

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CASE NO. 8:24-cv-879

KETO NORD HODGES, et al.,

Plaintiffs,

vs.

KATHLEEN PASSIDOMO, in her official
capacity as President of the Florida
Senate, et al.,

Defendants.

----- /

December 2, 2024
9:05 a.m.

VIDEOCONFERENCE DEPOSITION OF MARIA MATTHEWS

Taken before JAY H. PILCHICK, Shorthand
Reporter and Notary Public in and for the State of
Florida at Large, pursuant to Notice of Taking
Deposition filed in the above cause.

1

2 APPEARANCES:

3

4 ACLU FOUNDATION OF FLORIDA
5 BY: CAROLINE A. McNAMARA, ESQ.
6 Attorneys for Plaintiffs.

7

8 HOLTZMAN VOGEL LAW FIRM
9 BY: MOHAMMAD JAZIL, ESQ.,
10 Attorneys for Defendants.

11

12 ALSO PRESENT:

13 ASHLEY DAVIS
14 LEILA OBERSCHALL
15 NICHOLAS L. V. WARREN

16

17

18

INDEX

19

20 WITNESS

DIRECT CROSS

21

MARIA MATTHEWS

4

-

22

23

EXHIBITS

24

Plaintiffs' Exhibit No. 1 through 15..... 118

25

1 Thereupon, the following proceedings were had:

2 THE REPORTER: The attorneys
3 participating in this deposition acknowledge
4 that I am not present with the witness and that
5 I will be reporting the proceedings and
6 administering the oath remotely. This
7 arrangement is pursuant to the Florida Supreme
8 Court Administrative Order No. AOSC-20-16 (and
9 extended by AOSC-20-17). The parties and
10 their counsel consent to this arrangement and
11 waive any objections to this manner of
12 reporting.

13 Counsel, please indicate your agreement by
14 stating your name and your agreement on the
15 record.

16 MS. McNAMARA: Caroline McNamara. I agree.

17 MR. JAZIL: Mohammad Jazil. I agree, with
18 one exception. I am in the same room as the
19 witness.

20 Thereupon:

21 MARIA MATTHEWS

22 Was called as a witness by the Plaintiffs and, after
23 having been first duly sworn, was examined and
24 testified as follows:

25

1 DIRECT EXAMINATION

2 BY MS. McNAMARA:

3 Q. Now, you just stated your name for the
4 record, Miss Matthews. My name is Caroline McNamara.
5 I am the attorney representing the plaintiffs in this
6 case, Keto Nord Hodges versus Albritton. The Case
7 Number is 8:24-cv-879, in the Middle District of
8 Florida.

9 Is there anyone else in the room with you
10 about beside your counsel?

11 A. No.

12 Q. We have identified everyone who is here.
13 The deposition is a question and answer session; I
14 ask questions and you will answer them. You
15 understand that?

16 A. Yes.

17 Q. And like we are in court, you are under
18 oath and you have to answer them truthfully.

19 A. Yes.

20 Q. We have a court reporter, so you understand
21 you will need to give verbal responses so that the
22 court reporter can record the words of your answer?

23 A. Okay.

24 Q. And I'll finish a question, pause for a
25 second before you answer a question so that we have a

1 clean record.

2 A. Okay.

3 Q. And if you don't understand a question, you
4 could let me know or ask me to clarify. Does that
5 make sense?

6 A. Yes.

7 Q. And if you need to take a break, just let
8 me know; we can take a break. I will try to take one
9 every--not regularly, but, you know, every 60, 90
10 minutes, or whatever winds up properly.

11 A. Okay.

12 Q. The only limit on that is if a question is
13 still pending, we can't break while a question is
14 pending, but once you answer--you can finish
15 answering, then we can take a break.

16 A. Okay.

17 Q. And you understand that you are under oath?

18 A. Yes.

19 Q. Are you on any medication or substances
20 today that might affect your ability to testify
21 truthfully?

22 A. No.

23 Q. Any other reason you wouldn't be able to
24 give your full and best testimony today?

25 A. No.

1 Q. Have you been deposed before?

2 A. Yes.

3 Q. Many times?

4 A. Yes.

5 Q. When you've been deposed before, has that
6 been as a worker representative mostly or--

7 A. I don't know the number, but yes, I have.

8 Q. When you've been deposed in an individual
9 capacity, is it in your individual capacity of the
10 job that you are in right now?

11 A. Correct.

12 Q. When was the last time you were deposed?

13 A. I don't recall the exact time.

14 Q. In 2024?

15 A. Maybe.

16 Q. It happens often that you don't necessarily
17 keep track of them all?

18 A. No, it's not something I want to keep in my
19 memory.

20 Q. Have you testified in court before?

21 A. Yes.

22 Q. Do you remember the last time you testified
23 in court?

24 A. Same thing. It would have been either in
25 court or being deposed.

1 Q. You have been designated today as the
2 corporate representative of the Florida Department of
3 State?

4 A. Yes.

5 MS. McNAMARA: I'm going to share my screen
6 to pull up the deposition notice.

7 BY MS. McNAMARA:

8 Q. Can you see this Schedule A? I'll start
9 off with the top page. Do you see this document?

10 A. Yes.

11 Q. Are you familiar with it?

12 A. Yes.

13 Q. And this is today's deposition?

14 A. Correct.

15 Q. And we will scroll to page three, Schedule

16 A. It lists the topics for today's deposition?

17 A. Correct.

18 Q. Are you familiar with these topics?

19 A. Yes.

20 Q. Are you prepared to testify to these topics
21 subject to, I understand, a few objections from your
22 counsel?

23 A. Yes.

24 Q. What did you do to prepare for the
25 deposition today?

1 A. I spoke with my attorney, I reviewed the
2 discovery documents and also some emails.

3 MS. McNAMARA: Mr. Court Reporter, we will
4 mark the deposition notice as Exhibit 1. Once
5 we are done, I'll send over PDF's of all the
6 exhibits that we use so they can be officially
7 marked.

8 BY MS. McNAMARA:

9 Q. Did you meet with any employees of the
10 Department of State to prepare today?

11 A. No.

12 Q. Did you meet with anybody with the Florida
13 House to prepare for today?

14 A. I'm sorry, can I go back to your first--
15 your prior question?

16 Q. Yes.

17 A. I spoke with my counsel, Mohammad Jazil,
18 and also the general counsel for the Department of
19 State. So he is an employee of the state.

20 Q. And who is the general counsel for the
21 Department of State?

22 A. Joseph Van de Bogart.

23 Q. Did you meet with anyone who is with the
24 Florida House of Representatives in your preparation
25 today?

1 A. No.

2 Q. And did you meet with anyone with the
3 Florida Senate in preparation for today?

4 A. No.

5 Q. Did you meet with any other state employees
6 outside of Department of State or the legislature?

7 A. (Shakes head in the negative.)

8 Q. Is that a no?

9 A. Oh, I'm sorry. No, I didn't.

10 Q. Not that you met with the governor, but if
11 you had met with the governor, that would have been
12 someone else.

13 Just to clarify, you only met with your
14 legal team.

15 Did you review any documents in preparation
16 for today?

17 A. The discovery documents and also the
18 email--a couple of emails.

19 Q. The discovery documents, those are
20 documents that have been produced by at least one of
21 the parties in this lawsuit?

22 A. Correct. Those are requests for
23 admissions, interrogatories, disclosures.

24 Q. You said you looked at some emails. Can
25 you describe to me what those emails are?

1 A. Sure. One email chain related to the
2 communication between the Department of State and the
3 Supervisors of Election 2022 relating to the map.

4 Q. And that is one of the topics, so we can
5 discuss that material when we get to it.

6 Did you review any of the court filings in
7 this case?

8 A. A few, but I wouldn't be able to recall.
9 Those weren't the primary things. I was focusing on
10 the discovery documentation.

11 Q. Like did you read through the Complaint?

12 A. Not recently.

13 Q. Have you attended any of the depositions
14 that have been held in this case?

15 A. No.

16 Q. Have you read any of the deposition
17 transcripts?

18 A. No.

19 Q. Or watched any videos of any depositions?

20 A. No.

21 Q. Do you have any documents in front of you
22 that you're using today?

23 A. No.

24 Q. Is there anyone else that you spoke with
25 about your deposition today?

1 A. Just telling staff that I would be away
2 from the office because I had a deposition today.

3 Q. What is your job title?

4 A. I'm the Director of the Florida Division of
5 Elections.

6 Q. And how long have you been in that
7 position?

8 A. Since January 2013.

9 Q. And is that an appointed position?

10 A. No, it's not appointed, but, I mean, there
11 is an approval process for that kind of high level
12 position.

13 Q. Who selects you?

14 A. The Department of State would be the one
15 that would select me.

16 Q. And you have served under multiple
17 Secretaries of State?

18 A. I have.

19 Q. And continuously since 2013?

20 A. Correct.

21 Q. How many employees does the Division of
22 Elections have?

23 A. We have over 75 full time and over 20 that
24 are additional that are OPS that can increase and
25 decrease at any time.

1 Q. What does OPS stand for?

2 A. It's for temporary staff based on needs,
3 projects, things like that.

4 Q. Are those staff, like do they work in a
5 different department and they get brought over to
6 yours or are they just someone who doesn't work for
7 the state and is hired temporarily?

8 A. They are hired temporarily and they are
9 considered employees of the Department of State and
10 their term of employment can be indefinite. Or if
11 it's project-oriented, it could be for a shorter time
12 frame. But they work in the Division of Elections
13 solely.

14 Q. Did the Division of Elections hire
15 temporary staff during 2024 for the election year?

16 A. We already had plans. And based on
17 workload we already had sufficient staff to cover,
18 you know, our election administration.

19 Q. If, say, a special election gets called,
20 for example, there's an election called for
21 Congressional District 1 that's been called, do you
22 need to hire additional staff to prepare for that?

23 A. No. The primary onus is going to be on the
24 Supervisors of Elections in terms of their conducting
25 the election, while we coordinate a lot of state

1 level activities. What will happen is existing staff
2 may have to work additional hours to compensate for
3 some activities and things that are due after hours
4 or on weekends, like book closing periods, answer
5 phones. Or on election day for statewide reporting
6 results, we'll be here until the county or counties,
7 however many there are, complete their initial
8 preliminary night reporting. So with existing staff,
9 additional hours may be expected at certain key times
10 of the election cycle. Primarily book closing and
11 election day.

12 Q. How is the Division of Elections organized?

13 A. We consist of primarily three bureaus and
14 one fiscal unit and what's called the director's
15 office.

16 So you have the Bureau of Election Records
17 primarily responsible for qualifying and campaign
18 finance and that's really an oversimplification. But
19 they are also issued commissions and they are
20 responsible for administering the statewide public
21 campaign finance program.

22 Then you have the Bureau of Voting Systems
23 certification, whose primary responsibilities are
24 testing and certifying voting systems for use in the
25 State of Florida. No county-- There cannot be any

1 election which a voting system is used that hasn't
2 been otherwise tested and certified. And then they
3 also test and approve automated independent audit
4 systems which are used for post election voting
5 system audits. And then the team also has a series
6 of reports that are due to the legislature that they
7 are responsible for. And in an election year that
8 would be the over vote and under vote report, the
9 conduct of elections report, and also a summation of
10 the post election voting system audit reports. And
11 then they are also--that same staff are also
12 responsible for doing election observation at the
13 local level during the cycle, starting about a month
14 out before elections start, or election day, rather,
15 in which they are sent out there to be the eyes and
16 ears and observe processes in the various counties,
17 including logic and apathy testing, which is
18 essentially pre-election testing of the voting
19 equipment to ensure that it's counting the votes
20 accurately and functioning properly. And then also
21 to observe early voting activities. And then also
22 election day activities.

23 Q. Is there another--

24 A. Yes, there is. I'm sorry. There is the
25 Bureau of Voter Registration Services, which is the

1 biggest unit, and that consists of voter registration
2 services relating to voter registration. So they
3 handle inquires about voter registration, about
4 voting. And they are also responsible for working
5 with supervisors and other inter-agency data bases to
6 identify voters who are potentially ineligible on the
7 rolls and for which that once identified that
8 initiates the notice of due process for letting the
9 voter know and giving the voter the opportunity to be
10 able to say yea or nay in terms of their eligibility.

11 And then there's the fiscal unit, which is
12 really within the director's office. They handle
13 purchasing, budget, legislative matters, and also any
14 distribution of federal or state funds in support of
15 election administration or election security.

16 And then the director's office oversees a
17 number of programs, everything from requests that
18 come in from Supervisors of Elections about mail-in
19 ballot election requests, special salaries that
20 supervisors can get for taking extensive continuing
21 education courses, to the constitutional amendment
22 approval, initiative processes, to the paid petition
23 circulator process, registration. And then just the
24 general oversight of the division, administrative.

25 We are in essence the administrative arm of

1 the Secretary of State in his capacity as the chief
2 election official.

3 Q. Is there a specific unit that's responsible
4 for implementing a statewide apportionment plan?

5 A. No, there is no specific unit. We work
6 closely with our IT department, because, as in
7 anything, nothing can get done without IT. So we
8 work very closely with them.

9 But again, what we'll do is we get the
10 information from the legislature, we incorporate it
11 how we need it for our systems, like the qualifying
12 system data bases and things. But ultimately the
13 primary onus remains on the Supervisors of Elections
14 and we act essentially as the pass-through and give
15 guidance to them. We will tell them, okay, yes, this
16 is the map that has been approved and has been
17 finalized and to be using that to proceed with their
18 mapping.

19 Q. Is the department involved in the process
20 of designing the statewide apportionment plans?

21 A. No. That is exclusively the legislature.
22 That's a constitutional provision. They are
23 responsible for drawing and approving the map. We
24 have no say in that matter.

25 Q. Do they consult with you about technical

1 issues as far as how that works?

2 A. No. They may ask for polling place or
3 precinct information that the supervisors may have
4 submitted to us. And they also make use of
5 legislative recap reports that includes registration
6 and voting history.

