

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DONALD AGEE, JR., et al,
Plaintiffs,

vs.

Case No. 1:22-cv-272

JOCELYN BENSON, et al,
Defendants.

VOLUME III

TRIAL

HELD BEFORE THE HONORABLE JANET T. NEFF, PAUL L MALONEY, and
RAYMOND L. KETHLEDGE

Kalamazoo, Michigan
November 3, 2023

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2 November 3, 2023

3 8:40 a.m.

4 *PROCEEDINGS*

5 THE CLERK: All rise, please. The United States
6 District Court for the Western District of Michigan is now in
7 session. The Honorable Paul Maloney, the Honorable Raymond
8 Kethledge, and the Honorable Janet Neff presiding.

9 All persons having business with this Court, draw
10 near, give attention, and you shall be heard. God save these
11 United States and this Honorable Court.

12 You may be seated.

13 JUDGE MALONEY: We are back on the record in case
14 number 22-272. Counsel for the parties are present. The
15 plaintiff has rested.

16 Ms. McKnight, you may call your first witness.

17 MS. McKNIGHT: Good morning, Your Honor. I have one
18 administrative point before I call my first witness.

19 JUDGE MALONEY: Certainly.

20 MS. McKNIGHT: The parties have been talking about
21 time to date. If you recall, we've been trying to track how
22 much time each side has been spending. We've come to an
23 agreement with the following times that we'd like to put on
24 the record this morning.

25 JUDGE MALONEY: Go ahead.

1 MS. McKNIGHT: As we stand now, plaintiffs have spent
2 8 hours and 35 minutes of trial time. Defendants have spent
3 2 hours and 49 minutes.

4 JUDGE MALONEY: Thank you.

5 MS. McKNIGHT: Thank you. Your Honor, we'd like to
6 call Commissioner Anthony Eid to the stand.

7 JUDGE MALONEY: Please step forward, sir, and be
8 sworn.

9 THE CLERK: Please raise your right hand.

10 ANTHONY EID,
11 *having been sworn by the Clerk at 8:42 a.m. testified as*
12 *follows:*

13 THE CLERK: Please be seated. State your full name
14 and spell your last name for the record, please.

15 THE WITNESS: Yes. My name is Anthony Eid, that is
16 spelled A-N-T-H-O-N-Y, and the last name is E-I-D.

17 DIRECT EXAMINATION

18 BY MS. McKNIGHT:

19 Q. Good morning, Commissioner. Can you please state your
20 full name for the record?

21 A. Anthony Eid.

22 JUDGE KETHLEDGE: I'm sorry to interrupt. I
23 apologize. I'm just seeing if we can move this screen so I
24 can see the witnesses as they testify. That's good.

25 JUDGE MALONEY: Is that good?

1 JUDGE KETHLEDGE: Yeah, that's good.

2 BY MS. McKNIGHT:

3 Q. Commissioner, what role did you play in drawing
4 legislative maps for Michigan in 2021?

5 A. So I'm a commissioner on the Independent Redistricting
6 Commission so I was there for almost all of the meetings. I
7 believe my attendance rate is somewhere in between 95 percent
8 and a hundred percent. I had the same role as all of my
9 colleagues in trying to draw fair maps for the state of
10 Michigan. I would say I was one of the primary map drawers.

11 Q. And where do you live?

12 A. Currently I live in Detroit.

13 Q. Okay. How long have you lived there?

14 A. I moved to Detroit for college in 2021 so 11, 12 years
15 now.

16 Q. Did you mean 2012 instead of 2021?

17 A. I do. 2011, 2012, yes.

18 Q. And where did you grow up?

19 A. I grew up in the Orchard Lake, West Bloomfield area.

20 Q. And would you say you're familiar with the area at issue
21 in this case, that is, the Detroit metropolitan area?

22 A. I would.

23 Q. Why did you become a commissioner?

24 A. So, I became a commissioner for a number of reasons. The
25 first is I believed my background in science and advocacy

1 could provide a good basis for the Commission. I wanted to
2 provide an evidence based, data driven process and make sure
3 that those values were adhered to in this new historic
4 redistricting process.

5 I also wanted to provide diversity to the Commission.
6 Both the diversity of ages, it turns out I'm the youngest
7 commissioner that was selected, and a diversity of culture as
8 well. I'm the only Middle Eastern commissioner that was
9 selected and the only minority who's a male.

10 Q. Could you tell us your understanding of why the Commission
11 was created in the first place?

12 A. So, I've never spoken to the folks who created the
13 amendments so I'm not sure what they had in mind, but I can
14 tell you why I voted for it, and it was because we had an
15 issue in Michigan where there was political gerrymandering,
16 and we were in a scenario where oftentimes the political party
17 that won the most votes from across the state did not end up
18 with the most seats in government or, you know, the best
19 ability to --

20 MS. GREEN: Your Honor, I have to object. This
21 really feels like 702 expert witness testimony and this
22 witness isn't being offered as an expert in gerrymandering or
23 the political history or the voting process in Michigan or
24 anything along those lines.

25 JUDGE MALONEY: How is this important?

1 MS. McKNIGHT: Your Honor, his understanding of the
2 -- well, her objection is on 702, 701 grounds, and that
3 objection when it was lodged yesterday was offered in favor of
4 someone who had experience with understanding what was going
5 on. How is it important or relevant? It goes to the core of
6 why the Commission was created. Plaintiffs in this case claim
7 that race predominated. One of the primary defenses in this
8 case is that partisanship dominated and its --

9 JUDGE MALONEY: Race was predominated in the --

10 MS. McKNIGHT: In the drawing of the map.

11 JUDGE MALONEY: But that's not your question. Your
12 question is about the origin of the Commission and why some
13 people voted for it.

14 MS. McKNIGHT: Correct. And the defense to the claim
15 that race predominated is that partisanship or other factors
16 dominated, and if the purpose of the Commission in the first
17 place was to address partisan gerrymandering, that goes to the
18 defense of the Commission was created with a vision to address
19 partisan gerrymandering. This is his understanding. He's
20 testifying of his own personal view.

21 JUDGE MALONEY: Okay. As long as it's personal view,
22 fine.

23 MS. GREEN: Thank you, Your Honor.

24 BY MS. McKNIGHT:

25 Q. Did you have anything else to say?

1 A. Can you restate the question, please?

2 Q. Sure. Based on your understanding, why was the Commission
3 created in the first play?

4 A. I think I can sum it up a little more succinctly. The
5 people in Michigan wanted fair maps.

6 Q. And what was the goal of the Commission, as you understood
7 it?

8 A. The goal was to create fair maps.

9 Q. Let's bring up DTX1. Do you recognize this document,
10 Commissioner Eid?

11 A. I do.

12 Q. Okay. And what is it?

13 A. It is the constitution of the state of Michigan.

14 Q. Okay. And let's turn to page 3, paragraph 13. What does
15 this paragraph show the Court?

16 A. This is the criteria in the constitutional amendment that
17 the Redistricting Commission had to follow in crafting our
18 maps. For me it was used as sort of a playbook and the
19 different factors our maps had to comply to in order to be
20 legal.

21 Q. And did the Commission make use of this list of criteria
22 in drawing the map?

23 A. We made use of this list of criteria at every point in the
24 process.

25 Q. And would you talk a little bit about the ordering of the

1 criteria and how that affected map drawing?

2 A. Yes. So as you can see, the constitutional amendment
3 reads, The Commission shall abide by the following criteria in
4 proposing and adopting each plan in order of priority.

5 What that meant was the higher priority factors
6 superseded the factors that come later. However, all of the
7 factors still had to be followed in order for a map to perform
8 and be deemed legal.

9 Q. What information did the Commission look at in order to
10 comply with this constitutional criteria?

11 A. Well, there was a lot of information. A lot of these
12 criteria talk about different things, so if we take it from
13 the top, you know, District shall be of equal population and
14 mandated by the United States Constitution. For that we
15 looked at the census data in the 2020 decennial census. It
16 also says, It shall comply with the Voting Rights Act and
17 other federal laws. To make sure we complied with that the
18 Commission hired experts to advise and give us their opinions
19 on how to do that.

20 For the second factor being contiguity, we had
21 mapping software. Again, we hired a vendor to give us that
22 mapping software, EDS that we've heard about throughout this
23 trial, and there was a function in that software to determine
24 if our districts were contiguous or not.

25 Factor three is where things get a little

1 interesting. This factor is higher in Michigan's constitution
2 than what you see in other redistricting commissions. Really,
3 it's -- factor C and factor D are quite a bit higher in
4 Michigan than they are in other states, from my understanding.

5 And criteria C is about communities of interest. To
6 gather communities of interest we went on multiple public
7 hearing tours to hear from the public directly and what they
8 thought communities of interest were. I think of note, we
9 went on, I believe, about 16 public hearings, or around that
10 number, before we even drew a single district.

11 Then after we were done with our initial map drawing
12 we went on a second public hearing tour to five of those
13 cities a second time to show the public what we had been
14 working on at that point and get their interest, and also get
15 their criticism to figure out how we could improve upon our
16 maps.

17 For criteria D, districts shall not provide a
18 disproportionate advantage to any political party, there were
19 a number of tools used to calculate what a disproportionate
20 advantage was. As you can see, it says that this measure
21 shall be determined using accepted measures of partisan
22 fairness, so we had various tools that our experts provided to
23 us. There were various tools that were publicly available
24 that the Commission was able to use, and these tools helped us
25 judge if there was a disproportionate advantage to any

1 political party.

2 Q. I'd like to ask you a question about compliance with the
3 Voting Rights Act and Section 13(a).

4 A. (Non-verbal response.)

5 Q. Is it your understanding that compliance with the Voting
6 Rights Act necessarily means that race predominated in the map
7 drawing process?

8 A. Well, you have to talk about race in order to comply with
9 the Voting Rights Act. You can't not talk about race when
10 you're trying to comply with the VRA, but that doesn't mean
11 that the issue predominated. No one issue predominated over
12 any other issue. This was a multi-factorial, holistic process
13 where all of these factors were taken in to consider
14 concurrently, and these factors aren't mutually exclusive to
15 each other either. Sometimes the criteria would go together.

16 For example, there would oftentimes be competing
17 communities of interest, you know, just people in the
18 community having a different idea about what their community
19 of interest was. Well, how does the Commission choose one of
20 those communities of interest? The end of the day, you know,
21 it's up to us to choose which community of interest to follow
22 or to grant, if you will, in our maps, and there are different
23 ways to do that. We granted some communities of interest in
24 the House map and gave the opposing view in the Senate map,
25 and, you know, it was that kind of process that I'm sure we'll

1 get into later, but sometimes those communities of interest
2 would also make the map more fair on a political basis, and
3 when that happened, when multiple different criteria were
4 fulfilled by a single issue or a single community, the
5 Commission would often choose to grant that issue into the map
6 because it followed multiple criteria.

7 Q. And we'll get into this in more detail later, but is it
8 your view that the Commission's use of communities of interest
9 was really pretext for a race-dominated process?

10 A. We had over 30,000 public comments, and I read each and
11 every one of those public comments throughout the process.
12 Every single one of them. There was no pretext here. This
13 was communities coming together to give us their opinion, and
14 that's all it was.

15 Q. Were you here yesterday to hear testimony from
16 Representative Lemmons and Senator Smith?

17 A. I was.

18 Q. Okay. Did you hear testimony from them about the -- that
19 they wanted districts in Detroit with BVAP at levels of 50 or
20 51 percent?

21 A. I did hear that.

22 Q. Okay. Do you think the Commission could have used a
23 target such as 50 or 51 percent when drawing the maps?

24 A. I think that would be illegal to have a specific target
25 like that, and if there -- you know, hypothetically, with a

1 supposed target you can't arbitrarily place it at any specific
2 number without doing an analysis to figure out if that number
3 is the number, but there was no target that the Commission had
4 to hit.

5 Q. Okay. We'll return to VRA compliance a little later. I'd
6 like to ask you some questions about the Commission's use of
7 experts and tools.

8 How did the Commission make use of its experts?

9 A. Well, the whole reason we hired experts was because when
10 all the commissioners came into it -- this is a citizens
11 commission of lay people. Before joining this Commission,
12 myself and my colleagues, we didn't have any experience in
13 gerrymandering. We didn't have any experience in map drawing.
14 We didn't have many, you know, experiences in politics at all,
15 so we had to learn. We had to learn very quickly how to do
16 all of this, and we relied on experts to help us figure out
17 exactly how to do this, figure out what these metrics in the
18 constitution meant, and just basically figure out how to get
19 the job done.

20 So we hired experts and, you know, we hired a VRA
21 expert. We hired a racial bloc voting expert. We hired
22 vendors to help us with mapping software. We hired experts to
23 help us organize public comment, and all of these experts
24 provided their expertise to the Commission. The Commission
25 would listen to the experts and make decisions, you know,

1 based on what the expert said.

2 Q. And focusing on experts who provided the Commission
3 expertise related to the Voting Rights Act, who were those
4 experts? What were their names?

5 A. Bruce Adelson and Doctor Lisa Handley.

6 Q. Okay. And does it sound about right to you that between
7 those two, they participated in Commission meetings -- at
8 least 36 Commission meetings?

9 A. I don't know the exact number. That sounds about right.

10 Q. And would it sound about right to you that Doctor Lisa
11 Handley participated in about 10 meetings either in person or
12 remotely?

13 A. She participated less than Bruce Adelson, but she still
14 participated. Yeah, I'd say around 10 meetings is probably
15 correct.

16 Q. Now, how did the Commission implement information that was
17 provided by the experts?

18 A. Well, I think it depends on the information. Different
19 experts, you know, provided their expertise in different ways,
20 but generally speaking, the Commission would take the data
21 oftentimes that these experts produced and put that data to
22 use while crafting the maps.

23 Q. Now, I heard you earlier testify that the Commission
24 couldn't use a specific target BVAP.

25 Do you recall that testimony?

1 A. Yes.

2 Q. Okay. And were you here for the testimony of Commissioner
3 Szetela?

4 A. I was.

5 Q. Okay. And did you hear testimony from her that she
6 struggled with expert advice and that she felt that they asked
7 over and over again and never got a satisfying answer?

8 A. I do recall that testimony.

9 Q. Okay. What is your reaction to that testimony?

10 A. Well, that actually makes a whole lot of sense to me. I
11 think she struggled because she wanted a target and we didn't
12 have one. So it makes sense to me that, you know, if someone
13 is looking for a target and there is no target, it could
14 create for a confusing situation.

15 Q. Do you recall testimony by Commissioner Szetela that there
16 were negative public comments about Mr. Adelson?

17 A. I do.

18 Q. Okay. And do you recall negative public comments coming
19 in about the hiring of Mr. Adelson?

20 A. I do.

21 Q. Okay. And how common was it for negative public comments
22 to come in about the Commission's work?

23 A. There were negative public comments at different points
24 about every hire that we made. I chaired our hiring
25 committee -- I chaired our hiring committee for our executive

1 director, our first hire that we made, and, you know, we went
2 through a process for that. And all of our hires we tried to
3 do an unbiased process where we would blind applications and
4 try to have some sort of objective rubric to follow to make
5 sure that we were getting the best applicant for the position
6 that they were applying for. And this was a unique situation
7 where all of these hires were having -- were happening
8 publicly and being broadcast and disseminated across the
9 state.

10 It's really a -- you know, it's really an interesting
11 situation. Imagine coming in for a job interview and that job
12 interview is being broadcast on YouTube. It will create for a
13 stressful situation, to say the least, and there were negative
14 public comments about every one of those hires. There were
15 negative public comments about all of the commissioners as
16 well. There were also positive public comments about the
17 hires and positive public comments about the Commission, but,
18 you know, when you get 30,000 public comments, some of them
19 are bound to be negative.

20 Q. In fact, were there negative public comments about the
21 Commission hiring our firm as litigation counsel?

22 A. There were a lot of negative public comments about your
23 firm and -- and there were news articles about your firm as
24 well when we hired you.

25 Q. And did those negative public comments come to fruition?

1 A. The negative public comments, you know, more or less said
2 that your firm was a biased firm towards Republicans and that
3 you wouldn't defend us properly or you would try to have us --
4 you know, you would try to have us pass an unfair map, and
5 look where we are today. I -- needless to say, I don't think
6 that those came to fruition.

7 Q. Turning to the Commission's map drawing process, when did
8 the Commission first begin drawing maps?

9 A. Well, you know, there was a delay in census data, a
10 six-month delay in census data due to COVID-19 and other
11 administrative issues within the Census Bureau that delayed
12 our start to the map drawing process because we couldn't draw
13 maps without that census data.

14 I believe we ended up getting that data around
15 midsummer and started drawing maps around -- in the late
16 summer, perhaps mid August.

17 Q. Okay. Do you remember when the Commission hired
18 consultants providing the Commission with the census data once
19 it was released?

20 A. Yes. We hired EDS, Election Data Services, who is run by
21 Mr. Kim Brace, and they got the census data and organized it
22 into, you know, different presentations and tools that the
23 Commission could use in the form of mapping software.

24 Q. And what do you recall that census data showing for the
25 area of Detroit?

1 A. The census data showed a whole lot of stuff about the
2 whole state of Michigan. For Detroit specifically, Wayne
3 County had lost population and that population had shifted
4 towards the neighboring suburb counties of Michigan, Oakland
5 and Macomb.

6 Q. And do you recall about when this meeting was?

7 A. I believe it was either -- either late August or early
8 September.

9 Q. Does August 19th sound about right to you?

10 A. That sounds correct.

11 Q. Okay. Let's play some clips from that meeting on
12 August 19th, and then I'll ask you some questions about them.

13 Let's start with clip one from August 19.

14 MS. McKNIGHT: And, Mr. Williamson, if you can just
15 bring up the clip, and before you press play, I want to give
16 the commissioner a chance to describe what we're seeing.

17 BY MS. McKNIGHT:

18 Q. So, Commissioner Eid, what are we seeing in the starting
19 frame of this clip?

20 A. So, this is Kim Brace from EDS providing the Commission
21 with data that compared the 2010 census to the 2020 census,
22 and what we're seeing here are a map of Michigan's counties
23 and how the population shifted in those counties.

24 Q. So, the purple is loss and the green is gain in
25 population; is that right?

1 A. Yes. If you look at the bottom left of each of these
2 pictures, you can see the table that shows purple being a loss
3 and the deeper purple meaning a greater loss in population,
4 whereas green is a gain in population.

5 Q. So, let's play this clip.

6 *(9:05 a.m., audio played.)*

7 BY MS. McKNIGHT:

8 Q. Let's go ahead and play clip two, and then I'll ask you
9 some questions about both.

10 *(9:08 a.m., audio played.)*

11 BY MS. McKNIGHT:

12 Q. So, Commissioner Eid, we didn't take a moment to explain
13 what's on the screen now. Can you explain what the Court is
14 looking at here?

15 A. Yes. This is similar to the previous map that we looked
16 at that had the raw population change, but it's a little
17 different. Right now we're looking at how that population
18 changed based on -- you know, based only on the population,
19 how it would affect which areas of the state that gained and
20 lost Senate seats.

21 Q. By my view it looks like the darkest gray area is in the
22 area of Detroit, Wayne County. Is that your read, too?

23 A. That is what's -- this map shows.

24 Q. And what does this suggest about whether Detroit would be
25 losing population or a seat in the redrawing -- strike that.

1 Let me rephrase my question.

2 What does this say about whether the Detroit area
3 would be losing a seat in the redrawing process?

4 A. Well, every seat that we draw has to have roughly the same
5 amount of population per district. So if an area in the state
6 loses population, it means that that area could lose
7 representation in the form of that seat because there's less
8 population in the area.

9 Q. Now, this relates to the Senate. Let's look at this about
10 the House and then I'll ask you questions.

11 MS. McKNIGHT: You can play clip three for that day.

12 *(9:08 a.m., audio played.)*

13 BY MS. McKNIGHT:

14 Q. So, did you understand that the State House was going to
15 have -- there was going a bigger issue in the State House?

16 A. Yes.

17 Q. And so to sum up, did you anticipate that drawing
18 districts in the Detroit area would be impacted by the shift
19 in population?

20 A. I thought Detroit would see the most radical change in the
21 map configuration compared to the previously drawn maps.

22 MS. McKNIGHT: And let's play clip four, please.

23 *(9:09 a.m., audio played.)*

24 BY MS. McKNIGHT:

25 Q. So, Commissioner Eid, did you anticipate this population

1 shift as being an issue when drawing the Detroit area
2 districts?

3 A. I think it's pretty clear that that is the case, yes.

4 Q. And is it fair to say that the Commission was aware of
5 this issue as early as August 19th, the date of this meeting?

6 A. Yes.

7 Q. Okay. Let me ask you a simple question. Just for the
8 record, could the Detroit districts have been drawn eastward?

9 A. Well, there's a -- there's another country eastward, so,
10 no. We were geographically locked on the number of directions
11 that we could go in this area.

12 Q. Now, the Commission's discussion on this day on
13 August 19th, do you have a memory of it?

14 A. Yes.

15 Q. Okay. And in your memory did race dominate this
16 discussion?

17 A. Race was never discussed in this presentation. Really,
18 the only thing discussed in this presentation was population
19 numbers.

20 MS. McKNIGHT: Let's go ahead and play clip five.

21 *(9:11 a.m., audio played.)*

22 BY MS. McKNIGHT:

23 Q. I want to stop it here. We'll hear the answer, but can
24 you explain what -- who was asking this question?

25 A. That was Commissioner Curry.

1 Q. And what did you understand her question to be getting at?

2 A. I think it's a good and reasonable question. Basically
3 she was asking on -- a question on if the land area that was
4 composed -- that was represented by House and Senate reps in
5 the -- in Detroit would be staying the same.

6 Q. Okay. Was she asking whether incumbents in that area
7 would hold the same area of their districts?

8 MS. GREEN: Your Honor, she -- Your Honors, I believe
9 this question is asking for this witness to speculate as to
10 another Commissioner's intent or thoughts, and if they want to
11 put the witness on the stand, I think --

12 JUDGE MALONEY: Sustained.

13 MS. GREEN: Thank you.

14 BY MS. McKNIGHT:

15 Q. Earlier I asked based on your understanding. I would like
16 to make it clear, for all other questions I'm focused on your
17 understanding of this meeting that you testified you had
18 memory about.

19 So, in your memory and your understanding of what
20 happened, what did you understand Commissioner Curry to be
21 asking about in relation to incumbents?

22 A. She was asking if the number of incumbents would be
23 staying the same in the area and if the area they occupied in
24 the form of land would be staying the same as well.

25 Q. Were you in the courtroom for Commissioner Curry's

1 testimony?

2 A. I was.

3 Q. Okay. Do you recall her saying that she did not believe
4 race dominated the map drawing process?

5 A. I do remember her saying that.

6 Q. Is this question a good illustration of how race did not
7 dominate the map drawing process?

8 A. I think so, and I think Commissioner Curry's instincts
9 from asking this question were correct.

10 MS. McKNIGHT: Let's play clip number six, please.

11 *(9:14 a.m., audio played.)*

12 BY MS. McKNIGHT:

13 Q. Commissioner Eid, does this show an answer to what you
14 understood to be Commissioner Curry's question about whether
15 the districts in Detroit could keep the same area?

16 A. I think this does answer that question.

17 Q. And where would districts need to be drawn from Detroit to
18 pick up population?

19 A. They would need to be drawn in a way to match where the
20 population shifted. As you can see from this data that we're
21 looking at, the population shifted north of Wayne County into
22 the suburb counties of Oakland and Macomb.

23 Q. Okay. Let me pause for a moment, Commissioner Eid,
24 because there are questions about whether any one commissioner
25 can speak for the Commission. Is it your belief that any one

1 commissioner can speak for the whole Commission?

2 A. No. We all speak for ourselves, but, you know, the
3 Commission is also supposed to speak in one voice and
4 acquiesce to -- I think it's best practice for individual
5 commissioners not to, you know, make comments that supersede
6 the will of the Commission as a whole. You know,
7 unfortunately that seems to happen all the time, but the
8 commissioners speak for themselves.

9 Q. Okay. Is it your belief that Commissioner Szetela speaks
10 for the Commission?

11 A. No.

12 MS. McKNIGHT: Let's play clip number seven.

13 *(9:17 a.m., audio played.)*

14 BY MS. McKNIGHT:

15 Q. So, Commissioner Eid, this will be my last question on
16 this topic of population shift. We don't need to belabor this
17 point any further, but we just saw both the Senate and the
18 House population shift. What did this mean for map drawing in
19 those areas related to the data you were provided?

20 A. You know, this isn't rocket science. I think the data is
21 pretty clear. Population shifted, therefore districts had to
22 shift to match that population shift. I want to emphasize,
23 this was a data based, evidence driven process, and this is
24 just one piece of data that shows how we drew our maps, but as
25 our EDS consultant said, the data is the data. This is what

1 the data showed.

2 MS. McKNIGHT: We can turn that off. Thanks.

3 BY MS. McKNIGHT:

4 Q. Can you describe how the Commission drew the maps at issue
5 in this case in a general way?

6 A. We -- generally speaking, we -- for a multitude of
7 reasons, population, VRA, communities of interest, partisan
8 measures, we took the districts from Wayne County and drew
9 them north into Oakland and Macomb County.

10 Q. Okay. Did commissioners work together or individually?

11 A. So, there were -- that's a good question. There were two
12 separate but concurrent map drawing processes. And I think
13 these processes are important because they show how we ended
14 up drawing the maps.

15 The first process, and the process that ended up
16 being the ones that the maps we're talking about today fell
17 under, the State House rep map and the State Senate map, they
18 fell under what we called the collaborative process.

19 How that worked is, you know, commissioners were all
20 either seated at the Commission meeting or attending
21 virtually, and commissioners would take turns drawing
22 districts round-robin style, if you would.

23 For example, commissioner -- let's say Commissioner
24 Lett would be called on to draw a district. Commissioner Lett
25 was pretty good in the Lansing area so he would draw districts

1 around that area, and he would finish drawing his version of
2 the district and then we would move on to the next
3 commissioner. That commissioner had two choices. They could
4 either create a brand new district next to the one that
5 Commissioner Lett drew or they could change Commissioner
6 Lett's district if they weren't satisfied with that district.

7 What this resulted in was a lot of collaboration
8 where, you know, one commissioner would draw something and
9 then another commissioner would draw something and we would
10 compare the two. Sometimes a different copy of the map would
11 be made and we could compare side-by-side the differences
12 between the maps. And it created a process that was very
13 collaborative.

14 It also created a process where no one commissioner
15 got exactly what they wanted, and I think that was, you know,
16 very important to the Commission, because even commissioners
17 that didn't support the maps still got an opportunity to
18 participate in the drawing of the maps that they disagreed
19 with, and I think that's a pretty powerful thing.

20 It makes it so that commissioners had to compromise
21 with each other and, you know, we were commissioners that had
22 different goals, right? We had four Republicans, four
23 Democrats, five independents. Different commissioners wanted
24 different things on the maps. And by having a collaborative
25 process, it forced us to collaborate.

1 Concurrently, there was also an individual process,
2 and in this process individual commissioners could work on
3 maps individually at home and at various points present those
4 maps to the Commission and to the public. And that's the
5 process that the congressional map took.

6 Our congressional maps started out as nine individual
7 congressional maps that I had drawn myself, but I presented it
8 to the Commission at multiple points and then the public saw
9 it, and then it eventually was liked so much that it became a
10 collaborative map.

11 So -- I know that was long winded, but those are the
12 two processes that we used to create maps.

13 Q. And when commissioners were working on individual maps,
14 were they drawing themselves or did they use map drawers like
15 EDS staff to help?

16 A. So, again, this was a Commission of 13 randomly selected
17 citizens. We're a diverse group of commissioners. We have
18 quite the range of ages, quite the range of life experiences,
19 and that created a situation where not all of the
20 commissioners had the same skill set, and I think that's okay.

21 We had some commissioners that were very good at
22 tracking things like our budget. We had some commissioners
23 that were very good at hiring. We had some commissioners that
24 were really good at administrative aspects. We had some
25 commissioners that were really good at emotional intelligence

1 and had a lot of empathy. And we had other commissioners that
2 were really good with the mapping software. So some
3 commissioners, you know, might have called up EDS and said,
4 hey, help me do this, let me tell you, like, what I want to
5 see and show me how to draw the lines, but other
6 commissioners -- and I say such as myself -- were really good
7 at using the software and could do it on their own.

