIDGES, hereby certify that the  
above and foregoing deposition, is a full, true,  
correct, and complete transcript of the proceeding  
(Mark the appropriate box):

( ) had at the time of the taking of my deposition.

OR

( ) subject to the notations on the attached Errata  
Sheet made by me or at my direction.

\_\_\_\_\_  
JOSHUA RYAN BRIDGES

\_\_\_\_\_  
Date

\*\*\*\*\*

STATE OF \_\_\_\_\_ )  
\_\_\_\_\_) SS  
COUNTY OF \_\_\_\_\_ )

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 2024.

My commission expires:

\_\_\_\_\_  
(SEAL)

\_\_\_\_\_  
Notary Public

ERRATA SHEET FOR THE DEPOSITION OF JOSHUA RYAN BRIDGES  
taken on August 21, 2024

PAGE	LINE	CORRECTION	REASON FOR CHANGE
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I certify that I have read my deposition and request  
that the above changes be made.

_____	_____
JOSHUA RYAN BRIDGES	Date

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