7 Q. Prior to working for the Department of
8 State, did you work for the Florida Senate?

9 A. I did at one time, yes.

10 Q. Do you know what period of time that was?

11 A. I worked there from 1996 to 2002. I think
12 it was about 2002.

13 Q. What role or roles did you work for the
14 Florida Senate?

15 A. I worked on a number of senate committees,
16 Commerce and Economic Opportunities, which I don't
17 know if that committee exists under that name now. I
18 also worked under regulated industries, which covered
19 waste water plants and funeral homes. Exciting
20 stuff. And then I went to the judiciary committee.
21 In all three of those, I served as one of the staff
22 attorneys. And then in the judiciary committee I
23 became one of the chief attorneys there. And I also
24 was designated as a special master at that time, so I
25 also served in that capacity. And then I would be

1 drawn in, because of the role of the judiciary, into
2 any special projects that involved--that the Senate
3 president needed in terms of, you know, in-house
4 legal team to work on any matters.

5 Q. Are you a member of the Florida Bar?

6 A. I am.

7 Q. Currently active?

8 A. Yes.

9 Q. And in good standing?

10 A. Yes.

11 Q. I have no reason to think otherwise. I
12 will put that on the record for you.

13 Do you currently maintain any relationships
14 with staff at the Florida Senate?

15 A. Well, in a professional capacity, yes,
16 'cause we are frequently asked to, you know, for
17 legislative bills and things like that. We may have
18 meetings with them. Dawn Roberts, who currently--I
19 believe currently still serves as the director, the
20 executive director, of the Ethics and Elections
21 Committee, was actually the person who was over at
22 the Department of State and recruited me to come over
23 to the Department of State to work there. But not in
24 Elections, because I told her I didn't want to be in
25 Elections. But I got sucked in.

1 Q. And now here we are.

2 A. And here we are.

3 You know, obviously any legislative staff
4 that asks for information, I'll have communications
5 with them regarding anything they ask about.

6 Q. But you don't have someone who works for
7 the senate who you are best friends with who just
8 calls you up on the phone any time that has a
9 question and ask you about that?

10 A. I have very few friends.

11 Q. During the time you were with the Florida
12 Senate, were you involved in any of apportionment
13 processes?

14 A. No. That was always handled through the
15 Senate president's office, and I was never tapped for
16 that, no.

17 Q. By the time that there was the-- I should
18 ask-- I'll pull it up.

19 Are you familiar with the court ordered
20 reapportionment process that happened in 2015 from
21 the Florida Senate?

22 A. Yes, yes.

23 Q. And you were at the Division of Elections
24 by that point?

25 A. Correct.

1 Q. Did you play any role in that court ordered
2 reapportionment in 2015?

3 A. No. The only extent that we are, again,
4 going to be involved in is we are obviously going to
5 be monitoring what's happening, because it has an
6 impact for us and for the supervisors, and that is
7 to-- At least I personally didn't have anything in
8 that, and that is to see when the maps would finally
9 become settled so that supervisors could proceed with
10 whatever mapping they needed to do and any
11 consequential reprincincting and outreach to the
12 voters that are necessary.

13 Q. And that's the same for the 2022
14 apportionment process?

15 A. Correct.

16 Q. Have you ever testified before the Florida
17 Senate?

18 A. Yes.

19 Q. How often does that happen?

20 A. Every legislative cycle there's the
21 potential for that, so almost every cycle I have. Or
22 I am there in the capacity of support for the
23 Secretary of State.

24 Q. But that's not during the process of
25 apportionment; is it?

1 A. No.

2 Q. I think we are already there, but we are on
3 topic one, Election Administration. Does the
4 Department of State have a general method that it
5 follows for implementing a statewide apportionment
6 plan?

7 A. Generally, again what we are going to do is
8 we are going to be monitoring what the legislature is
9 doing, whose exclusive responsibility is for drawing
10 and approving those maps. We are going to monitor
11 the process to see when those maps get finalized.
12 And my point of contact is going to be Jay Farren in
13 the Senate and then whomever--I think it was Miss
14 Kelly in the House, regarding, okay, are these the
15 final maps and to send whatever information so that
16 at least I can provide to the supervisors to let them
17 know, okay, you can now proceed.

18 Now, every county is not necessarily going
19 to be impacted in a way that they have to do any
20 changes. A county in which the district doesn't
21 change, there's nominal, if any, impact on them. If
22 a county district lines change or there's an
23 addition, then they start getting more complex and
24 it's really crucial for them to get that map and to
25 know what they have to proceed with, because

1 counties, if they're small, they may not have
2 in-house expertise; they will have to contract out.
3 They may have to go to their board of county
4 commissioners to ask for funds. And that approval
5 process can, you know, have to be a publically
6 noticed meeting and they have to get that approval.
7 So time is of the essence in that regard.

8 Even for, you know--and I think in this
9 case Columbia County had actually indicated, you
10 know, the challenges that it would be for them in
11 terms of being able to do the map, knowing what the
12 map was going to be so then they could proceed.

13 The same thing happens for a large county.
14 They also, even though they may have the in-house
15 resource, they also-- It's a very complex process
16 and it can take a lot of time. You know, GIS mapping
17 is a sophisticated process.

18 So once those maps are finalized, a
19 county--big counties like Pinellas or Hillsborough,
20 which we are on record saying that they needed, you
21 know, the feasibility of them being able to do what
22 they needed to do within the time frame, are then now
23 faced again doing the mapping, getting it done in
24 time, preparing, which was needed also before--to be
25 known before qualifying, which we also needed to know

1 because we qualify the legislators, the state and
2 federal.

3 Once the supervisors get that information,
4 currently they are working on the mapping, they're
5 out there working on finalizing the ballot once they
6 get ballot certifications. And then they proceed to
7 get the voter information cards out, if there have
8 been changes in precincts and polling locations.
9 Again, any changes in precinct have to be brought
10 before the Board of County Commissioners. Again,
11 they have to get on their agenda, they have to make
12 sure there's time for that process to play out. All
13 the while they are trying to get ready for getting
14 their ballots out. And the time frame between
15 qualifying and getting the first major ballot
16 activity out is UOCAVA, which is Uniformed Overseas
17 Citizen and Absentee Voting Act.

18 Q. So you mentioned there's a difference
19 between, say, a small county and a large county and
20 how they implement; is that correct?

21 A. Yes.

22 Q. Hillsborough County, because they are a
23 large county?

24 A. Yes.

25 Q. And what about Pinellas?

1 A. Same thing. They are a very large county.

2 Q. What about Pasco County?

3 A. Pasco, I believe, is either borderline
4 medium or large.

5 Q. What's the significance of being medium as
6 opposed to large?

7 A. It's the number of registered voters.
8 Actually, the association or Supervisors of Elections
9 has created these groups based on number of
10 registered voters in their county. So small counties
11 are under, I think, like 75,000 voters, medium goes
12 up to a certain number, I forget, and then there's
13 the large counties. And then that allows them to be
14 able to commensurate, you know, with similar
15 challenges and needs and best practices and
16 procedures based on that.

17 So being a large county, again, even if you
18 have all the resources to be able to do it, you are
19 still faced against time. It's a very compressed
20 schedule as it is under the best of circumstances.
21 So compressing it even further puts a significant
22 burden on the supervisors. And really, the bulk of
23 implementing, the primary thing is on the Supervisors
24 of Elections.

25 And, as I said previously, GIS mapping is a

1 very sophisticated process, and it's very important
2 to be very precise about it because the impact is on
3 ultimately the voter. And if there's changes to a
4 voter's precinct or polling location, one that
5 they've been at for, you know, at least the last ten
6 prior years, it could be a significant change for
7 them. They now have maybe new districts that they
8 are in, new representatives that they need to be
9 looking at, you know, candidates, everything from
10 school board to legislative.

11 Q. Is Manatee County considered medium, large?

12 A. I believe it's considered large.

13 Q. What about Polk County?

14 A. Polk is getting up there, so it-- I think
15 it's-- I think it may be a large.

16 Q. Does the work that the Department of
17 Elections does for a statewide apportionment plan
18 different based on which entity is being apportioned?

19 A. Well, we don't do any apportionment plan;
20 okay? Again, that's exclusively the legislature's
21 prerogative. What we are doing is we're acting as
22 the pass-through for information and offering
23 guidance to the supervisors in terms of, you know,
24 whether a map is final and that they can go ahead and
25 implement that. We obviously take information for

1 the districts, we consume it into our data to realign
2 or, you know, redistribute or reassign whatever
3 districts to make sure that they are qualifying our
4 election results and our voter registration system is
5 lined up, you know, with the mapping and districting
6 information.

7 Q. Do Supervisors of Elections report to the
8 Division of Elections?

9 A. They report in terms of they have a slew of
10 statutory reports that they have to--that are due to
11 us, and they arrange everything from pre-election
12 activities to election day, election results, to
13 post-election activities, as well. So they are
14 constantly reporting to the Department of State about
15 certain things. It could be, you know, 30 days out
16 from election. They are supposed to tell us what
17 early voting sites there are going to be that they
18 have designated and what their hours are and what
19 their days of operation are going to be. On election
20 day, which we coordinate the statewide reporting of
21 all the counties and we oversee that process, we are
22 heavily involved in the election results reporting
23 process starting that night and all the way up
24 through two weeks later when there's the Election
25 Canvassing Commission officially certifying the

1 results at the state level for federal, state and
2 multi county district offices and statewide issues.
3 So that's how we are involved in that process.

4 Q. Does the Department of State have the
5 ability to remove a Supervisor of Elections from
6 office?

7 A. No.

8 Q. Is a Supervisor of Elections beholdng at
9 all to Department of State for their job?

10 A. Well, there are provisions in the statute
11 that if a supervisor is not following a process in
12 the election code that there is--it's under one of
13 the Secretary's duties or powers in Chapter 97
14 relating to a process by which we tell the
15 supervisor, hey, you're not doing what we hear or we
16 know of something that you're not doing, you're not
17 complying, we have to give you--there's an
18 opportunity for notice and remediation. And if not,
19 there's a process for, you know--I don't want to say
20 punishment, but I guess for a reprimand of some sort.
21 But in terms of removal of a Supervisor of Elections,
22 no, there is--we do not have that power. That rests
23 solely with the governor. But we work very closely
24 with the Supervisors of Elections. I mean, we're a
25 team for both state level and local level.

1 Q. Does the department put out like a best
2 practices guide for implementing district maps to the
3 supervisors?

4 A. No. We do offer guidance to supervisors on
5 a variety of topics. But, again, that is not within
6 our purview. It's the legislature that is
7 responsible for drawing and, you know, approving
8 maps. And we do not have any guidance on that, no.

9 Q. But you make sure that once the map is
10 finalized that they have the correct map that they
11 can use to assign precincts?

12 A. Right. And that's why I communicate with
13 the point of contact at the legislature, make sure
14 I've got-- You know, even though they've got their
15 reapportionment page up and everything and all the
16 files are there, I communicate with them to make
17 sure, okay, these are the maps. And, of course, I'm
18 also consulting with my legal office to make sure,
19 you know, if there's any pending litigation or
20 anything like that, so that whatever the
21 communication is that goes out to the supervisors
22 regarding the finality of a map and being able to
23 proceed with that map is certain and that supervisors
24 can then act on that, whether communication comes
25 directly from me or from the general counsel's

1 office.

2 Q. Does the department wait for the plan to be
3 finalized from the legislature before preparing to
4 implement it?

5 A. Again, we don't implement the plan. That's
6 really--it's the Supervisors of Elections that are
7 primarily doing that. We do take like an Excel
8 spread sheet of districts and that we use to update
9 our data, but that's not implementation really of the
10 map as you are discussing. Again, it's the
11 Supervisors of Elections.

12 Q. Do you monitor the process in the
13 legislature saying, oh, it looks like they are doing
14 a lot to change around the districts in Hillsborough
15 County, so you notify the Hillsborough Supervisor of
16 Elections "you need to get ready for a lot of
17 changes"? Do you do stuff like that?

18 A. No. Again, it's the legislature's
19 prerogative. Whether we know about it or not isn't
20 going to change anything in terms of the outcome.
21 What we do is we let supervisors know, and I believe
22 I did send an email to the supervisors, hey, here's a
23 link to the apportionment page, you can monitor. I
24 mean, supervisors are not going to just wait for--
25 you know, they have an interest. They know how this

1 process works. Many of them are very seasoned and
2 have been around a long time. And I would point them
3 to the link, to that web page, so that they can
4 monitor themselves. They have a pretty good idea on
5 their own without us having to let them know that
6 there might be changes coming. And until a map is
7 final, there is no--it's not final.

8 Q. For the Florida Senate map, when is it
9 considered final?

10 A. When I'm told by-- When legislative point
11 of contacts and our legal team lets us know that it's
12 okay to proceed, that there aren't any, you know--
13 depending on whatever pending litigation is going on.

14 Q. Does it depend on the Florida Supreme
15 Court's automatic review process?

16 A. It's going to depend on whatever is
17 determined to be the final act in which supervisors
18 can go ahead and proceed.

19 Q. Is there any period of time once you're
20 notified that it's final that you wait before going
21 forward?

22 A. Again, I'm going to be checking with my
23 legal counsel, I'm going to be checking with the
24 point of contact in the legislature, hey, do we have
25 the right link and can we go ahead and inform the

1 supervisors that they can proceed with
2 implementation. I mean, with the 2022, supervisors
3 were already proceeding with one set. And then with
4 litigation, there was another.

5 So we actually had to do sort of an
6 unorthodox--and I didn't remember this happening
7 before, where they kind of had to proceed on dual
8 tracks. And they had already started with one and
9 then they were told, okay, because of certain
10 rulings, they had to proceed with another map. But
11 because we didn't know what that final outcome was
12 going to be and when, we had to give guidance to the
13 supervisors, hey, don't get rid of all the stuff you
14 just did just because now you are working on another
15 map. So they actually had to sort of do a dual track
16 thing, which is a significant burden because, as I
17 explained to you before, this is already on a very
18 tight compressed time frame and, you know,
19 supervisors like certainty. We all do in elections.
20 We want certainty. Anything less makes voters
21 nervous.

22 Q. When you say this is on a compressed time
23 plan, is that referring to the standard process like
24 was in 2022--like we saw in 2022?

25 A. If everything were to follow according to

1 the timeline that exists now in statutes and the
2 constitution, and there's no litigation, it just, you
3 know, rolls right into-- Under the best of
4 circumstances, it's already a fairly tight timeline.

5 Q. If there's a senate district that crosses
6 county lines, do you coordinate between the different
7 Supervisors of Elections to ensure that district is
8 managed uniformly for elections?