8 Q. About how much time did the Commission spend actually
9 drawing maps?

10 A. So, this is an interesting question, because if you're
11 only looking at the calendar it's a relatively short amount of
12 time of only about two months, but during those two months it
13 felt like an endless amount of hours because commissioners --
14 I mean, we were meeting five days a week for eight, nine,
15 10 hours a day just during our meetings that were
16 live-streamed to the public and then we would go home and read
17 the public comment, we would go home and perhaps work on our
18 individual maps and get prepared for the next day.

19 So, even though it was a short amount of time on the
20 calendar, it certainly felt like an endless amount of time
21 when actually doing it.

22 MS. McKNIGHT: Your Honors, I'm about to go into a
23 next session of examination and plaintiffs had a question
24 about where a specific exhibit was. We could benefit from the
25 morning break now, if possible, to make sure they're aware of

1 where that exhibit is.

2 JUDGE MALONEY: Move on.

3 MS. McKNIGHT: Okay. May I confer briefly with
4 plaintiffs' counsel?

5 JUDGE MALONEY: Sure.

6 MS. McKNIGHT: Pardon me, Your Honors.

7 JUDGE MALONEY: That's okay.

8 MS. McKNIGHT: I'm going to be using two of
9 defendants' exhibits and they're in native format.
10 Plaintiffs' had a question about where defendants had produced
11 that document. They asked that question this morning. We've
12 since sent them an e-mail showing where it is, but obviously
13 they haven't had an opportunity to confirm that.

14 We'd like to provide a practical solution, which is I
15 think we can go forward -- both exhibits are public
16 information from the Commission's website. We'll go forward
17 and elicit testimony about it but hold open the question of
18 whether -- you know, whether we can submit it as an exhibit
19 based on defense giving plaintiff an opportunity to confirm.

20 JUDGE MALONEY: Does that work, counsel?

21 MR. PATTWELL: It does, Your Honor.

22 JUDGE MALONEY: All right. Proceed, counsel. Thank
23 you.

24 MS. McKNIGHT: Thank you. And -- okay.

25 BY MS. McKNIGHT:

1 Q. Commissioner Eid, I'd like to ask you some questions about
2 tools that the Commission used to evaluate maps.

3 Specifically -- let me start there. What kind of tools did
4 the commissioners use to evaluate their maps?

5 A. So, there were a number of tools depending on the type of
6 evaluation we were trying to perform.

7 For our partisan data metrics there was a partisan
8 data tool that we could access for tracking town splits and,
9 you know, city, town, and county boundary splits and things of
10 that nature. There was a different function in our software
11 that we could use to judge that.

12 We had a tool in the software that could be used to
13 judge compactness. There were other tools where we could look
14 at the partisan data of any individual district in order to
15 see how they performed on an electoral basis. And there were
16 also publicly available tools that the Commission was aware of
17 in order to judge partisan fairness.

18 Q. Where did the Commission get its partisan fairness tools?
19 Who provided the Commission with those tools?

20 A. For our internal partisan fairness tool, that was created
21 by EDS in collaboration with Doctor Handley and then
22 implemented into our mapping software.

23 Q. Okay. And we'll get to this in more detail later, so I'm
24 just looking for yes or no, and then we can move on and get
25 into more detail.

1 When you received the partisan fairness tool from
2 EDS, was that the first time that you considered partisanship
3 in the map?

4 A. No.

5 MS. McKNIGHT: Okay. So, let's bring up DTX number
6 2.

7 BY MS. McKNIGHT:

8 Q. Now, Commissioner Eid, this is a busy screen. Can you
9 take a moment to orient the Court to what they're seeing?

10 A. Yes. It is a busy screen, but it is a screen I'm very
11 familiar with.

12 This is a printout of our partisan data tool. How it
13 would work is once we completed a map there was a button on
14 the side bar of our software that we could click on and within
15 a few clicks we could generated a spreadsheet like this that
16 judged our maps on partisan fairness.

17 Now, you can see on the bottom -- in the bottom tool
18 bar in this Excel spreadsheet there are four different tabs
19 and these tabs contain the different measures of partisan
20 fairness that were used. These include the lop-sided margins
21 test, the mean median difference test, the efficiency gap
22 test, and the seats to votes ratio.

23 Q. Okay. Was there one measurement that was more important
24 to the Commission in your view in analyzing partisan fairness?

25 A. So all of these different measurements -- we heard a

1 little bit about this yesterday. I'm sure we'll hear about it
2 later, but all of these measurements have pros and cons,
3 right? So the Commission used all of them together
4 holistically to understand if the direction we were going in
5 with the mapping was on the right track or not.

6 With that said, the one that I liked best was the
7 efficiency gap tool.

8 Q. And why is that?

9 A. I think it's the easiest to understand from a statistical
10 perspective, and I think it's relatively easy for the public
11 to understand as well.

12 Basically what it is, it's a measure of wasted votes
13 that each political party has on a statewide basis. And, you
14 know, the lower this number is or the closer it is to zero,
15 that means that there are less wasted votes for each political
16 party in the state.

17 BY MS. McKNIGHT:

18 Q. And, based on the title of this document, is it fair to
19 say that this is the -- these are the partisan fairness
20 numbers for the Hickory plan?

21 A. That is what this is titled, and I have no reason to think
22 it's not the data for the Hickory plan.

23 Q. Okay.

24 MS. McKNIGHT: Let's bring up DTX 5, which will look
25 similar --

1 JUDGE KETHLEDGE: Can I ask a question about that?
2 When was that document created? What's the timestamp, so to
3 speak?

4 BY MS. McKNIGHT:

5 Q. About when did you receive this EDS tool?

6 JUDGE KETHLEDGE: I mean this particular printout
7 document.

8 MS. McKNIGHT: The date --

9 JUDGE KETHLEDGE: You can get back to us on that, if
10 you want.

11 MS. McKNIGHT: Thank you, Your Honor. We'll do that.

12 JUDGE KETHLEDGE: Sure.

13 THE WITNESS: If I may?

14 MS. McKNIGHT: Yes, please.

15 THE WITNESS: So, every time we completed a statewide
16 map we'd run the tool. If this -- this is the Hickory data,
17 so we couldn't produce this spreadsheet until the Hickory map
18 was complete. I would assume that it was created right after
19 the Hickory map was completed, and the Hickory map came late
20 in the map drawing process, so I would say around late August,
21 early November. I'm sorry, late October, early November.

22 JUDGE KETHLEDGE: Okay. That's helpful. If we are
23 able to pin down when that thing was generated or -- you know
24 what I mean.

25 MS. McKNIGHT: I do, Your Honor.

1 JUDGE KETHLEDGE: I'm not a computer person but,
2 okay.

3 MS. McKNIGHT: I understand, Your Honor.

4 JUDGE KETHLEDGE: Thank you very much.

5 MS. McKNIGHT: Let's bring up DTX number 5, please.

6 BY MS. McKNIGHT:

7 Q. And based on the title of the document and the data that
8 appears, do you recognize what this is for the Court?

9 A. Yes. This is the Linden Senate map -- the partisan data
10 for the Linden Senate map.

11 Q. And when you would receive this kind of report, would it
12 contain the same data for every map you ran it on?

13 A. Yes. They all were formatted like this. You'd always
14 have, you know, the individual districts on the left side. We
15 didn't really focus on the districts so much because the plan
16 is judged as a whole on a statewide basis, so the most
17 important number here is in that box that says findings. For
18 this map, for the Linden map, the findings are that the
19 lopsided margin test produced a 4.5 percent advantage to
20 Republicans.

21 Q. Okay. Were you in the courtroom yesterday when the
22 partisan fairness tool was discussed -- on Wednesday when the
23 partisan fairness tool was discussed?

24 A. I was.

25 Q. And did you hear a discussion about when that tool became

1 available?

2 A. Yes, I heard that testimony.

3 Q. Okay. And was the Commission considering partisan
4 fairness before that tool became available?

5 A. Yes. This tool became available around October 1st, but
6 partisan fairness metrics were considered much before that.

7 Q. Okay.

8 A. It just became a lot easier to judge them once, you know,
9 we got this tool.

10 Q. We've heard a lot of discussion about a fair map. What
11 does it mean to you to draw a fair map?

12 A. Well, that's a very good question, because, you know, what
13 is fair, right? It's a subjective term and I hate subjective
14 terms. I'm a data guy. I like objective data.

15 Again, I wanted to make sure we took a data based,
16 evidence driven process to this. So for me this was one of
17 the best tools that we had because it could take an objective
18 outlook at if our maps were fair or not. And I thought the
19 closer to zero that all of these numbers were meant that the
20 map was more fair, because that's what the numbers show.

21 Q. So when the Court hears fair map, is it fair to understand
22 that to mean partisan fair, fair on a partisan basis?

23 A. We had to follow all of the constitutional criteria, but
24 given how high the partisan fairness criteria was, I would say
25 that's a fair assessment.

1 MS. McKNIGHT: Okay. You can take this down.

2 Thanks.

3 BY MS. McKNIGHT:

4 Q. Did you look at partisan fairness numbers before October?

5 A. Yes.

6 Q. And did you share that information with the Commission?

7 A. At times I did.

8 Q. And how did you share that information with the
9 Commission?

10 A. Well, I mean, I would tell them during the meetings.

11 Q. And how would you -- how would you look at partisan
12 fairness numbers before October?

13 A. So, we didn't have this tool until October, but there were
14 a number of publicly available tools that the Commission could
15 upload maps into that could produce the same data.

16 Q. If I can hold you for just a moment.

17 MS. McKNIGHT: Your Honor, we determined the meta
18 data information on both DTX2 and DTX5.

19 DTX2 was created on November 5, 2021, after the
20 Hickory plan was completed. It had to be on a completed map.
21 DTX5 was created on November 4, 2021, again on the completed
22 Linden plan.

23 JUDGE KETHLEDGE: Okay. Thanks very much.

24 BY MS. McKNIGHT:

25 Q. So, why did you do this? Can you be more specific?

1 A. Yeah. I did it so I can know if the mapping decisions the
2 Commission was making created a more fair map or not.

3 Q. And about what -- when did you do this, what time frame?

4 A. I did this -- every single time we completed a map, even
5 before our tool became available, I would upload the data into
6 these third-party softwares, such as PlanScore or Dave's
7 Redistricting, both pretty well known websites in the
8 redistricting world, and get the numbers.

9 Q. I asked you earlier if sometimes you shared this
10 information with the Commission. Do you remember a specific
11 time when you did that with the Commission?

12 A. Yes. A good example is when I was discussing our
13 congressional map. I had created a presentation to
14 commissioners to show them what I was working on. Really, it
15 was to show the public what I was working on, if I'm being
16 quite honest. And in that presentation was -- it was a slide
17 show. There was a whole slide on partisan fairness numbers.

18 MS. McKNIGHT: Okay. Let's go to a September 20th
19 clip of one of your public meetings. Clip one, please.

20 *(9:41 a.m., audio played.)*

21 BY MS. McKNIGHT:

22 Q. So, Commissioner, what does this clip show the Court about
23 whether the Commission was considering partisan fairness
24 before it received the EDS partisan fairness tool?

25 A. Well, it's pretty clear we were considering partisan

1 fairness from the beginning.

2 Q. And this was for a congressional plan, so did you run
3 these numbers on the House and Senate plans, too?

4 A. Every single time we completed a map, before we got our
5 own internal partisan fairness tool, I would upload our
6 completed maps into the software to figure out if we were on
7 the right track or not.

8 Q. Okay.

9 MS. McKNIGHT: You can take it down.

10 BY MS. McKNIGHT:

11 Q. So, stepping back, do you have the sense of the
12 concentration or disbursal of voters for the different
13 political parties in Michigan?

14 A. Well, yes. I think it's relatively obvious where the
15 different voters are. Democrats live in the cities and
16 Republicans live everywhere else.

17 Q. And how did you come to that understanding?

18 A. Well, that's -- there are a number of ways. I think
19 it's -- I think anyone who's lived in Michigan, you know, kind
20 of has an understanding of that. I've been a Michigan
21 resident my whole life. I never really spent a lot of time
22 outside of Michigan.

23 I grew up in Oakland County, which while now is a
24 more Democratic county, historically I would say it was a more
25 Republican county. I lived in Detroit, which is certainly a

1 very Democratic county, Wayne County. So, yeah, I think
2 it's -- you know, it's pretty common knowledge that Democrats
3 live in the big cities and Republicans live everywhere else.

4 Now, this knowledge, though, was also supported by
5 the data, supported by the census data. It was supported by
6 the data presented to us by our experts.

7 Q. And did EDS ever provide you data that showed you there
8 was a concentration of Democratic voters in cities?

9 A. Yes. That was included in their presentations to us, as
10 well as from our other experts as well; Doctor Lisa Handley
11 showed the same thing.

12 Q. And did you have an understanding of how the issue of
13 partisan fairness would be -- is related to the issue of
14 concentrated -- concentration of Democratic voters in cities?

15 A. I did.

16 MS. GREEN: I'm sorry, Your Honor. They have an
17 entire expert that's going to be testifying to this issue. I
18 believe it's Mr. Rodde, so I would prefer if we can move on to
19 some actual fact witness testimony rather than asking him
20 his -- what sounds like an expert witness, quite frankly.

21 MS. McKNIGHT: Your Honor, like yesterday, this is
22 his experience. He was drawing the map. He understands the
23 issues at play. This is like yesterday when an experienced
24 person could talk about his experience. That's what we're
25 asking here today. It does not require scientific knowledge,

1 which is part of that rule of evidence. It requires him --
2 we're seeking his --

3 JUDGE MALONEY: Restate your question so I can
4 evaluate your argument.

5 MS. McKNIGHT: Okay.

6 JUDGE MALONEY: I didn't catch the contours of the
7 question. I apologize.

8 MS. McKNIGHT: That's okay.

9 JUDGE MALONEY: In light of the objection, why don't
10 you go ahead and rephrase and we'll hear from Ms. Green if she
11 still has an objection.

12 BY MS. McKNIGHT:

13 Q. To reframe, Commissioner Eid, we just discussed the issue
14 of partisan fairness. Do you recall that?

15 A. Yes.

16 Q. And we discussed your understanding of partisan fairness
17 in drawing the maps; is that right?

18 A. That's correct.

19 Q. And we also just asked -- I also just asked you questions
20 about the concentration of Democratic voters in the City of
21 Detroit. Do you recall that?

22 A. I do.

23 Q. Okay. And do you have a personal understanding of both of
24 those issues?

25 A. I do.

1 Q. Okay. And based on that personal understanding, how do
2 those two issues interplay?

3 A. Well, they're linked.

4 Q. And how so?

5 A. Well, you know, I think, as I said earlier, Democrats are
6 more concentrated in the cities, so if you're trying to create
7 more Democratic districts, which we were in order to create a
8 fair, balanced map, you need to split up those -- that
9 concentration of Democrats into a greater number of districts.

10 Q. And were you aware of political performance of the
11 districts even before September 20th?

12 A. Of our districts or...

13 Q. Yes. Were you aware of political performance -- as you're
14 drawing maps, were you aware of political performance as you
15 were drawing?

16 A. Yes. We had a tool that could judge the political
17 performance of our individual districts while we were drawing
18 them.

19 MS. McKNIGHT: Let's play September 14th, clip one,
20 and then I'll ask you some questions about it.

21 *(9:46 a.m., audio played.)*

22 BY MS. McKNIGHT:

23 Q. Commissioner, what does this September 14th clip tell the
24 Court about whether the Commission had access to political
25 performance information before the partisan fairness tools

1 became available?

2 A. Well, the performance information is on the screen. It's
3 there. We're looking at it. And, you know, Commissioner Lett
4 is advising Commissioner Kellom to look at it while she's
5 partaking in map drawing. So I think it shows that we were
6 looking at political performance from an early stage in this
7 process.

8 Q. And so is this a good illustration of what was on the
9 screen and the discussion around the time that map drawing was
10 going on?

11 A. Yes.

12 Q. Okay. And was it your understanding at the time that it
13 was easy as clicking through a few tabs to bring up the
14 political performance data?

15 A. Yes, I would agree with that. It was -- I mean, we could
16 have this data whenever we wanted.

17 Q. And did you ask for it?

18 A. We asked for it often.

19 Q. Thank you.

20 Before the Commission had the partisan fairness
21 tool --

22 MS. McKNIGHT: You can take this down for us.

23 BY MS. McKNIGHT:

24 Q. Did you have a sense what needed to happen to the maps as
25 compared to the prior maps?

1 A. I did.

2 Q. Okay. And what was that?

3 A. Well, even before that October 1st date where we got
4 the -- our own internal tool, I think -- you know, as I
5 testified earlier, there is a general understanding of what we
6 needed to do in Michigan in order to create a fair map. Some
7 of the first districts I drew, the first Senate districts I
8 drew literally the first Senate districts I drew split up
9 Lansing. The first House districts I drew split up the Grand
10 Rapids area. This was received with a lot of pushback. You
11 know, it's -- so, like, why are you splitting up the cities?
12 These are areas that should be kept together. But I had
13 known -- I don't think it's very hard to figure out -- that
14 you need to do that in order to create a fair map.

15 I mean, the whole reason we're a Commission in the
16 first place is because of an illegal partisan gerrymander that
17 put together the -- that, you know, packed Democrats into
18 fewer districts in order for Republicans, who, you know, drew
19 the map last time around in smoke-filled rooms without public
20 comment and without transparency, an advantage.

21 Q. Now, we've talked a lot about before the partisan tool
22 became available so now I'd like to talk about once that tool
23 was loaded.

24 How was it presented to you as you were drawing?

25 A. Well, it certainly became -- you know, the data became a

1 lot easier to access once we got our own internal tool. It
2 was a really great tool because we could access it within just
3 a few clicks, and any time we had completed a map we would
4 check to see if these metrics were improved.

5 MS. McKNIGHT: Let's play a clip from November 4th,
6 clip one, and then I'll ask you some questions about it.

7 *(At 9:50 a.m., audio played.)*

8 MS. McKNIGHT: Pardon us, Your Honor. Your Honor, we
9 played a clip out of order, that's why the delay. Pardon me,
10 Your Honors. You'll see that clip later related to other
11 questions. We'd like to play a different clip now that's
12 related to these questions.

13 *(At 9:52 a.m. audio played.)*

14 MS. McKNIGHT: I'm sorry, Your Honor. We're having a
15 hiccup so I'm going to move on. I don't want to delay the
16 Court. These clips will be shown later, but they're related
17 to something else.

18 JUDGE MALONEY: Technical difficulties beyond your
19 control. Go ahead.

20 JUDGE NEFF: Which we are all familiar.

21 JUDGE MALONEY: Indeed.

22 BY MS. McKNIGHT:

23 Q. Let me ask you, how often were you looking at partisan
24 fairness measurements?

25 A. We would generate the tool multiple times a day, every

1 time we completed a map, and one of the advantages of this
2 tool were the data set that was in the tool. Our main data
3 set provided us a composite of election results from the
4 previous 10 years of election history in Michigan, and those
5 years were weighed equally. It was a Commission decision to
6 do that. That was our main data source.

7 In the spreadsheets you saw earlier, it was using
8 that composite score that I'm speaking of now, but we didn't
9 only want to use the composite score. We also wanted to use
10 the tool to make sure that our map performed in different
11 years, years where Democrats won versus years where
12 Republicans won so we could show that the map was fair. We
13 wanted to prove that in years that Democrats received a
14 majority of the votes, they would win the most seats, and in
15 years where Republicans received the most votes, they would
16 gain the most amount of seats. And the way we did that was we
17 had recent elections where both of those scenarios happened.

18 We would run the data under the 2016 presidential
19 election results where, as we know, President Trump won in a
20 tight race. We would then run it again for the 2018 governor
21 election where Governor Whitmer won by, I think what most
22 people would call, a rather large margin, and then we would
23 run it a third time for the 2020 election where President
24 Biden won in a -- I think most people would consider a close
25 race. And we did that to make sure not only on a composite

1 scale our maps performed but on these individual elections
2 where different parties won if they performed as well. So we
3 ran the tool constantly, all the time. I myself probably ran
4 it over 500 times.

5 JUDGE KETHLEDGE: Are we talking about the internal
6 tool at this point?

7 THE WITNESS: That is what I'm talking about.

8 JUDGE KETHLEDGE: Thank you.

9 BY MS. McKNIGHT:

10 Q. So, Commissioner Eid, moving on to a new subject -- and
11 we'll return to partisan fairness, but let's move on to a new
12 subject.

13 Was racial data available on the screen when the
14 Commission was drawing districts?

15 A. Yes. There were two ways racial data was available.
16 We've seen earlier there's that bottom toolbar where it had
17 demographic information of our districts. That demographic
18 information included things like the overall population
19 number, the deviation from ideal on the population number. It
20 included racial information such as black voting age
21 population, minority voting age population, overall black
22 population, overall minority population.

23 But there was also a second way where we could -- and
24 this was less used, but there was an option where we could
25 overlay -- they were displayed as, like, bubbles or circles on

1 the maps, and what we could do is zoom in on AutoBoundEDGE to
2 the level of data that we wanted. AutoBoundEDGE had options
3 to go, you know, from countywide all the way down the census
4 bloc.

5 So, you know, let's use precincts as an example. We
6 could look at a precinct -- and let's just choose a group.
7 Let's say Arab -- oh, we can't choose Arab Americans because
8 unfortunately we're not in the census yet. So let's say Asian
9 Americans. We could select Asian Americans and a bubble would
10 appear, and if we took the mouse and hovered over that bubble
11 it would tell us the amount of Asian population in that
12 precinct or in that area we were looking at. Now, that option
13 was available, but we didn't really use it that often.

14 Q. Okay. And that was my next question. How often in your
15 estimation was race data on the screen? More often than not?

16 A. Well, that information I was just speaking of, it wasn't
17 on very often. The demographic bar, though, I mean, it was on
18 when we were drawing, so it depends what tool we want.

19 Q. Now, we heard a discussion about a target. What is your
20 understanding of a target, and then I'll ask you some
21 questions about it?

22 A. A target?

23 Q. Yeah. A BVAP target, what's your understanding of what
24 that means?

25 A. Ah. Well, my understanding is -- well, it's not my

1 understanding, it's a fact, there was no BVAP target.

2 Q. And so when you hear someone say BVAP target, what do
3 you -- what do you understand that to mean?

4 A. I mean, I'm not really sure what they mean, to be honest
5 with you. I -- if you have a target it makes it easier to
6 draw maps, especially for people that are not professional map
7 drawers because it gives you, you know, a goal to reach, but
8 our experts never provided a target so we didn't have that.

9 Q. Yesterday we heard testimony about a BVAP range of 35 to
10 40 percent. Did you hear that?

11 A. I did hear that.

12 Q. And pardon me, I believe it was Wednesday. It may have
13 been yesterday, but -- but you recall hearing that testimony;
14 is that right?

15 A. I do.

16 Q. Okay. And do you recall hearing testimony that that range
17 was, in fact, a target that was slavishly adhered to?

18 A. I recall that being said in testimony.

19 Q. Okay. And do you agree with that statement?

20 A. Oh, I vehemently disagree with that statement. I don't
21 understand how we could have a BVAP target between 35 and
22 40 percent when many of our districts are above that.

23 MS. McKNIGHT: Your Honors, we have a binder with
24 paper copies of an exhibit I'm about to pull up. Would it be
25 helpful to share that binder with you?

1 JUDGE MALONEY: I'll leave it to you. If you want to
2 provide it, that's great.

3 MS. McKNIGHT: The one issue with this binder is that
4 it includes DTX2 and 5 that remain open. So we'll pass out
5 the binder of these exhibits understanding that those items
6 remain open until plaintiffs can confirm.

7 JUDGE MALONEY: Thank you.

8 MS. McKNIGHT: We have copies for the judges and
9 plaintiffs' counsel already has a copy, and we have a copy for
10 the witness as well.

11 THE WITNESS: Thank you.

12 MS. McKNIGHT: Your Honors, we are going to be
13 talking about Exhibit DTX1-8 which is at tab D.

14 BY MS. McKNIGHT:

15 Q. Commissioner Eid, could you turn to tab D and let me know
16 if you recognize this document?

17 A. Yes. Give me a moment. This is quite the binder,
18 counsel.

19 Q. And we'll ask you questions about some other exhibits
20 later. For now we're just focused on tab D.

21 A. Yes. I'm at tab D. This is the Commission's report that
22 was created after we adopted maps.

23 Q. Okay. And let's turn to page 24.

24 A. Okay.

25 Q. It looks like this is page 24 in the document, but it's

1 Bates number DTX18-25. Do you see that?

2 A. I do.

3 Q. Okay. Do you recognize this?

4 A. Yes. This is a -- this document shows all of our
5 demographic information for the Linden Senate map.

6 Q. And the numbers are small, unfortunately, but I'd like to
7 walk through and ask you to identify for the Court what this
8 shows about whether the Commission slavishly adhered to a
9 target BVAP number in drawing the Senate map?

10 A. Well, if we -- if we look at -- on the right side in
11 orange there are five columns that go over racial demographic
12 as percent of voting population, and in that group of five
13 there is -- the second column says, Non-Hispanic Black, so
14 that is the column we should be looking at. And if we go
15 through the list, District 3 is above 40 percent, District 7
16 is above 40 percent, District 8 is above 40 percent, District
17 10 is above 40 percent, and it looks to be those four, the
18 districts are above 40 percent in BVAP.

19 Q. In fact, of the 38 Senate districts drawn, could you I ask
20 to identify which ones fall within that purported target of 35
21 to 40 percent?

22 A. Which ones do fall under?

23 Q. Yes.

24 A. That range between 35 and 40 percent BVAP?

25 Q. Yes.

1 A. Well, District 1 falls in that. District 6 falls within
2 that range. And that looks to be all of them.

3 Q. So as I'm seeing this, only two out of the six districts
4 that are drawn at BVAP above 35 percent actually fall within
5 that range that was supposed to be slavishly adhered to. Is
6 that your view, too?

7 A. Well, it's not my view. That's what the data shows.

8 Q. Thank you. And now let's scoot over to the column,
9 Minority. Do you see that column?

10 A. I do. This is looking at minority voting age population.

11 Q. And so could you identify here, based on minority
12 percentage alone, how many landed above the supposed target
13 range in the Senate plan?

14 A. You're asking me which ones fall above the range of 35 to
15 40 percent?

16 Q. Correct.

17 A. Well, District 1 falls above that range. District 3 falls
18 above that range. District 6 falls above that range.
19 District 7 falls above that range. District 8 falls above
20 that range. District 10 falls above that range.

21 Q. Thank you, Commissioner.

22 A. That looks to be all of them.

23 Q. Let's turn to page 41 to 43 of this same exhibit.

24 MS. McKNIGHT: And, for the record, this is Bates
25 number DTX18-42 through DTX18-44.

1 BY MS. McKNIGHT:

2 Q. We'll go through the same exercise, Commissioner Eid, but
3 at the outset, what is this chart and how does it differ from
4 the one we were just looking at?

5 A. Yes. It is the -- the chart is formatted in exactly the
6 same way. It's a -- all of the demographic data for all of
7 the districts in the Hickory map put together in a way that
8 the public can access, and it shows all 110 districts in the
9 State House map.

10 Q. Okay. So let's walk through this. Can you identify for
11 the Court, using the column NH Black, which districts fall
12 above the range of 35 to 40 percent?

13 A. District 4 falls above that range. District 5 falls above
14 that range. District 6 falls above that range. District 7
15 falls above that range. District 8 falls above that range.
16 District 9 falls above that range. District 11 falls above
17 that range. District 12 falls above that range. District --
18 I'm sorry, this is small text. District 14 falls above that
19 range. District 16, 17, and 18 all fall above that range.

20 Q. Thank you. And now let's turn to the column, Minority.
21 Can you identify in this column how many of the districts
22 under the minority percentage column fall above the range of
23 35 to 40 percent?

24 A. Sure. There are a few more districts here that fall above
25 that range, but I don't believe they're located in Detroit,

1 just for the record.

2 You're now asking me about minority voting age
3 population?

4 Q. Yes.

5 A. Okay. So if we look at that, there are even more
6 districts that fall above that purported target range.
7 District 1 falls above that range. District 3 falls above
8 that range. District 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 all
9 fall above that range. District 16 falls above that range.
10 Districts 17 and 18 fall above that range. District 21 falls
11 above that range, slightly. District 32 falls above that
12 range. And that looks to be all of them in the metro Detroit
13 area.

14 Q. Okay. And so by my count we had about 12 House Districts
15 that fell above this range under the NH Black column. Does
16 that sound right to you?

17 A. That is what the data shows. Slavish.

18 Q. What does it tell the Court about whether the Commission
19 felt it was a fixed or had to slavishly adhere to a range of
20 35 to 40 percent BVAP?

21 A. Well, I would say if 35 to 40 percent was the target, we
22 might want to take some accuracy lessons.

23 Q. Is it fair to say -- strike that. And why is that?

24 A. Because many of the districts do not fall within that
25 range.

1 Q. Okay. Stepping back, was there any data or information
2 that the Commission focused on in such a way that it
3 predominated the map drawing process?

4 A. I'm sorry, I can't hear you. Could you repeat that?

5 Q. Oh, pardon me. Was there any data or information that the
6 Commission focused on that became a predominant focus of the
7 Commission during map drawing?

8 A. This was a multi-factorial and multi-variable process that
9 included many different variables, as we've talked about today
10 and will talk about over the next few days, and it created a
11 situation where we took a holistic view at all of the
12 variables and not just one.

13 There was not one issue that predominated over this
14 process. We looked at racial data. We did look at BVAP. It
15 was a component of this exercise, but it was only one
16 component. We also looked at communities of interest. We
17 also looked at partisan data. We looked at a lot. This was,
18 in my opinion, the most data intense redistricting process
19 that's ever been conducted in our nation, and I believe the
20 record supports that.

21 Q. I'd like to move on to ask you some questions about public
22 comments.

23 A. Okay.

24 Q. Did the Commission consider public comment when drawing
25 the Detroit districts?

1 A. We did.

2 Q. And now do you recall how many public hearings the
3 Commission had in Detroit throughout the whole process?

4 A. In just the City of Detroit?

5 Q. The Detroit area is fine.

6 A. Well, metro Detroit? What are we -- Wayne County, metro
7 Detroit?

8 Well, as I said earlier, you know, we had 16 public
9 hearings before we even started drawing maps, before we put
10 pen to paper. I mean, we didn't have census data at that
11 point so we couldn't draw maps. It was -- in a way it was a
12 blessing in disguise. And, you know, on one end it made the
13 job a lot harder because it delayed us by six months, but on
14 the other end it gave us an opportunity to hear from the
15 public more when we increased the amount of public hearings
16 that we went to from 10 to about 16. And a lot of those
17 meetings were around metro Detroit.

18 We had two in Detroit proper, one at the TCF Center,
19 one at a church. We had a few in -- we had one in Pontiac, we
20 had one in Novi, and we had one in Macomb. And that was
21 before we drew maps at all.

22 Q. I'd like to ask you about the specific meeting in Detroit
23 at the TCF Center. Could you explain to the Court when that
24 happened, and then we'll ask more questions.

25 A. So, there were two. There was the first meeting before we

1 drew maps and then there was the second meeting after we had
2 done draft proposed maps and put them out for the public to
3 look at.

4 Q. And before we get into specific questions, could you
5 describe your memory of the feel of that second public hearing
6 session in Detroit at TCF Center?

7 A. The second public hearing session?

8 Q. Yes.

9 A. Can you restate the question? Sorry.

10 Q. Sure. Before we get into specific questions, I wanted to
11 get an understanding of your feel of the meeting, how long it
12 was, how intense it was, that second public hearing in Detroit
13 at TCF Center?

14 A. I would call that meeting adversarial, I think, if we had
15 to choose a word, and being -- you know, living in Detroit it
16 was rather disheartening. It was a very long meeting. I
17 believe it was over nine hours. It was our longest public
18 hearing that we had, and, you know, people came and spoke to
19 us about what they thought of our maps.

20 Q. Did you feel it was contentious?

21 A. Certainly.

22 Q. Do you recall whether advocacy groups were involved in
23 that public comment session?

24 A. It is my belief that there were, you know, advocacy groups
25 there organized, as they should. You know, that's what

1 advocacy groups do. That's what they're supposed to do. I
2 consider myself an advocate. It's what I do when I'm
3 advocating for things, but I know an organized function when I
4 see one, and that certainly was.

5 Q. And what was your understanding of the goal of the
6 organized function at that meeting?

7 A. Well, they wanted -- in my opinion, I think they wanted
8 the status quo of how the maps were configured previously with
9 packed districts that packed black voting age population
10 together, that reduced the opportunity for communities of
11 color, such as my own community and other black and brown
12 communities, to reduce their ability to have a say in our
13 electoral process to the advantage of specific candidates.

14 Q. Okay. Setting aside what you viewed as advocacy group
15 comments, were there other comments at that second hearing in
16 Detroit that you recall?

17 A. Well, the number one comment in Detroit, both in the first
18 public hearing before we drew maps in Detroit and at the
19 church and in Pontiac as well, areas where there are, you
20 know, a lot of minority people, the number one thing folks
21 wanted was always the same thing, they wanted a fair map.

22 That was the number one thing folks around the state
23 of Michigan wanted, a fair map; the ability to have a say in
24 policy creation in Lansing, which I would argue communities
25 like myself, black communities, brown communities did not have

1 previously due to an unconstitutional gerrymander.

2 Q. You described an understanding that people were advocating
3 for packed districts. Could you explain what you mean by
4 packed districts?

5 A. Well, you know, a lot of the folks that talked to us at
6 that meeting were advocating to have districts with a specific
7 BVAP above 50.1 percent. To have the districts not only
8 majority-minority, which, as we just saw, a lot of the
9 districts are, but also majority black.

10 Q. I'm going to ask you two questions, break it up. The
11 first, setting aside the actual number, Commissioner Eid, I'd
12 like to focus on whether you thought the Commission could use
13 a specific target BVAP in drawing the districts?

14 A. My understanding of the VRA, and I'm no VRA expert, but
15 that would be illegal.

16 Q. And then getting to the question of the 50 or 51 percent,
17 was it your understanding that the Commission could apply a
18 target of 51 percent in its Detroit maps?

19 A. We cannot do that in order for the maps to be deemed
20 legal. And there was -- that's why we weren't given a target.

21 Q. Was there any data to support a decision by the Commission
22 to draw a district in Detroit with a targeted BVAP above
23 majority level? Was there any data to support that decision?

24 A. No.

25 JUDGE KETHLEDGE: What does that mean, exactly? I

1 don't understand what the question means.

2 MS. McKNIGHT: Okay.

3 BY MS. McKNIGHT:

4 Q. Commissioner Eid, earlier you discussed that for you the
5 Commission was engaging in a data-driven process. Do you
6 remember that?

7 A. I don't think it's for me. I think that's what the record
8 shows.

9 Q. Okay. And when you received requests to draw districts in
10 Detroit at a targeted level of 50 or 51 percent BVAP, was
11 there any data from any of your experts that supported drawing
12 those districts at that level?

13 A. No.

14 Q. And what do you understand my question to mean when I say
15 supported that level of 50, 51 percent?

16 A. There was no data that showed you needed a 50 -- you know,
17 there was no data that showed you needed a majority black
18 district in order for candidates to elect their candidate of
19 choice. In fact, it was the opposite. It showed that if you
20 do that, you reduce the opportunity for minority communities
21 to have a say in our electoral process.

22 Q. And so if the Commission did not have the data to support
23 the drawing of districts in Detroit at a 50 or 51 percent
24 target, and yet the Commission went ahead and drew districts
25 with a target of 50 or 51 percent BVAP, what was your

1 understanding of what would happen to those maps?

2 A. My understanding is those maps would not be deemed legal.

3 Q. Thank you. And so is it fair to say there was tension
4 between requests coming from Detroit advocacy efforts and what
5 you understood you had by way of data to support decisions in
6 map drawing?

7 A. What the advocacy -- what many folks wanted at that
8 meeting was not supported by our data. Advocacy is great. I
9 love advocacy, but advocacy is best done when it is supported
10 by data, and it's up to the Commission to parse through those
11 kind of comments and figure out if what folks are saying is
12 actually supported by fact. Otherwise, it's just subjective
13 opinion.

14 Q. And now there was a closed session conducted shortly after
15 that second Detroit meeting; is that right?

16 A. Yes.

17 Q. Okay. Would it sound about right that the Detroit public
18 hearing at TCF Center was around October 20, 2021?

19 A. That is correct.

20 Q. And would it sound about right that the closed session
21 occurred on October 27, 2021?

22 A. That is correct.

23 Q. Okay. And does it also sound right that there were a
24 couple more public sessions between Detroit and that closed
25 session?

1 A. Yes. I believe we had one in Flint.

2 Q. Okay.

3 A. We might have also had another one in Macomb. I'm not
4 sure if that was before or after the TCF meeting.

5 Q. And so understanding what happened in Detroit in that
6 second public hearing and the tension you just described, what
7 did you understand to be the purpose of that closed meeting?

8 A. Well, I think our legal team wanted to reiterate that
9 there was no BVAP target and we could not use a target, which
10 is, you know, what people were asking for at that meeting.

11 Q. Okay. Were you here for Commissioner Szetela's testimony
12 about her experience of that meeting?

13 A. I was here for all of Commissioner Szetela's testimony.

14 Q. And did you share in her opinion of that meeting?

15 A. Well, no. She characterized that meeting as us being
16 yelled at. We were never yelled at. She characterized it as
17 us being told to lie. We were never told to lie, and, you
18 know, so I disagree with her characterization.

19 Q. Okay. Do you believe that in that meeting you were told
20 to use things like communities of interest as pretext for race
21 decisions?

22 A. No.

23 Q. Okay.

24 MS. McKNIGHT: Sorry, Your Honors. I'm trying to cut
25 down, Your Honors.

1 JUDGE MALONEY: Would this be a good place to break,
2 counsel?

3 MS. McKNIGHT: Yes, Your Honor. Thank you.

4 JUDGE MALONEY: Okay. So that's what we'll do.
5 We'll resume at 25 to 11. Thank you.

6 THE CLERK: All rise, please. Court is in recess.

7 *(Recess taken at 10:24 a.m.; reconvened at 10:40 a.m.)*

8 THE CLERK: All rise, please. Court is in session.
9 You may be seated.

10 JUDGE MALONEY: We are back on the record. Counsel,
11 you may proceed.

12 MS. McKNIGHT: Thank you, Your Honor.

13 BY MS. McKNIGHT:

14 Q. Please have a seat, Commissioner Eid. A bit of a
15 housekeeping items. Earlier today I was asking you questions
16 about partisan fairness and what it looked like when the
17 Commission was looking at partisan fairness data. We've
18 located the correct clip for that, so I'd like to reorient
19 your brain back to the topic of partisan fairness. We'll play
20 the clip and then I'll have a question for you.

21 *(10:41 a.m., audio played.)*

22 MS. McKNIGHT: Actually, could you pause? Pardon me.

23 BY MS. McKNIGHT:

24 Q. Let me let you set the table. What are we seeing on this
25 screen and then we'll continue to play.

1 MS. McKNIGHT: The lights can stay low. That's okay.

2 BY MS. McKNIGHT:

3 Q. What are we looking at here?

4 A. We're looking at a district map. From this view, I can't
5 really tell which district map it is. We're pretty zoomed in.
6 I believe this is one version of the House maps. It is,
7 because the target range is about 91,000, so this is one of
8 the versions of the House maps that we drew.

9 Q. Okay. And is this how map drawing occurred by the
10 Commission?

11 A. I mean, this is the software we used. You can see that
12 the district numbers -- I mean, yeah, this is --

13 Q. Okay.

14 A. This is what we did the whole time.

15 Q. Pardon me.

16 A. Sorry.

17 Q. Up in the top corner I see an image. What's going on in
18 that top corner?

19 A. The top right corner?

20 Q. Yes.

21 A. That is a live-stream of us doing the work.

22 Q. Okay. So this is a video of live map drawing, and was
23 this video presented to the public at any time?

24 A. This was live-streamed to the public and disseminated
25 through state channels.

1 Q. Thank you for that.

2 JUDGE MALONEY: Commissioner, can you tell what the
3 date is?

4 THE WITNESS: Not off the top of my head.

5 JUDGE MALONEY: Can we establish that, please?

6 MS. McKNIGHT: Yes. I'll offer to the Court that I
7 believe it is October -- November 4th.

8 JUDGE MALONEY: Thank you.

9 BY MS. McKNIGHT:

10 Q. And now, Commissioner Eid, I see the title at the top,
11 Magnolia. Do you see that? It's fairly small.

12 A. I do.

13 Q. Was Magnolia related at all to the Hickory map?

14 A. Yes. Magnolia was one of the precursors to the Hickory
15 map. It was improved upon due to public comment and then it
16 became the Hickory map.

17 Q. Okay.

18 A. This right now might be after it was already improved on.

19 Q. Okay. Let's play it and I'm going to ask you questions
20 whether this is a good illustration of partisan fairness with
21 the Commission.

22 (10:44 a.m., audio played.)

23 MS. McKNIGHT: Thanks.

24 BY MS. McKNIGHT:

25 Q. Commissioner Eid, is that a good example of how the

1 Commission used partisan fairness while drawing maps?

2 A. Yes. We did this when we completed maps.

3 Q. Okay.

4 A. And we would also often use it as a tool to judge how good
5 the map was or not.

6 Q. Thank you. So now to return back to where we were before
7 the break, we were talking about the second --

8 MS. McKNIGHT: You can take that down. Thanks,
9 Forest.

10 BY MS. McKNIGHT:

11 Q. We were talking about the second public hearing in Detroit
12 after the maps had been drawn and the lead in into the closed
13 session. Is it fair to say that the closed session, in your
14 view, was a reaction to some of the feedback that the
15 Commission was getting in Detroit?

16 A. I think that's fair.

17 Q. Okay. And earlier you testified as to your belief about
18 advocacy groups. Do you recall that testimony?

19 A. I do.

20 Q. And I heard you say that advocacy groups were looking for
21 a target of 50 or 51 percent; do you recall that testimony?

22 A. That's what people told us.

23 Q. Okay. And did I understand from you -- let me ask you
24 this. How did you as a commissioner assess whether a comment
25 was something that could be acted on or one that could not be

1 acted on?

2 A. Well, you go back to the data, you see if the comment
3 matches up with -- you see if the subjective comment matches
4 up with the objective reality of the data. And if it does,
5 wonderful, you go with it. If it doesn't, well, then you
6 examine, does it go with any of the other criteria, perhaps.
7 Does it -- you know, what does it do, can we accept it, and it
8 was a struggle. We didn't really -- you know, there are
9 multiple competing interests at many different points in this
10 process and, you know, we had to figure out how to best make
11 decisions then. You know, like I said earlier, that would
12 often come with compromise.

13 Q. And did you understand that your view on this matter was
14 shared by the experts hired by the Commission?

15 A. I do think it was -- I don't want to speak for the
16 experts, but I think -- I think it was pretty obvious.

17 Q. Okay.

18 MS. McKNIGHT: Let's play Plaintiffs' Exhibit 71, a
19 clip beginning at minute 48:06. And before we play it, this
20 is an audio clip from the closed meeting that the Commission
21 had and recorded under its obligations and then later released
22 to the public, so let's begin it. Thank you, Mr. Williamson.

23 *(10:49 a.m., audio played.)*

24 BY MS. McKNIGHT:

25 Q. So, who was that talking?

1 A. That was Bruce Adelson.

2 Q. Okay. And he referenced Commissioner Orton. Did you hear
3 that?

4 A. I did.

5 Q. Okay. And do you recall what her concern was at the
6 meeting?

7 A. Not specifically, but judging by what we just heard I
8 think that it was, you know, about the -- the purpose behind
9 the groups at that TCF Center being there to give us
10 testimony.

11 Q. In that clip was Mr. Adelson yelling at you?

12 A. No.

13 Q. Was he telling you to lie?

14 A. I didn't hear that.

15 Q. Did you hear Commissioner Szetela's testimony that mapping
16 using Detroit neighborhoods was pretext for race reasons?

17 A. I did hear that testimony.

18 Q. Do you agree with that?

19 A. I don't. I think putting together neighborhoods is what
20 we should be doing.

21 Q. Who were two of the commissioners from the Detroit area?

22 A. Well, Commissioner Kellom and Commissioner Curry are both
23 from the Detroit area.

24 Q. Do you recall Commissioners Kellom or Curry focused on
25 neighborhoods in Detroit?

1 A. I did -- I do recall that.

2 Q. And did their focus seem to you at the time to be pretext
3 for race driven reasons?

4 A. You know, I think all you have to do is watch the video
5 and you can see the pride and joy on the commissioners' faces
6 when they're editing the map to make sure those neighborhoods
7 are whole.

8 Q. Okay. Let's look at clip number two from November 4th.
9 This may look familiar due to a technical difficulty earlier
10 on.

11 *(10:51 a.m., audio played.)*

12 MS. McKNIGHT: Can you pause it?

13 BY MS. McKNIGHT:

14 Q. I'm just going to pause it for a moment. Commissioner
15 Eid, can you give the Court context for what they're seeing,
16 what those dark black lines are on the map?

17 A. Yes. The dark black lines are a neighborhood overlay, I
18 believe coming directly from the City of Detroit that EDS were
19 able to overlay on top of -- on top of the map so that we
20 could see where the neighborhood lines were.

21 MS. McKNIGHT: Okay. Please continue.

22 *(10:52 a.m., audio played.)*

23 MS. McKNIGHT: Thank you, Mr. Williamson.

24 BY MS. McKNIGHT:

25 Q. Commissioner Eid, I'm going to stop it there in the

1 interest of time, but is it fair to say that this kind of
2 activity, making neighborhoods whole, the Commission spent
3 time doing it?

4 A. Well, yes. I think this video actually shows a lot of
5 things. It shows Commissioner Rothhorn and Commissioner Curry
6 collaborating together live in order to complete that
7 district -- complete that neighborhood, and, you know, spend
8 time recompiling the neighborhoods so that they weren't split.

9 Q. So is this a one-time affair, they just one day made a
10 couple of spots whole and then they never addressed it again?

11 A. No. If you look at the maps that the Commission passed,
12 you will see that very few neighborhoods are split up, and if
13 they are split up, it's, you know, due to population
14 deviation.

15 Q. Okay.

16 JUDGE KETHLEDGE: This is from November 4th; is that
17 right?

18 MS. McKNIGHT: Yes. This is November 4th. This is
19 the Magnolia plan.

20 JUDGE KETHLEDGE: All right. Thank you.

21 BY MS. McKNIGHT:

22 Q. Now, Commissioner Eid, I see demographic information on
23 the bottom of the screen but I didn't hear the Commission
24 talking about race at all, even though the data was on the
25 screen. Is that a fair understanding?

1 A. I didn't hear them talk about race.

2 Q. Okay. So even if race information or demographic
3 information was up on the screen, does that mean that the
4 Commission was focused on those racial numbers?

5 A. No. Race was one factor among many other factors in this
6 complex process.

7 Q. And were you in the room for this meeting when
8 Commissioner Curry was editing the neighborhoods in Detroit?

9 A. I don't know for sure, but my attendance rate was in
10 between 95 to a hundred percent so in all likelihood I was.

11 Q. Okay. Were you there when Commissioner Curry drew
12 neighborhoods to make them whole in Detroit?

13 A. I was.

14 Q. And were you there for when Commissioner Kellom made
15 neighborhoods in Detroit whole?

16 A. I was.

17 Q. Okay. And when you were there when Commissioner Curry and
18 Kellom were editing the districts to ensure that the Detroit
19 neighborhoods were made whole, did it feel like pretext to
20 drawing a racially predominant map?

21 A. No. It felt like in their hearts, being Detroiters for
22 their whole lives, I mean, and -- they're the two black
23 commissioners, you know, so I think that plays context in this
24 as well. It -- I think in their hearts this is something they
25 wanted to do from a community standpoint, not from a race

1 standpoint.

2 Q. Okay.

3 MS. McKNIGHT: You can take this down.

4 Your Honor, I would like to put up on the easel and
5 here on the screen Defendants' Exhibit 19. This is also in
6 the binder at tab F. Your Honors, it's a foldout map so
7 you'll need to fold out one side.

8 BY MS. McKNIGHT:

9 Q. Commissioner Eid, while we get that set up, could you look
10 at DTX19 in your binder?

11 JUDGE NEFF: It's F.

12 THE WITNESS: Thank you. Okay. I'm at DTX19.

13 BY MS. McKNIGHT:

14 Q. Okay. First, could you tell the Court what this is?

15 A. Yes. This is our Hickory House map plan with the City of
16 Detroit neighborhood overlay printed on top of it.

17 Q. Okay.

18 A. Or displayed on top of it, I guess.

19 Q. And this Detroit neighborhood data, the boundaries here,
20 is that the same data that was loaded into the Commission's
21 computer when drawing the maps?

22 A. Yes. It's what we just saw in the last clip.

23 Q. Okay. And so to orient the Court, what -- how can they
24 determine the shape of the districts when looking at this map
25 of neighborhoods?

1 A. Well, when you see the dark black lines, those are the
2 neighborhood boundaries. So I would say look where the dark
3 black lines are and, you know, see -- see if those lines were
4 adhered to.

5 Q. Okay. And so the different colors in the map, does that
6 indicate different House districts in this plan?

7 A. Yes. You can see, like, House District 1, for example, is
8 in pink whereas, like, House District 9 is in green.

9 Q. Now, Commissioner Eid, we'll get to district-by-district
10 review in a minute, but while we're here, could we go to tab H
11 or DTX21, and you can -- can you tell the Court what this
12 shows?

13 A. Yes. This is pretty much the same thing just with the
14 Linden Senate plan instead of the Hickory House plan.

15 MS. McKNIGHT: Could you go to DTX21?

16 BY MS. McKNIGHT:

17 Q. Okay. And so when I'm looking at this and I see the shape
18 of a district jut out in the corner, am I seeing it comply
19 with a neighborhood district line -- neighborhood boundary
20 line, I should say?

21 A. Can you repeat that question?

22 Q. Sure. I'm trying to understand how the shape of the
23 district was influenced by the shape of the neighborhood
24 boundaries?

25 A. Well, the shape of the district was determined by many

1 things, as we've spoken about. They were determined by
2 population. They were determined by partisan data. They were
3 determined by communities of interest. They were determined
4 by factors such as, you know, racial discrimination and
5 redlining, and, yes, one of these factors was neighborhoods.
6 So when examining the shape, I would look to see if these
7 neighborhood boundaries were adhered to.

8 Q. And when they're not adhered to, do you have a sense of
9 why that could happen?

10 A. Well, yes. We had -- we had to limit ourselves to a
11 specific population, so if there is a break, my recollection
12 is that that break was mostly due to population.

13 Q. And was it your understanding that the Commission made an
14 effort to reduce the number of breaks in Detroit neighborhoods
15 in both the House and Senate plans?

16 A. That's what we just saw in the last clip with
17 Commissioners Curry and Commissioner Rothhorn putting back
18 together one of these neighborhoods that had previously been
19 split in a previous version of the map.

20 Q. Okay.

21 MS. McKNIGHT: Pulling out -- you can take that down.

22 BY MS. McKNIGHT:

23 Q. About when did the Commission draw Detroit?

24 A. Well, we knew that Detroit would be a very complex, labor
25 intensive process so we wanted to tackle the -- none of it was

1 easy, but the easier parts of the state first to make sure we,
2 you know, had practice that would be useful later when drawing
3 Detroit. So we drew Detroit later on in the process than the
4 other areas of the state.

5 Q. And we've talked about a number of things about
6 influencing the map drawing today; population shift,
7 partisanship, neighborhoods. What about Detroit made it
8 particularly complex with the factors in mind?

9 A. There were -- I mean, there are a lot -- all of those
10 reasons are why Detroit was complex. I mean, you're looking
11 at an area that has a history of systemic discrimination in
12 the form of redlining. You have a city that had previously
13 been purposely gerrymandered so that community -- so that
14 black communities and communities of color could not have a
15 say in our electoral process, and, you know, that may have
16 benefited certain candidates. I'm sure it did benefit certain
17 candidates, but it was at the behest of the black community
18 that wanted, above all else, a fair map. So this was a
19 complex area.

20 I mean, every part of this area made it complex. We
21 saw the population shift earlier. We had hundreds of comments
22 about Detroit through the public. You know, we heard
23 testimony yesterday about redlining, much of which I agreed
24 with, and all of that holistically determined the shapes of
25 these districts, including these neighborhoods that we're

1 looking at right now.

2 Q. Let's pull up DTX4, and we're going to discuss House
3 District 1.

4 MS. McKNIGHT: And, Your Honors, if you'd like to
5 follow along on paper, this is in tab E of your binder. And
6 we're looking at DTX4-1.

7 BY MS. McKNIGHT:

8 Q. Commissioner Eid, are you familiar with the area that this
9 map depicts?

10 A. Yes.

11 Q. Okay. And what does this map show?

12 A. Well, it shows our House District 1.

13 Q. Okay.

14 A. I'm trying to -- I'm sorry.

15 Q. That's okay.

16 A. It's hard to orient when it's just one district. Do we
17 have an exhibit with this -- with the neighborhood overlay on
18 it?

19 Q. Yes. We could go to DTX19. DTX19, which is right up
20 here, but let me pull it up on your tab, too. This is also at
21 tab F.

22 A. Yes, okay. This is -- this is fine.

23 Yeah, this is our -- this is our House District 1 in
24 the Hickory map.

25 Q. And can you explain why the district ended up looking this

1 way?

2 A. Well, as I've been saying, there are many reasons why the
3 district looked this way. As we said earlier, there was
4 population change. As we've said earlier, there is a history
5 of systemic racism in the area, and there are communities of
6 interest factors in this area as well.

7 This is a district where we heard from the community
8 the want to take a district from what I would call the
9 downtown area down into the Downriver area and specifically
10 neighborhoods Downriver such as Delray, Springwell, Claytown.
11 These are communities that told us they wanted to stay
12 together.

13 And, you know, I'll just give an example. I attended
14 a public hearing -- it was like a town hall meeting with
15 Commissioners Curry and Rothhorn at one point in this process
16 at a high school in the Downriver community. And, you know,
17 the information that we gave that community led them to let us
18 know that they thought that some of these communities belonged
19 together.

20 And then you can also see it respects neighborhoods
21 pretty well. I don't see many neighborhood splits here. In
22 fact, the only one I see is the rather large area of
23 neighborhood, Midwest, that has a relatively small split in
24 the upper left-hand portion.

25 Q. Could I ask you about any feedback you received about

1 River Rouge and Ecorse and how the Commission addressed those
2 requests?

3 A. Yeah. So sometimes we would give -- when there were
4 competing communities of interest, sometimes the Commission
5 would grant, you know, that community of interest option --
6 let's just say option A in one map and do a different
7 configuration, an option B, for the Senate map. That way both
8 communities of interest were recognized just in different
9 maps. And the way we would determine which way to do it often
10 would be based on the data, which version supports the rest of
11 the data, and keeping those communities that you just spoke
12 of, those Downriver communities, together was something that
13 we heard from the public.

14 Q. Okay. And so we'll turn to the Senate districts in a
15 minute, but do I understand you to say that you were able to
16 keep Ecorse and River Rouge together in the House -- in the
17 Senate but not the House?

18 A. Yes. I believe we did something different with this in
19 the other map.

20 Q. Okay.

21 MS. McKNIGHT: Okay. Let's turn to House District 7.
22 This is DTX4 at 7 -- at 7.

23 BY MS. McKNIGHT:

24 Q. Let me know when you're there, Commissioner Eid. We are
25 in tab E at page DTX4-7.

1 A. DTX4-007?

2 Q. That's right.

3 A. Okay.

4 Q. Okay. Can you explain to the Court what this shows?

5 A. Yes. This shows House District 7 in the House map.

6 Q. Okay. And can you explain why the district ended up
7 looking this way?

8 A. So, as I've been saying, there are many reasons the
9 district ended up looking this way. One of those reasons is
10 because of race. One of those reasons is, you know, to cross
11 that 8 Mile border to try to end the systemic racism that that
12 8 Mile border has caused in this community. Another reason is
13 to make sure that there are more Democratic districts in this
14 map to prepare a fair map so minority communities could elicit
15 power in Lansing, and another reason is community of interest
16 reasons.