9 A. I'm not sure I quite understand that
10 question.

11 Q. Well, so, for example, I live in Miami-Dade
12 County, and there are a number of senate districts
13 that are wholly contained within Miami-Dade County.
14 So in those situations, that district election is
15 handled all by the Miami-Dade Supervisor of
16 Elections; is that correct?

17 A. Yes.

18 Q. But, for example, there are districts-- I
19 believe Senate District 20 includes both Manatee and
20 Hillsborough. For that district like that, the
21 district crosses into multiple counties. Is there
22 any coordination between your office and the two or
23 more Supervisors of Elections to make sure they're
24 all playing by the same playbook for that district?

25 A. Each county is going to be responsible for

1 their implementing their map as it's contained within
2 their county. I don't know if there's any
3 coordination that happens between the counties in
4 terms of that. What we are going to be monitoring is
5 we are going to be looking to see if they have, in
6 each respective county, whether they have, you know,
7 made the district changes for their voter records.
8 That's what we're going to be looking at. But we
9 only communicate with them individually, not-- If
10 there is anything that doesn't look right, we will
11 talk to the supervisors, or that they haven't done,
12 we'll look. We have to because we have book closing
13 numbers and then we are going to see all those
14 precincts and districts.

15 Q. So for the current Senate District 16 that
16 is in Hillsborough with part of South Pinellas, you
17 said to Hillsborough County here's the part of this
18 district that is in Hillsborough County?

19 A. No. We are just going to give them
20 whatever the link, whatever the map, and then it's up
21 to them to decide how--that's where the GIS mapping
22 experts come into play. We don't have any expertise
23 in that.

24 Q. So you're not maintaining a, say, map of
25 Senate District 16 is in Hillsborough versus a map of

1 Senate District 16 that's in Pinellas; that's
2 separate maps?

3 A. No. Whatever the legislature has put out,
4 that's what's going to be put out. And then the
5 supervisors and their expert team, GIS team and
6 staff, that's their responsibility.

7 Q. If someone wants to qualify to be a
8 candidate for the Florida Senate, they qualify with
9 the department?

10 A. Yes.

11 Q. For the senate candidate, it's all handled
12 through the statewide office?

13 A. We handle federal, state and multi county.
14 And also statewide.

15 Q. Is there any difference in the qualifying
16 process depending on which county you're in for the
17 Florida Senate?

18 A. No.

19 Q. Does the way that the Department of State
20 conveys the maps to the Supervisors of Elections
21 differ based on whether it's a legislatively enacted
22 apportionment plan versus a court ordered one?

23 A. No. Other than the message might give
24 context to the supervisors. Again, it will say
25 what-- We try to keep the supervisors abreast of

1 what's going on, you know, whether it's the legal
2 process, and they will ask about the legislative and
3 we will either tell them, you know, unless it's a
4 group email that goes out, this is what we know. We
5 know nothing has been finalized. You get an email when
6 things are to the point when you are directed to go
7 ahead and proceed with implementation.

8 Q. Is the department involved in drawing the
9 precinct lines for counties?

10 A. No. Again, that is within the purview of
11 the Supervisors of Elections. And actually, there's
12 a provision in 101 in which supervisors are
13 responsible for--

14 You did say precincts; right?

15 Q. Yes.

16 A. Yeah. --where supervisors are--if they
17 have to make change--they don't necessarily. I mean,
18 a map may not trigger the need to do one. But if it
19 does, precincting is a process of kind of
20 reallocating voters evenly within a district area.
21 So if they have to make any changes or any additions,
22 they have to present that to the Board of County
23 Commissioners and recommend that, hey, I'm going to
24 be making--we want to recommend these precinct
25 changes or additions. The board is the one that has

1 to approve that process. Again, publically. They
2 have to get on their agenda. They have to be
3 publically noticed and it's at a public meeting. And
4 these Board of County Commissioners don't meet all
5 the time. And depending on whether you're a small
6 county or a big county, the frequency might be less
7 or more.

8 And so that's how the supervisor has to,
9 you know, present their precinct changes. They can't
10 just unilaterally do them. They have to get the
11 Board of County Commissioners to agree upon it. And
12 then once those precincts are approved, that might
13 trigger a change in polling. And if so, then
14 definitely they're already going to have to send out
15 communications to voters about any changes in their
16 districts and any changes in their precincts and then
17 definitely in their polling location.

18 Again, we are talking apportionment is like
19 every ten years in which people get used to going to
20 one place and then suddenly they've got to change.
21 So there's that voter education process that happens.
22 And I do know in 2022 there were some counties that
23 weren't getting their voter information cards out
24 sufficiently in time; you know, it was late.

25 Q. What does late mean?

1 A. Being that the voting process-- Much later
2 than the timeline they would normally do it. So to
3 give voters enough heads up about where their polling
4 locations are, what their new districts are.

5 Q. Is there a standard statewide timeline for
6 getting those out?

7 A. Well, once-- By law, as soon as a polling
8 location is changed, they are required to issue a new
9 voter information card. And I believe that's really
10 supposed to be like within five days.

11 Q. And does that happen after the new
12 apportionment plan is implemented, so in 2022, like
13 at some point after it was finalized in 2022, they
14 sent out the cards?

15 A. Yes. I mean, it's key to knowing whether
16 they are still in the same district or not and/or
17 precinct.

18 Q. Is there any notice given-- Let's say that
19 a district changes such that precincts are going to
20 have to be redrawn but it's going to take a little
21 time to do that. Is there any notice given ahead of
22 time to the voter, hey, we're re-precincting, you
23 should expect a new precinct voter information
24 coming?

25 A. No. The two main ways in which voters are

1 going to learn about it is if they are active in
2 their community and they attend Board of County
3 Commissioners meetings or whatever, they are going to
4 see that it's on the agenda. So that's why it's a
5 publically noticed meeting matter. On top of which,
6 it's obviously got to be voted on by the board. So
7 that's one way the county may--a voter may learn,
8 aside from their own initiative, you know, reading
9 the news and being proactive or monitoring themselves
10 what's happening at the state legislature. And then
11 the voter information card is the other. Supervisors
12 are also going to put as much, you know, information
13 on their websites regarding any changes in precincts.
14 That any voter can actually look up on each
15 supervisor's website to see what their precinct is
16 and their polling location.

17 Q. What does it mean to hold a special
18 election?

19 A. So a special election, under the Florida
20 Statute, is triggered under several--several
21 scenarios, one of which is a vacancy in a state
22 legislative or U.S. representative office. So once
23 that happens, the trigger is that an order has to be
24 issued. An executive order is issued by the
25 governor. And once the governor issues that order,

1 then we do our notice of special election, which sets
2 forth the date that the governor has set for the
3 special election.

4 Preceding all that, there's coordination
5 with the Supervisors of Elections about, hey, there's
6 a special election that's going to be ordered, what
7 are some recommended dates doable. If a supervisor--
8 a county has an existing scheduled election, a local
9 election or whatever, the effort is usually to try to
10 work around or work with that schedule. But that
11 doesn't always happen. Once that's done, the notice
12 of special election, which is issued by the Secretary
13 of State, also sets out what the qualifying period
14 is, so that individuals who may want to qualify for
15 that office can go ahead and know when that period
16 is. And it's a compressed time frame. It's like
17 usually the qualifying period is a day and a half.
18 Candidate petition qualifying can occur beforehand.
19 That triggers also the notice of any resignation
20 deadline, if there's a candidate who is a sitting
21 officer whose term is going to overlap partially or
22 whole, that they would have to resign in order to be
23 able to run. In fact, we just went through this
24 exercise for two offices right now currently for the
25 U.S. Congressional District 1 and Congressional

1 District 6. Once the notice goes out, we communicate
2 with the supervisors about that notice. They have to
3 publish it online or in the newspaper, if there's
4 enough time. Then we ask them how much is it going
5 to cost, give us your best estimate of what it's
6 going to cost to do a special election. This is
7 assuming--and it's only the cost associated with that
8 special election. So if the special election falls
9 on a regularly scheduled election, then the cost is
10 going to be nominal. I mean, it shouldn't be
11 anything there. But if it falls outside,
12 freestanding, then there's definitely a cost
13 associated and those run in the hundreds of thousands
14 if not a million if you're talking about a county
15 like Hillsborough or Broward. It just depends on the
16 district, the size of the district offices being
17 covered. This process, even under the most-- And
18 this is a very conservative and very lean schedule
19 that we have with the Supervisors of Elections on the
20 special election for both CD 1 and CD 6. You are
21 looking at over 141 days in which between the order
22 being viewed and the certification of the election at
23 the state. So it's almost over a five-month period.
24 So there's a lot involved. You know, supervisors
25 need to get their ballots prepared, approved,

1 mailing, all that, and then their deadline for
2 UOCAVA, which is the Uniformed Overseas Citizen and
3 Absentee Voting Act, and then five days later they
4 got to do the outreach for the domestic vote by mail
5 ballot requesters, early voting, and election day.

6 Q. You said earlier that sometimes a special
7 election can be held at the same time as the regular
8 election; is that correct?

9 A. Correct, depending on the timing of the
10 issuance of the executive order. That's the key,
11 because there's all those-- Once those dates are
12 set, then things before and after all pivot around
13 that, so the two most important dates are the
14 election days and the 45-day UOCAVA, which is a
15 deadline by which state and federal law those ballots
16 have to go out no later than. In fact, we have to
17 report to Department of Justice every regular cycle,
18 as well as for special election, hey, did these
19 ballots go out no later than 45 days. And if they
20 didn't, why. And, you know, I'm very proud to say
21 that we have consistently been timely on our
22 issuance. You know, the supervisors have been timely
23 on the issuance.

24 Q. For Florida Senate elections, there are
25 certain districts that are up in the presidential

1 election years and others that are up in the midterm
2 election years; is that correct?

3 A. Yes.

4 Q. How does the state divide between those
5 two?

6 A. I forget what the time rule of that period
7 is. We just know. It's a process. We have done
8 this a while, so--

9 Q. My understanding is that the even numbered
10 senate districts are up in the midterm election years
11 and the odd numbered senate districts are up in the
12 presidential election years.

13 A. Until I read it, then I'll agree with you.
14 I just don't recall right now, I'm sorry.

15 Q. So you don't recall which state senate
16 districts were up for election last month?

17 A. No.

18 Q. If a senate district is in a special
19 election, is the term truncated or is it
20 automatically you serve for four years once you win
21 that election for a senate district?

22 A. It's going to depend on the existing term
23 of where--that the special election is being held
24 for. Like whatever the remainder of that term is.

25 Q. So just speaking hypothetically, if a

1 senate district just got elected this year, in 2024,
2 normally they would serve for four years and be up
3 for re-election in 2028; is that correct?

4 A. 2028, yes.

5 Q. Now, if, let's say, the court in this case
6 orders a new district and it's set to go up for
7 election in 2026, would it automatically happen in
8 2026 or would they just wait until 2028 to hold that
9 election?

10 A. The special election?

11 Q. Well, it would only be a special election
12 if the current holder of the seat resigns; is that
13 correct?

14 A. I'm trying to figure out what is the
15 order--what is the order saying.

16 Q. Let's say the district that currently
17 exists and just held an election and then the court
18 orders a new map to be put in place that changes
19 those district lines, is there some additional order
20 that has to be given before a special election is
21 called?

22 A. You know, that gets really complicated and,
23 honestly, I wouldn't want to be make making that
24 decision on my own. That would be something that I
25 would be consulting with our general counsel as to

1 what my steps are in terms of how to implement an
2 order, a court order, and whether that requires
3 holding a special election, you know, or waiting
4 until the next regularly scheduled election. Those
5 are things I'm going to, even if I had an idea, a
6 firm idea on it, that I would still be consulting
7 with the legal team to ensure that--and get my
8 direction from them.

9 Q. So if, for example, a district line changed
10 and the current holder of the seat no longer lived in
11 that district, that would be a legal question that
12 would tell you whether or not there needs to be a new
13 election rather than waiting for the scheduled
14 election?

15 A. Again, I would consult with my legal team
16 on that. And also anything regarding residency about
17 current legislators is again going to be within the
18 purview of the legislature. We would not be the one
19 weighing in on that.

20 MS. McNAMARA: Now, we are kind of moving
21 on to topic two. Do you want to take a break
22 now?

23 THE WITNESS: Sure.

24 MS. McNAMARA: It's 10:05. Let's take ten,
25 15, I guess, we'll come back.

1 (Thereupon a brief recess was taken.)

2 BY MS. McNAMARA:

3 Q. Looking at the 2022 redistricting timeline,
4 the legislature-- Is it correct that the legislature
5 passed the Senate Joint Resolution 100 in 2022 on
6 February 3rd?

7 A. I'm going to defer to the legislative
8 record. I don't have that precise date in my head,
9 but--

10 Q. And then there's a 30-day period for the
11 Florida Supreme Court to do it's automatic review of
12 validity?

13 A. There is a 30-day review process, yes.

14 Q. And that was completed on March 3rd? I
15 mean, that's my record of that.

16 A. Again, I'll defer to the record for the
17 precise date.

18 Q. And then the congressional plan took longer
19 than that; is that correct?

20 A. I believe it did.

21 Q. There was a plan that was passed and then
22 the governor vetoed it?

23 A. Correct.

24 Q. And then the final plan which is
25 considered, SB2C Plan 109, that was passed by the

1 legislature, I have, April 21st, 2022.

2 A. Again, I would defer to the legislative
3 record.

4 Q. And then the governor signed that, I have,
5 the day after that, but in April of 2022 when the
6 congressional plan was finalized.

7 And then when does the period for
8 submitting petitions to get on the ballot happen
9 after that?

10 A. Which petitions are you talking about;
11 candidate petitions?

12 Q. Yes, candidate for legislative or
13 congressional candidate qualifying by petition
14 method.

15 A. So there's the official qualifying period
16 that's set out in statute for, you know, the
17 different offices. For the 2022, the state and U.S.
18 legislative qualifying period was, I believe, mid
19 June, like around June 13th or something like that.
20 So there's that week of official qualifying preceded
21 by two weeks of pre-qualifying. And then there's a
22 period of time before that for initiative-- Not for
23 initiative, I'm sorry. For candidate qualifying.
24 And I think it corresponds to the start of-- I'd
25 have to look at the code to see exactly, but it

1 precedes that either by the date before the start of
2 official qualifying or probably about two weeks
3 before that. Again, I would need to look at the code
4 to see that.