17 Here I see, sorry -- I see, you know, the areas of
18 Ferndale, Palmer Park being kept together. That was a very
19 local community of interest centered around people who
20 identify in the LGBT community, and to me it makes a lot of
21 sense to pair them with Royal Oak. You know, Ferndale and
22 Royal Oak are quite similar communities. Some people would
23 say that, you know, Ferndale is turning into the old Royal
24 Oak. And then if we look at the southern portion below the
25 8 Mile border, you can see once again, if you look over here

1 to my left, you can see neighborhoods are kept whole.

2 Q. And could you describe for the Court what that bright
3 green line is in the middle of the map?

4 A. Yes. That bright green line is the -- is 8 Mile Road. We
5 heard about it a little bit yesterday in Mr. Lemmons'
6 testimony. It is not only, you know, 8 Mile Road, it is also
7 the demarcation of the county boundary between Wayne and
8 Oakland County.

9 Q. And did you hear the testimony yesterday by Senator Smith
10 and Representative Lemmons about the blurring of that 8 Mile
11 line?

12 A. I did.

13 Q. Okay. And did you hear testimony that that -- that black
14 population was moving northward up toward the 10 Mile or
15 11 Mile Roads; did you hear that?

16 A. I did.

17 Q. Did you -- does your understanding of the area comport
18 with what they said?

19 A. Well, the data is clear, as we saw earlier, that folks
20 moved out of Wayne County -- out of Wayne County into, I'll
21 use the words from the testimony yesterday, into the
22 inner-ring of Detroit -- of, you know, Oakland County suburbs,
23 and that's what this is. We followed the population shift,
24 and doing that also made the map better in so many other
25 metrics.

1 Q. And just so we can orient ourselves on the map here, there
2 is -- under the word Oakland on the north end of the map there
3 is a bold pink or orange line. Do you see that?

4 A. Yes. That is 696.

5 Q. And is that at about 10 Mile Road?

6 A. About so, yes.

7 Q. Okay. Now let's pull up DTX19, please. This is the
8 neighborhood map. We may be flipping between DTX19 and this
9 DTX4 a little bit.

10 Now, do you recall some discussion on Wednesday about
11 the area of Palmer Park being ripped up?

12 A. I'm sorry, I'm not at DTX19 yet. Do you know what tab
13 that is?

14 Q. Sure. Tab F.

15 A. F. Thank you.

16 Q. And it's okay to pull it out separately if that would
17 help.

18 A. That would help. What was the Bates stamp?

19 Q. Sure. The Bates stamp is DTX19-1. It's also up on your
20 screen, if that's helpful.

21 A. Okay. Palmer Park?

22 Q. Yes. Let me first ask you, do you recall testimony on
23 Wednesday about Palmer Park being ripped up?

24 A. I do.

25 Q. Okay. Let's -- do you believe that Palmer Park was kept

1 whole or was ripped up, so to speak, in the final map?

2 A. Well, it's not -- it's not an issue of whether I believe
3 it or not. You can see here in this exhibit and in the one to
4 my left that Palmer Park is kept whole.

5 Q. Okay. And let's zoom in a little bit into Palmer Park.
6 So what does this show the Court about whether Palmer Park was
7 kept whole as a neighborhood in the final map?

8 A. It is indeed kept whole.

9 Q. Let's move on to House District 8. We're back at DTX4.
10 This is tab E and we're on page 8. So DTX4, page 8.

11 Commissioner Eid, what is this a map of?

12 A. This is a map of House District 8 in the Hickory map.

13 Q. And can you explain why this district ended up looking
14 this way?

15 A. Yes. Once again, there are many reasons the district
16 ended up this way. One of the reasons is to guarantee
17 minority communities the opportunity to elect their candidate
18 of choice. One reason is to follow the population trends.
19 One reason is because of communities of interest. Another
20 reason is to cross that 8 Mile border. There are many reasons
21 why it's drawn this way.

22 And, you know, we also have to look at this in
23 context. In District 9, the neighboring district, there was a
24 very vocal community of interest in the Bengali APIA
25 community. That community attended many of our meetings and

1 it really seemed like there was an organic effort for that
2 community to be kept whole, and that's in District 9, the
3 district -- one district south of this. And that's comprised
4 of the areas of, you know, Banglatown, airport sub,
5 Buffalo-Charles, the areas directly east and south of this
6 district that we're looking at in District 8. And people need
7 to keep in mind that when we're creating these districts, it's
8 almost like you're putting together a puzzle -- it's almost
9 like you have a completed puzzle and you're determining where
10 to split it up, and if you change one line, it could affect
11 all the other lines in the districts.

12 So if we as a Commission accepted a community of
13 interest in this area, in District 9, it has an affect on its
14 neighboring districts such as District 8, the district we're
15 speaking about currently.

16 Q. And did you receive any public comment about Highland Park
17 wanting to remain with the North End?

18 A. We did. I mean, if we want to get into the community of
19 interest reasons why this district is drawn this way, you see
20 a lot of -- you know, what I like to call the educational hub
21 of Detroit in this district. You have, you know, Wayne State
22 University. You have the cultural center. You have the North
23 End. You have Tech Town. You have New Center. All of these
24 areas are communities that identified as areas that wanted to
25 be kept together, and as someone who frequents all of these

1 areas, I agreed, they should, and as you can see from the
2 neighborhood overlay, those neighborhoods are kept together as
3 well.

4 Q. Did it make sense to keep parts of Hazel Park and Madison
5 Heights together?

6 A. Yes. So just to orient, now we're talking above the
7 8 Mile -- north of the 8 Mile county boundary and speaking
8 about the northern part of this district in Oakland County.

9 Given that the Commission wanted to cross this line,
10 it does make sense to have these communities of Hazel Park and
11 Madison Heights together. I mean, they pretty much share a
12 highway along I75. Folks that frequent Hazel Park frequent
13 Madison Heights and they're just -- you know, they're right
14 next to each other. They go together.

15 Q. Thank you. Let's move on to House District 10. So this
16 is DTX4, page 10.

17 Commissioner Eid, what is this on the screen?

18 A. We're looking at House District 10 in the Hickory map.

19 Q. And can you offer an explanation why this district makes
20 sense?

21 A. Well, once again, there are many reasons why the
22 Commission drew the district as it did. One of those reasons
23 is to make sure that we had enough opportunity districts for
24 minority groups and minority populations to be able to elect
25 their candidate of choice, to have the proportional amount of

1 representation in Lansing to match up with how those
2 communities vote. That's one reason.

3 But there's also a very good community of interest
4 reason why this district makes a lot of sense. This is a
5 lakeshore district, and we see it runs north along the Detroit
6 River. And one of the most constant requests we had regarding
7 communities of interest was to keep lakeshore communities
8 together because they have a unique need in regards to the
9 water that their districts rely on. So, as you can see, this
10 starts in Downtown Detroit and goes up up through the Pointes.

11 There's also another reason why this is a good
12 district. We've spoken a little bit about redlining and I
13 think we'll speak more about it later, but the Grosse Pointe
14 area historically is an area that has been redlined from the
15 City of Detroit, and the only way to change that is to change
16 it. So we wanted to pair Detroit with Grosse Pointe in order
17 to break the down the systemic barriers that this area has
18 seen for the past -- I don't know, for decades.

19 Q. Did you -- did the Commission receive public comment to
20 keep the Grosse Pointes together?

21 A. Yes. You know, we received public comment, and I didn't
22 know this before I was a commissioner but the Grosse Pointes
23 were -- used to be one municipality and then they broke -- you
24 know, they decided to de-incorporate into, I guess, five
25 different municipalities. And they wanted to be kept

1 together.

2 Q. Now, Commissioner Eid, we're going to be walking through
3 every district, but let me step back for a moment.

4 What would you say to the claim that, oh, you're just
5 trying to backfill the record now, none of this mattered to
6 you at the time?

7 A. I would say to check the record. I mean, the record is
8 clear. I mean, you can check -- you can look at the public
9 comments that I just spoke of. They're there.

10 Q. And so if we did look at the record and the public
11 comments, would they support the comments you've been making
12 about why these districts look the way they look?

13 A. They would.

14 Q. Let's move on to House District 11. This is DTX11, so
15 tab E at DTX11. DTX4, pardon me, at page 11.

16 Commissioner Eid, what is this showing the Court?

17 A. This is showing House District 11 in the Hickory map.

18 Q. And can you explain why this district ended up looking
19 this way?

20 A. Yes. There are many reasons why this district ended up
21 looking this way. I spoke earlier about the population shift
22 from Detroit into Macomb County. This is an example of that.
23 We spoke earlier about the history of redlining in this
24 community and the need to cross that border in order to -- you
25 know, to --

1 Sorry, this is an issue, I -- you know, being a
2 minority myself, it is an issue I'm very passionate about. So
3 if I get a little emotional talking about it, I apologize.
4 But there are many reasons why the district looked like this.
5 Population is one reason. Wanting to create more
6 opportunities for minorities to elect candidates of choice is
7 another reason, which it did. Communities of interest reasons
8 are another reason.

9 As I said earlier, you kind of have to look at this
10 holistically. This district is directly above the district I
11 was just talking about where we kept together that lakeshore
12 community of interest, and because this district borders that
13 district, it has an effect. This is the area that was left
14 over -- I shouldn't say left over. This is the area that was
15 left after creating the former district that we were just
16 talking about.

17 But there are also community reasons why this is a
18 good district. You have more of the lakeshore in the
19 St. Clair Shores area. This is a -- I would call it -- we
20 heard from folks that this was a more industrial area that
21 matched up with the industry that is south of the 8 Mile
22 border. Communities saw themselves as, you know, having
23 similar interests in the form of, you know, strong unions, a
24 lot of factory workers, a lot of blue collar workers. I mean,
25 there's many reasons why the district ended up looking like

1 this.

2 Q. Is St. Clair Shores considered more commercial?

3 A. Yes. I mean, it's -- there's a port.

4 Q. Okay.

5 A. Even looking at this you can see all the little docks on
6 the map on the right side.

7 Q. Let's look at DTX19 and the portion of District 11 that is
8 in that map.

9 A. Yes.

10 Q. And could you explain how this was affected by neighboring
11 districts, if at all?

12 A. Well, I think the first thing that's striking is you can
13 see the neighborhoods for the most part are kept whole, which
14 is something that we heard from the community and that we
15 heard from our fellow commissioners that we wanted to happen.

16 Now, Outer Drive is split, but I believe it is split
17 above -- when we had to make neighborhood splits due to
18 population we tried to demarcate that split at a major road,
19 right? And I believe that's what we're seeing here.

20 Q. Okay. And looking at the neighboring District 9, I heard
21 you earlier describe certain Bengali neighborhoods that -- in
22 District 9. Did that effect the drawing of 11, if at all?

23 A. Well, yeah, District 9 and District 10, both of those
24 community of interests, the Bengali community of interest and
25 the lakeshore community of interest, affected how District 11

1 was drawn because that's the land area that was left.

2 Q. Okay. Let's move on to House District 12. This is tab E.
3 It's Exhibit Number DTX4, page 12.

4 Commissioner Eid, what is this showing the Court?

5 A. This is House District 12 in the Hickory map.

6 Q. And can you explain why this district makes sense?

7 A. Well, there are many reasons why this district makes
8 sense. It makes sense that -- you're going to see a pattern
9 here -- that all of these districts went through a
10 multi-factorial process in order to make them work.

11 That multi-factorial process took many considerations
12 into play. Considerations such as population, where the
13 population shifted from Wayne County into Macomb County.
14 Considerations such as the need to create opportunity
15 districts so that minority -- so minorities can elect
16 candidate of choice, which this district did.

17 We -- I spoke just now about how the drawing of
18 one district could affect another district, and this, again,
19 borders District 9 and District 11 which borders District 10.
20 They all go together. You have to look at it holistically.
21 It's very -- you know, it's a very complicated process.
22 That's why we spent so much time drawing and revising these
23 districts.

24 It also makes sense from a community standpoint. You
25 have Eastpointe here that felt like -- we received comment

1 that Eastpointe identified as an industrial community. As I
2 said earlier, you know, this was a blue collar area; unions,
3 people that work every day and work hard for a living, and
4 they identified with similar communities just south of that
5 8 Mile border. In fact, many people said that they live
6 across the border but work in Eastpointe.

7 Q. Let's take a look at DTX19, House District 12.
8 Commissioner Eid. This is located in sort of the northeast
9 corner of this map in blue.

10 Do you recall what the neighborhood is that's off
11 this map but directly north of the border, the Wayne County
12 border from district -- in District 12?

13 A. Are you speaking of Eastpointe?

14 Q. Yes.

15 A. Yeah.

16 Q. Okay. And did you receive any public comment about
17 Roseville and Eastpointe?

18 A. We did. We received public comment that those communities
19 identify as being a community of interest.

20 Q. Okay.

21 A. And this -- you know, this Commission tried to keep those
22 areas of the state together.

23 Q. And pardon me. I was using the wrong map to make my
24 point, Commissioner Eid.

25 MS. McKNIGHT: If we could pull up DTX4 at 12.

1 BY MS. McKNIGHT:

2 Q. And can you identify where Roseville is located on this
3 map?

4 A. Yes. Roseville is on the northern eastern portion of this
5 map.

6 Q. And what was your understanding about the communities of
7 Roseville and Eastpointe?

8 A. They identified through our public comment tool as a
9 community of interest and wanted to be put in a district
10 together.

11 Q. Is it your understanding that they're similar communities
12 in those areas?

13 A. Yes.

14 Q. How so?

15 A. Well, as I spoke about earlier, this whole area in
16 southern Macomb County are working class folks. They're
17 working class folks that might live south of the border -- of
18 the 8 Mile border but work above the border in Macomb County
19 where there are a lot of employers. And they have the same
20 values, and they have the same legislative agenda. A
21 legislative agenda that includes things like strong union,
22 that includes fair pay for fair work, that includes being able
23 to have an equal amount of representation for what the
24 community wants.

25 Q. Thank you. Let's move on to our final House District at

1 issue, House District 14. This is at DTX page 14.

2 I'm so sorry, DTX4, page 14. What does this show the
3 Court, Commissioner Eid?

4 A. This shows House District 14 in the Hickory map.

5 Q. Okay. And can you explain why this district ended up
6 looking this way?

7 A. Yeah. There are many reasons why this district ended up
8 looking this way. This was a holistic process where many
9 issues were taken into account but no one issue predominated.

10 You can see here we follow that population shift that
11 we spoke about earlier. You can see that we did cross the 8
12 Mile border in order to both try to get rid of the history of
13 redlining in the state and in order to create a community of
14 interest, that a minority community had the opportunity to win
15 and, therefore, have a more balanced map.

16 We also see that the neighborhoods in this district
17 are kept together on the southern end. And on the northern
18 end, I mean, if we were to ask people in Macomb County if
19 these areas of the county go together, I think they would say
20 yes.

21 Q. And was there a Bengali community in District 14?

22 A. So, the Bengali community was south of District 14 and
23 District 9, but as I spoke about earlier, given that this
24 district is directly north of that community of interest,
25 means that that community in District 9 affects how this

1 community in District 14 is drawn.

2 MS. McKNIGHT: And let's turn to DTX19.

3 BY MS. McKNIGHT:

4 Q. Did the Commission consider neighborhoods when drawing
5 HD14?

6 A. Yes, it did.

7 Q. And how do we know that?

8 A. Well, if you look at the neighborhood overlay you can see
9 that the Detroit neighborhoods that are located within this
10 district are, for the most part, all kept whole. In fact, the
11 only one that's -- is -- the only one that is split is Conner
12 Creek in between District 13 and 14, and even though that is
13 split, it is split along a major road, which, you know,
14 sometimes we'll have to make splits because of population.
15 The number one criteria is that the districts have to have
16 about an equal amount of population, and sometimes you can't
17 achieve that without splitting up some communities here and
18 there, but I think best practice, or at least what the
19 Commission thought was best practice, when having to make
20 those splits is to find some kind of geographical or
21 structural border in order to make that split.

22 Q. Okay. Let's briefly go back to DTX4 page 14.

23 Now, it's a little hard to see on the screen,
24 Commissioner Eid, but what I'm seeing in the map, the paper
25 map, there's a shading difference right down the center line

1 of this district. Do you see that? The color -- it appears
2 to be a gray shade instead of a tan shade.

3 A. Yes. It's -- I do see that.

4 Q. Okay.

5 A. I believe those are factories.

6 Q. Okay. And was it understood -- did that have any affect
7 on how you drew this district?

8 A. Well, as you can see, that area crosses the 8 Mile
9 boundary. It goes from the -- it goes from the north end of
10 this district all the way to the south end of this district.
11 And I think this is an example of, you know, there being
12 similar interests in this community based upon employment.

13 Q. Okay. Commissioner Eid, we're going to move on to the
14 Senate districts. Before we do, in the Commission's drawing
15 of any of these districts that we just discussed, did you
16 understand the issue of race to predominate in the shape of
17 the districts?

18 A. No. Race was certainly one issue, but it did not
19 predominate over other issues. They were looked at
20 holistically on a case-by-case basis.

21 Q. Okay. Let's move on to the Senate District 1. We'll now
22 be working within Defendants' Trial Exhibit 7, which is at tab
23 G in the binders. And we'll also be working with the
24 neighborhood map like we just did. And the neighborhood maps
25 of the Senate map are depicted at DTX21.

1 Commissioner Eid, at DTX7, page 1, what does this
2 show the Court?

3 A. This shows Senate District 1.

4 Q. Okay. And can you explain why the district ended up
5 looking this way?

6 A. Yes. There are many reasons the district ended up looking
7 this way.

8 Much like in the House maps, we looked at many
9 different criteria in order to craft these maps. We looked at
10 it from the lens of population. We looked at it from the lens
11 of trying to create opportunity districts so that minorities
12 could elect a greater amount of candidates of choice and,
13 therefore, have a more fair and proportional map, and so that
14 those communities can exert political power in Lansing that
15 they've lacked for decades.

16 We also had communities of interest reasons.
17 Sometimes those communities of interest matched up with the
18 House map but sometimes, like I said earlier, we decided to go
19 a different route with the Senate map to give both opposing
20 views representation in the map.

21 BY MS. McKNIGHT:

22 Q. So earlier we were talking about River Rouge and Ecorse
23 staying together. Was the Commission able to do that in
24 Senate District 1?

25 A. They are kept together, yes. You know, and they're --

1 interestingly, they're kept together with Lincoln Park and
2 Melvindale. And I believe Melvindale, if you look at the
3 previous House district, we chose to put Melvindale with
4 Dearborn. That's another example of competing communities of
5 interest having a different configuration based on different
6 maps.

7 There were some folks that said Melvindale belonged
8 with these Downriver communities of Lincoln Park, Ecorse,
9 River Rouge, Taylor. But there was another community of
10 interest from the Arab American community saying, no,
11 Melvindale identifies as an Arab American area. There's
12 certainly a lot of Arab Americans in it. So, what's right? I
13 think they're both right in this case.

14 But we have looked at other factors such as, okay,
15 let's say we put Melvindale in Dearborn versus Melvindale
16 Downriver in the House map. Which one of those also produced
17 a more fair and proportional map, therefore complying with
18 criteria -- not only criteria three, but also criteria four.
19 They are not mutually exclusive criteria. Sometimes they can
20 go hand-in-hand and that's what we're seeing here.

21 Q. Okay. Is there something considered to be a Downriver
22 community of interest?

23 A. Oh, yes.

24 Q. Okay. And can you describe that for the Court?

25 A. I'll describe it as the areas of River Rouge, Ecorse,

1 Lincoln Park, Allen Park, and, you know, depending on who you
2 ask, they might include Taylor, they might include Melvindale.

3 Q. And did you receive any feedback from pairing parts of
4 that Downriver community of interest with downtown Detroit?

5 A. Oh, yes, we did. I mean, something we heard frequently
6 was that people take I-75 through Downriver up to -- up to the
7 main City of Detroit.

8 You know, they might take I-94 -- sorry, I-96 west
9 from Detroit to Downriver communities. I do that all the
10 time. The gym I go to is in Allen Park when I lived in
11 midtown and I go there very frequently. So, you know, these
12 are communities that just make sense.

13 Q. And does this district accomplish uniting parts of the
14 community of interest of Downriver Detroit with downtown
15 Detroit?

16 A. It does.

17 Q. Okay.

18 A. Something else it does is another factor in this
19 multi-factorial process is keeping the neighborhoods together.
20 As you can see from Exhibit 21, we do that. Not many
21 neighborhoods are split.

22 Q. Commissioner Eid, I keep hearing you say that it was a
23 multi-factorial process. Has it been -- how does it make you
24 feel as being described as boiled down and distilled to one
25 predominant factor?

1 A. I feel that if you wanted to cherry pick the record you
2 can make that argument, but if you look at the totality of the
3 record and a totality of the evidence you will find that not
4 one issue predominated over the drawings of these maps.

5 Q. Do you remember when the Commission formed?

6 A. I do.

7 Q. When was that?

8 A. I'm sorry, this has been such a long process. You know,
9 we passed these maps almost 2 years ago now, and they've been
10 used in an election to what I think is success in as far as we
11 did produce fair maps.

12 I believe we were first picked in the summer of
13 2020 -- well, the spring of 2021. It might have been before
14 that.

15 Q. So the Commission has been formed for over two and a half
16 years and you testified earlier about how many meetings it had
17 and how long it drew plans.

18 Is it your estimate that about a dozen audio clips
19 presented at trial can represent the predominate motivating
20 factor of the Commission for that time?

21 A. No, it is not.

22 Q. Let me get back to the Senate map. Are Senate District
23 districts larger than House Districts?

24 A. They are. They can fit significantly more people in it.
25 I mean, we drew as a Commission 161 maps districts in total;

1 13 for the House -- 13 for the United States Congress, 110 for
2 the State House, and 38 for the State Senate. 161 districts
3 collaboratively as a team. At least that's what we tried to
4 do.

5 And we needed to collaborate in order for them to be
6 passed into law because we had rules that were determined by
7 the constitution. Not by the Commission, as we heard about in
8 former testimony, but by the constitution we had to
9 collaborate. No one commissioner, not even a group of
10 commissioners could come together, and that created a scenario
11 where we had to achieve compromise, so not everybody would get
12 what they want.

13 And, listen, if I drew the House Districts and the
14 Senate Districts by myself, they'd look a lot different. I
15 would make a lot of changes. I don't love them, but that's
16 okay because my colleagues voted for them. They liked them
17 enough to vote for them. They were enough to get two
18 Republican votes, two Democratic votes, two independent votes,
19 and I think -- I mean, one of them passed with 11 votes, the
20 other one passed with 10 votes, so they had a majority and --
21 I'm sorry, I forgot your question.

22 Q. That's okay. I appreciate your testimony. We'll get back
23 to some of those topics in a minute. I'm going to go back to
24 Senate District 3 for now.

25 MS. McKNIGHT: Let's pull up Senate District 3 at

1 DTX7.

2 BY MS. McKNIGHT:

3 Q. Do you have it before you, Commissioner Eid? This is DTX7
4 at page 3.

5 A. I do.

6 Q. Okay. And can you explain why the district ended up
7 looking this way?

8 A. So I think -- you had asked me if the districts were a
9 different size, and I think this is a beautiful illustration
10 of that because, you know, there are a 110 House districts,
11 but only 38 Senate Districts, so, you know, let's round up to
12 40, there are about three times as many House Districts than
13 there are Senate Districts, meaning you can fit about three
14 times the amount of people in a Senate District than in a
15 House District. I believe it's about 91,000 for State House
16 and, like, 274,000, roughly, for State Senate, if you divide
17 up Michigan's, roughly, 10 million people into these equal
18 amount of districts.

19 Now, there is a population deviation that we're
20 allowed to have, plus or minus 5 percent. I think we used a
21 lower number, but my point is, this district here kind of
22 combines many of the districts found in the House map. It
23 combines the -- that downtown educational hub area I spoke
24 about where you have the downtown area, you have the
25 university, you have the vastly, you know, rising area of New

1 Center, along with that Bengali community of interest that I
2 spoke about in Buffalo Charles and the airport sub and in
3 Banglatown, so, yeah, I would say that's one reason the
4 district looks like this.

5 There are also other reasons. Again, it follows the
6 population trend that we spoke about at the beginning of
7 today. It follows the need to create opportunity districts so
8 that more candidates of choice can be elected to create a more
9 fair map with better partisan values.

10 It crosses over that county boundary to try to get
11 rid of the systemic racism that redlining has caused in the
12 city and get these communities to think of themselves as a
13 community where you can cross that barrier and, you know, not
14 be fearful about crossing that barrier. So, you know, for all
15 those reasons this district looks like this.

16 Q. Were you able to keep Hazel Park and Madison Heights
17 together?

18 A. We were.

19 Q. Okay. And are they similar communities?

20 A. I would say so. I would say they're quite -- I mean,
21 there are differences, but there are differences in all
22 communities, but overall I'd say they're pretty similar.

23 Q. And I see this picks up some of the downtown Detroit area,
24 some of the sort of remaining part of the downtown Detroit
25 area. Do you see that?

1 A. Yes, I do.

2 Q. Okay. And does it make sense what's in that portion of
3 the downtown Detroit area to combine it with this area further
4 north?

5 A. I mean, my opinion is it makes a lot of sense for all of
6 the reasons I've discussed earlier.

7 Q. Thank you. Was this district influenced at all in shape
8 by the neighboring district, District 2?

9 A. All of the districts that we draw are affected by their
10 neighboring districts. You can make one change in the Upper
11 Peninsula of Michigan in Marquette and it would have
12 downstream effects that affect the -- that affect the map all
13 the way down to Monroe. Like, you change one line, you've got
14 to change all the lines.

15 Q. Thank you. Let's move on to Senate District 6. This is
16 DTX7 at page 6.

17 Commissioner Eid, can you tell the Court what this
18 shows?

19 A. I think this shows -- I mean, sorry. What we're looking
20 at is Senate District 7 in the Linden map.

21 Q. And can you explain why the district ended up looking this
22 way?

23 A. Yeah. There are many reasons why the district ended up
24 looking this way. You know, we've spoken a lot about
25 population today. This matches that testimony where we cross

1 that boundary in -- that 8 Mile boundary from Wayne County
2 into Oakland County which matches where the population shifts
3 and matches where folks decided to move.

4 It also combines a lot of communities that have a
5 large minority population. It combines -- for example, it
6 combines Pontiac with Southfield, both of which do have
7 significant black population.

8 Q. And I'm just going to name some areas I see on the map.
9 Can you tell me whether they make sense as communities of
10 interest or as a group together they share interests?

11 A. You don't need to name them. I can tell you.

12 Q. Okay.

13 A. You have Royal Oak. You have Ferndale. You have Berkley.
14 You have all of these districts that, you know -- you have
15 Bloomfield Hills.

16 Q. I'm so sorry. I think we may be looking at a different
17 map.

18 A. Oh, I'm sorry. I was looking at --

19 Q. That's okay.

20 A. I was on the wrong page. I was speaking about Senate
21 District 8.

22 Q. Okay. Let's stick with Senate District 6. We'll get to
23 eight in a minute.

24 A. (Non-verbal response.)

25 Q. So take a minute to orient yourself to this one. So this

1 is DTX7, page 6.

2 A. Okay. Senate District 6, correct?

3 Q. Yes.

4 A. Okay. I apologize about that.

5 Q. That's okay.

6 A. We have a lot -- 161 districts.

7 Q. That's okay. So, Commissioner Eid, I'm going to ask you
8 to explain to the Court why Senate District 6 ended up looking
9 this way.

10 A. Yeah. You know, as we've spoken about, this was a
11 multi-factorial process with a lot of different factors.
12 Again, we're seeing that the Commission decided to match the
13 population trend and make districts that crossed the 8 Mile
14 border from Wayne County into Oakland County, which is what
15 the population did.

16 We, again, see that what that also does is create an
17 opportunity district in Oakland County and -- well, in -- you
18 know, in the conjunction between Oakland County and Wayne
19 County. And then we see communities in this such as
20 Farmington Hills, Redford, and Livonia, which I think are all
21 communities that would say that they have similar interests.

22 UNIDENTIFIED PERSON: Yeah.

23 MS. McKNIGHT: Okay. Let's turn to DTX21. This is
24 at tab G, and this is the neighborhood plan -- neighborhood
25 map. Let's zoom in on District 6 in the west.

1 BY MS. McKNIGHT:

2 Q. Could you tell the Court whether the Commission was able
3 to draw District 6 in a way that respected neighborhood
4 borders?

5 A. Well, I think what this map shows is that we certainly
6 did. It helps that most of these neighborhoods are square
7 shaped so it was relatively easy to do. In fact, the only
8 neighborhoods I see split up here are the neighborhoods of
9 Schoolcraft and Brightmoor, but Brightmoor is split up along
10 the highway and Schoolcraft is split among what looks to be a
11 major road.

12 Q. Let's move on to Senate District 8. This is DTX7, page 8.
13 This is at tab G in your binder. Again, it's DTX7, page 8.
14 Let me know when you're there, Commissioner Eid.

15 A. I'm there. Linden, Senate District 8?

16 Q. Correct. Can you tell the Court -- can you explain why
17 the district ended up looking this way?

18 A. Yes. There are many reasons why the district ended up
19 looking this way.

20 As I've said before, this was a multi-factorial
21 process and the record reflects that. This is another
22 district that was created in order to create more opportunity
23 for minorities to elect candidates of choice and, therefore,
24 have a more fair political partisan outcome.

25 It also crosses that 8 Mile border we talked about

1 matching population. In doing so, it also tries to change the
2 history of redlining that's happened in this area.

3 In the Oakland part of this district you see
4 communities such as -- as I said on the House map, communities
5 such as Royal Oak, Ferndale, and Berkley that are, you know --
6 that are considered quite similar.

7 It does go north into Birmingham and goes south into
8 Wayne County, but that was by design in order to follow a
9 totality of the evidence.

10 Q. Thank you. And let's look at DTX --

11 JUDGE KETHLEDGE: Can I ask a question about this
12 district?

13 MS. McKNIGHT: Of course.

14 JUDGE KETHLEDGE: Just since we're looking at it?

15 MS. McKNIGHT: Of course.

16 JUDGE KETHLEDGE: This district and also HD5 run --
17 and this is testimony we heard yesterday and just a question
18 I'd like to have answered during the exchange.

19 This district and HD5 both run from the west side of
20 Detroit down around Schoolcraft to include most of the City of
21 Birmingham. What was the Commission's thinking including the
22 City of Birmingham in these districts?

23 THE WITNESS: Well, the Commission's thinking was
24 that we had to follow a data based, evidence driven process in
25 creating these maps, and if you look at that -- if you look at

1 a totality of the evidence and a totality of the factors that
2 the Commission had to follow in order for a map to be deemed
3 legal so we could follow the constitutional criteria, maps
4 that are this shape had to be drawn.

5 JUDGE MALONEY: You consider this an opportunity
6 district?

7 THE WITNESS: It is a -- the -- the data is clear
8 that it is an opportunity district.

9 JUDGE KETHLEDGE: I mean, what factors among the
10 totality supported putting Birmingham in this district and
11 also in HD5? Just, you know, your recollection.

12 THE WITNESS: Well, the population trend that we
13 spoke about earlier where folks are leaving Wayne County and
14 moving into the suburbs of Oakland County.

15 There -- and they moved north, and north was the only
16 way we could draw these districts in a way to comply with that
17 population change. You can't -- you can't go east. It
18 wouldn't make sense to go south in this case because then you
19 would be heading south into the Downriver communities, which
20 we already -- already looked at.

21 JUDGE KETHLEDGE: Okay. Thank you.

22 BY MS. McKNIGHT:

23 Q. Commissioner Eid, did partisan fairness come into mind
24 when drawing the HD5 and SD8?

25 A. Absolutely. Partisan fairness was one of the main -- it

1 was a driving factor. I wouldn't say it predominated. I
2 don't think any issue predominated, but it was one of the
3 driving factors along with all of the other factors. It was a
4 multi-factorial process in order to have a more fair map.

5 Now, you know, it's unfortunate, I think, that two
6 incumbents got drawn together in this map and that that is a
7 fact, two good incumbents that I think both, you know,
8 represent -- they both did a good job previously, but the
9 constitutional criteria also says that we as a Commission can
10 specifically not consider incumbency when drawing these maps.

11 Q. Was it the case that every single district could get a
12 perfect balance of communities of interest -- I think that's
13 the question. Was it the case that every district could get
14 the perfect balance of communities of interest?

15 A. Well, no. I mean, the communities of interest often
16 didn't agree with each other so it's a totality of evidence.
17 You have to look at it from a holistic point of view and look
18 at everything to see what makes the most sense. You can't
19 just look at communities of interest, but you take it into
20 account.

21 Q. Do you know anyone out there who was perfectly happy with
22 the maps as drawn in total?

23 A. No. I don't think any of the commissioners are. I'm not
24 and I was one of the main map drawers. Like I said earlier,
25 if I was drawing a map by myself it would look a lot

1 different, but when you have a commission of 13 randomly
2 selected folks, which is what the people of Michigan voted
3 for -- I mean, listen, if the people of Michigan wanted an
4 expert to draw these maps, they would have passed an amendment
5 that said a Commission will hire a mapping expert and the
6 mapping expert will draw the maps and then the Commission will
7 approve the maps drawn by the mapping expert. That's not what
8 the people of Michigan wanted. That's not what they voted
9 for. They wanted a process where randomly selected people,
10 citizens, not politicians, not people influenced by politics
11 to draw these maps.

12 And I think when I voted for that amendment I had an
13 understanding that the maps wouldn't be perfect, but it is my
14 opinion that we can't let perfect be the enemy of progress.
15 These maps in every way are better than the maps that had
16 taken place previously and that had taken place, you know, in
17 all of the recent history of Michigan. They are not perfect.
18 I'd make a lot of changes, but I don't think -- I don't think
19 my colleagues would vote for a map that I just drew myself.
20 It wouldn't make a lot of sense. So you have got to look at
21 everything.

22 Q. Do you know anything about the political makeup of
23 Birmingham?

24 A. I do.

25 Q. And what is that understanding?

1 A. Well, it's -- you know, it's -- I grew up in Oakland
2 County. It's been changing. I think for most of my life most
3 of Oakland County was Republican. I mean, we had
4 Mr. Patterson in there who was the county executive for a very
5 long time before he passed away, but then, you know, lately,
6 since the 2016 election especially, the county has been
7 shifting to lean more left, and I think that's what we -- as
8 we heard yesterday, that's what's happening in a lot of
9 suburbs around the country.

10 So currently it votes Democratic. The areas in Wayne
11 County also vote Democratic. So in that regard you could say
12 they go together as well.

13 MS. McKNIGHT: Your Honor, do you have any further
14 questions?

15 JUDGE KETHLEDGE: Oh, no, I'm done. Please don't let
16 me get you off track.

17 BY MS. McKNIGHT:

18 Q. Let's move on to Senate District 10. This is DTX7 at
19 page 10.

20 Commissioner Eid, what does DTX7, page 10, show the
21 Court?

22 A. This is Linden Senate District 10.

23 Q. Okay. And can you explain why the district ended up
24 looking this way?

25 A. Yes. There are many reasons why this district ended up

1 looking this way. There's some community of interest reasons
2 why the district looked -- looks this way. There's some
3 population reasons that we've spoken about that the district
4 looks this way. There are political reasons why the district
5 looks this way. There are racial reasons why the district
6 looks this way. There are -- all of these districts were made
7 in a multi-factorial process that took a lot of consideration
8 to create.

9 Q. Okay. Let me dig a little deeper and ask you some more
10 specific questions. Did this address a community, the
11 Chaldean community at all?

12 A. I think it did. I'm Chaldean, and, you know, you kind
13 have the east side Chaldeans that are located in Sterling
14 Heights and the west side Chaldeans that are located more so
15 where I grew up in West Bloomfield. And we did have public
16 comment from Chaldean communities that wanted to be included
17 in a district. And we actually did -- now, this population is
18 a hard population to get ahold of because Middle Eastern and
19 north African folks are not included in the census as of yet
20 so you have to do some digging in order to find data to
21 analyze where that community is located. And this Commission,
22 through Doctor Handley, conducted what I believe to be the
23 first kind of analysis of that data that's ever been conducted
24 to figure out where Middle Eastern populations were located,
25 and included in that analysis, along with the Dearborn area,

1 it included the Sterling Heights area as being an area where a
2 lot of people who identify as Chaldean were located.

3 Now, a lot of them were on the other side of this
4 district, the west side of the district, but that had an
5 affect on how this side of the district was drawn in Sterling
6 Heights. And it was a pretty -- you know, it was a pretty
7 good study. It went precinct by precinct, and there was a
8 heat map that showed the population of different Chaldean
9 households, and I think we were able to do them justice in
10 this map.

11 Q. Thank you. And could you talk about how Warren was
12 treated in this map as compared to the House map?

13 A. Yeah. You can see that in -- I think this is an example
14 of using different community factors in different maps
15 differently to support both communities of interest.

16 You can see over here Warren placed with communities
17 such as Center Line whereas in the previous map I don't think
18 they were.

19 Also, you know, Warren is another area like we spoke
20 about before when we were talking about this area. It has
21 that factory strip running through it and it is an area that
22 is blue collar, there are a lot of factory workers, there are
23 a lot of people that work very hard to make a living and that
24 are just, you know, trying to improve the lives of themselves
25 and their family. And that is pretty similar to the areas of

1 Wayne County that are in this area as well.

2 Q. And did the neighboring districts affect the drawing of
3 SD10?

4 A. It did. You can -- I just talked about the Chaldean
5 community on the west side. There's also a lakeshore
6 community on the east side that this Commission wanted to
7 support, as I spoke about earlier, and, you know, when you
8 have two communities of interest that you want to support on
9 either side, what you're left is what's in the middle, and
10 that is the areas in this district.

11 Q. And how did the Commission treat Rochester and Rochester
12 Heights and how did that affect the drawing of SD10? For
13 reference we can pull up DTX7 at page 9 to show you Senate
14 District 9, if that would be helpful.

15 A. Well, yeah. I mean, we had Commissioner Clark who was
16 from Troy who felt very strongly about this area. He felt
17 that Troy should either, you know, in a -- he had different
18 feelings based upon if we were looking at a congressional map,
19 a State House or a State Senate map, but he felt like it was
20 most reasonable for Troy to be paired up with Rochester in
21 this particular map, and that had an affect on how the
22 neighboring district that we're speaking about, District 10,
23 was drawn.

24 Now, Commissioner Clark is from the area so I have no
25 reason to doubt what he was saying was true. I think he was

1 right, those areas do consider themselves as linked.

2 Q. Let's pull up DTX21 to look at the neighborhood overlay of
3 this -- of SD10.

4 A. So -- go ahead.

5 Q. Yeah. Could you tell the Court how the Commission --
6 whether the Commission was able to respect neighborhood
7 boundaries in the drawing of Senate District 10 into the area
8 of Detroit?

9 A. Well, we certainly were. And you can see here the
10 neighborhood boundaries that Commissioners Kellom and Curry
11 worked on were respected here. They're all kept whole. The
12 only one I see split is -- I don't think I see any split.
13 Farwell might be split, but judging by the shape of that
14 split, it's split based upon population reasons.

15 And this is another good example of, you know, kind
16 of being sandwiched between two different communities of
17 interest I was talking about. You can see on the right side,
18 we have in District 12, you have the lakeshore community and
19 District 3 we spoke about earlier. It's bordering along that
20 Bengali community of interest.

21 Q. Okay. Let's move on to Senate District 11. So this is
22 Exhibit DTX 7, page 11.

23 A. Yes. We're looking at Senate District 11 in the Linden
24 map.

25 Q. And can you explain why the district ended up looking this

1 way?

2 A. There are many reasons why the district ended up looking
3 this way. Again, this is another district that stretches from
4 Wayne County into Macomb County matching the population trend
5 of people moving from Wayne County into Oakland County. It
6 crosses that 8 Mile border that we spoke about that has a
7 history of redlining. It combines communities that, as I
8 testified earlier, see themselves as being linked, such as
9 Eastpointe and Roseville, and it, again, borders two other
10 communities of interest that we've already spoken about,
11 bordering this lakeshore community which has an effect on how
12 the neighboring communities are drawn.

13 Q. So it seems obvious, Commissioner Eid, but let me ask the
14 question. Could the Commission have drawn Senate District 11
15 to reach out and pick up parts of the shore while also
16 respecting the community of interest of the lakeshore
17 districts?

18 A. No. That would be too populous of a district.

19 Q. Let's look at DTX21. And this may be a little --

20 MS. McKNIGHT: Let's zoom into Senate District 11 at
21 the North End. We'll zoom in to Senate District 11 in the
22 north corner, please.

23 BY MS. McKNIGHT:

24 Q. And as Senate District 11 dipped into Detroit, did it keep
25 the neighborhoods whole?

1 A. It did. It dipped into two neighborhoods for Detroit and
2 both of those neighborhoods are kept whole.

3 Q. And, pardon me, let's step back to DTX 7 at page 11. We
4 had discussed earlier when discussing the House maps the areas
5 of Eastpointe and Roseville. Do you remember that discussion?

6 A. Yes.

7 Q. Okay. Did you -- did the Commission receive any public
8 comment about keeping those areas together?

9 A. It did.

10 Q. Okay. And was the Commission able to keep it together in
11 the Senate District?

12 A. It was.

13 Q. Okay. Thank you, Commissioner Eid. I think we've reached
14 the end of our district-by-district discussion. I'll move on
15 to a discussion of other topics.

16 JUDGE MALONEY: Counsel, it's 12:15. I think we'll
17 take a break for lunch at this time and we'll resume at 1:15.
18 To alert counsel, we're quitting at 4:00 today.

19 MS. McKNIGHT: Okay.

20 JUDGE MALONEY: Thank you.

21 THE CLERK: All rise, please. Court is in recess.

22 *(Recess taken at 12:18 p.m.; reconvened at 1:19 p.m.)*

23 THE CLERK: All rise, please. Court is in session.
24 You may be seated.

25 JUDGE MALONEY: We're back on the record in 22-272.

1 Counsel for both sides are present. You may proceed with
2 further direct.

3 MS. McKNIGHT: Thank you, Your Honor.

4 BY MS. McKNIGHT:

5 Q. Commissioner Eid, before we broke for lunch we were
6 discussing the Hickory and the Linden plans; do you remember
7 that?

8 A. Yes, I do.

9 Q. And so now that you had the final plans, is it my
10 understanding that you'd run partisan fairness metrics on any
11 final plans?

12 A. Oh, yes. We ran partisan fairness metrics on all plans
13 including the final plans, both after they were created and
14 before they were adopted.

15 Q. Okay. And let me ask you, do you have an understanding of
16 how the different partisan fairness metrics work?

17 A. A general sense, yes.

18 Q. Okay. And have you ever heard the term of a map being
19 responsive to political shifts in a state?

20 A. I have.

21 Q. And what does that mean to you?

22 A. Basically it means it's responsive to -- responsive to
23 changes on how folks vote. For example, if folks vote --

24 *(Technical interruption)*

25 JUDGE MALONEY: After resolving a technical glitch,

1 we are ready to proceed. Counsel, you may proceed.

2 MS. McKNIGHT: Thank you, Your Honor, and thank you,
3 Madam Court Reporter.

4 BY MS. McKNIGHT:

5 Q. So we were just talking about responsiveness of maps,
6 Commissioner Eid. How does responsiveness of a map relate to
7 creating a fair map?

8 A. Yes. Responsiveness is generally if a map reflects the
9 will of the voters when that will of the voters change. A
10 responsive map would be a map where in election years where
11 Republicans get the most votes, Republicans get the most seats
12 and in election years where Democrats get the most votes,
13 Democrats get the most seats.

14 Q. So if you're trying to create a more fair plan, would you
15 need to create more competitive districts?

16 A. I believe so.

17 Q. And why is that?

18 A. Well, if you have competitive districts, those districts
19 have the ability to shift between one election and another as
20 opposed to districts that would be categorized as safe where
21 there's no chance for that district to change.

22 Q. So, in drawing a fair plan, can you just try to draw more
23 Democratic districts and stop, or do you need to make an
24 effort to develop more competitive districts?

25 A. There have to be some competitive districts involved

1 because those competitive districts are going to be the ones
2 that change when the electorate changes.

3 Q. We've heard testimony about Detroit being packed racially.
4 Do you recall that testimony?

5 A. Yes.

6 Q. I'd like to ask you a slightly different question and
7 about Detroit being packed politically. Did you understand at
8 the time you joined the Commission at the time of map drawing
9 that the Commission needed to unpack the Democrats of Detroit?

10 A. I did.

11 Q. Okay.

12 I'd like to move on to map voting. Commissioner
13 Szetela testified about map voting on Wednesday. Do you
14 recall that testimony?

15 A. I do.

16 Q. And what was your reaction to it?

17 A. You know, she was right in some regards but wrong in other
18 regards.

19 Q. Okay. And was she right in how she described how the
20 Commission voted?

21 A. Can you rephrase that question?

22 Q. Sure. Do you recall Commissioner Szetela identifying the
23 source for the Commission's rules on how it would vote?

24 A. I do.

25 Q. And what did she say, and then I'll ask you what you think

1 of it?

2 A. She said the Commission chose the voting process.

3 Q. Okay. And does that ring true to you?

4 A. No.

5 Q. Okay. And why not?

6 A. Because the voting process is explicitly defined in the
7 constitutional criteria.

8 Q. Okay.

9 MS. McKNIGHT: Let's pull up DTX1 at page 3. Let's
10 zoom in on paragraph 14.

11 BY MS. McKNIGHT:

12 Q. Commissioner Eid, I draw your attention to
13 paragraph 14(c). What does this show the Court?

14 A. It shows that the constitution defined how we were to vote
15 to adopt plans.

16 Q. And did you hear Commissioner Szetela's testimony about
17 her decision to vote for the Hickory and Linden plans?

18 A. I did.

19 Q. Is it your understanding that her only option was to vote
20 for those two?

21 A. No. There were a lot of plans available for her to vote
22 for if she wanted to.

23 Q. Did that include plans that she herself submitted?

24 A. Yes. Commissioner Szetela submitted individual plans
25 which we all had the choice of doing, and if she wanted to,

1 she could have voted for her own plan.

2 Q. But obviously she did not; is that right?

3 A. She did not.

4 Q. Were you here yesterday for Senator Smith's testimony?

5 A. I was.

6 Q. Let me ask you a question about a comment that the senator
7 made that I heard. I want to see if you heard it, too.

8 I understood Senator Smith to testify about the
9 Hickory and Linden plan being a radical change from the State
10 House and Senate maps adopted by the state legislature in
11 2010. Do you recall him saying that?

12 A. I do.

13 Q. Okay. And do you agree with what he said?

14 A. Certainly.

15 Q. Okay. And why?

16 A. Because we radically changed the maps.

17 Q. Okay. And why did you radically change the maps?

18 A. We changed the maps because the people of Michigan voted
19 in a new constitutional amendment that changed the
20 constitution insofar as how maps were to be drawn, and we had
21 a directive directly from the people to radically change the
22 maps.

23 Q. And did you hear Senator Smith say that incumbents in
24 Detroit were unhappy with the maps?

25 A. I did.

1 Q. And was that surprising to you?

2 A. Not at all.

3 Q. And why not?

4 A. There are many reasons. The first reason is because we
5 were constitutionally mandated not to favor or disfavor
6 incumbents, and to do that we didn't look at incumbent data at
7 all throughout this process. So given that incumbency wasn't
8 taken into effect when creating these plans, it doesn't
9 surprise me that an incumbent would not like it.

10 There's also another reason. Since the districts
11 were packed in the previous decades maps, you create a
12 situation where -- where certain incumbents might have had an
13 easier time getting elected based on an uncompetitive district
14 being drawn.

15 Q. Did you hear Senator Smith talk about his belief that the
16 Commission employed a partisan strategy in drawing the plans?

17 A. I do.

18 Q. And did you agree with that?

19 A. I do.

20 Q. And why?

21 A. Well, we looked at partisan data at every step in this
22 process while crafting the maps.

23 Q. Were you here for Representative Lemmons' testimony
24 yesterday?

25 A. I was.

1 Q. Okay. What did you think of it?

2 A. I agreed with a lot of what he said.

3 Q. Did you hear him discuss two new black representatives,
4 Representative Edwards and Representative McKinney?

5 A. I did.

6 Q. What is your understanding of their performance in this
7 map?

8 A. My understanding is they are the first black
9 representatives to represent Macomb County in this state's
10 history.

11 Q. Who did Representative Edwards run against, if you know?

12 A. I believe she beat out a white incumbent.

13 Q. In a Democratic primary?

14 A. In the Democratic primary.

15 Q. What do their wins tell you?

16 A. Well, I think it's a perfect example of our districts
17 performing, and I think it shows that there is the opportunity
18 to elect candidates of choice from the black community. I
19 think it shows that -- I mean, these are the first
20 representatives from Macomb County in the state's history,
21 happens to coincide with the new districts that we drew. I
22 think it shows that part of the reason they were elected were
23 because of our districts.

24 Q. Do you recall testimony by Representative Lemmons that he
25 told -- where there was an effort to tell other black

1 candidates to not run against Representative McKinney?

2 A. I do.

3 Q. And what do you think about that?

4 A. I think that is exactly the strategy that he and others
5 should employ. A reduction in the number of black candidates
6 that go into the primary will result in more voting cohesion
7 among candidates and increase the likelihood of that
8 candidate's win. It seems like common sense to me, and I
9 think it's a great strategy and, you know, people need to work
10 smarter not harder sometimes.

11 Q. Now, we have experts who will show this later in the case
12 so I'm not looking for any kind of expert opinion when I ask
13 you this question. I'm asking for your personal view.

14 What is your view of how the enacted plans performed
15 for minority voters in 2022?

16 A. Well, I think it's undeniable that minority voters have --
17 you know, being a minority this is an issue that's obviously
18 important to me. Minorities have more power today in Lansing
19 than they have at any point in the last 40 years. I mean, for
20 the first time in the history of Michigan we have a House
21 speaker who is a black Democrat from Detroit setting the
22 agenda for all the laws that are to be passed, and that is
23 powerful, and it wouldn't have happened under the old maps.

24 MS. McKNIGHT: Thank you, Commissioner Eid. I have
25 no further questions, Your Honors.

1 JUDGE MALONEY: Ms. Green, you may proceed with
2 cross.

3 CROSS EXAMINATION

4 BY MS. GREEN:

5 Q. Good afternoon, Mr. Eid. My name is Jennifer Green and
6 I'm an attorney representing the plaintiffs in this matter.

7 When your counsel just asked you why these districts
8 look the way they look, you said to check the record because
9 the record is clear, correct.

10 A. I believe so.

11 Q. So let's look at the record. I believe you testified a
12 moment ago that it is, quote, illegal to have a specific
13 target, correct?

14 A. I testified that that is my understanding.

15 Q. Okay. And you were referring to a BVAP?

16 A. A BVAP target.

17 Q. Correct. And then later you testified there was no BVAP
18 target; do you recall that?

19 A. I do.

20 Q. Okay. I'd like to turn your attention to the Commission
21 meeting from September 30, 2021. That is Plaintiffs'
22 Exhibit 63, I believe.

23 Now, this was a significant day for revising the
24 draft House map, correct?

25 A. What day?

1 Q. September 30, 2021.

2 A. I'm not sure what we had done that specific day.

3 Q. Well, you said that there were a lot of efforts with
4 partisan fairness on that day in your prior testimony.

5 A. I don't know if it was specifically on that day, but there
6 -- there were -- throughout the process there were partisan
7 impacts.

8 Q. Well, we ran a search for that transcript and the word
9 efficiency appeared one time in the entire transcript. Does
10 that jive with your memory?

11 A. If that's what the transcript says.

12 Q. Let's start with the comments from the Commission's
13 general counsel. I believe you testified earlier today that
14 there was no racial target, correct?

15 A. That is correct.

16 Q. Okay. On page 21 the general counsel states -- and it's
17 in yellow highlight in front of you -- anything that is higher
18 than 40 percent for the black voting age population. Do you
19 see that?

20 JUDGE NEFF: What document is this, please?

21 MS. GREEN: This is Plaintiff's Exhibit Number 63 and
22 it is the Commission transcript from September 30th.

23 JUDGE NEFF: Thank you.

24 BY MS. GREEN:

25 Q. Do you see that, Mr. Eid?

1 A. I do.

2 Q. And then it says, Just go down the list and then those,
3 quote/unquote, fixes can be dealt with and then this map can
4 be ready for the partisan fairness analysis. Do you remember
5 her saying that?

6 A. I don't remember her saying it but I can read it.

7 Q. Okay. And on page 22, the next page, the general counsel
8 said, I would recommend anything with a higher than 40 percent
9 black voting age population be looked at. Do you see that?

10 A. (Non-verbal response).

11 Q. And if there's anything that looks -- percentages that
12 look kind of high, the Commission can take a closer look,
13 correct?

14 A. That's what it says.

15 Q. And further down on page 25 on that same day, once again
16 she states that Doctor Handley's racial bloc voting analysis
17 and offer to the Commission when you were drawing the original
18 districts, the range for Detroit was 35 to 40 percent. Do you
19 see that?

20 A. I do.

21 Q. I believe you testified earlier there was no 35 to
22 40 percent target, correct?

23 A. I said there was no target, yes.

24 Q. Okay. Oakland County was above 40 percent. Do you see
25 that?

1 A. (Non-verbal response).

2 Q. And you would agree with me that the target, the range,
3 whatever you want to call it, was a little bit higher in
4 Oakland County, correct?

5 A. Doctor Handley's analysis showed that in order to elect
6 candidates of choice that number had to be higher in Oakland
7 County than Wayne County.

8 Q. And is that why the transcript shows that the general
9 counsel said that -- that's why she flagged the 40 percent to
10 kind of go through and have that just as the, quote,
11 identifier to use?

12 A. Well, I don't know why she said it, but that is what this
13 says.

14 Q. Identifier is another word for target?

15 A. I would disagree.

16 Q. Rather than rehashing all of these, let's focus on your
17 own comments from September 30th. Same document, page 72,
18 states, Commissioner Eid, the voting age black population in
19 District 4 was 41.2 percent which is quite a bit closer to the
20 target that we are going for. Do you see that?

21 A. I do see that.

22 Q. Further down, your own words, I think the purpose was to
23 shift the black voting age percentage from District 4 -- I'm
24 sorry, District 6, which was at 67 percent lower. So now
25 instead of having one District way over on the percent we need

1 to hit -- we have two that are close, both being around the 45
2 to 55 percent range, which I think is more in line with what I
3 think we need to get to. Do you see that?

4 A. I do see that.

5 Q. And, again, this is not a target, that is just
6 coincidence?

7 A. I wouldn't characterize any of this as being a target.

8 Q. Further down the page, Commissioner Orton once says --
9 again says, I thought we were going to have -- I thought we
10 were going 35 to 40 percent, so they are both way out from
11 what I am thinking. Do you see the 35 to 40 percent target
12 again listed?

13 A. No, I don't.

14 Q. Do you see the 35 to 40 percent number on the page in
15 front of you?

16 A. That I do see.

17 Q. Okay. And then your general counsel, Bruce Adelson,
18 states that, Things are moving in the right direction but
19 you're not necessarily finished with them. Do you see that?

20 A. Yes.

21 Q. But moving closer to that targeted 35 to 40 percent,
22 that's moving in the right direction, correct?

23 A. No.

24 Q. Was he encouraging you to go up?

25 A. I wouldn't characterize how you phrased it as what I know

1 from a totality of the meetings.

2 Q. Okay. We'll keep going and see what else he says.

3 Page 77, you say, We are seeing eight is still on the high
4 side being at 53.85 percent, correct?

5 A. Yes.

6 Q. And I believe you testified earlier that Chair Szetela,
7 quote, struggled with the advice of your experts because she
8 was looking for a target, right?

9 A. Yes.

10 Q. But you were also looking for a target, weren't you?

11 A. Perhaps at the beginning of the process.

12 Q. Well, let's go down to page 78. Now, would you
13 characterize September 30th as the beginning of the process,
14 seeing this is multiple draft maps in, correct?

15 A. I would consider it in the middle of the process. I
16 certainly wouldn't consider as being a late stage in the
17 process.

18 Q. Okay. You say halfway through this paragraph, now, I know
19 our analysis has said that it only takes about 35 to
20 40 percent of the black voting age population to elect the
21 candidate of choice for that community. Do you see that?

22 A. (Non-verbal response.)

23 Q. But your next sentence says, but I think my most basic
24 question is, what is the highest percentage it can be to fend
25 off legal challenges in the future? We might not be able to

1 answer that now, but, you know, examining that question and
2 figuring out, like, what is the actual target we need to hit?