5 Q. But the main candidate qualifying period
6 was in June of 2022?

7 A. That's correct. For state and U.S.
8 legislative offices, it was then.

9 Q. Does the timing of when the qualification
10 for state or U.S. offices change from year to year?

11 A. It does for apportionment years. Normally
12 it's held at a different time frame. So it is pushed
13 back to that later-- There's two main qualifying
14 periods and those were pushed back to that June--
15 that second qualifying period.

16 Q. And that's because 2022 was a year of
17 apportionment under state law?

18 A. Correct.

19 Q. If there is a court ordered new map in this
20 case, would that year in which that map is
21 implemented be considered a year apportionment, as
22 well?

23 A. Again, I don't know if-- You know, I work
24 very closely with my legal team. That might be a
25 question I would ask and that would be something that

1 we would have to consider whether that would be the
2 case. But officially, I think in the statute it sets
3 out what is considered to be the regular, you know,
4 apportionment year.

5 MS. McNAMARA: Well, I'm going to share my
6 screen for another exhibit. Can you see this
7 document on the screen? I'm going to ask that
8 it be marked as Exhibit 2.

9 MR. JAZIL: Counsel, would you minds making
10 it a little larger?

11 MS. McNAMARA: Yes (complies).

12 BY MS. McNAMARA:

13 Q. Do you recognize this document? I can
14 scroll around if you--

15 A. Yes.

16 Q. This is marked as a Directive 2015-02 State
17 Senate Candidate Qualifying; Year of Apportionment,
18 dated August 14th, 2015. Is that correct?

19 A. Yes, that's the date of the memo.

20 Q. Were you involved in the drafting of this
21 memo?

22 A. I would have been to the extent that if
23 supervisors had any follow-up questions. But, as you
24 can see, it came directly from the Secretary of
25 State's office, so that would have been coordinated

1 in conjunction with our legal team.

2 Q. Was this memorandum generated in response
3 to the court ordered Senate reapportionment in 2015?

4 A. It would have been-- Well, as it states
5 there in the memo, supervisors were asking for
6 clarification about what, you know, the year of
7 apportionment in terms of the court ruling. So, I
8 mean, I think the memo speaks for itself.

9 Q. Is this memo considered still applicable or
10 is it like moot because the election already
11 happened?

12 A. It's very specific to that particular case.
13 It may be, you know-- Again, I still would not
14 hesitate and would as a matter of practice still
15 consult with the legal team to make sure there hasn't
16 been any changes in statute or case law that would
17 suggest otherwise or take a different approach.
18 Could this have precedential value? Of course.

19 Q. Is there a currently existing understanding
20 that you're aware of regarding this issue as it would
21 apply going forward within the Department of State?

22 MR. JAZIL: Object to form.

23 THE WITNESS: Again, at this time I
24 haven't-- You know, until it's ripe for
25 addressing, I haven't had any supervisors ask

1 for clarification. So that probably would be
2 our trigger point on that.

3 BY MS. McNAMARA:

4 Q. Have you had any discussions about this
5 possibility since the filing of this lawsuit?

6 A. I mean, the discussions could have been had
7 by the legal team, but--

8 Q. But you haven't been involved in that?

9 A. No.

10 Q. Going back to 2022, the Supreme Court
11 issued its automatic review opinion on March 3rd,
12 2022, as to the State House's and Senate plans.

13 Are you aware of any problems in the 2022
14 election based on the amount of time between the
15 March 3rd, 2022 date and the election held on
16 November 8, 2022?

17 MR. JAZIL: Object to form. It's been
18 answered.

19 THE WITNESS: If you would restate it,
20 please?

21 BY MS. McNAMARA:

22 Q. You testified earlier about it being--the
23 timeline in the situation is always short, the
24 compressed timeline no matter what. So my question
25 is, with the state senate map being in place as of

1 March 3rd, 2022, did that impede the plan's timeline
2 for the 2022 elections at all?

3 A. I'm assuming that the map that was adopted
4 or finalized-- If you are saying hypothetically that
5 that map would be the one that was going to go
6 forward-- The more time supervisors have to be able
7 to do any mapping in advance of the schedule the
8 better it is for ensuring minimizing any errors and
9 being able to timely comply with all other, you know,
10 statutory requirements.

11 Q. Is this a typical timeline with the
12 legislature enacting apportionment plans during its
13 regular session in 2022 and then having from March
14 until the qualifying period to start happening in May
15 and June?

16 A. Based on what I can see from the past, it's
17 different every cycle. So, you know-- Again, our
18 position would be, and I think we've taken this
19 always, that if we can have finality by, you know,
20 desirably by April 1st, then that's going to be--
21 that's going to ensure that supervisors have, and we
22 have, everything in place and are able to, you know,
23 adequately and precisely comply with state and
24 federal laws regarding the election process. But I'm
25 not-- I think based on my review of what I've seen

1 from past apportionments, it's never quite as clean
2 as that. There's always going to be something that
3 will either extend that process or compress that
4 timeline.

5 Q. Was there something that compressed that
6 process or extended that timeline in 2022?

7 A. Well, I'm just talking about the CB2C and
8 in terms of what that did for supervisors being able
9 to begin their process.

10 Q. Not the 2nd Congressional District of
11 Florida?

12 A. No. I'm sorry, the senate map.

13 Q. What is the specific problem that you are
14 referring to with that?

15 A. I think I'm getting confused by what you're
16 asking.

17 Q. I mean, so I was asking, you know, the
18 March-- If there's a situation where the map is
19 finalized by March, or like it happened in 2022, and
20 then it follows the timelines that you've set up, and
21 you said that there were some problems in 2022, and
22 I'm asking what those problems were.

23 A. It relates to the map that was being
24 challenged in court in 2022 in which--where
25 supervisors could not begin their--or they were

1 proceeding with one mapping--one map and then they
2 had to--they were directed to do another map. This
3 is all detailed in the May 2022 series of emails to
4 the supervisors.

5 Q. Have those been produced in this case, in
6 discovery?

7 A. I would presume that they have been. If
8 not, I would certainly let my counsel know.

9 MR. JAZIL: Counsel, I'm a little confused.
10 Are we talking about problems with the senate
11 map that was implemented following the 2022
12 redistricting cycle, problems with the
13 congressional map that was implemented following
14 the 2022 cycles, or problems with either of
15 those?

16 MS. McNAMARA: I was asking about either of
17 them.

18 MR. JAZIL: Got it. Sorry.

19 BY MS. McNAMARA:

20 Q. This was related to there were lawsuits
21 challenging the congressional map in 2022; is that
22 correct?

23 A. Yes.

24 Q. Was there any specific problem with the
25 senate map in 2022?

1 A. Well, that's the one--I believe is the one
2 that's the subject of the May--you know, the email
3 series that prevented supervisors--supervisors were
4 told to proceed with one map and then they had to
5 proceed with another map. And so, you know, until
6 about May 22nd, they weren't--they didn't know really
7 which map was going to be the one to implement.

8 Q. I mean, was there a lawsuit challenging the
9 Florida Senate districts in 2022?

10 A. I think I'm confused now. I apologize.

11 Q. I mean, my understanding is that there were
12 lawsuits challenging the state congressional maps.
13 There was a federal case, Common Cause, I think, and
14 then there's a state cause, Black Lives Matter.
15 That's the one that's still going on in the Florida
16 Supreme Court. Those are both related to the
17 congressional maps?

18 MR. JAZIL: Counsel, do you mind if we just
19 take a five minute break? Perhaps she can look
20 at the emails and just refresh her recollection,
21 whatever.

22 MS. McNAMARA: Yes, that's good. Thank
23 you.

24 MR. JAZIL: Thanks.

25 (Thereupon, a brief recess was taken.)

1 MR. JAZIL: Counsel, Director Matthews has
2 the email she was referencing in front of her.
3 It's also been produced to you in discovery. So
4 that's the one she has in front of her, so
5 perhaps you can ask your question.

6 MS. McNAMARA: Okay.

7 BY MS. McNAMARA:

8 Q. So what problems were there after March of
9 2022 related to the implementation of statewide
10 redistricting plans in 2022?

11 A. For the March that the state senate not--
12 because it was allowed sufficient time for the
13 supervisors. I apologize. It's been a long couple
14 of weeks. I got confused with this SB2C, and I
15 thought the email chain that talks about the
16 congressional one, that's the one I thought you were
17 trying to get at. But I conflated the two and I
18 apologize for that.

19 So that one did present challenges, the
20 senate one, and if everything went well according to
21 schedule with the March, that obviously was well
22 before our kind of safe harbor deadline of April 1st.
23 Supervisors would have been able to do what they
24 needed to do in a timely way with a reasonable
25 timeline and some breathing room to be able to

1 implement and satisfy all the other requirements.

2 Q. So there were no problems with implementing
3 the state senate map in 2022?

4 A. Right. None that I'm aware of. Now, I
5 don't know if in terms of doing-- Because I'm not an
6 expert in GIS mapping, I don't know if they have to
7 wait for certain things, you know, to coordinate
8 those two together or whether they're able to
9 proceed, you know, with one map that's specific to,
10 you know, senate versus congressional.

11 Q. You said that by April 1st is the target
12 goal for having the map in place?

13 A. For having finality as to what the map is
14 going to be so that they can then do all the things
15 they need to do.

16 Q. So let's say that in this case this is a
17 court order and the legislature passes a new map on
18 the same timeline in 2026 and it's in place before
19 April 1st, 2026. Would there be any impediments to
20 running the senate elections in 2026 off that new
21 map?

22 A. Again, based on, you know, what we have
23 projected to be adequate time, and if the maps were
24 deemed final and the supervisors given guidance,
25 that's been the timeline that everybody has seemed to

1 be very comfortable with and has stated that in court
2 to allow them to do what they needed to do.

3 Q. If the process went into April, like the
4 way that the congressional process did in 2022, does
5 that cause problems?

6 A. Again, it's going to also-- I can't predict
7 exactly, because again it depends on, you know, in a
8 non-apportionment year, the qualifying periods are
9 slightly different. So it would just be dependent on
10 how that would be treated, whether it--you know, like
11 that 2015 memo, whether it's going to be considered
12 that same kind of time frame. But supervisors will
13 make it happen. It's just we don't--you know, we
14 like to make sure they have a reasonable amount of
15 time. And I think Pinellas and Hillsborough had gone
16 on record, you know, indicating what was feasible
17 within that time frame. So that could give you a
18 pretty good idea.

19 Q. So you testified that there's not a
20 specific existing understanding within the department
21 as to how the year of apportionment issue would be
22 dealt with if a map is ordered, say, in 2026 in this
23 case?

24 MR. JAZIL: Object to form.

25 THE WITNESS: Like I stated previously, I

1 would still consult--we would still consult with
2 Legal as to whether the position that was taken
3 in 2015 would still apply. I think it would
4 have precedential value, but, you know, you have
5 to research, make sure there haven't been any
6 changes in law or any court cases that would
7 warrant a different posture.

8 BY MS. McNAMARA:

9 Q. Now, setting aside whether or not 2026 will
10 be considered a year of apportionment or not, when
11 there is a year of apportionment, that changes the
12 requirements for petitioning to get on the ballot as
13 a candidate; is that correct?

14 A. Correct.

15 Q. And you don't have to get the petitions
16 from the specific district that you're running for?

17 A. Right, because it's not necessarily all
18 settled; that's anticipated.

19 MS. McNAMARA: I'm going to put up another
20 document. This is an excerpt from the trial
21 transcript from the Common Cause versus Byrd
22 lawsuit. This is a federal court challenge to
23 the state congressional district. I just have a
24 couple of pages at the end here which I will go
25 into it where the court, as well as your

1 counsel, Mr. Jazil, were discussing timelines on
2 the potential remedial map.

3 Can I have this marked as Exhibit 3?

4 BY MS. McNAMARA:

5 Q. This is a lawsuit in which the Secretary of
6 State was a party. Are you familiar with that
7 lawsuit?

8 A. Yes.

9 Q. And the Secretary of State was represented
10 by the same counsel you are represented by in this
11 case?

12 A. Yes.

13 Q. I'm going to page 1053 of the transcript.
14 We could provide the whole thing if we want to. I
15 think everyone has access to it. But here on page
16 1053, starting on line 13, Judge Jordan says, "Okay.
17 Let me ask you this question, then, and maybe we can
18 work backwards.

19 "I have a memory a little bit of what
20 happened last year when we talked about deadlines,
21 and dates and by the time we get to do something if
22 the legislature didn't act one way or another.

23 "So give me, Mr. Jazil--so I'm going to ask
24 you to assume the worst. So if the decision were to
25 go against you and you needed to have the Secretary

1 move, by when do you need a ruling?

2 "And I ask you the worst case scenario
3 because otherwise, to you, it doesn't really matter,
4 because if you're going to prevail on the merits--"

5 This question is essentially just asking
6 what's the timeline if the court orders a new mapping
7 process; is that correct? Or is that your
8 understanding?

9 A. It appears to be that.

10 Q. And this hearing was held on October 3rd,
11 2023. So it's discussing the potential for the 2024
12 elections, the elections that were just held this
13 year; is that right?

14 A. Correct.

15 Q. So after Judge Jordan asked the question,
16 on the next page, Mr. Jazil says, "Your Honor, as a
17 practical matter, if the Court rules against us and
18 orders a remedy, the legislature is in session
19 starting in January.

20 "So if you find for my friends on liability
21 but you say kick the map back to the legislature on
22 remedy, if we can give the legislature enough time to
23 go through their process, it's an 60-day session that
24 starts in January, goes through March."

25 Did I read that correctly?

1 A. Yes.

2 Q. And there was a regular session of the
3 Florida Legislature in 2024 that went January through
4 March this year?

5 A. Correct.

6 Q. Now, if we're talking about 2026, would
7 that be on the same timeline, that the legislature
8 would start in January and go through March?

9 A. No. I think it starts in March.

10 Q. Well, if it's an even numbered year in
11 which the legislature is up for election, it starts
12 in January versus odd numbered years that start in
13 March?

14 A. I think with the presidential election year
15 it's always in January. And then every other time
16 frame--cycle, it starts in March.

17 Q. Well, for example, next year is going to be
18 2025. Next year, in 2025, the legislature will be in
19 session starting in March; is that correct?