3 A. Yes, I asked that question.

4 Q. Your words, what's the target we need to hit?

5 A. At that point I also thought a target would be useful.

6 Q. And I will also -- you mention on the top sentence here,
7 you said that you thought that the 53 percent did not feel
8 that high compared to the population of the city, correct?

9 A. Yes.

10 Q. And this was based on common sense or a gut feeling that
11 you had from living in or around Detroit for over a decade?

12 A. Well, the black population in Detroit is more than 53
13 percent. The data shows that.

14 Q. You were asking in this paragraph 4 what was the highest
15 percentage that you thought you could use to fend off legal
16 challenges, correct?

17 A. Both that and to maximize the opportunity of choice for
18 minority candidates to elect a candidate of choice.

19 Q. So you were asking flat out what the ceiling was, what was
20 the highest we could go?

21 A. And our experts were unable to provide one.

22 Q. And you never got the ceiling from Bruce Adelson or
23 Handley, you got the floor, correct? You got the floor
24 number?

25 A. We never got a floor or a ceiling.

1 Q. Let's turn to the October 4th Commission hearing. It's
2 PX64. You attended this meeting, correct?

3 A. Probably.

4 Q. And by October 4th there had been numerous iterations of
5 the maps drawn, correct?

6 A. A lot of maps had been drawn by then, yes.

7 Q. On page 13 of that document, sir, the chair of the
8 Commission -- I'm sorry -- yes, the chair of the Commission
9 starts out talking about metro Detroit and the problematic
10 districts. Do you see that?

11 A. (Non-verbal response.)

12 Q. And then in the middle of the page there is a -- once
13 again, the 35 to 40 percent voting age population for the
14 African American population. Do you see that?

15 A. Yes.

16 Q. And then it says, so I would look where we don't have that
17 and those areas where we would need to make adjustments. Do
18 you see that?

19 A. I do.

20 Q. Now, your comment in response was, I thought last time we
21 noted we worked on this when -- I think there is a typo --
22 when we -- because this was the first one we completed. I
23 thought that Mr. Adelson said it was VRA compliant for the
24 metro Detroit area. Do you see that?

25 A. I do.

1 Q. And Szetela comes back with -- and we have to go down, I
2 believe, to the next page on 14 -- if 35 percent, why would
3 you go with 50? Do you see that?

4 A. I do.

5 Q. And do you see where it's described as the threshold where
6 you would have a voting rights compliant district? Do you see
7 that?

8 A. That's how Commissioner Szetela described it, yes.

9 Q. Okay. Threshold, identifier, target, those are the words
10 being used, correct?

11 A. By her, yes.

12 Q. Well, you used the word target earlier, too, sir, correct?

13 A. Yes.

14 Q. Okay. Page 20 and 21. Talk about Wayne County, the
15 target is 35 to 40 percent. Do you see that, sir?

16 A. No.

17 Q. Right there, 35 to 40 percent Wayne County. Do you see
18 that in the middle of the page?

19 A. I do see where it says 35 to 40 percent. I do not see
20 where it says target.

21 Q. Do you see where it says benchmarks?

22 A. I do.

23 Q. Do you see where it says guide rails?

24 A. I do.

25 Q. So, we have target, identifier, guide rails, benchmarks,

1 correct?

2 A. That is correct.

3 Q. And Oakland County I notice is a little bit higher. It's
4 42 to 43 percent, correct?

5 A. That is correct.

6 Q. Now, earlier we went through a lot of districts on a
7 chart, and you noted that some of them were above 40 percent?

8 A. Yes.

9 Q. Did you tie out those to whether they were in or around
10 the Oakland County area with the higher BVAP?

11 A. I assume a lot of them have -- we drew maps from Detroit
12 into Oakland so a lot of them probably crossed into Oakland
13 County.

14 Q. Okay. Which would explain a slightly higher over
15 40 percent BVAP?

16 A. It could. A lot of them were more than slightly.

17 Q. Page 29, Commissioner Lett, what's the target for Macomb?
18 Do you see that, sir?

19 A. I do.

20 Q. So this is the second time we've expressly used the word
21 target, right?

22 A. Well, that -- Commissioner Lett used that word, yes.

23 Q. And for Oakland County, again the target, third time, is
24 now 42 to 43 percent, correct?

25 A. That's how Commissioner Rothhorn phrased it, yes.

1 Q. And how you phrased it earlier as well, correct?

2 A. Yes.

3 Q. Okay. Now, when you were testifying earlier and you said
4 that setting a target would be illegal, did you forget about
5 these three instances at the meetings you attended where you
6 all referred to it as a target?

7 A. I don't think any of these constitute a target for black
8 voting age population.

9 Q. Okay. Page 39. And in your own words; again, I'll point
10 out, too, because nine is mostly in Oakland County, we can
11 probably get away with that 43 percent instead of going down
12 to the 40 percent number. Do you see that?

13 A. I do.

14 Q. And you mean we can get away with 43 percent because
15 there's some Oakland County mixed in. We don't have to only
16 go with the 40 percent target, which is what you implied in
17 Wayne County, correct?

18 A. I can't answer that with -- I would need to see the
19 context of this conversation to answer that question.

20 Q. Well, you have the whole page in front of you. What more
21 do you need to see?

22 A. I would need to see what we were talking about at this
23 point.

24 Q. Okay. We can go up a half a page. It says here, it would
25 help me if the theme -- it's the theme of the voting age black

1 population appears to be what you're talking about.

2 MS. McKNIGHT: Pardon me, Your Honor. If the
3 commissioner needs more context, we suggest he be allowed to
4 review that context before answering under oath.

5 JUDGE MALONEY: Well, we went up one page. If the
6 witness wants to go up farther, he can request it, if he
7 doesn't believe this places it in context.

8 THE WITNESS: Can you restate your question, counsel?

9 BY MS. GREEN:

10 Q. Yeah. I had asked you if it helped you with the context
11 with Commissioner Orton's sentence which says that you're
12 talking about the theme, if the voting age -- about the voting
13 age black population, did that help you put it into context?

14 A. I'm asking what your original question was. I've forgot
15 it.

16 Q. My original question was pointing out that you said you
17 could get away with a 43 percent target for Oakland County
18 instead of going down to the 40 percent number that you would
19 use for Wayne County?

20 A. No, that's not what I said.

21 Q. The words on the page are wrong?

22 A. The words on the page don't say the word target.

23 Q. Identifier?

24 A. I don't see that either.

25 Q. Guardrail?

1 A. I don't see that either in the part that you highlighted.

2 Q. Do you want to call it a benchmark?

3 A. I'm not going to call it anything. I'm just -- whatever
4 is there is what I said.

5 Q. Let's go to page 55. Okay. This is you, again,
6 Commissioner Eid, and you're talking about the configuration
7 for these particular districts, 14 and 9, with areas of
8 Detroit below Southfield, and you're stating, maybe try to
9 include just a couple more precincts with District 9. It's at
10 38.64. Do you see that?

11 A. I do.

12 Q. And you say, I say let's get it -- let's just add
13 precincts until we are right on 40, which is where we need to
14 be, 40 or below.

15 A. I do see where it says that.

16 Q. That's the target that you're applying is 40 or below.

17 A. It is not a target.

18 UNIDENTIFIED SPEAKER: Well, what is it?

19 BY MS. GREEN:

20 Q. Page 63. There's a lot of text on this one so maybe let's
21 break this down. During this meeting you commented,
22 Mr. Adelson, I appreciate all of the advice that you gave us,
23 but I got to be honest. I'm being increasingly uncomfortable
24 with this direction that we're going under, you know, the
25 numbers that we are hitting. It just makes me question how is

1 that going to work with actually electing a candidate of
2 choice? Do you see that?

3 A. I do see that.

4 Q. So the target or the guide rails or the benchmark that you
5 were trying to hit you were increasingly uncomfortable with?

6 A. You are -- no, I disagree.

7 Q. Okay. The numbers you were trying to hit, that's the
8 words on the page?

9 A. I disagree with the context of this -- this excerpt.

10 Q. Okay. So you were comfortable with the numbers?

11 A. No. But I was asking Mr. Adelson this question for a
12 different reason.

13 Q. Well, let's go down the page because maybe that will
14 elucidate it. You seem unconvinced that those numbers, that
15 low BVAP, would allow black voters to actually elect their
16 candidate of choice, correct?

17 A. No, incorrect.

18 Q. Okay. The sentence that says, you know, the numbers that
19 we are hitting, it just makes me question how is that going to
20 work with actually electing a candidate of choice. I am
21 somehow misunderstanding that sentence?

22 A. You are.

23 Q. Okay. Then you identify a lack of probative data and it
24 seems as though you are taking issue with the fact that you
25 don't have enough primary election data. Do you see that?

1 A. I see where it says that.

2 Q. And that you only have general election data?

3 A. I see where it says that.

4 Q. And you state at the end that, since all of these
5 districts for metro Detroit are going to be Democratic
6 districts, that's not where the choice actually happens in
7 these areas, meaning the choice happens in a primary, correct?

8 A. That is not the context of why I was having -- why I was
9 asking Doctor Adelson these questions.

10 Q. Were you asking because you needed more data or were you
11 asking because you were uncomfortable with the benchmark or
12 the guide rail or the number that you were trying to hit?

13 A. Neither.

14 Q. So you disagree with me that when we look at this page,
15 you have concerns about the lack of data?

16 A. I was going through this line of questioning with
17 Mr. Adelson because I'm not the kind of person that just takes
18 testimony from experts at face value without subjecting it to
19 a level of criticism. What I was doing here was sort of
20 pressure testing Mr. Adelson to see if his testimony and his
21 expert opinion would change when put under pressure by
22 commissioners, and his advice and his testimony did not
23 change.

24 Q. And at the end you sum up with, it's making -- it's just
25 making me a little uncomfortable having to hit these

1 percentages that are low. I would be more comfortable with
2 45 percent, but 35 percent, thank you, Commissioner Curry, and
3 you turn it over to Commissioner Curry. Do you see that?

4 A. That is what it says.

5 Q. So now we've called them benchmarks, guide rails,
6 identifiers, targets, and percentages we are trying to hit,
7 correct?

8 A. That's what it says.

9 Q. Notably, it seems like you are voicing the same exact
10 concerns that the plaintiffs have in this case, aren't you?

11 A. At the beginning of this process, before I had a clear
12 understanding of the data that we were being presented, I had
13 that concern.

14 Q. Okay. We'll get to that later. Page 75. Once again
15 we -- Bruce Adelson, the attorney, states, Doctor Handley in
16 her analysis referenced Oakland County as having a 40 percent,
17 approximately, threshold, not 35 percent. Do you see that?

18 A. In order to elect candidates of choice, yes.

19 Q. Okay. So, threshold, benchmark, guide rails, identifiers,
20 percentages, and targets, correct?

21 A. Yes.

22 Q. And then Oakland County, again you reference, is a little
23 bit higher at 42 to 43 percent, correct? Do you see that?

24 A. I don't see testimony from me on this page.

25 Q. I'm sorry, not you. You see that the discussion is as a

1 Commission that Oakland County is 42 to 43 percent, correct?

2 A. Yes, Commissioner Rothhorn said that.

3 Q. And now Mr. Adelson says, yes, that is a good kind of
4 benchmark guidepost, correct?

5 A. That is what he said.

6 Q. We've got guidepost, guide rails, identifiers,
7 percentages, targets. These are all -- do you have a
8 thesaurus? These are all the same word, correct?

9 A. They are not the same words.

10 Q. We don't have the following in a transcript, but I would
11 like to ask you -- they are available on Defendants' Exhibit
12 49 from the Commission website. So I just want to turn your
13 attention to the October 6, 2021, Commission hearing.

14 Do you remember stating at that hearing, The only
15 potential problem with that is VRA considerations. We are in
16 Oakland County. I believe Doctor Handley had numbers and
17 Oakland County was around 42 percent or so. Does that sound
18 correct to you?

19 A. That is what Doctor Handley's analysis showed for Oakland
20 County.

21 Q. And you were aware of that analysis?

22 A. Oh, yes.

23 Q. Okay. Same thing on October 7th. You stated, So we have
24 District 2 here that includes part of Oakland County so I
25 think it would be appropriate to cushion that a little bit

1 because Oakland County, according to Doctor Handley, was 42 to
2 43 percent.

3 A. In order to elect candidates of choice, yes.

4 Q. I believe you also testified earlier that this was a
5 purely data driven decision for you, correct?

6 A. Can you rephrase the question?

7 Q. Yeah. I believe you stated it several times, it was just
8 purely a data driven analysis?

9 A. We wanted to take a data based, evidence driven approach.
10 I don't know if I used the word purely.

11 Q. Okay. We went over this just a minute ago but I can pull
12 the exhibit up again if you want, but you had asked for more
13 primary data, correct?

14 A. Yes.

15 Q. And you never received it?

16 A. There was no primary data.

17 Q. Okay. What about voter turnout data?

18 A. My understanding of the analysis was voter turnout data
19 was baked into Doctor Handley's analysis.

20 Q. Okay. Let's go through some of these transcripts, then.
21 Let's see page 63 of Plaintiffs' Exhibit 64. We can scroll
22 down -- I'm sorry, it's page 64. Let's see here.

23 Now, Mr. Adelson admitted to you that there was no
24 voter turnout data, correct? Do you see that in front of you?
25 Not that it's baked in, necessarily, but that you don't have

1 the voter turnout data?

2 A. I'm not sure which election for voting turnout data this
3 conversation is privy to.

4 Q. Either way, do you see anywhere where Mr. Adelson has
5 explained to you that voter turnout data is baked into
6 Doctor Handley's analysis anyway?

7 A. Not on this page, no.

8 Q. Do you know where in the transcript it is?

9 A. Not specifically, and I might be wrong, but my
10 understanding was that voting turnout data was baked in.

11 Q. Do you know where in Doctor Handley's reports this voter
12 turnout data baked in appeared?

13 A. Not off the top of my head.

14 Q. Okay. So you'd agree with me that the voter turnout data
15 and the primary election data were both categories of data
16 that you found to be lacking, correct?

17 A. Can you state the question one more time?

18 Q. Can I remember my own question? I believe I asked you
19 whether voter turnout data and primary election data were two
20 categories of information that you found to be lacking,
21 correct?

22 A. Well, yes. The lack of data is not data, it's the lack of
23 data.

24 Q. Correct. Thank you. Let's go to some partisan fairness
25 metrics. I think we agree that the EDS partisan fairness

1 metrics were turned on in approximately mid October, around
2 October 6th?

3 A. I would say early October, around October 1st.

4 Q. Do you have any citation to the record where October 1st
5 shows that the EDS data was turned on?

6 A. There is video of Doctor Handley showing us the data at
7 our October 1st meeting.

8 Q. Do you recall the e-mail between Szetela and Pastula
9 regarding the EDS data not being turned on and it was into the
10 month of October? I can pull it up if you want me to
11 show you.

12 A. Yeah. I don't remember any e-mail.

13 MS. GREEN: Can you pull up Plaintiffs' Exhibit 5,
14 please? Page 73, please.

15 BY MS. GREEN:

16 Q. Now, this is an e-mail dated October 6th at the top; do
17 you see that?

18 A. I do.

19 Q. And they're still talking about the data being hidden and
20 all of that. Do you see that?

21 A. I do see that.

22 Q. And do you see that the general counsel is saying, We need
23 to discuss some more productive way forward so the Commission
24 can interact with partisan data in a more meaningful and time
25 efficient way; do you see that?

1 A. I do see that.

2 Q. Okay. So, would you agree with me that at least as of
3 October 6th the partisan data matrix was not yet turned on?

4 A. No, I'd disagree with you.

5 Q. Do you have anything in the Commission transcript records
6 where you're showing the partisan metrics from EDS being run
7 on every map?

8 A. There are -- as I said earlier, there are third party data
9 sources that we could use and that we did use to determine
10 partisan data. And on October 1st, to the best of my
11 recollection, that is the day where we first had the tool
12 presented to us from Doctor Handley using the EDS software.

13 Q. I'm not asking about the third party software. I'm asking
14 you about the EDS, the expert or the consultant that was hired
15 by the Commission, the EDS, not some third party internet
16 search that you did. I'm asking about the EDS contract. That
17 was not turned on until at least October 6th, correct?

18 A. Well, I don't know what you mean by turned on.

19 Q. Well, was it hidden in the active matrix until after
20 October 6th?

21 A. I'm not sure.

22 Q. Okay. And when they were turned on you ran them on a
23 statewide basis, correct?

24 A. We did run all of the data on a statewide basis.

25 Q. Every time it was the whole state, correct?

1 A. In the context that we're talking about right now, those
2 partisan analyses that we spoke about earlier, like efficiency
3 gap and the other ones, that was run on a statewide basis.

4 Q. Okay. And they were not done in any kind of
5 district-by-district basis, to your knowledge, correct?

6 A. I don't know if they can be done on a district-by-district
7 basis.

8 Q. I believe you testified earlier that you ran the partisan
9 fairness metrics every time you made a change to see how it
10 would fluctuate with the results, correct?

11 A. We used it a lot. I don't know if I used the word every
12 time.

13 Q. I believe you said you ran it over, like, 500 times,
14 correct?

15 A. I definitely used the tool over 500 times.

16 Q. Okay.

17 MS. GREEN: Can we look at Plaintiffs' Exhibit 72,
18 please? Page 26.

19 BY MS. GREEN:

20 Q. Now, you thought it was important to run it frequently,
21 constantly to keep the partisan fairness metrics at the front
22 of your mind so that other factors would not predominate,
23 correct?

24 A. It was at the front of my mind.

25 Q. It was or it was not?

1 A. It was at the front of my mind.

2 Q. I can't hear you. Was?

3 A. Sorry.

4 Q. It's okay.

5 A. It was at the front of my mind.

6 Q. It was, okay. And so you're running it constantly. And
7 if we look here on your transcript, it says there was a motion
8 on the floor for a partisan fairness check to be done with all
9 future changes, and if you scroll down a little farther,
10 Commissioner Eid, you say, I would like to amend the motion to
11 instead say that we run partisan fairness numbers when a -- I
12 think it's a typo -- commissioner requests it, that way we
13 won't get bogged down in making, like -- checking it every
14 single time we make a small change. That was what you said on
15 the record, correct? Yes or no.

16 A. Yes.

17 Q. Okay. I believe you testified earlier that you said it
18 was the best practices of the individual commissioners to not
19 make statements and appear to be speaking on behalf of the
20 Commission in public, correct?

21 A. I'm not sure.

22 Q. You don't remember that testimony earlier, that it was
23 best practices not to speak as an individual on behalf of the
24 Commission in public?

25 A. Oh, my testimony earlier? Yes, yes.

1 Q. Okay. But it's actually more than just best practices,
2 it's actually required of you under the rules of procedure
3 governing the Commission?

4 A. I would have to look at the rules of procedure to answer
5 that question.

6 Q. So you're not familiar with the rule that says that the
7 Commission, its individual members, staff, attorneys, and
8 consultants shall not discuss redistricting members with
9 members of the public outside of an open meeting of the
10 Commission?

11 A. That is in there, yes.

12 Q. Okay. And that governs your obligations and duties to the
13 Commission?

14 A. Yes.

15 Q. Yet I noticed you have an entire Reddit website online
16 where you are interacting with members of the public regarding
17 redistricting matters; is that correct?

18 A. The constitutional language says that you can solicit
19 input from the public when it's in writing.

20 Q. I believe the language is that it has to -- it's not just
21 that you solicit it, it has to be regarding redistricting
22 comments, correct?

23 A. We can pull up the language. I'm not -- I would have to
24 look at the language to answer that question.

25 Q. So it's your testimony that your Reddit page is to solicit

1 formal feedback from the public and not just answer informal
2 questions from people; is that your testimony?

3 A. Can you restate the question?

4 Q. Is it your testimony that your Reddit website is for
5 formal solicitation of feedback from the public in your
6 official capacity as the commissioner?

7 A. Well, it depends on the context.

8 Q. Well, so sometimes it's informal solicitation?

9 A. I'd have to -- I'd have to look at whatever you're talking
10 about to answer that question.

11 MS. GREEN: Can we pull up his Reddit website?

12 BY MS. GREEN:

13 Q. These aren't just comments that come in, correct, you are
14 responding to these people?

15 A. Well, I did an AMA once to inform the public about our --
16 you know, what the Commission was doing, yes, and this is it.
17 And the Commission knew about it.

18 MS. GREEN: Okay. Let's scroll down a little bit.

19 BY MS. GREEN:

20 Q. You say, ask me anything.

21 A. Yes.

22 Q. Okay. Wide open forum on this.

23 A. And AMA is, you know, a way to get people in the area to
24 engage, and, you know, it's a practice in engagement with the
25 public.

1 Q. When you say AMA, what are you referring to?

2 A. It means ask me anything.

3 Q. Oh, okay.

4 A. It's a common vernacular used on the website.

5 Q. Okay. And ask me anything you think comports with your
6 duties to not discuss redistricting in anything other than an
7 open meeting?

8 A. My understanding of the constitutional language is that we
9 could solicit information from the public if it was in
10 writing.

11 Q. And if you respond with your own information?

12 A. If --

13 Q. That's not allowed, correct?

14 A. I think that's incorrect.

15 Q. Well, let's go down your page and see what we have.

16 So, people are asking you questions about your
17 deliberations on the Commission, correct? Do you see that?

18 A. I do.

19 Q. If we go down further, you're giving some information on
20 behalf of the Commission, correct?

21 A. Yes. It looks like I'm talking about the constitutional
22 criteria.

23 Q. Okay. If you go down further -- we can scroll quickly
24 because there's a lot. There's a fair amount of back and
25 forth with members of the public on your Reddit website,

1 correct?

2 A. I interacted with members of the public frequently to get
3 public comment and so that the public would be informed about
4 our redistricting process.

5 Q. You also reached out to people on Twitter, correct?

6 A. I made a lot of tweets about this redistricting cycle
7 during it, yes.

8 Q. Do you recall a tweet in September of 2022 where you
9 reached out to a reporter at the Huffington Post offering,
10 Feel free to reach out to me in the future if you want a
11 perspective from a commissioner. Do you remember that?

12 A. I don't remember specifically but it sounds like something
13 I'd say.

14 Q. Speaking of your Twitter account, isn't it true that one
15 of your prior public Twitter account posts from January of
16 2013 stated, quote --

17 MS. McKNIGHT: Objection on relevance. This is a
18 Twitter post from 2013, almost 10 years before he became a
19 member of the Commission. If this is getting into character
20 evidence, I don't know what it says. It's absolutely
21 improper. I don't see how it's relevant to testimony here.
22 It predates the creation of the Commission itself by years.

23 JUDGE MALONEY: How is this relevant, Counsel?

24 MS. GREEN: Your Honor, he states that he wants to
25 change his --

1 MS. McKNIGHT: Your Honor --

2 JUDGE MALONEY: Change, what?

3 MS. GREEN: He makes a statement about changing an
4 address of where he lives and it has to do with a racial bias
5 and an intent to vote certain members of the Detroit city
6 council out of office.

7 JUDGE MALONEY: I don't think so. Move on.

8 BY MS. GREEN:

9 Q. Now, the ethics code that we spoke about earlier, the
10 rules of procedure, there was an investigation into your
11 conduct while you were at the Commission because you joined a
12 non-profit called Michigan Voices that was actively lobbying
13 the Commission for certain changes to the map, correct?

14 A. I took a job with them almost 2 years after maps were
15 completed, yes. That was a relatively recent event that
16 happened.

17 Q. But it did spark an ethics investigation and you had to
18 step down from your role at that organization, correct?

19 A. Incorrect.

20 Q. Pardon me?

21 A. Incorrect.

22 Q. You didn't step down from your role?

23 A. We mutually parted ways.

24 Q. So you're no longer with that non-profit?

25 A. I am no longer with them.

1 Q. I noticed when we started your testimony this morning we
2 did very little by way of background for you. Other than
3 serving as a commissioner, what else are you doing with your
4 time right now?

5 A. Currently, that's all I'm doing.

6 Q. Okay. I noticed on your public LinkedIn profile you
7 listed yourself as a medical student at Wayne State at one
8 point?

9 A. At one point I was, yes.

10 MS. McKNIGHT: Your Honor, I question, again, the
11 relevancy of his educational background.

12 JUDGE MALONEY: Overruled.

13 BY MS. GREEN:

14 Q. However, isn't it true, sir, that you were actually kicked
15 out of Wayne State Medical School for dishonesty in violating
16 the medical --

17 MS. McKNIGHT: Objection, Your Honor. I can't even
18 let her finish. This is going into character evidence
19 Rule 404. It's patently improper. It has no relevance to the
20 testimony here today.

21 JUDGE MALONEY: It doesn't go to his credibility?

22 MS. McKNIGHT: It does not, Your Honor. This is
23 Rule 404 character evidence straight out of the rule and it's
24 improper unless it has to do with -- and pardon me, Your
25 Honor. Let me pull up the rule.

1 MS. GREEN: I have it in front of me if you'd like me
2 to read it.

3 MS. McKNIGHT: I have it here, too. Thank you.

4 Evidence of a person's character or character trait
5 is not admissible to prove that on a particular occasion the
6 person acted in accordance with the character trait.

7 MS. GREEN: Are you finished?

8 THE COURT: Yes. You may go ahead.

9 MS. GREEN: The exception for the rule is for a
10 witness -- evidence of a witness's character may be admitted
11 under Rules 607, 608, or 609. And Rule 608 specifically
12 provides that a witness' credibility may be attacked or
13 supported by testimony about the witness' reputation for
14 having a character for truthfulness or untruthfulness.

15 And 608(b) permits specific instances of conduct to
16 be utilized as evidence. The Court may, on cross examination,
17 allow them to be inquired into if they are probative of the
18 character for truthfulness or untruthfulness of the witness.

19 JUDGE MALONEY: So your position is that this
20 question would shed some light on the witness' truthfulness?

21 MS. GREEN: Yes, Your Honor.

22 MS. McKNIGHT: And, Your Honor, my position is, it
23 will not shed light on his character for truthfulness and that
24 it is completely irrelevant to his service on the Commission.

25 MS. GREEN: Your Honor, he was kicked out of law

1 school -- med school for lying and he admitted it in writing.
2 There's an Eastern District of Michigan opinion regarding it,
3 and I think it is exactly what the credibility rules are
4 designed to --

5 MS. McKNIGHT: Your Honor, she is -- I believe she's
6 mischaracterizing what happened. We'll be happy to ask.

7 JUDGE MALONEY: You can cover that on redirect.
8 Overruled.

9 BY MS. GREEN:

10 Q. So, similar to the code of conduct that you had at the
11 Commission, you had a code of conduct at Wayne State Medical
12 School, too, correct?

13 A. The code of conduct violation about the Commission that
14 you're speaking about was investigated and I was cleared of
15 that violation.

16 Q. I'm asking about a different violation. I'm asking about
17 your medical school violation so I'll repeat my question. The
18 code of conduct at Wayne State Medical School required you to
19 conduct yourself with honesty in relation to both faculty and
20 your peers, correct?

21 A. That is correct.

22 Q. And you were found to not have complied with that code of
23 conduct and you were asked to leave the medical school,
24 correct?

25 A. That is correct.

1 Q. And you sued the medical school, correct?

2 A. I did.

3 Q. And your case was dismissed because you admitted in
4 writing to Wayne State Medical School that you had lied,
5 correct?

6 A. You are taking it completely out of context. As I
7 described in the case, I was misled to submit that type of
8 testimony, and during the case proceedings of that case it
9 goes into detail about what had happened.

10 Q. Okay. And what had happened, according to your own
11 admissions in a written statement to Wayne State, was that you
12 had impersonated an attorney?

13 A. Incorrect, no.

14 Q. You sent a fake letter to a fellow student, correct?

15 A. Absolutely not.

16 Q. Would you -- would you like me to pull up the letter
17 that --

18 A. No. That's what I was accused of doing. That doesn't
19 mean that I did it, and I denied those allegations in court.

20 Q. You denied those allegations?

21 A. I denied those allegations in court, yes.

22 Q. In court?

23 A. In court, yes.

24 Q. But to Wayne State in a written statement to the board you
25 stated, I never had a lawyer like I stated in the messages and

1 I never did go file in court for any such damages, correct?

2 A. No. You're taking it completely out of context.

3 MS. GREEN: I think at this point I could bring up
4 the specific instance of conduct and pull up his letter and
5 cross examine the witness. I believe I have a copy of it if
6 his counsel would like to see it, but I have a feeling she's
7 already seen it.

8 JUDGE MALONEY: Counsel is certainly entitled to a
9 copy of it.

10 MS. GREEN: Okay.

11 JUDGE MALONEY: So let's get a copy of it and then
12 let's show the witness what document you're referring to
13 before we go any further, in fairness to the witness.

14 MS. GREEN: Of course, Your Honor. And I seem to
15 have misplaced the other copy. I'll show counsel. I do think
16 counsel has seen it before and then I'll show the witness.

17 May I approach the witness again, Your Honor, with
18 another letter?

19 JUDGE MALONEY: Yes. Ms. McKnight, do you have
20 everything you need?

21 MS. McKNIGHT: Not yet, Your Honor. We're having an
22 electronic copy.

23 JUDGE MALONEY: We're not going to ask any questions
24 until you get what you need.

25 MS. GREEN: I won't put it up on the screen until

1 we...

2 This might be a good time, if you would like, Your
3 Honor, we can take a break so she can pull it up on her e-mail
4 or do you want me to keep going?

5 JUDGE MALONEY: I would prefer to keep going.

6 MS. GREEN: Okay. I will keep going.

7 JUDGE MALONEY: If it's the best use of our time.

8 MS. GREEN: Okay.

9 JUDGE KETHLEDGE: Anything else we can cover while
10 they're sorting that out?

11 MS. GREEN: We can. I have one more section
12 afterward I can move on and then come back to that.

13 JUDGE MALONEY: Why don't we do that.

14 MS. GREEN: You want me to do that? That's fine. I
15 can do that.

16 BY MS. GREEN:

17 Q. Mr. Eid, you attended the closed door session on October
18 27th with the Commission and its legal counsel, correct?

19 A. I did.

20 Q. And that included Bruce Adelson and Julianne Pastula?

21 A. Yes.

22 Q. When you got to this closed door meeting, the Commission's
23 attorneys asked you to sign a non-disclosure agreement; do you
24 recall that?

25 A. I don't recall that, but it was two years ago. It might

1 be true.

2 Q. You don't remember being asked to sign a confidentiality
3 agreement at the meeting?

4 A. I do not remember, that is correct.

5 Q. You heard other commissioners testify on Wednesday that
6 they were asked to sign a confidentiality agreement. Do you
7 remember that?

8 A. I do.

9 Q. And that didn't jog your memory as to that event?

10 A. I really don't remember, yes.

11 Q. But at the time you thought the meeting was privileged and
12 private, correct?

13 A. At the time I did.

14 Q. And people were being, fair to say, very candid during the
15 meeting?

16 A. People were.

17 Q. Do you recall Mr. Adelson saying that he stressed,
18 emphasized, insisted, pleaded, and begged that Commission
19 members don't use phrases about adding black people,
20 subtracting black people, adding white people, subtracting
21 white people; do you remember that? When I say do you
22 remember that, we played it on Wednesday, so this isn't from
23 two years ago, I'm asking you from two days ago.

24 A. Right. That sounds correct.

25 Q. And do you recall that the reason he said that, quote, We

1 don't want to give people out there specific paths to
2 challenge what you're doing, because remember, legally race
3 cannot predominate redistricting; do you recall that?

4 A. I remember him saying that.

5 Q. And you sat through all of the audio clips from Wednesday,
6 correct?

7 A. Yes.

8 Q. And you heard Commissioner Szetela's testimony that she
9 felt as though the Commission was being coached to lie; do you
10 recall that testimony?

11 A. I recall her saying that, yes.

12 Q. And I heard you testify earlier upon questioning from your
13 counsel that the use of communities of interest was not
14 pretext, correct?

15 A. I certainly don't think it's pretext.

16 Q. And you said specifically for you personally it was not a
17 pretext, correct?

18 A. Yes.

19 Q. And at what point -- at one point in the meeting you had
20 raised concern about a potential packing claim; do you recall
21 that?

22 A. A potential packing claim?

23 Q. Yes.

24 A. Can you -- can you show it?

25 MS. GREEN: Yeah. It's clip six, if you want to

1 replay it?

2 (2:29 p.m., audio played.)

3 BY MS. GREEN:

4 Q. So you were concerned about getting sued, right? Just
5 like the September 30th transcript that we reviewed moments
6 ago, you were concerned about getting sued, correct?

7 A. Can you repeat the question? Sorry.

8 Q. Sure. I asked if -- we went over your September 30th
9 transcript maybe a half hour ago. You had raised a concern
10 about what can we do to fend off a legal challenge. Do you
11 remember that testimony?

12 A. From the audio you just played?

13 Q. No, no. I'm sorry. From about a half hour ago we looked
14 at the September 30th transcript, and you had lodged a
15 question regarding fending off legal challenges out of a
16 concern for litigation. Do you recall that testimony?

17 A. Yes, I do.

18 Q. Okay. So this is similar. You're, once again, concerned
19 with getting sued, correct?

20 A. Well, no. I think the only thing I said was how do we do
21 that without packing the districts?

22 Q. Well, you were concerned about a packing claim, correct,
23 that's the litigation concern that you had?

24 A. No. I was concerned with an unconstitutional partisan
25 pack to limit the ability of candidates of choice being

1 elected.

2 Q. Okay. Well, we can go back to the record at some other
3 point on September 30th and look at your actual language
4 there.

5 Suffice it to say, when Commissioner Kellom shared
6 her interpretation that what she understood the advice from
7 Bruce to be was that what we're actually doing is putting the
8 races together, we all know that, but what we say is something
9 different. You didn't voice any disagreement with her
10 statement, correct?

11 A. Disagreement with Commissioner Kellom's statement --

12 Q. Didn't speak up and say, I emphatically disagree, I will
13 not do that, correct?

14 A. Well, no. But there were a lot of things that I did or
15 didn't say during the meetings. I didn't speak up every
16 single time I disagreed with one of my colleagues.

17 Q. Okay. Well, let's listen to clip number seven and then
18 followed by 7A, and we'll see what you said.

19 *(2:33 p.m., audio played.)*

20 MS. GREEN: Okay. Just hang on one second.

21 BY MS. GREEN:

22 Q. You heard the language, provide ourselves with cover,
23 correct?

24 A. That's what Commissioner Lett said, yes.

25 Q. Fair enough. Those were his words. He says, this is what

1 we can use now to justify what we were doing, correct? Those
2 were his words?

3 A. Those were his words, yes.

4 Q. Not your words, but those were his, fair enough?

5 A. Those were his, yes.

6 Q. Okay. Let's listen to what you said in response.

7 MS. GREEN: 7A, please.

8 *(2:36 p.m., audio played.)*

9 BY MS. GREEN:

10 Q. So those were your words. You agreed with everything
11 Steve just said. Everything, correct?

12 A. It is taken out of context and it is a poor choice of
13 words. I agreed with a particular thing that Steve said in
14 that the Commission is the group that gets to decide what is a
15 community of interest. I should have used a more careful
16 choice of words and not said everything, but that is what I
17 meant.

18 Q. Well, not coincidentally, then, your testimony here today
19 was all about communities of interest, wasn't it?

20 A. No. It was a part.

21 MS. GREEN: I think we're ready for the -- I think --
22 do you have the --

23 MS. McKNIGHT: Yes.

24 BY MS. GREEN:

25 Q. Sir, I've given you copies of documents to take a look at.

1 A. Yes.

2 Q. One is a written statement from you to Wayne State Medical
3 School. Do you see that one?

4 A. Yes.

5 Q. And in that letter do you see the part where you say, I
6 never had a lawyer like I stated I did in the messages to this
7 female student?

8 A. Yes. You're taking -- you're taking this document out of
9 context.

10 Q. I am not asking for the context. If your counsel wants to
11 rehabilitate you or ask you questions, that's fine, but I'm
12 just asking you, you wrote to Wayne State and said, I never
13 had a lawyer like I stated I did in the messages, correct?

14 A. That is correct.

15 MS. GREEN: Too fast? Sorry.

16 BY MS. GREEN:

17 Q. You -- in your written statement to Wayne State you
18 admitted, I never had a lawyer like I stated I did in the
19 messages, correct?

20 A. I wouldn't use the word admitted. I wrote it.

21 Q. You wrote it. Okay. And you wrote the words, I never did
22 go file in court for any such damages. You wrote those words?

23 A. I did, yes.

24 Q. You also admitted that you sent her, this female student,
25 text messages and Facebook messages and admitted in writing to

1 Wayne State, quote, I understand that I lied to this person
2 about many things, correct? That's in the letter, too?

3 A. That is in this letter, yes.

4 Q. And you also admitted in your written statement to Wayne
5 State that, quote, you should have been more honest with her,
6 correct?

7 A. That is what the letter says, correct.

8 Q. And that this lack of honesty represents a major character
9 flaw?

10 A. That is what the letter says, yes.

11 Q. So you outright admitted, my word not yours, to Wayne
12 State that your lack of honesty represents a major character
13 flaw of yours, correct?

14 A. That is what the letter says.

15 Q. There's another letter in front of you and it's a copy of
16 the attorney -- the letter from this law firm, Wolff Smith?

17 A. Yes.

18 Q. And this is the letter that you're referencing in your
19 apology letter to Wayne State when you say, there never was an
20 attorney, correct?

21 A. I don't -- you didn't give me that. I don't have that in
22 front of me, but I --

23 Q. Oh, I may have given it to your counsel, I'm sorry.

24 A. I don't need it. I'm familiar with it.

25 Q. Okay.

1 A. I've seen it before.

2 Q. So this is the letter that we were just referencing where
3 there -- there was no lawyer, right? You didn't have a
4 lawyer?

5 A. Well, I didn't write this letter.

6 Q. You admitted in your written statement a minute ago that
7 you wrote this letter but there was no attorney?

8 A. That's -- well, you have got to get into the context.

9 Q. Okay. Were you impersonating --

10 MS. McKNIGHT: Pardon me. Your Honor, we have been
11 reviewing Rule 608. It is clear in case law that extrinsic
12 evidence is not appropriate to be used on cross examination
13 under Rule 608. There is case law that says the examiner is
14 stuck with the testimony they get from the witness. I
15 appreciate we've already had some review of these documents,
16 but Rule 608 is clear and case law about 608 is clear that
17 you're not to use extrinsic evidence through cross examination
18 using Rule 608.

19 MS. GREEN: I can respond. I'm reading 608(b),
20 specific instances of conduct, except for criminal convictions
21 under Rule 609. Except for --

22 JUDGE MALONEY: 608(b)?

23 MS. GREEN: 608(b). I'm trying to get us out of here
24 by 4:00. Okay. Under 608(b), specific instances of conduct,
25 except for a criminal conviction under Rule 609, extrinsic

1 evidence is not admissible to prove specific instances of a
2 witness' conduct in order to attack or support the witness'
3 character for truthfulness, but the Court may, on cross
4 examination, allow them to be inquired into if they are
5 probative of the character for truthfulness or untruthfulness
6 of the witness.

7 My response is I'm not submitting these into
8 evidence, Your Honor. This is impeachment only. I don't have
9 a duty to give them on the exhibit list. They were excluded
10 from the case management order, impeachment evidence, and I'm
11 solely using it to impeach his credibility. I'm not
12 submitting it as evidence to the Court.

13 JUDGE NEFF: This is so -- this is so extrinsic. I
14 mean, really. It's extrinsic really. Come on.

15 JUDGE MALONEY: Why aren't we going with the
16 documents? Isn't that extrinsic evidence?

17 MS. GREEN: I -- he lied -- he said he didn't say the
18 things in the document, at which point I can approach the
19 witness with a contrary statement, an inconsistent statement.

20 JUDGE NEFF: That's exactly what the rule is intended
21 not to let you do. The rule is intended, you bring it up, he
22 answers this question, you're stuck with it. That's what the
23 rule's about. And all of this other stuff is sort of double
24 credibility test. Well, you lied there and now you're lying
25 here again. We could go on all day and talk about that.

1 You have -- you've made your point. You've got him
2 to answer what you wanted him to answer, and I think you have
3 to move on. You really -- the rule does not permit this.

4 MS. GREEN: I will move on.

5 I don't have anything further.

6 JUDGE MALONEY: Counsel, you pass the witness?

7 MS. GREEN: Yes, Your Honor.

8 JUDGE MALONEY: Okay. Ms. McKnight, redirect.

9 MS. McKNIGHT: Thank you, Your Honor.

10 *REDIRECT EXAMINATION*

11 BY MS. McKNIGHT:

12 Q. Commissioner Eid, do you have anything else to say on the
13 topic of what you were just discussing?

14 A. When I wrote that letter to the school it was under a
15 period of my life where I was under extreme distress and I was
16 being advised by people at the school on what to write, and
17 the reason why I sued was to clear my name because I did not
18 do the things I was accused of doing. And, yeah, you know, it
19 didn't work out, but guess what? The citizens of the state of
20 Michigan wanted random citizens selected for this Commission,
21 and citizens aren't perfect. I'm not perfect, but I don't
22 think I'm a bad guy. I think I'm a pretty honest person who's
23 made mistakes, yes, but I did not do the things that, you
24 know, opposing counsel tried to say that I did.

25 Q. Have you lied to the Court at all today?

1 A. No.

2 Q. Okay. I heard opposing counsel ask you about
3 September 30th referring to it as a day that you presented
4 partisan -- partisan fairness information. Do you remember
5 that line of questioning?

6 A. You know, it's a little foggy. Can you refresh my memory?

7 Q. Sure. So, at the beginning of the cross examination I
8 heard opposing counsel ask you a question about September 30th
9 hearings, September 30th, 2021, and she referred to it as the
10 day that you presented partisan fairness information. Do you
11 remember that line of questioning?

12 A. I do.

13 Q. Okay. And would it surprise you to know that the date you
14 presented partisan fairness information was not, in fact,
15 September 30th but it was September 20th?

16 A. I presented partisan information quite frequently so it
17 would not surprise me if the dates are, you know, mixed in
18 there.

19 Q. Okay.

20 A. But I was looking at partisan data on September 20th and
21 before that as well.

22 Q. Okay. And I heard opposing counsel ask you a question
23 about how many times the phrase efficiency gap appeared in
24 that later date, the September 30th meeting. Do you recall
25 that testimony?

1 A. I do.

2 Q. Okay. Would it surprise you to know that the word
3 partisan appeared 35 times in the September 30th transcript?

4 A. It would not surprise me.

5 Q. Okay. And that is Plaintiffs' Exhibit 63, September 30th
6 transcript.

7 I heard plaintiffs' counsel ask you about the
8 October 4th hearing. Do you remember testifying about
9 October 4th?

10 A. And I've been up here a long time now so I don't remember
11 exactly the October 4th, but generally I -- I know what I've
12 spoken about.

13 Q. Okay. And the October 4th hearing transcript is located
14 at Plaintiffs' Exhibit 64, and would it surprise you to know
15 that the word partisan appeared 78 times in that transcript?

16 A. It would not surprise me.

17 Q. And that the phrase efficiency gap appeared 14 times;
18 would that surprise you?

19 A. No.

20 Q. Okay. And, finally, I heard opposing counsel ask you
21 questions about the October 6th hearing. Do you remember
22 those questions?

23 A. Can you remind me about what the questions were?

24 Q. Do you remember that you were asked questions about the
25 October 6th hearing?

1 A. I don't remember -- there were a lot of dates here in this
2 process and it was a very -- I don't know what the word is,
3 but we did a lot in a short amount of time. So I'm not the
4 best with, like, the dates on which, you know -- the dates
5 that you're referring to.

6 Q. Okay.

7 A. But I was questioned on October 6th.

8 Q. Okay. And October 6th, the transcript is located at
9 Plaintiffs' Exhibit 65, and would it surprise you to know that
10 the word partisan appeared in public comments over 160 times
11 that day?

12 A. No. The public -- the number one thing the public wanted
13 in this process was a fair map so that does not surprise me.

14 Q. Commissioner Eid, is it surprising to you that the
15 Commission discussed the issue of race?

16 A. No. We discussed the issue of race often.

17 Q. Was the Commission tasked with drawing a race blind map?

18 A. No, we were not.

19 Q. Could the Commission have drawn a race blind map and have
20 it be upheld in a court of law?

21 A. In my opinion, no.

22 Q. In order to make sure a map created opportunities to elect
23 for the minority community, did you need to pay attention to a
24 BVAP range?

25 A. We did.

1 Q. Okay. Why?

2 A. We needed to pay attention to a BVAP range because the
3 voters in that community tend to vote a certain way, and in
4 order to create more districts that are either competitive or
5 lean Democratic, in order to have a fair and responsive map
6 you need to spread those voters out over a greater number of
7 districts so that those districts have the chance of flipping
8 in an election.

9 Q. In your view, how could a map drawer pay attention to a
10 BVAP range without using words like benchmark, target,
11 identifier, or threshold?

12 A. Well, commissioners use that term. It didn't come from --
13 in my recollection, it didn't come from our experts.

14 Q. Okay. And so was it your understanding that the use of
15 these words meant that any map coming out of that process
16 violated the law?

17 A. Coming out of the -- what process?

18 Q. So, I'm trying to get at -- on cross examination there
19 were a number of questions about the use of word, benchmark,
20 target, identifier, threshold?

21 A. Yes.

22 Q. I'm trying to get at the difference between the use of the
23 word and the actions of the Commission. So my question here
24 is was it your understanding that just by using these words
25 the Commission would prepare a map that violated the law?

1 JUDGE KETHLEDGE: Are you asking a question about
2 law? It sounds like it.

3 MS. McKNIGHT: So, these commissioners were tasked
4 with complying --

5 JUDGE MALONEY: Is the witness a lawyer?

6 MS. McKNIGHT: I'm not asking for his legal opinion.

7 JUDGE MALONEY: It sounds like you are.

8 MS. McKNIGHT: Okay.

9 JUDGE MALONEY: Otherwise, why is it relevant?

10 MS. McKNIGHT: Let me rephrase. Okay. I understand.

11 BY MS. McKNIGHT:

12 Q. On cross examination I saw you look at a variety of BVAP
13 ranges. Do you remember that?

14 A. I do.

15 Q. And did the Commission ever draw above that range?

16 A. We did.

17 Q. How often?

18 A. I mean, we could go back and check the count, but from the
19 looks of it, pretty often.

20 Q. Okay. And how is that different from drawing districts
21 hitting a fixed BVAP target?

22 A. Well, the ranges we hit were above the target, so if there
23 was a target, then we missed the target.

24 Q. Okay. I want to ask you a question about running partisan
25 fairness scores. I saw -- there was a question for you about

1 whether you said that running partisan fairness scores every
2 time a change was made would slow things down. Do you recall
3 that testimony?

4 A. I do.

5 Q. Okay. And what did you mean by that?

6 A. Well, we had limited amount of time on the stream, right,
7 but just because -- and we wanted to move things along. You
8 know, we had a specific deadline that we had to meet. So
9 during the meetings we tried to, you know, keep the meeting
10 moving so we could finish our work. So what I was saying
11 there was specifically to putting the partisan fairness
12 metrics on screen for everybody to see. That does not mean
13 that myself or any of the other commissioners who wanted to
14 look at it couldn't have looked at it on their own computer
15 that was in front of us at all times, and that did happen.

16 Q. Now -- okay.

17 MS. McKNIGHT: Thank you, Commissioner Eid. That's
18 all I have.

19 THE WITNESS: Thank you.

20 JUDGE MALONEY: Ms. Green.

21 MS. GREEN: Very short follow up on the partisan
22 fairness issue.

23 *RECROSS EXAMINATION*

24 BY MS. GREEN:

25 Q. If we can pull up Plaintiffs' Exhibit 63, which is the

1 September 30, 2021, Commission meeting.

2 MS. GREEN: Page 12 at the bottom. There we go.

3 It's at the bottom.

4 BY MS. GREEN:

5 Q. At the bottom of the page, Commissioner Eid, do you see
6 where it states, I think we're going to have more information
7 after tomorrow after the partisan fairness measures; do you
8 see that? And this is on September 30th, meaning after
9 October 1st. Do you see that, sir?

10 A. I do see Commissioner Rothhorn saying that.

11 Q. And on page 136, which is further down, if we can scroll
12 down, it states, What is going to happen tomorrow is
13 Handley --

14 MS. GREEN: I think it's further down. There you go.

15 BY MS. GREEN:

16 Q. So, again, what is going to happen tomorrow is the
17 Commission's expert, Doctor Lisa Handley, will come and
18 present the partisan fairness measures that she has run on the
19 statewide maps that the Commission has been working on. Do
20 you see that?

21 A. I do.

22 Q. And then on page 143, Mr. Eid's -- I think it's your own
23 words, at the very bottom you state -- if we can scroll
24 down -- yeah. That for the partisan fairness analysis you can
25 only do it if it's a completed map, correct? Do you see that,

1 sir?

2 A. I do.

3 MS. GREEN: Okay. I don't have anything further.

4 MS. McKNIGHT: No further questions, Your Honor.

5 We're done with this witness.

6 JUDGE MALONEY: You may step down, sir.

7 *(Witness excused at 2:56 p.m.)*

8 JUDGE MALONEY: We're going to take a short five and
9 a half minute break. And we'll be back. Thank you.

10 JUDGE KETHLEDGE: 330 seconds.

11 THE CLERK: All rise, please. Court is in recess.

12 *(Recess taken at 2:56 p.m.; reconvened at 3:06 p.m.)*

13 THE CLERK: All rise, please. Court is in session.
14 You may be seated.

15 JUDGE MALONEY: We are ready to resume. Counsel, you
16 may call your next witness.

17 MR. BRADEN: My name is Mark Braden. I represent the
18 Redistricting Commission and my next witness -- our next
19 witness is Bruce Adelson.

20 JUDGE MALONEY: Please step forward, sir, and be
21 sworn.

22 THE CLERK: Will you raise your right hand, please?

23 *BRUCE ADELSON,*

24 *having been sworn by the Clerk at 3:06 p.m. testified as*

25 *follows:*

1 THE CLERK: Please be seated. State your full name
2 and spell your last name for the record, please.

3 THE WITNESS: Bruce Lawrence Adelson, A-D-E-L-S-O-N.

4 *DIRECT EXAMINATION*

5 BY MR. BRADEN:

6 Q. Good afternoon.

7 A. Good afternoon.

8 Q. Can you provide the Court with a brief discussion or
9 synopsis of your educational background?

10 A. Yes. I hold a BA, bachelor of arts in international
11 studies from Johns Hopkins University and a juris doctorate
12 degree from the University of Pittsburgh School of Law.

13 Q. And are you currently employed?

14 A. Yes, I am.

15 Q. And where are you currently employed?

16 A. I'm employed primarily by Federal Compliance Consulting,
17 LLC, which is my company, and by the University of Pittsburgh.

18 Q. And what does your company do?

19 A. We provide various compliance services, consultation,
20 litigation consultation. A lot of risk assessments under
21 various federal laws, like the Voting Rights Act, Americans
22 with Disabilities Act, FMLA, the Affordable Care Act and many
23 others. We do -- there's a significant education and training
24 component to what we do in addition to my teaching, which I
25 know we'll get to in a moment.

1 Q. Where do you teach?

2 A. Oh, I teach -- I'm an adjunct professor of law at the
3 University of Pittsburgh School of Law and an instructor of
4 family medicine at Georgetown University School of Medicine.

5 Q. Now, so have you taught any specific courses in the field
6 of political science?

7 A. I have been a guest lecturer teaching classes entitled
8 Redistricting in the Voting Rights Act, for example, at the
9 University of Baltimore School of Law, Harvard University,
10 graduate students, Auburn University, graduates and
11 undergraduate students, and an additional field of -- perhaps
12 this is more history than political science, counselor, I
13 don't mean to get ahead. Do you want me to talk about my
14 history teaching?

15 Q. Sure.

16 A. I'm the author of Brushing Back Jim Crowe, the Integration
17 of Minor League Baseball in the American South published by
18 the University of Virginia. So I taught in September a class
19 or a seminar for Antelope Valley State College in California
20 about the integration of baseball and the civil rights
21 movement.

22 I've also lectured -- actually, I taught a full
23 semester class of United States Department of Agriculture
24 graduate school about the same topic and also taught for them
25 a course called, Writing Oral History.

1 Q. Do you have any other past professional experience
2 specifically in the area of the Voting Rights Act or
3 redistricting?

4 A. As far as work experience, yes. I was a senior trial
5 attorney for the U.S. Department of Justice, Civil Rights
6 Division, Voting Section in Washington, and during my time in
7 federal service with the department I received two outstanding
8 achievement awards during President George W. Bush's
9 administration. I think the attorney generals were --
10 Attorney General Ashcroft and Attorney General Gonzales.

11 Q. And have you served on or served for any other state level
12 redistricting commissions?

13 A. Yes. I've been the Voting Rights Act counsel for the
14 Arizona Independent Redistricting Commission, that was
15 10 years ago, and for the Alaska Redistricting Board on a
16 state level.

17 Q. And have you done anything for state and local
18 municipalities or cities doing restricting?

19 A. I've done a lot of redistricting for special districts,
20 college districts, public school districts, municipalities,
21 and counties. I was the -- for example, the Voting Rights Act
22 counsel for the San Diego Independent Redistricting
23 Commission -- San Diego County, excuse me, Independent
24 Redistricting Commission during the current cycle.

25 I did also local redistricting 10 years ago in the

1 previous cycle, and with the department I reviewed
2 redistricting plans for all levels of jurisdictions under
3 Section 5 for preclearance as well as doing investigations for
4 potential Section 2 violations.

5 MR. BRADEN: Thank you. I think we have some witness
6 binders that I believe will be useful to the Court and to the
7 witness. My eyesight occasionally doesn't work too well on
8 the screens. And we're certainly safer without me having an
9 electronic clicker in my hand. If everyone would turn to
10 tab A, which is the first one, which is marked DTX050.

11 BY MR. BRADEN:

12 Q. Do you recognize this document?

13 A. Yes, I do.

14 Q. And could you tell the Commission what it is?

15 A. Yes.

16 Q. I mean, the Court what it is?

17 A. Yes. This is a contract that I entered into with the
18 Michigan Independence Citizens Redistricting Commission in
19 2021.

20 Q. And do you remember -- so, what -- can you briefly explain
21 the hiring process that you ended up working for the
22 Commission?

23 A. Sure. The Commission put out an RFP, request for
24 proposals. Frankly, that was not something that I was aware
25 of. I received a communication from the Arizona Independent

1 Redistricting Commission chair from 10 years ago telling me
2 about it and saying that she thought that this would be a
3 great thing to do for the Commission and that she endorsed my
4 applying, so because she had contacted me and told me about
5 it, as I said, that wasn't something I was aware of, I decided
6 to apply.

7 After I applied we did a Zoom interview, as I recall,
8 and there were specific questions that I was asked, and I
9 don't believe I had an additional meeting with the Commission
10 in the interview process.

11 Q. When you say a Zoom interview process, who interviewed
12 you? The commissioners or just the general counsel or --

13 A. Yes, thank you. There were commissioners. I don't recall
14 the general counsel being present during the Zoom session. I
15 was interviewed by commissioners.

16 Q. So, what did you understand your role to be with the
17 Commission as -- in this position?

18 A. Under the contract, I'm the Voting Rights Act counsel. So
19 my primary responsibility concerns the Commission's compliance
20 with the Voting Rights Act. And there are other obligations.
21 Like, for example, if the general counsel was unable to attend
22 a certain meeting, that if I were attending that I would do my
23 best to step into her shoes temporarily and general
24 obligations as an attorney.

25 Q. So, would this function have been generally similar to the

1 one you did for the Arizona Redistricting Commission?

2 A. The responsibilities, yes. The hiring process, no, but
3 the responsibilities, yes. They're broadly similar.

4 Q. And in your performance to the contract, who was your
5 contact person at the Commission, the person you interacted
6 with most?

7 A. Primarily it was Julianne Pastula, the general counsel. I
8 think she's manager of the contract.

9 Q. And did individual commissioners reach out to you or
10 contact you?

11 A. For the most -- for the most part, as I recall, no. They
12 would contact the general counsel if there were questions, if
13 I weren't at a meeting, for example, and then she would relay
14 them to me or she would ask me to provide some type of written
15 document if that were relevant, but the vast majority of the
16 communications went through her.

17 Q. And you did attend many of the meetings and interact with
18 the commissioners personally at the meetings?

19 A. Yes. I -- my recollection is that in September -- in 2021
20 during the mapping process I attended virtually all of the
21 meetings in person. Prior to that I attended most of the
22 meetings either in person or virtual.