20 A. Yes.

21 Q. Now, going to 2026, where it is the midterm
22 election year, does the legislature start in January
23 or March of this year?

24 A. I haven't looked and I don't recall, I'm
25 sorry.

1 Q. So let's just assume that the legislature
2 starts in January of 2026, on the same timeline that
3 they used in 2024. If that were the same timeline,
4 and like your counsel said in the--last year in the
5 previous case that I have the transcript for, if in
6 this specific case that we are in today where we
7 currently have a trial scheduled for June of 2025, I
8 think, but say there is an order similar to what
9 Judge Jordan is asking here, by some time in the
10 second half of 2025, is there enough time for the
11 legislature in their regular session starting in
12 January 2026, assuming that it does in fact start
13 then, to follow the same timeline that was followed
14 in 2022?

15 A. Assuming they meet in January?

16 Q. Yes.

17 A. Then it would fall in the same sort of
18 timeline. Again, I would have to look at the statute
19 to see whether--and it will depend on whether it's
20 considered a year of apportionment or not in terms of
21 the qualifying period.

22 MR. JAZIL: I'll object to form of the last
23 question.

24 MS. McNAMARA: Okay. There were a lot of
25 things in that question.

1 BY MS. McNAMARA:

2 Q. So, assuming that the timeline of an
3 ordered map in 2026 is the same, does your answer of
4 whether or not the timeline would work for 2026
5 depend on whether or not 2026 is considered a year of
6 apportionment or not?

7 A. I think that's definitely a factor, and it
8 just depends, too, on when the election is scheduled
9 to be held, if it's following the same regularly
10 scheduled timeline. It's just a hypothetical, so I
11 don't know. Assuming those things, then, and the
12 maps are final and deemed final by no later than
13 April 1st, and the qualifying period is the same,
14 then it should be able to implement.

15 Q. Did the department reach an understanding
16 as to whether 2024 would have been a year of
17 apportionment had the court ordered a new map in this
18 Common Cause case?

19 A. I don't recall that discussion reaching me,
20 if it was at all.

21 MS. McNAMARA: And the court did not order
22 a new map in that case.

23 I'll share my screen again. I'm showing a
24 new document. This is a joint stipulation that
25 was entered in the lawsuit entitled Black Voters

1 Matter Capacity Building Institute versus Cord
2 Byrd in the Circuit Court for the 2nd Judicial
3 Circuit in and for Leon County.

4 Can I have this marked as Exhibit 4?

5 BY MS. McNAMARA:

6 Q. Are you familiar with this lawsuit?

7 A. Yes.

8 Q. This is a state court challenge to the
9 congressional district map?

10 A. Yes.

11 Q. And this is a joint stipulation that was
12 entered by the parties, including the Secretary of
13 State; correct?

14 A. I mean, if I see the last page, I'm sure.

15 Q. Here is the--

16 A. Yes.

17 Q. Were you involved in the drafting of this
18 stipulation?

19 A. Only to the extent they needed any, you
20 know, clarification or, you know, verification of a
21 statement that I would have knowledge of.

22 Q. Well, going to page three, here at the
23 bottom there is a Roman numeral VII labeled Remedy.
24 And in this it says, under A for Remedy, "If
25 Plaintiffs prevail on Counts I before this Court and,

1 as of April 1, 2024, the Court's decision has not
2 been reversed on appeal, the Parties agree to the
3 following:" and then there's some discussion.

4 "If the Legislature fails to enact a
5 remedial map by April 1, 2024, or if the Legislature
6 enacts a remedial map by April 1, 2024 but Plaintiffs
7 inform Defendants by April 3, 2024 of their position
8 that the remedial map does not remedy the
9 diminishment in the Enacted Map, the Parties will
10 jointly ask this Court to vacate the automatic stay
11 to conduct remedial proceedings."

12 Is that correct?

13 A. That's what it says.

14 Q. Did this contemplate that there had been an
15 order that the legislature would have gone through
16 the apportionment process during the regular session
17 in 2024?

18 A. It appears so.

19 Q. And that's where that April 1st is the same
20 deadline you talked about that April 1st is a good
21 date to have a map in place by?

22 A. Yes.

23 Q. But this stipulation recognizes it's
24 possible that the map wouldn't be in place by April
25 1st, 2024; is that correct?

1 A. It does contemplate that.

2 Q. Scrolling down, the second to last circle
3 bullet point, it says, "If the Legislature fails to
4 enact a remedial map by April 1, 2024 that will take
5 effect for the 2024 congressional elections, or if
6 the Court agrees with Plaintiffs that the
7 Legislature's enacted remedial map does not remedy
8 the diminishment in the Enacted Map, neither
9 Plaintiffs nor Defendants will oppose the Court's
10 adoption of or seek a stay of Exhibit 2."

11 We don't necessarily need to go into that.
12 But this is contemplating the process for if the map
13 is not finalized by then; correct?

14 A. Yes.

15 Q. And then in the final bullet point, it
16 says, "The remedial map ordered by the Court will
17 take effect on April 30, 2024 absent a contrary
18 decision by an appellate court on or before that
19 date."

20 Did I read that properly?

21 A. Correct.

22 Q. So does this indicate that the goal was, at
23 the latest, that there would be a map in place by
24 April 30th, assuming that the April 1st deadline
25 wasn't sufficient?

1 MR. JAZIL: Object to form.

2 THE WITNESS: Again, it's what it states
3 there. And at the time that this joint
4 stipulation was entered into.

5 BY MS. McNAMARA:

6 Q. What if there had been a map that was put
7 in place on April 27, 2024, for the statewide
8 congressional plan, how would that have impacted the
9 work of the Department of State in preparing for the
10 2024 election?

11 MR. JAZIL: Object to form.

12 You can answer.

13 THE WITNESS: Again, the process isn't
14 going to be any different; it's just that the
15 timeline is compressed. So you still have to do
16 the same things you would do under any regular
17 time frame, but the shorter the time frame there
18 is the more compressed activities and your
19 deadlines start thumping up against each other.

20 BY MS. McNAMARA:

21 Q. Isn't it more expensive to operate on the
22 compressed timeline?

23 A. I believe it can definitely be for the
24 supervisors who bear, again, the main responsibility
25 and burden of implementing the maps. If they have

1 to-- If they don't have enough time, they may have
2 to do overtime, they may have to--it may be that
3 the-- Depending on the map's complexity, they may
4 have to contract out. They have to, you know,
5 get--so it can cost more just in terms of staff time
6 and, you know, the payment of, you know, importing
7 those experts who do GIS mapping.

8 Q. Does it cost more at the department level
9 to do it or is it all just borne by the Supervisors
10 of Elections?

11 A. It's borne by the Supervisors of Elections.
12 It's their staff, any overtime that they have to do,
13 any, you know, additional experts that they have to
14 hire to be able to meet the timeline.

15 MS. McNAMARA: I'm going to turn now to
16 topic four, which is responses to the request
17 for admissions and interrogatories. Let me pull
18 up-- Okay. I'm sharing a document. This is
19 marked the Secretary's Responses to Plaintiffs'
20 First Set of Requests For Admission, in this
21 lawsuit, Keto Nord Hodges versus Kathleen
22 Passidomo. It's now Albritton, but at the time
23 it was Passidomo.

24 Can I have this marked as Exhibit 5?

25

1 BY MS. McNAMARA:

2 Q. Do you recognize this document?

3 A. Yes.

4 Q. Were you involved in drafting the answers
5 to this document, or the responses?

6 A. Yes.

7 Q. So RFA 1 asks about black voters' ability
8 to elect representatives of their choice from being
9 diminished from their ability in Benchmark Senate
10 District 19 that was in place prior to the 2022
11 apportionment. Is that correct?

12 A. I'm sorry, repeat yourself.

13 Q. RFA number one asks about black voters'
14 ability to elect representatives of their choice from
15 being diminished from their ability in Benchmark
16 Senate District 19.

17 A. Correct.

18 Q. And the Secretary's response is that the
19 Secretary is unable to answer this admission due to
20 lack of knowledge. Is that correct?

21 A. Yes.

22 Q. And then going down the list, there is a
23 discussion that says, you know, the race-based
24 provisions of Article III, Section 21, that refers to
25 the Florida Constitution and what they call the Fair

1 Districts Amendments; correct?

2 A. Correct.

3 Q. And that says it requires conducting
4 extensive, data intensive analysis. Did I read that
5 properly?

6 A. Yes.

7 Q. And the legislature, the Florida
8 Legislature, is responsible for that analysis; is
9 that correct?

10 A. Well, they're responsible for creating and
11 passing state legislative district maps consistent
12 with constitutional provisions.

13 Q. But the Secretary is not involved in that
14 process, as you testified earlier; correct?

15 A. Correct.

16 Q. Does the department do anything when it
17 gets the apportionment plan to check the
18 legislature's work or to make sure they have complied
19 with the Florida constitutional provisions?

20 A. No, we are not involved in that at all. We
21 don't really have a role in that at all.

22 Q. Do you have any reason to disagree with the
23 answer that's provided here to request for admission
24 number one?

25 A. No.

1 Q. Now, RFA number two asks if the
2 constitution requires a senate district in which
3 black voters have an ability to elect representatives
4 of their choice in Hillsborough County. Is that
5 correct?

6 A. Yes.

7 Q. And the response is similar to the response
8 to RFA 1; is that correct?

9 A. Yes.

10 Q. And do you have any reason to disagree with
11 that?

12 A. No.

13 Q. And then RFA 3, it asks the same question
14 as RFA 2, except for it's Pinellas County instead of
15 Hillsborough County; correct?

16 A. Correct.

17 Q. And the same response in general to that,
18 as well. Do you have any reason to disagree with
19 that?

20 A. No.

21 Q. And then RFA 4, it's kind of the same. It
22 combines Hillsborough and Pinellas in the same, but
23 it's the same question as two and three; is that
24 correct?

25 A. Yes.

1 Q. And the response is the same; correct?

2 A. Yes.

3 Q. And you have no reason to disagree with
4 that now; it's still the same response today as
5 opposed to when this was filed?

6 A. Well, makes sense that our experts have
7 done an analysis, but at the time, that's definitely
8 the response.

9 Q. And then RFA 5 is another question about
10 the process that has to do with what the legislature
11 is doing; correct?

12 A. Yes.

13 Q. And again the Secretary of State, the
14 Department of State, is not involved in that, has no
15 knowledge; correct?

16 A. Correct.

17 Q. The same thing with--six is another
18 question related to that. It's the same as for five,
19 at least as far as the answers; is that correct?

20 A. Can you scroll up?

21 Q. (Complies.)

22 A. Yes.

23 Q. All right. Now, RFAs 7 through 18, all of
24 them-- I can scroll through them. All of them ask
25 questions about whether the 2022 Enacted Senate Plan

1 was or was not drawn with an intent to favor a
2 political party or an incumbent. It breaks down
3 District 16 all through these. Is that correct? I
4 mean, RFAs 7 through 18 is a group that are similar
5 so that we don't have to go through every single one.
6 Is that okay?

7 A. Yes.

8 Q. And for each of these, the answer is a
9 similar effect, that the Secretary is not involved
10 and doesn't have knowledge of this; correct?

11 A. Correct. And the Secretary doesn't have--
12 It's the legislative intent of both the House and the
13 Senate.

14 Q. Let's go down to number 27, which says,
15 "Admit that preserving the cores of pre-existing
16 districts was not a criterion utilized in the drawing
17 of the 2022 enacted Senate Plan." That's what 27
18 says; correct?

19 A. Yes.

20 Q. And 27 through 32 asks similar questions
21 broken down by district; correct?

22 A. Yes.

23 Q. And similar answers again, the Secretary
24 doesn't have knowledge and is not involved in that
25 process; correct?

1 A. Correct.

2 Q. And no reason to disagree now with what was
3 written in these responses; correct?

4 A. Correct. I mean, the intent of--the
5 legislative intent is that, the legislative intent.

6 Q. RFA 33 asks whether the Florida Senate
7 complied with public records and open meeting laws;
8 is that correct?

9 A. Yes.

10 Q. And again the Secretary doesn't know
11 anything about what the Florida Senate did regarding
12 that; is that correct?

13 A. I think it just says that, you know, how
14 they complied with the public meeting laws was up to
15 the House and the Senate.

16 Q. RFA 34 says, "Admit that the Executive
17 Office of the Governor was not involved in the
18 drawing of the 2022 enacted Senate Plan." Is that
19 correct?

20 A. Correct.

21 Q. And the responsa is, "To the best of the
22 Secretary's knowledge, admitted that the Executive
23 Office of the Governor was not involved in the
24 drawing of the 2022 enacted Senate Plan." Did I read
25 that correctly?

1 A. Yes.

2 Q. Does the Secretary's knowledge differ from
3 the department's knowledge?

4 A. No.

5 Q. So the department has no awareness beyond
6 what's indicated here about whether the governor was
7 involved in the 2022 enacted Senate Plan; correct?

8 A. As I stated before, the division acts as
9 the administrative arm of the Secretary, so--

10 MR. JAZIL: Would now be a good time to
11 take just a five minute break?

12 MS. McNAMARA: Yes, we can do that.

13 (Thereupon, a brief recess was taken.)

14 BY MS. McNAMARA:

15 Q. Now I'm going to turn to the rog responses.
16 I'll share the screen again. This document, which
17 I'll offer as Exhibit 6, this is the Secretary's
18 Responses to Plaintiffs' First Set of
19 Interrogatories, and this is in this case which is
20 now captioned Keto Nord Hodges versus Albritton. Is
21 that correct?

22 A. Yes, it's so titled.

23 Q. And you were involved in the drafting of
24 these interrogatories; is that correct?

25 A. Yes.

1 Q. And if we go down to the final page, you
2 are the person listed as having information about
3 these responses; correct?

4 A. Correct.

5 Q. So going back to the top, interrogatory
6 number one asks about the State of Florida's
7 legitimate political objectives in adopting the 2022
8 enacted Senate Plan; correct?

9 A. Yes.

10 Q. And similar to what we were talking about
11 with RFAs, the Secretary's response is that that's up
12 to the house and Senate and that the Secretary and
13 the department are not involved in that process; is
14 that correct?

15 A. Correct.

16 Q. And that the Secretary defers to whatever
17 the Senate says in their version of this
18 interrogatory; correct?

19 A. Yes, that the legislative record speaks for
20 itself.

21 Q. And then interrogatories two and three are
22 basically the same question, just specifically
23 targeting the two districts at issue; is that
24 correct?

25 A. Yes.

1 Q. And the response is the same; correct?

2 A. Yes.

3 Q. Do you have any reason to disagree with the
4 Answers to Interrogatories one through three today?

5 A. No.

6 Q. And then interrogatory four asks about can
7 you explain the responses to the request for
8 admissions; correct?

9 A. Correct.

10 Q. I mean, we just did that; correct? We just
11 went through all the deposition and talked about
12 that.

13 A. Yes. I was just reading the--

14 Q. Yes. Is there anything else that the
15 department wants to say about this other than what's
16 written here in the RFA and rog responses and what
17 we've discussed so far in the deposition?

18 A. No, other than, you know, I briefly
19 mentioned about obviously the state has experts, so
20 to the extent that that supplements or clarifies
21 anything in these admissions that maybe wasn't
22 available at that moment.

23 Q. And you agree that there's no documents
24 supporting the Secretary's responses other than the
25 legislative record?

1 A. Correct.

2 Q. I'm going to turn to topic number three.

3 This is related to state interest in using race. So
4 generally speaking, does the Florida Department of
5 State ever use race in its work?

6 A. No, other than we pull book closing numbers
7 on voter registration. You know, polls, people who
8 self identify by whatever racial or ethnic group.
9 And we pull book codes and reports for that. Those
10 are just statistical reports. Again, anything else
11 would be just in connection with litigation.

12 Q. When you talk about pulling the book codes
13 and statistics, how does that information impact the
14 work that you do in the department?

15 A. It doesn't. It's just information for the
16 public and interested candidates and parties about
17 the demographics of the voters in Florida.

18 Q. Are there divisions of the Department of
19 State outside of the elections division that use race
20 at all?

21 A. I would have no knowledge of that at all.

22 Q. I mean, just, for example, like there is
23 the Division of Historical Resources that deals
24 with-- There's a Black History Month website that
25 the Department of State issues?

1 A. I have enough with my position.

2 Q. That's totally outside your--

3 A. It's totally outside. And then the only
4 other thing that we get is, we get minority reports
5 that are just simply filed with the division. Those
6 are reports that agencies have to file about
7 appointed people to commissions and things like that,
8 and it's a chapter outside of the code. But we are a
9 repository for that information.

10 Q. Are you aware of the Florida Museum of
11 Black History Task Force that's been created by
12 statute?

13 A. I've heard of it.

14 Q. Are you involved in that at all?

15 A. No.

16 Q. But other people within the Department of
17 State are involved in that; is that correct?

18 A. I believe so.

19 Q. Does the creation of the task force for the
20 Florida Museum of Black History, does that create a
21 law that creates a racial classification?

22 MR. JAZIL: Object to form, and subject to
23 our objections to this deposition topic.

24 BY MS. McNAMARA:

25 Q. And you're not aware of when the

1 legislature passed the law creating the Florida
2 Museum of Black History Task Force whether the
3 legislature developed a record of race-based problems
4 that justified the need for that?

5 MR. JAZIL: Object to form, and subject to
6 the objection to this deposition topic.

7 You can answer, if you would like.

8 THE WITNESS: Again, it's really outside of
9 the division. And I really have enough just
10 focusing on within the election world.

11 BY MS. McNAMARA:

12 Q. Fair enough. So does the Department of
13 State use race in the implementation of, say,
14 apportionment plans?

15 A. Again, the whole process of drawing the
16 maps, approving the maps is the legislative
17 prerogative and constitutional responsibility. All
18 we do is take the information, use the information to
19 the extent that we need it to update our data bases,
20 whether it's qualifying, whether it's registration or
21 anything else. And then the supervisors are the ones
22 that have to take that map as is and implement that.

23 Q. But the department takes the map as given
24 by the legislature; correct?

25 A. As is finalized. Yes, whatever that may

1 be.

2 Q. Whatever use of race that went into the
3 map, that's done before you ever get involved;
4 correct?

5 A. I'm not admitting to anything that it was.
6 I'm just saying, yes, that the map is as is.

7 Q. Is there any context other than we talked
8 about already with like the minority report and some
9 of the demographic information? Is there any other
10 contact with which the Division of Elections uses
11 race?

12 A. I would say that's not using race; that's
13 just statistical information that we happen to have
14 or that we are the recipients of.

15 Q. Is race tracked on voter registration
16 records?

17 A. Only to the extent that individuals, when
18 they fill out a voter registration application,
19 that's an optional field on a voter app, and if a
20 person so chooses to check that, that information is
21 recorded and is retained in the Florida voter
22 registration system.

23 Q. Does race come up in the process of voter
24 list maintenance?

25 MR. JAZIL: Object to form.

1 THE WITNESS: Not that I'm aware of.

2 BY MS. McNAMARA:

3 Q. Is there anything like statistical analysis
4 of, you know, voter list of maintenance as it impacts
5 voters of different races?

6 A. No.

7 Q. What about in the designing or comparing of
8 ballots; is there any use of race related to that?

9 A. No.

10 Q. Everyone gets the same ballot based on the
11 county?

12 A. Well, what I should state is that
13 supervisors are the ones that create the ballot, and
14 they have to do it according to statutes and rules.
15 And we have a uniform ballot rule that was adopted in
16 response to 2000 legislation. And I am not aware of
17 anything in the rule or the law that references,
18 relies upon or in any way with race.

19 Q. Is the Department of State involved with
20 any of the apportionment outside of statewide, like
21 county and municipal level?

22 A. No.

23 Q. And does the Department of State supervise
24 or advise the Supervisors of Elections in those
25 processes?

1 A. No. Again, we are just guidance, asked for
2 information. All that responsibility lies on the
3 supervisor with their county governing boards.

4 Q. Are there any Department of State documents
5 that lay out the situations in which it's appropriate
6 to use race in your work?

7 MR. JAZIL: Object to form.

8 You can answer, if you know.

9 THE WITNESS: I'm not aware of any within
10 the Division of Elections.

11 BY MS. McNAMARA:

12 Q. Is it possible that ones exist in other
13 divisions that you're not aware of?

14 A. I can't speak to outside of the division's
15 capacity and role serving the Secretary.

16 Q. Within the Division of Elections, in the
17 context where race comes up that you testified about,
18 does the Division of Elections perform any analysis
19 of whether any use of race in those contexts complies
20 with the Florida or United States constitutions?

21 MR. JAZIL: Object to form, and subject to
22 the objection to the deposition topics.

23 THE WITNESS: Answer; right?

24 MR. JAZIL: You can answer, if you know.

25 THE WITNESS: Can you restate the question?

1 BY MS. McNAMARA:

2 Q. I mean, there are situations where race
3 comes up, whether or not you are using race or not,
4 but like statistics and stuff. Is there any analysis
5 performed to like track whether that use of race is
6 complying with constitutional mandates at the federal
7 or state level?

8 A. No.

9 MR. JAZIL: Object to form.

10 BY MS. McNAMARA:

11 Q. Do you keep a list or a form of, "Oh, we
12 used race on this issue. I need to check and make
13 sure of any type of logs like that"?

14 A. No.

15 MS. McNAMARA: We'll go ahead to topic
16 five. I'm going to pull up the Answer. This
17 document is the Secretary's Answer in this
18 lawsuit.

19 I ask this to be marked as deposition
20 Exhibit 7.

21 BY MS. McNAMARA:

22 Q. Do you recognize this document?

23 A. Yes.

24 Q. Were you involved in the drafting of it?

25 A. Yes.

1 Q. Going to page ten, which is the first
2 affirmative defense--affirmative defenses at the
3 bottom of page ten. The first affirmative defense
4 says, "If race predominates whenever the Florida
5 Legislature complies with or attempts to comply with
6 the Fair Districts Amendments, as Plaintiffs
7 seemingly contend, then the Fair Districts Amendments
8 violate the Fourteenth Amendment to the U.S.
9 Constitution, principles of federalism, and
10 principles of equal sovereignty; the Fair Districts
11 Amendments lack a record of race-based problems that
12 justify the need for their race-based solutions."

13 Did I read that correctly?

14 A. Yes.

15 MS. McNAMARA: Is this a legal question
16 that is subject to objection for testimony
17 today?

18 MR. JAZIL: If that's directed to me, yes.

19 BY MS. McNAMARA:

20 Q. Are you involved at all in assessing the
21 constitutionality of the Fair Districts Amendments?

22 A. No.

23 Q. Does the Department of State, whenever it's
24 performing its acts, is it checked beforehand, does
25 what I'm being asked to do comply with the federal or

1 state constitution before it does it?

2 A. What are you speaking about?

3 Q. I mean, like is there any situation where
4 there's a law in the books - let's just say a Florida
5 statute has been passed - that deals with the
6 Department of State, and the Department of State says
7 we're not going to comply with this law because it
8 violates a constitutional provision such as the equal
9 protection laws?

10 A. The legislature's job is to pass laws and
11 the agency, the executive branch, is to implement
12 those. And if a party or individual feels that they
13 are unconstitutional, then they can be challenged in
14 court and that's how it would be addressed.

15 Q. But absent the court rule, the department
16 isn't engaged in an independent analysis of the
17 constitutionality of laws that apply to it; is that
18 correct?

19 MR. JAZIL: Object to form.

20 You can answer.

21 THE WITNESS: Again, our Secretary's task
22 is to, you know, comply with the state and
23 constitutional provisions. The
24 constitutionality of-- The underlying
25 constitutionality of anything is going to be for

1 the courts to decide, so if it's a legal case,
2 then the matter is dealt with that way.

3 BY MS. McNAMARA:

4 Q. But there's no existing document that you
5 are aware of within the department that says these
6 provisions of law are unconstitutional and we don't
7 have to follow them; is that correct?

8 A. Well, unless it's a provision that's
9 already been ruled by a court that they are
10 unconstitutional. I mean, it's not unheard of to see
11 statutory provisions in statutes that haven't been
12 repealed yet even though the courts have weighed in
13 on it and ruled them to be unconstitutional.

14 Q. But you wait for a court ruling before not
15 enforcing that law; is that correct?

16 MR. JAZIL: Object to form.

17 You can answer.

18 THE WITNESS: One of the primary duties of
19 the Secretary of State, under Chapter 97, is to
20 enforce, you know, the election.

21 BY MS. McNAMARA:

22 Q. Does the Department of State comply with
23 what we call the Fair Districts Amendments, that's
24 Article III, Sections 20 and 21 one of the Florida
25 Constitution?

1 MR. JAZIL: Object to form.

2 You can answer.

3 THE WITNESS: The Fair Districts Amendments
4 is for the purpose of the legislature being able
5 to draw and approve their maps. Again, that's
6 all within their purview and their
7 responsibility.

8 BY MS. McNAMARA:

9 Q. The Department of State is not involved in
10 that process. I know you testified to that before,
11 but--

12 A. Correct. We are not involved in this whole
13 process, in that process, except to the extent that I
14 said.

15 Q. So, I mean, there is a case pending before
16 the Florida Supreme Court. It's possible in the
17 coming months that the Florida Supreme Court will
18 declare parts or all of the Fair Districts Amendments
19 to be unconstitutional. Like setting aside whether
20 or not that happens, if it did happen, would that
21 impact the Department of State's work?

22 A. Only to the extent that it would change any
23 maps or anything like that. But otherwise, no.

24 Q. Has the Department of State ever looked at
25 a state apportionment plan and said, you know what, I

1 think this district here is a racial gerrymandering,
2 is unconstitutional, and we are not going to
3 implement it?

4 MR. JAZIL: Object to form.

5 You can answer.

6 THE WITNESS: I can only speak to the time
7 that I've been at the department, and no.

8 Again, this is all within the Florida
9 Legislature's, you know, constitutional
10 responsibility for them to comply with state and
11 constitutional provisions, including the Fair
12 Districts Amendments.

13 BY MS. McNAMARA:

14 Q. If the court in this case enjoins the
15 Secretary of State from enforcing the enacted Senate
16 Plan, would the department comply with that court's
17 order?

18 A. I don't know that we would not. I mean,
19 obviously the legal team would determine what--
20 depending which court issued the order, what course
21 of action to take. That's all legal.

22 Q. Absent the court injunction that Legal has
23 determined is a valid court injunction that you're
24 following, would the Department of State ever refuse
25 to implement any part of the statewide apportionment

1 plan?

2 A. We would abide by the court's ruling.

3 MS. McNAMARA: The last topic we have is
4 topic six. I think it could potentially take a
5 little bit longer than some of the others. Do
6 we want to just keep going forward or do you
7 want to take a lunch break? How do you feel
8 about that?

9 MR. JAZIL: How long do you think you have
10 with topic six?

11 MS. McNAMARA: Maybe an hour. I don't
12 know. Maybe that's longer, but I don't know. I
13 could see it taking a little while.

14 MR. JAZIL: How about we go for an hour,
15 see if we can get this wrapped up? If not, we
16 will just take a lunch break at 12:30. Does
17 that sound all right?

18 MS. McNAMARA: That sounds good to me.

19 Let's go on to topic six. Topic six deals
20 with the initial disclosures. I will go ahead
21 and pull up the initial disclosures. This
22 document that I've pulled up is The Secretary's
23 Initial Disclosures. This is the first one that
24 was filed back on May 31st, 2024.

25 I'm going to ask this to be marked as

1 Exhibit 8.

2 BY MS. McNAMARA:

3 Q. Are you familiar with this document?

4 A. Yes.

5 Q. Were you involved in the drafting of it?

6 A. I did review it, yes.

7 Q. So under A here on the first page, it says,

8 "Individuals Likely to Have Discoverable

9 Information." And it says, "State Senators in the

10 2022 Legislative Session." Do you know how many

11 state senators there are?

12 A. Yes.

13 Q. How many?

14 A. Forty.

15 Q. And then similarly, it says, "State

16 Representatives in the 2022 Legislative Session."

17 How many state representatives are there within the

18 legislature?

19 A. One hundred twenty.

20 Q. One hundred twenty?

21 A. Yes.

22 Q. We will go over the amended disclosures

23 afterwards. Then there are a list of Supervisors of

24 Elections; is that correct?

25 A. Yes.

1 Q. How many Supervisors of Elections are
2 there?

3 A. Sixty-seven.

4 Q. One for each county in Florida?

5 A. Correct.

6 Q. And then there's some individuals who are
7 listed here. Mr. Warren and Mr. Isbell have been
8 deposed. So we can rely on that.

9 Who is Christian Ulvert?

10 A. He was a lobbyist for the democratic party.

11 Q. Has the Department of State had any
12 interactions with him?

13 A. I don't recall if they've had direct
14 contact with him.

15 Q. And is that after the filing of the
16 lawsuit, there's been no contact with him other than
17 like a subpoena perhaps?

18 A. I don't know when the last communication
19 was with him.

20 Q. Have there been any interactions with him
21 related to state senate elections?

22 A. I mean, this is only where I've seen his
23 name, in the context of the congressional challenge.

24 Q. You say in the context of congressional
25 challenge. Is that in the lawsuits? His name comes

1 up in the lawsuits?

2 A. Yes.

3 Q. Separate from the lawsuits, has there been
4 any situations where his name has come up?

5 A. I can't answer that; I don't know.

6 Q. You're not aware of any?

7 A. I don't know.

8 Q. And then it says Barbara Pariente. Does
9 that refer to the former Supreme Court Justice
10 Pariente?

11 A. I assume so. And yes, it is.

12 MS. McNAMARA: Now I have on my screen the
13 Amended Initial Disclosures. I'm going to ask
14 this be marked as Exhibit 9.

15 BY MS. McNAMARA:

16 Q. These are amended disclosures which were
17 served October 4th, 2024; is that correct?

18 A. Yeah, that's the date on there.

19 Q. And were you involved with these amended
20 disclosures?

21 A. Yes, I did review them.

22 Q. I'll go down to page 30 something.
23 Christian Ulvert is still listed here. We have
24 already discussed him. Barbara Pariente is no longer
25 listed here; is that correct?

1 A. Correct.

2 Q. Does that mean that the Secretary of State
3 no longer believes that Justice Pariente is likely to
4 have discoverable information?

5 A. If they've amended--as amended, this would
6 be what their position would be, yes.

7 Q. Do you know why she was listed initially?

8 MR. JAZIL: Objection; attorney-client
9 privilege information.

10 I'm going to direct you not to answer.

11 BY MS. McNAMARA:

12 Q. Does the Secretary have a plan to call
13 Justice Pariente to testify at trial in this case?

14 A. These were the names that are provided and
15 disclosed, so we have an obligation to let you know.

16 Q. If it comes up that she was going to
17 testify, I assume that that would be put on a
18 pretrial disclosure or some sort of amendment as to
19 this claim. Is that correct?

20 A. Correct.

21 Q. So Natalie Kato appears here on the amended
22 disclosures. Is that correct?

23 A. Yes.

24 Q. Who is Natalie Kato?

25 A. Again, all these four names are connected

1 with, you know, the map that I think was presented as
2 an alternative in the court. So they all had--all
3 these individuals had a role in that alternative map
4 and have been connected with the ACLU and/or the
5 democratic party.

6 Q. What role did Natalie Kato have in the
7 alternative maps submitted in this case?

8 MR. JAZIL: I think you said alternative
9 maps submitted during the process.

10 MS. McNAMARA: Okay. So I include the maps
11 that were submitted to the legislature before
12 the enacted.

13 THE WITNESS: Correct.

14 BY MS. McNAMARA:

15 Q. And the Secretary of State is not involved
16 in that process; correct?

17 A. No.

18 Q. Did the Department of State have any
19 interactions with Natalie Kato?

20 A. Only to the extent for the litigation.

21 Q. But separate from whatever has happened in
22 this litigation or other litigations, there's no
23 other interactions with her outside of that context?

24 A. Sounds fair.

25 Q. I'll pull up a separate document here for a

1 second. I pulled up a document. This is marked at
2 the bottom with a Bates number SOS Hodges 0001434 and
3 at the top it says Response to Subpoena to Produce
4 Documents By Natalie Kato. Is that correct?

5 A. Yes.

6 MS. McNAMARA: I'm going to ask that this
7 exhibit be marked as Exhibit 10.

8 BY MS. McNAMARA:

9 Q. Have you seen this document before?

10 A. I don't recall seeing this recently, no.

11 Q. It looks like this is a document that's
12 part of a response by Miss Kato to a subpoena. Does
13 that look correct to you?

14 A. That's what it's titled.

15 Q. Do you know what case this subpoena was
16 served on her that resulted in this?

17 A. No.

18 Q. So number one on here says, "Any documents
19 or communications with the organizers, members,
20 employees, volunteers, or agents of the American
21 Civil Liberties Union of Florida relating to the Fair
22 Districts Amendments during the 2022 redistricting
23 cycle relating to redistricting."

24 Did I read that correctly?

25 A. Yes.

1 Q. And it says, "Respondent does not have any
2 items responsive to this request." Is that correct?

3 A. Correct.

4 Q. Does the department have any reason to
5 believe that that's not true?

6 A. I'm assuming the person would honestly
7 respond and if there's anything to supplement that
8 they would do so.

9 Q. That was my assumption, as well.

10 And then for number two, it says "Any
11 documents or communications with members of staffers
12 of the Florida Legislature during the 2022
13 redistricting cycle relating to redistricting."

14 Is that what that says?

15 A. Yes.

16 Q. And then it lists, "Respondent has provided
17 all responsive items in a PDF format entitled
18 'Binder'," blah, blah, blah, and there's a
19 description of what's contained within the pages,
20 page one through 17. I think there's more than 17
21 pages, but the last group starts on page 17.

22 Does that read correctly to you?

23 A. Yes, that's the way it's listed.

24 Q. And there are documents that are in the
25 production that we have. I'm not going to go through

1 them, but is it your understanding that those
2 documents are documents that have been produced to
3 the plaintiffs in this case?

4 A. Yes.

5 Q. And those are text communications with a
6 couple senators, a state rep, state representatives,
7 as well as David Grimes. Am I reading that
8 correctly?

9 A. Yes.

10 Q. Do you know who David Grimes is?

11 A. I am not recalling right now.

12 Q. I believe he works in the House Minority--
13 like he's a lawyer who works for the House democrats,
14 I think, something along those lines. You don't know
15 who David Grimes is?

16 A. I don't have communications-- I don't have
17 communications with him personally, no.

18 Q. Number 3, "Any documents or communications
19 with any print or online media outlet during the 2022
20 redistricting cycle relating to the 2022
21 redistricting cycle." Is that correct?

22 A. Yes.

23 Q. And it says, "Respondent does not have any
24 items responsive to this request."

25 A. Correct.

1 Q. And the same with number four, "Any draft
2 congressional or legislative district maps that you
3 created during the 2022 redistricting cycle." And it
4 just says, "Respondent does not have any items
5 responsive to this request." Is that correct?

6 A. Yes.

7 Q. And like I asked for number one, these are
8 the responses to the subpoena. There's no indication
9 that you're aware of that these responses are untrue;
10 is that correct?

11 A. Correct.

12 Q. I'll go back to the amended disclosures.
13 So back on page 34 of the Amended Initial
14 Disclosures, it says, "Discoverable Documents," and
15 continuing on to page 35, there's a list of some
16 public websites as well as a few PDF's that are
17 available on those websites; is that correct?

18 A. Yes.

19 Q. And there are also documents that the
20 Secretary of State has produced to the plaintiffs in
21 this case in addition; correct?

22 A. Yes.

23 Q. Are there any documents that the Secretary
24 of State plans to use to support its claims or
25 defenses that are neither listed here or produced in

1 response to the request for production in this case?

2 MR. JAZIL: Object to form.

3 BY MS. McNAMARA:

4 Q. Are you aware of any documents that you
5 would use in this case that aren't either available
6 on these websites as listed or otherwise produced in
7 this case?

8 MR. JAZIL: Object to form and it goes
9 beyond the topics that are listed here. You are
10 asking her for pretrial disclosures?

11 MS. McNAMARA: No. I understand that. I'm
12 just asking like-- I'm just establishing that
13 this is the universe of documents. There may be
14 impeachment or other stuff, I know, that comes
15 out.

16 BY MS. McNAMARA:

17 Q. You don't see there's some category of
18 documents that would have been listed that's not
19 listed; is that correct?

20 THE WITNESS: My understanding of civil
21 procedure is that you provide your list of what
22 you are disclosing, what you plan to rely upon,
23 and you have an obligation, if you are going to
24 additionally provide anything else, to disclose
25 it. And if there is something, I trust that

1 my--the legal team would abide by that. I have
2 no reason to believe that they wouldn't.

3 MS. McNAMARA: Yes. I mean, I understand.
4 I'm not trying to get some pretrial disclosures;
5 I'm just going through this document to ask
6 questions.

7 BY MS. McNAMARA:

8 Q. Going back to page 33, at the bottom, this
9 is still under the section of individuals who may
10 have information. There's a heading here at the
11 bottom of page 33 for Supervisors of Elections;
12 correct? The previous disclosures just said
13 Supervisors of Elections is a category, but now there
14 are individual supervisors listed; is that correct?

15 A. Yes.

16 Q. And first we have Craig Latimer,
17 Hillsborough County. Is Craig Latimer the Supervisor
18 of Elections of Hillsborough County?

19 A. Yes.

20 Q. Has that changed since the election?

21 A. No.

22 Q. Obviously, if for some reason a Supervisor
23 of Elections changes and there's a new person in the
24 office, we can deal with that later. But it's your
25 understanding that the Hillsborough County Supervisor

1 of Elections is listed because they would be involved
2 in the implementing any remedial plan; correct?

3 A. For Hillsborough County, yes.

4 Q. And on page 34, there's also a Julie
5 Marcus, Pinellas County Supervisor of Elections; is
6 that correct?

7 A. Yes. They both won their re-election.

8 Q. Are there any other Supervisors of
9 Elections who could be relevant to this topic other
10 than the two of them?

11 A. Again, I trust the legal team would
12 disclose whoever they would plan to call upon at the
13 appropriate time if there's any change or addition to
14 what's been provided here.

15 Q. Like, for example, the Pasco County
16 Supervisor of Elections is not listed here. Is there
17 a particular reason why they're not listed?

18 A. No, I don't know, except the fact that I
19 think Pinellas and Hillsborough had already gone on
20 record regarding the feasibility of implementing a
21 plan, a remedial plan, so they already have knowledge
22 and can just attest as much as any other supervisor.
23 And more importantly, because it impacts their
24 county.

25 Q. You are not aware of Pasco County

1 Supervisor of Elections office making any comments on
2 how this lawsuit could impact the senate district
3 lines in Pasco County?

4 A. I don't recall any, no.

5 Q. And the same question with Manatee County.

6 A. Same answer. Again, they're all going to
7 have the same, you know, response about, you know,
8 implementation. Of course, it's going to be specific
9 factors that are unique to their county that impact
10 the timing of the implementation.

11 Q. Has the Department of State had any
12 specific conversations with Craig Latimer or his
13 office about the implementation of remedial plans?

14 A. Only to the extent in discussion with the
15 litigation and whatever they have provided on record.

16 Q. The same question for Julie Marcus,
17 Pinellas County.

18 A. And the same answer.

19 Q. Let's go up to the top here, "Individuals
20 Likely to Have Discoverable Information." Under the
21 Florida Senate, it appears that instead of, just as
22 in the initial disclosures listing the Senate
23 collectively, this now lists each of the senators
24 alphabetically; is that correct?

25 A. If you would scroll, I believe so, that

1 it's all alphabetical.

2 Q. What did the Department of State do to
3 determine which senators to list?

4 A. It would be based on the timing of when
5 this document was submitted.

6 Can you please scroll down to the end,
7 again, what date this was?

8 Q. (Complies.)

9 A. So October 4th. So that's before the
10 final--you know, before the general election. So
11 this would be all the legislators that were obviously
12 in that 2022 legislative session. The link to the
13 legislative cycle may lead you to the Senate, but
14 then it's not specific. It may be that there might
15 have been changes, you know, in terms of personnel in
16 general counsel's office in the Senate or even maybe
17 some legislators there has been a vacancy in a
18 special election. So these are all very specific to
19 the 2022 legislative session, those who were serving
20 at the time and who participated in the drawing and
21 the approval of the maps.

22 Q. Does the Department of State expect that it
23 would call every one of these senators to testify?

24 MR. JAZIL: Same objection; beyond the
25 scope of the topics.

1 But you can answer to the extent of that.

2 THE WITNESS: Again, like it says there,
3 these are individuals likely to have
4 discoverable information. So if they're listed
5 and, if necessary, for purposes of the
6 litigation, then that is a decision for the
7 legal team to make.

8 BY MS. McNAMARA:

9 Q. So is it correct to say that how the names
10 were come up with was who was in the Senate at the
11 time of the 2022 redistricting process? Is that
12 correct?

13 A. Correct, who participated in the drawing
14 and the approval of the maps. And all of that is
15 recorded. You know, all that voting history and who
16 was serving at the time is all available on the
17 website.

18 Q. But there's no differentiation between,
19 say, someone who was on a specific committee versus
20 someone who just voted at the end on a map in the
21 full Senate?

22 A. My understanding is this lists who all the
23 Florida Senators are and who all the Florida House of
24 Representatives are at that time.

25 Q. Here on page eight, it refers to Senator

1 Linda Steward. I think it's Stewart with a T. Is
2 that just a typo?

3 A. We'll definitely look into it.

4 Q. I mean, I imagine it's not some secret
5 shadow senator with a different spelling of her name.
6 I'm just clarifying that it refers to Senator Linda
7 Stewart. Is that correct?

8 A. Yes. If it's with a T, we will verify
9 that, but, yeah, it sounds like it should be a T.

10 Q. So on page six, Senator Rosalind Osgood
11 appears here. Is that correct?

12 A. Yes.

13 Q. Are you aware that Senator Osgood was I
14 elected through a special election in 2022?

15 A. I can certainly go back and verify it. I
16 don't recall exactly when she was elected.

17 MS. McNAMARA: This document is a printout
18 taken from the Florida Department of State -
19 Election Results website. It says March 8,
20 2022, special election Senate 33 and House 88.

21 Can I have this marked as Exhibit 11?

22 BY MS. McNAMARA:

23 Q. Do you recognize the information on this
24 document?

25 A. Yes. This is coming from our website on

1 election results.

2 Q. So under District 33 for state senator, it
3 indicates that Rosalind Osgood received 80.8 percent
4 of the votes on a special election held on March 8,
5 2022; is that correct?

6 A. Yes.

7 Q. Was she a member of the Senate prior to
8 this special election?

9 A. I don't recall that she was an incumbent or
10 not.

11 MS. McNAMARA: I am showing a document
12 that's marked Journal of the Senate, Number 1 -
13 Special Session C, Tuesday, April 19, 2022.

14 I'll have this marked as Exhibit 12.

15 BY MS. McNAMARA:

16 Q. Do you recognize this document?

17 A. This is the-- I recognize it only based on
18 my experience in the Senate, and it's the journal
19 that the Senate keeps, and it records their
20 activities on the floor.

21 Q. So here on page one, there's a section here
22 on the right column that says Election of Senator
23 Rosalind Osgood; correct?

24 A. Correct.

25 Q. And it says that the oath of office was

1 administered and the certificate is received; is that
2 correct?

3 A. Correct.

4 Q. And then the, "State of Florida Department
5 of State, I, Laurel M. Lee, Secretary of State of the
6 State of Florida, do hereby certify that the
7 following candidates were duly elected at the Special
8 Election held on the 8th day of March, 2022, to the
9 office of Member, State Senate, as shown by the
10 records of this office." And it indicates District
11 33, Rosalind Osgood was elected.

12 Is that correct?

13 A. Correct.

14 Q. And then she was sworn in from that;
15 correct?

16 A. Yes.

17 Q. Does this indicate whether she was already
18 a member of the Senate or not?

19 A. Each respective house is responsible for
20 determining the qualifications of their members for
21 serving, so I don't know if she did appear before she
22 was administered the oath.

23 Q. Does the Secretary have a basis to think
24 that Senator Osgood was involved in the redistricting
25 process in 2022 that was completed by March 3rd of

1 2022?

2 A. Well, given the timing of the maps, it's
3 possible. I don't know. We would have to look at
4 the record. If we've listed them, then it would have
5 been our good faith belief that she may have had a
6 role.

7 Q. Does the department know if Senator Osgood
8 was involved in the drawing or passage of the
9 challenged districts prior to her time being in the
10 Senate, assuming she wasn't in the Senate prior to
11 when she was sworn in?

12 A. I can't answer that; I don't know.
13 Remember, legislators are involved in different
14 processes as the collective body, but there may be
15 individuals who, you know, are serving specifically
16 on apportionment committee that may have a greater
17 role than some of the other legislators. So, you
18 know, it's hard to say what each one did individually
19 and to what extent.

20 Q. So the department doesn't have specific
21 knowledge of the role of Rosalind Osgood in the
22 redistricting, just that she was a senator during
23 2022?

24 A. To the extent of the legislative record, we
25 would defer to that. Whatever the legislative record

1 indicates, whether there's voting history or
2 participation in a committee or, you know, drawing a
3 map in the back room or whatever. That's the
4 legislative record.

5 Q. So going back to-- I think that's
6 Exhibit 9, the Amended Initial Disclosures. I'm
7 going to scroll down. I think page nine is where we
8 start with the House. So Florida House of
9 Representatives, 2022 legislative session, starting
10 on page nine, starts with Ramon Alexander. And it
11 appears to list the senators in alphabetical--not
12 senators, but representatives in alphabetical order;
13 is that correct?

14 A. Yes, it appears that it was done that way,
15 in alphabetical order.

16 Q. Is it done in the same way for the House as
17 with the Senate, that these are the people who were
18 in the House in 2022?

19 A. That were in the House and had some role,
20 although the exact role that each and every one had
21 in the drawing and the approval of the maps is going
22 to be governed by whatever available legislative
23 record there is.

24 Q. Going down the list, here at the end of the
25 B's was Secretary of State Cord Byrd in the House in

1 2022?

2 A. He was until May or June. I don't recall
3 exactly when he became Secretary.

4 Q. I think you probably recall better than I
5 do, but I recall Secretary Lee left so that she could
6 run for congress in the 2022 cycle and that's when
7 Secretary Byrd was named. Is that correct?

8 A. I knew it was mid year or almost mid year
9 before the qualifying period.

10 MS. McNAMARA: This is a document that's
11 labeled Florida House of Representatives, 2022
12 Regular Session, dated 2/2/22, so that's
13 February 2nd, 2022.

14 I'm going to have this marked as
15 Exhibit 13.

16 MR. JAZIL: Is it 12 or 13?

17 MS. McNAMARA: Let me see. I had 12 being
18 the Senate journal, and 11 was the Osgood
19 election results page. I think this would be
20 13.

21 BY MS. McNAMARA:

22 Q. Is this the House voting list for the 2020
23 Resolution 100, the passing of the State
24 Apportionment plans for the House and Senate?

25 A. It appears to be, yes. It's a screenshot

1 of that, yes.

2 Q. So this lists all the people who voted.
3 And I see in column one that it does indicate
4 Congressman Byrd at the time voted yes on that. Is
5 that correct?

6 A. Yes.

7 Q. I mean he's quoted in the complaint he was
8 involved in some of the committee hearings in the
9 House during this process, as well. Is that correct?

10 A. Yes. If he was asked, he would have
11 answered honestly on that, yes.

12 Q. So is there a reason why then Rep Byrd, who
13 is now of course Secretary of State Byrd, is not
14 listed among the House members who have information
15 related to this?

16 A. I can't answer that.

17 Q. I mean, he is, in fact, a party to the
18 lawsuit, so it's not like we don't know that he has
19 information. But he does not appear on that list.

20 As far as the Secretary is concerned, does
21 Secretary Byrd have knowledge about how the
22 challenged districts were drawn in the past?

23 A. He would have experience on how those would
24 be drawn, based on his prior public service as a
25 representative.

1 Q. Even though as the Secretary of State - the
2 Secretary of State, whoever it happens to be at the
3 time - is not involved in the legislative process,
4 Secretary Byrd was involved in the 2022 process by
5 virtue of being a member of the House of
6 Representatives at that time.

7 A. He definitely was serving at that time
8 until he wasn't.

9 Q. Going down this list, all of these are just
10 the members of the House at the time. I mean,
11 setting aside, you know, any details on who might
12 actually have any knowledge. That is this list;
13 correct?

14 A. Correct. I mean, based on, you know, what
15 it says, knowledge of how challenged districts were
16 drawn and passed.

17 Q. Here on page 16 it lists Representative
18 Jervonte Edmonds; is that correct?

19 A. Yes.

20 Q. Now, going back to Exhibit 11 from the
21 website, on the March 8, 2022 special election, in
22 addition to State Senator Rosalind Osgood, there was
23 also an election for State Representative, District 8
24 in which Jervonte Edmonds received 80 percent of the
25 vote; is that correct?

1 A. Yes. It says 80.3.

2 Q. So similarly as I was asking with Senator
3 Osgood, Senator Edmonds was included because he
4 became a member of the House regardless of whether or
5 not he might actually have been in the house prior to
6 when the SJR was passed?

7 A. Correct. He had gotten knowledge after he
8 started his service.

9 Q. So it's possible that he started his
10 service after the vote, but then he got the
11 information about the vote afterwards?

12 A. Correct.

13 Q. Or maybe his predecessor handed it off to
14 him? You don't know.

15 A. I don't know the communications between
16 each other. It would be in the legislative record,
17 though.

18 Q. Then, similarly, I think he represented or
19 he replaced Representative Omari Hardy, who is listed
20 down here in the H's, Omari Hardy, who had been the
21 previous representative of District 88 who is also
22 listed here; correct?

23 A. Correct.

24 Q. So going back to Exhibit 13, which is the
25 House vote sheet, Representative Hardy does not

1 appear. There's a Representative Harding and a
2 Representative Hart. Is that correct?

3 A. I don't see him listed.

4 Q. And similarly, going down to the E's,
5 Representative Edmonds would be listed here between
6 Duran and Eskamani, if he had been part of it; is
7 that correct?

8 A. He was either not on the floor or not yet
9 sworn in.

10 Q. But as far as this document is concerned,
11 neither Representative Hardy nor Representative
12 Edmonds voted on the SJR at this time; is that
13 correct?

14 A. So far as this document represents,
15 because, as you note up there, it says, you know,
16 three people not voting. I don't know who those
17 three are and whether it would have still listed them
18 or not and I can't tell from this thing. But this
19 document appears to represent the legislative record
20 in terms of voting on the passage of that Senate
21 Joint Resolution.

22 Q. One more thing I'd like to pull up. This
23 document is a Journal of the House of
24 Representatives, dated Thursday, March 10th, 2022.
25 Is that correct?

1 A. Correct.

2 MS. McNAMARA: I'm going to mark this as

3 Exhibit 14.

4 BY MS. McNAMARA:

5 Q. Now, if we go down to page two, here at the
6 top, it says, "Election of Representative Jervonte
7 "Tae" Edmonds," and it says, "Representative Edmonds
8 has been elected on March 8, 2022, in a special
9 general election, as a member of the House of
10 Representatives from District 88, replacing
11 Representative Omari Hardy, who resigned effective
12 January 10, 2022."

13 Is that correct?

14 A. Yes.

15 Q. Is the department aware of whether or not
16 Representative Hardy or Representative Edmonds
17 participated in the redistricting process in 2022?

18 A. Well, to the extent-- I mean, you are
19 talking about a regular session and special session.
20 It's possible that he would have participated in
21 them. Again, the names are listed for reasons that
22 they may have knowledge of how--or that they have
23 knowledge on how the maps--and there were several
24 maps drawn and/or--and passed. So at least perhaps
25 for this portion. I don't know that I can speak to

1 specifically what role he may have had up to that
2 point.

3 Q. Just to recap all of that, or cover it,
4 for--and I'll pull up the amended disclosures-- So
5 this list of all of the House of Reps is intended to
6 include everyone who was a member of the House at
7 some point in 2022 because they might potentially
8 have information on the challenged districts and how
9 they were drawn and passed; correct?

10 A. That they have knowledge of how the
11 challenged districts were drawn and passed.
12 Districts encompasses all of them, so Senate, you
13 know, and for purposes of this case, congressional,
14 that they may have information on it depending on
15 what their role may have been. Again, that would be
16 part of the legislative record.

17 Q. So it lists everyone who might have been,
18 with the exception of Representative, at the time,
19 Byrd?

20 A. Correct.

21 MS. McNAMARA: I don't have any more
22 questions. We are just before 12:30. I can
23 pass to you if you have any questions.

24 MR. JAZIL: I don't have questions, but I
25 would like to make our objections to the next

1 exhibit, Exhibit 15.

2 MS. McNAMARA: Okay. Is that the objection
3 to the notice?

4 MR. JAZIL: Yes.

5 MS. McNAMARA: Okay. I can pull that up.

6 MR. JAZIL: I went to the chat feature. I
7 hope I did this right. That would be
8 Exhibit 15.

9 And that's it. We'll read.

10 MS. McNAMARA: Okay. So, the court
11 reporter, you have the access to number 15, I
12 can go ahead and send it - I have that, as well
13 - when I send over the other ones.

14 Does that work?

15 MR. JAZIL: It works for me.

16 MS. McNAMARA: Okay. Thank you so much.

17 (Thereupon, the previously referred to
18 documents were marked Plaintiffs' Exhibit No's.
19 1 to 15 for identification.)

20 (Thereupon the taking of the deposition was
21 concluded. Reading, subscribing and notice
22 of filing were not waived.)

23

24

Deponent

25

1

2

Sworn to and subscribed before me this _____

3

day of December, 2024.

4

5

6

Notary Public

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CERTIFICATE OF OATH

2

3 STATE OF FLORIDA

4 COUNTY OF MIAMI-DADE

5

6

7 I, the undersigned authority, certify that

8 MARIA MATTHEWS personally appeared before me via

9 videoconference and was duly sworn.

10

11 WITNESS my hand and official seal this 4th

12 day of December, 2024.

13

14

15

Jay H. Pilchick

16

JAY H. PILCHICK

17

Notary Public - State of Florida

18

My Commission No. HH317041

19

Expires: January 21, 2027

20

21

22

23

24

25

1 REPORTER'S DEPOSITION CERTIFICATE

2

3 STATE OF FLORIDA

4 COUNTY OF MIAMI-DADE

5

6 I, JAY H. PILCHICK, Court Reporter, certify
7 that I was authorized to and did stenographically
8 report the deposition of MARIA MATTHEWS; that a
9 review of the transcript was requested; and that the
10 transcript is a true and complete record of my
11 stenographic notes.

12

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

19

20 DATED this 4th day of December, 2024.

21

22

Jay H. Pilchick

23

JAY H. PILCHICK
Notary Public - State of Florida
My Commission No. HH317041
Expires: January 21, 2027

24

25

1 E R R A T A S H E E T

2 IN RE: Hodges vs Passidomo

3 DEPOSITION OF: MARIA MATTHEWS TAKEN: 12/2/2024
DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES HERE

4 PAGE # LINE # CHANGE REASON

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

20 _____

21 _____

22 DATE: _____ DEPONENT: _____

23 Sworn to and subscribed before me this ____ day of
24 _____, 2024.

25 _____
Notary Public, State of Florida

1 BAILEY & SANCHEZ COURT REPORTING, INC.
PO BOX 960430
2 MIAMI, FLORIDA 33296
(305) 358-2829

3
4 December 4, 2024

5 TO: Maria Matthews
c/o Mohammad Jazil, Esq.
mjazil@holtzmanvogel.com

6
7 RE: Hodges vs Passidomo

8 Your deposition which was taken in the above-styled
cause on December 2, 2024 is now ready for reading
9 and signing at the office shown above. If you choose
to do so, please telephone to schedule an
10 appointment.

11 Your other choice, of course, is to have one of the
counsel involved in this matter send you a copy for
12 your inspection. In either event, any corrections or
changes you wish to make in the transcript should be
13 made on the errata sheet provided with the
transcript, not in the transcript itself. Upon
14 completion, please forward the corrections or changes
to Caroline McNamara, Esq.

15 The original transcript will not be held in this
16 office, but will be delivered to Caroline McNamara,
Esq.

17 If we can be of any further assistance in this
18 matter, please contact us at the above address.

19 Sincerely,

20 *Jay H. Pilchick*

21 BAILEY & SANCHEZ COURT REPORTING, INC.

22 CC: All counsel
23
24
25