23 Q. And if we could go to what is marked tab B in the binder.
24 It's Defense Exhibit DTX017. Do you recognize this report?

25 A. Yes. This is Doctor Handley's report to the Commission.

1 MR. BURSCH: Counsel, could you clarify which report
2 and which date this is, because Doctor Handley has several
3 reports?

4 MR. BRADEN: This is the one that's marked DTX017.

5 MR. BURSCH: I see that.

6 MR. BRADEN: And the heading is the Report of the
7 Michigan Independent Citizen Redistricting Commission. I
8 think the person to actually give you that detail would be
9 best my witness.

10 THE WITNESS: So, I'm sorry, what?

11 BY MR. BRADEN:

12 Q. Can you describe what this report is?

13 A. Yes. This is a report entitled Report to the Michigan
14 Independent Citizen Redistricting Commission. This concerns
15 primary, although not exclusively, Voting Rights Act and
16 racially polarized voting. I don't recall the specific date
17 that this was submitted by Doctor Handley, but this was
18 submitted during the mapping process.

19 Q. How is your job different than Doctor Handley?

20 A. Well, simply put, I'm the attorney and Doctor Handley is
21 the political scientist and the racially polarized voting
22 expert. So she would run the analyses and it was my job to
23 provide advice to the Commission about her conclusions.

24 Q. But are you familiar with homogeneous precinct analysis,
25 ecological regressions, ecological inference?

1 A. I've certainly heard the terms and I understand and know
2 about their relevance in redistricting. However, I'm not the
3 political scientist or statistical analyst. I'm not qualified
4 to run these analyses and develop the spreadsheets that
5 Doctor Handley did. That was something that was her
6 responsibility.

7 Q. But you understood these were the processes she used?

8 A. Exactly. I mean, I learned about these processes 23 years
9 ago. Frankly, I had never heard of them before I worked for
10 the Department of Justice, but I learned about them during my
11 federal service.

12 Q. So have you had a chance to carefully review this report
13 during your time advising the Commission?

14 A. Yes. I certainly do remember reviewing this carefully
15 more than once, yes.

16 Q. And do you have any reason to doubt any of her analysis or
17 findings in this report or any of her other work for the
18 Commission?

19 MR. BURSCH: Objection. That's calling for expert
20 testimony. He's been proffered as a fact witness not an
21 expert witness. Doctor Handley can testify about her own
22 report.

23 JUDGE NEFF: And you need to talk slower.

24 MR. BURSCH: Thank you, Judge Neff.

25 JUDGE MALONEY: Response to the objection?

1 MR. BRADEN: He's talking about his opinion -- not
2 his opinion as an expert but his use of this providing advice
3 to the Commission. He has a document he received from an
4 expert. He's using it to give advice to the Commission. He's
5 testifying whether or not he had confidence in the document he
6 was using to advise the Commission.

7 MR. BURSCH: I think confidence in the document that
8 Doctor Handley prepared is an expert opinion.

9 MR. BRADEN: Well, he's certainly an expert by any
10 definition of the word.

11 JUDGE MALONEY: Clearly he used Doctor Handley's
12 report.

13 MR. BRADEN: Yes.

14 JUDGE MALONEY: You're not asking him to come to any
15 legal conclusions.

16 MR. BRADEN: I'm not at this time asking him to come
17 to any legal conclusion. I'm just asking him whether he
18 thought it was a reliable document which he used.

19 JUDGE MALONEY: Of course, the objection apparently
20 is is that how would he know if he's not an expert in the
21 fields laid out in the report.

22 MR. BRADEN: If the Court were attempting to only use
23 him as a fact witness since that's what he's testifying to the
24 actual facts of the case and documents he used in making the
25 presentation.

1 JUDGE MALONEY: Well --

2 MR. BRADEN: If the Court would prefer, I thought it
3 would be redundant to offer him as an expert on these issues,
4 but we've -- happy to tender him as an expert at this time
5 based upon the materials that are already in the record.

6 MR. BURSCH: Your Honor, we strongly object. They
7 did not disclose him as an expert witness at any point in
8 these proceedings. He has not issued his own expert report.
9 He's proffered as a fact witness and they're trying to double
10 dip on Doctor Handley's report.

11 JUDGE MALONEY: Was he disclosed as an expert?

12 MR. BRADEN: No. He's not listed as an expert.

13 JUDGE MALONEY: Then I sustain the objection.

14 BY MR. BRADEN:

15 Q. In your experience providing advice to your clients and
16 your work at the Department of Justice, is she one of the most
17 foremost experts in the country on these issues?

18 A. Oh, yes, undoubtedly, in my opinion. The -- the DOJ
19 during my time there had a go-to list for experts in various
20 fields, whether they might be history, political science,
21 generally or racially polarized voting. She was at the top of
22 the list. She was the go to, call Doctor Handley if there was
23 a litigation or an investigation involving racially polarized
24 voting that the department was conducting.

25 So, yes, I became very familiar with her then, and

1 then over time over the last three redistricting cycles I was
2 aware of reports that she wrote 20 some odd years ago for the
3 first Arizona Independent Commission. That was the first
4 independent commission, I believe, in the United States, and
5 she wrote several opinions concerning their process and
6 racially polarized voting. I was the lead attorney to review
7 Arizona's Section 5 submission for their statewide
8 redistricting legislative and congressional.

9 So I was familiar with what documents were out there
10 and reviewed what documents came to our attention. And then
11 over time I became more familiar with her as I encountered her
12 additional work.

13 Q. Did Doctor Handley's analysis provide the data or the
14 election analysis basis for your recommendations to the
15 Commission?

16 A. Yes.

17 MR. BURSCH: Before we go any further, I want it to
18 be clarified for the record that this report is the report she
19 issued December 27th, 2021, the day before the maps were
20 approved. And we all need to understand that this was not
21 informing anyone's analysis while the maps are being drawn.
22 And this whole line of questioning is inappropriate if it's
23 being suggested that somehow this report informed Doctor
24 Adelson's analysis during the mapping.

25 MR. BRADEN: Your Honor, Doctor -- I'm happy to go

1 through a discussion of how -- the next question, basically,
2 is, how did you work with Doctor Handley?

3 JUDGE MALONEY: Well, the current matter is reference
4 to tab B in the context of the mapping process. It appears --
5 according to Mr. Bursch, this is a December 2021 report which,
6 of course, would be post mapping process, so that's Mr.
7 Bursch's concern.

8 MR. BRADEN: And what I'm -- if we had sort of more
9 detail, we get sort of further into the discussion of how he
10 interacted with Doctor Handley we'd understand that on a
11 regular basis they were talking to each other and developing
12 these various reports and analysis. It's a collaborative part
13 on their part. This simply -- we can move to this later,
14 although I don't see any reason why it wouldn't be admitted,
15 and I'm not attempting to hide anything from this Court.

16 We're going to talk in detail, the witness will
17 provide a timeline for his interaction with Doctor Handley.
18 Doctor Handley's report informs the opinions he provides to
19 the Court and she's clearly -- everyone recognizes her as one
20 of the foremost experts in the country. So how she analyzes
21 the data provides the framework for him providing the legal
22 advice.

23 JUDGE KETHLEDGE: It's an earlier report that does
24 all that, correct?

25 MR. BRADEN: Well, there are earlier reports that do

1 that.

2 JUDGE KETHLEDGE: This one comes after?

3 MR. BRADEN: This one comes after.

4 JUDGE KETHLEDGE: How can it provide a framework for
5 stuff that happened a year ago?

6 MR. BRADEN: Well, more than -- but I think it's --
7 that's not the whole universe.

8 JUDGE KETHLEDGE: We're talking a long time about
9 something that post dates the events you're using it for.

10 MR. BRADEN: I don't know that I'm using -- well --

11 JUDGE KETHLEDGE: Okay.

12 MR. BRADEN: We can move on from this document, then,
13 and we can go back to it later if it's acceptable to the
14 Court. It's really -- this is something that we can move this
15 report to a later stage of the examination.

16 JUDGE KETHLEDGE: Sound good.

17 JUDGE MALONEY: Okay. I think that's what -- in
18 light of Mr. Bursch's objection, I think the way to handle it.
19 Go ahead, sir.

20 BY MR. BRADEN:

21 Q. Can you just generally discuss your interaction with
22 Doctor Handley?

23 A. Yes. Doctor Handley is --

24 Q. Can you start as early in the process as possible so
25 there's no question about whether or not it's before the line

1 drawing process?

2 A. Sure. As I said earlier, I was hired by the Commission in
3 April 2023 (sic). My recollection is that Doctor Handley was
4 hired after I was hired, so after her retention she and I and
5 the general counsel would exchange information and meet. We
6 had Zoom meetings, telephone calls to discuss the racially
7 polarized voting analysis that she provided on September 1st,
8 I recall, and her additional conclusions as she proceeded with
9 her analysis because --

10 JUDGE NEFF: Can I make sure -- you said April of
11 2023? Is that accurate?

12 THE WITNESS: Oh, I'm sorry, Your Honor. It was
13 April 2021.

14 JUDGE NEFF: Thank you.

15 THE WITNESS: I'm sorry. I'll continue. I recall
16 where I was.

17 We had a -- I recall vividly in -- we had a Zoom
18 meeting, she and I and general counsel. That was the day -- I
19 believe it was in October, where there was an active shooter
20 on Michigan State University's campus who had published
21 threats against the Commission, so law enforcement was
22 involved.

23 It was a very difficult day, but we had a scheduled
24 meeting with Doctor Handley that we kept and we talked to her
25 about some of her conclusions, her analyses as she was

1 continuing to go through the record. One of the things that
2 came up was her explanation to us that there were elected
3 officials, like, for example, Congresswoman Tlaib and State
4 Senator Chang, who were not necessarily candidates of choice
5 of the black community when they first ran but they became
6 candidates of choice. She didn't offer an explanation for why
7 that happened, but in my experience that certainly was not
8 unusual.

9 She talked about the issue of cohesion generally,
10 about having multiple candidates in a primary election for
11 whatever the office would be. So there were several meetings
12 like that where we would share information, discuss analyses,
13 talk about racially polarized voting, ask if there were
14 additional elections that she would -- she would like to have
15 to do her analysis. We discussed the issue of the paucity of
16 election data statewide in Michigan, because much to my
17 surprise, frankly, you don't have statewide primaries for all
18 of your statewide officeholders. In my experience, that's
19 unusual. You elect, I believe, the Attorney General -- or you
20 nominate, excuse me, the Attorney General and Supreme Court
21 justices at party conventions. This is the only state in my
22 experience where I've seen that.

23 So what does that mean for Doctor Handley and what
24 did we discuss with her? That meant that there are no primary
25 data for AG, for example, Supreme Court justices. Those

1 offices were on statewide, and there were -- I'm sure there
2 were other statewide positions that we also discussed. So the
3 reality is that it just doesn't exist, which certainly made it
4 more challenging, I guess, to proceed with typical RPV
5 analysis because you use statewide primaries to evaluate, in
6 part, the ability -- whether there is an ability to elect at a
7 given district under the Voting Rights Act. But, as I said,
8 you just don't have the data, and in my career I've never
9 experienced that.

10 Q. Okay. And can we do tab C, and it would be Defendant
11 Exhibit DTX051. And can you tell -- do you recognize that
12 document?

13 A. Yes, I do.

14 Q. And can you tell the Court what that document is?

15 A. Yes. This is a PowerPoint presentation I gave to the
16 Commission, I believe in July 2021 at the Commission's
17 request. It's entitled, What Do We Do Now? Bias, Race, and
18 Tolerance at Work, School, and in Society.

19 Q. And can you inform the Court of what information or
20 sources you used to prepare this presentation?

21 A. Yes. This is based on my teaching scholarship at
22 Georgetown and University of Pittsburgh that has information
23 and materials that I typically discuss with my students. So
24 this is from my scholarship. The sources that I use are from
25 colleagues at Georgetown, for example, as well as various

1 other sources of information that I've come across in my
2 teaching career.

3 Q. And why did you believe this presentation was important
4 for the Commission?

5 A. Well, the Commission asked for it, and I think from my
6 understanding was that as the process proceeded, and this was
7 July so there was no mapping being done at this point, that
8 having an overall awareness of bias -- the biochemical origins
9 of bias, certainly as I understand it from my colleagues at
10 Georgetown and other sources, and how that may manifest itself
11 in various ways, whether discrimination or otherwise.

12 So that -- the Commission thought that there was a --
13 that would be important to learn, and I certainly was more
14 than happy to give them the presentation.

15 Q. Can we go to tab D, and this is Defendant Exhibit DTX052.

16 A. Yes, I have it.

17 Q. Do you recognize this document?

18 A. Yes, I do.

19 Q. And what information -- first of all, let me ask what
20 information you used to prepare this -- well, first, describe
21 for the Court what the presentation is.

22 A. The title is -- this is a PowerPoint presentation -- The
23 Law of Redistricting, DOJ, and Cautionary Tails. The sources
24 of information I used was -- were court cases, media accounts,
25 some social science materials, information from my own career

1 at DOJ, particularly in the objection we issued about
2 Arizona's legislative redistricting plan, I believe in 2002.

3 So this was -- again, this was requested by the
4 Commission, and it was an introduction to many issues that
5 they would likely encounter as we moved forward with
6 redistricting, including discussion of census data, partisan
7 fairness, for example, some Supreme Court cases, what is the
8 American Community Survey.

9 Because I think it's also important to point out in
10 my career I have worked with, frankly, I don't even know how
11 many citizen redistricting bodies at various levels, and I
12 think as the testimony has shown and certainly true in my
13 experience that these are -- commissions are made up
14 overwhelmingly by lay people as far as redistricting is
15 concerned. I mean, I could have 25 degrees but I'm not going
16 to know what ACS means unless, frankly, you know, I'm reading
17 census documents at home, which admittedly I do because I
18 concede that I'm a nerd in that respect, but that's part of my
19 job as an attorney.

20 Q. So is this a PowerPoint you did in person to the
21 Commission?

22 A. Yes. I don't recall giving a video, a virtual PowerPoint
23 presentation. My recollection is that I gave the
24 presentations in person in June, July 2021.

25 Q. And, again, can you just briefly discuss some of the

1 issues you raised here? Well, first of all, let me ask the
2 question, was this a particularly inexperienced group of
3 people in this issue?

4 A. Yes. If I could speak to that, one of the things that
5 struck me was citizen redistricting bodies, and it's certainly
6 true with the Michigan Commission, is there's a very steep
7 learning curve, because let's be frank, these -- there are
8 myriad issues here. They are very complex. There are a lot
9 of lawyers that don't understand what these issues are, and
10 I'll concede that I had no idea what any of this was before
11 DOJ hired me 23 years ago. So there is a very steep learning
12 curve, which I think has been demonstrated with -- this week.

13 For example, with the -- the whole issue of race and
14 redistricting. Race is a part of redistricting. It cannot be
15 avoided to comply with the Voting Rights Act, but
16 understanding that, although my -- and I'm speaking primarily
17 about citizens redistricting bodies, but this is also true in
18 small rural counties with a three to five member governing
19 board who have never heard of these issues -- is understanding
20 that I can't tell you, and I'm not going to, a fixed number of
21 majority-minority districts for you to create. I'm not going
22 to do that. I can't do that. And also provide you with a
23 fixed number, a percentage based on race that you should just
24 arbitrarily use to create districts. I'm not going to do
25 that.

1 So, I know they want me to, and I know that they ask
2 me regularly, we're going into the final stage, Bruce, tell us
3 what the magic number is. Well, there is no magic number.
4 There's not -- I can't do that. If I provide you with this
5 arbitrary, let's have 25 majority-minority districts, that's
6 what the Supreme Court said I can't do that. That means that
7 you are then doing, let's just say, problematic redistricting.

8 So that's something that I regularly see. We've seen
9 it this week, and I note that the eloquent comments of
10 Commissioner Rothhorn when he talked about our engagements and
11 providing advice and then him getting the sense that it's
12 nuanced. Well, it is nuanced, and I know he wanted me to say,
13 you can use this specific number and that specific number, and
14 I -- there were many different efforts I tried to convey that
15 this is your responsibility. I'm not drawing the maps. I'm
16 not going to provide you with what happened in the Supreme
17 Court cases that we've discussed to -- for me to say, sure,
18 just create X number of districts at X number of percentages
19 without relying on any analysis or any -- any data just
20 because you want to.

21 So I -- I really took that to heart when he was
22 testifying that I know the nuance was a struggle, and in a way
23 it's a struggle for me and maybe that means that I need to be
24 even clearer in explaining that's not something that I can do
25 for you.

1 Q. Do you have any reason to doubt that the Commission
2 endeavored to use this particular document as a guide to their
3 activity?

4 A. This PowerPoint?

5 Q. Yes.

6 A. Well, I know that the information provided in here was
7 discussed after I had given the presentation, and one of the
8 things, if I could refer to this, it's on page 6 of the
9 PowerPoint, it's the famous Serpentine district in *Shaw v --*
10 the Supreme Court case of *Shaw v Reno*. They were really
11 struck by that picture and wanting to know why it was shaped
12 that way, and I read this on the proceeding page, on page 5,
13 the lower court found the Serpentine 12 to be so contorted and
14 contrived by the legislature that it may be the least
15 geographically compact of all the nation's many gerrymandered
16 districts. They -- again, these are people who never -- they
17 didn't really understand what gerrymander meant. They never
18 heard the term Serpentine district, but this is something
19 that -- I've taught this when I've taught redistricting at --
20 whether it's in law school or graduate school. This always
21 gets a reaction so that's why I used it in the PowerPoint, and
22 that was something that we discussed as well as the subsequent
23 page, on page 7, where the Supreme Court, I explained, struck
24 this down because it was nothing if not race-centric, and
25 could not be justified as a reasonable attempt to comply with

1 the VRA.

2 So we talked about that a lot. We talked about that
3 regularly, but I certainly get the nuance comment of
4 Commissioner Rothhorn and the comments of other commissioners
5 where they just -- they wanted those numbers. And they're not
6 unique in that way. Every citizens commission that I've
7 advised, every citizen commission that -- like Arizona,
8 23 years ago, that I oversaw with the Department of Justice,
9 they all basically asked the same question, what's the number?
10 What's the magic number? What's the secret sauce? Give us
11 the specific number. Well, then we turn to the Serpentine
12 district and we talk about what the Supreme Court has said.

13 Q. Can we go to tab E which is Defendant Exhibit 015?

14 A. Yes, I have that.

15 Q. Okay. And do you recognize this document?

16 A. Yes, I do.

17 Q. And can you tell us -- the Court what this document is?

18 A. Yes. The title is The History of Discrimination in the
19 State of Michigan and its Influence on Voting. This is a
20 document that I prepared at the request of the general
21 counsel, and I should say in our collaborative efforts, and --
22 that I submitted to the Commission.

23 Q. And what information did you use to prepare this document?

24 A. Historical data, various social science sources, media
25 sources, some DOJ material, and some court cases.

1 Q. And do you remember when you provided this to the
2 Commission?

3 A. It was mid to late October 2021. I would say -- let's
4 just say on or about October 20th.

5 Q. And looking at the first page --

6 A. Yes.

7 Q. -- it says, confidential attorney/client privilege. Did
8 you assume when you were producing this -- creating this this
9 was going to be an attorney/client document --

10 A. Yes.

11 Q. -- subject to privilege?

12 A. Yes. I considered this to be a privileged document and
13 having -- and also having, one, to have an opportunity to have
14 a confidential conversation with my client, which is not
15 something that we -- that I had been able to do previously.

16 Q. If this had at the time you -- now, this has become a
17 public document, correct?

18 A. Yes. I have been teased by many of my colleagues that
19 they now -- my advice is well known to everybody.

20 Q. And is there anything in this document now that it's a
21 public document that you would change?

22 A. Oh, no, of course not.

23 Q. So you would give the same advice in public that you would
24 have given in private?

25 A. Oh, absolutely.

1 Q. But is there anything -- your experience as an attorney,
2 is there anything surprising that you would provide a document
3 under attorney/client privilege to your client?

4 A. No. I provide a lot of -- I've been an attorney for
5 40 years. I've written a lot of privileged documents for my
6 clients, including my redistricting clients.

7 Q. And had you received materials and discussions and reports
8 from Doctor Handley prior to preparing this?

9 A. Well, she had done her presentation in Ann Arbor, I
10 believe, September 1st, 2021, where she had a PowerPoint and
11 the PowerPoint distilled her analysis so, you know, I
12 certainly was well aware of that. I had reviewed it multiple
13 times, read it, explained it to the Commission in conjunction
14 with Doctor Handley, so, yes, that was certainly something
15 that I was well aware of.

16 Q. And this is a document you provided live to a Commission
17 meeting?

18 A. Yes. This was -- I don't -- I don't recall whether -- if
19 I'm correct about the October 20th date, if there was a
20 meeting on that date where I gave them a document. I would
21 suspect not since it was -- the closed meeting I don't think
22 was until the next week so that's probably where they got the
23 document, but I don't recall the processes the Commission took
24 to provide my information to the commissioners. That wasn't
25 something that I was a part of.

1 Q. So would it be safe or accurate to say this document --
2 you used this document as a framework to advise the Commission
3 about how to comply with the Voting Rights Act?

4 A. Yes. I think that one of the important aspects of this
5 document is that, although we had talked about the *Gingles*
6 factors one, two, and three, we had not talked about the
7 totality of the circumstances, so I wanted the Commission to
8 understand that if there are -- in Section 2 cases, in order
9 to reach these -- the totality issues, the historical issues,
10 the *Gingles* factors have to all be proven, that if the *Gingles*
11 factors aren't proven, then you don't get to talk about
12 totality.

13 I wanted them to just understand that that's part of
14 the *Gingles* case, but I also wanted them to know, because this
15 was, frankly, not something that I was fully aware of, what
16 the history in Michigan was concerning discrimination
17 generally, how that may impact voting, just some important
18 information as they were coming down to the end of their
19 process. I think they had, what, three more weeks or so of
20 mapping so something that I thought was an additional parcel
21 of information that they should have.

22 Q. So, did you attend all of the Commission meetings?

23 A. My recollection is that when -- as mapping proceeded from,
24 let's say, mid to late September to early November, that I
25 attended all meetings in person. There may have been a couple

1 of meetings that I attended virtually, but my recollection is
2 that I was there, and, you know, to be very personally frank,
3 before I came here for the trial my wife reminded me that, you
4 know, Bruce, when you went to advise the Commission in 2021
5 you didn't stay over the weekend. You came home on Friday or
6 Saturday morning. Because I'm staying here for the trial. So
7 she was essentially saying, why are you staying now? You came
8 home two years ago, why are you staying now, and that reminded
9 me, yes, I would go home on Fridays or Saturdays every week
10 until the Commission was done in early November.

11 Q. So when they started the mapping, were you expecting or
12 did you anticipate that the map drawing process might have
13 started earlier?

14 A. Well, I knew because I was working with so many different
15 jurisdictions that of course the census data were delayed.
16 Well, when it's delayed you can't do anything. You can't map.
17 You need the census data to do compliant mapping. So although
18 I certainly appreciated the frustrations of virtually all of
19 the redistricting entities that I worked with, including the
20 commissioners wanting to get started on their work, thinking
21 they would start at a specific time, but they couldn't, so,
22 yes, I was well aware of that and how that delay in the
23 release of the census numbers built in the reality of further
24 delays down the road. It was just unavoidable.

25 Q. Okay. There have been some questions -- I think it's fair

1 to characterize, questions have been raised about political
2 data and partisan fairness. Do you know when the Commission
3 had access to political data?

4 A. Well, I think what's interesting about that, the -- my
5 recollection is that the partisan metric measures that
6 Doctor Handley provided, that Commissioner Eid testified about
7 today, that they were online and ready to use, I believe, on
8 or about October 4th, but what's also important to understand
9 is that Doctor Handley gave a presentation on October 1st
10 introducing the -- these metrics, these terms like efficiency
11 gap on October 1st, but the Commission -- the commissioners, I
12 think most of the commissioners -- Commissioner Rothhorn said
13 something interesting about that that I want to get to in a
14 minute -- they were looking at the changes in partisan makeup
15 when any number of precincts was -- were moved from
16 one district to another.

17 Now, that's not part of the approved metrics from
18 Doctor Handley, but what I thought was also very interesting
19 and, frankly, compelling about what Commissioner Rothhorn said
20 is that he struggled with the nuances and he wanted to know
21 how exactly do we do this. Well, what he did, which I wasn't
22 aware of at the time, if you move precincts that have any kind
23 of significant population, let's say a thousand people, then
24 you're going to change the results of elections. Not by a
25 lot. I'm not talking about a dispositive term, but if in one

1 election the Republican won by 48.9 percent, or got
2 48.9 percent, and then you move precincts around, maybe that
3 number changes to 48.7 percent or 49.1. He used that -- he
4 testified to my understanding, to start to get an idea, oh,
5 wait a minute, if we move things that's going to affect these
6 numbers.

7 Well, if the numbers are affected, if they go up
8 Republican or down Republican, up Democrat, down Democrat,
9 then that's going to relate to our constitutional mandate of
10 making these fair districts.

11 Frankly, I was very impressed that he on his own did
12 that, just to start to get a flavor for what was coming down
13 the road, so they already had this information and I think
14 Commissioner Eid testified that he had been looking at
15 partisan related information, and I'm sure that there were
16 other commissioners that were doing that as well. They may
17 have even told me that, I just don't recall it.

18 Q. So, was it possible much earlier than the partisan matrix
19 to look at actual election results by precincts and by
20 districts? In other words, Trump versus Biden or Clinton --
21 or any of the prior election results, could they be looked at
22 by the individual commissioners?

23 A. Well, the election results per se, that would be the
24 matrix that I think -- I wasn't able to see this, but on the
25 screen earlier there was a matrix at the bottom that had

1 information. I don't know if the slide showed the election --
2 specific election results.

3 I think what he was referring to is not the string of
4 election results Trump v -- excuse me, Trump v Biden and the
5 gubernatorial elections in Michigan, it was more a composite
6 of the partisan makeup of these districts that would vary, of
7 course, if you moved precincts around. Because one of the
8 data sets that I -- I don't think I've heard about this week
9 that we used, you could -- there was information where if you
10 clicked on a precincts you could see the turnout, the actual
11 numbers of people who voted Democratic or voted Republican.

12 Now, how that was determined and what went into that
13 I couldn't say because I didn't develop that, but that was
14 something that was also an interesting metric to see in real
15 time; move this here, move this here, then these numbers
16 change, which is what you have to do in order to achieve the
17 partisan fairness in the constitution.

18 Q. So, to the best of your knowledge, was any election data
19 kept secret from the Commission?

20 A. I don't have that -- I didn't keep anything secret from
21 anybody, and I don't recall election data being kept secret.
22 I think that we did -- general counsel and I would advise the
23 Commission not to take deep dives into general election -- or
24 election data in -- on September 10th, for example, before
25 Doctor Handley's presentation, before the partisan metrics

1 were available.

2 Because one of the things that came in a lot with
3 public comments, why don't you focus on the Trump v. Biden
4 election where the Democrat won, or why don't you focus on an
5 election where the Republican won, but just one. Don't get
6 any others, just one, Republican or Democrat. And we
7 routinely said, you can't do that, that that's going to weight
8 your decision, that's not within the literature as we
9 understand it.

10 So if you want to look at two, okay, we can -- we can
11 go with that where there's one Democrat and one Republican
12 that wins, but the preference is we have this whole range of
13 elections that you look at all -- you plug all of that in in
14 making these determinations, but these rough approximations
15 that were used by looking at two elections were just those,
16 they were rough approximations, not final decisionmaking, not
17 coming to a conclusion. It's just getting an idea of what
18 they have to do.

19 Q. So, there was data available for a commissioner to decide
20 whether any individual district had been in prior elections
21 carried by Donald Trump or Joe Biden?

22 A. Yes. Yes. There were data that said --

23 Q. And that wasn't hidden from the Commission?

24 A. No. As I said, I didn't hide anything and I don't recall
25 there being something hidden. That's not my recollection.

1 JUDGE MALONEY: Counsel, we'll go for about another
2 five minutes and then break for the day, so if you get to a
3 starting point after that, we'll reconvene on Monday.

4 MR. BRADEN: Absolutely. I'll go a quick
5 five minutes. Isn't that an oxymoron?

6 BY MR. BRADEN:

7 Q. So, the -- let me call them the Handley partisan fairness
8 metrics, can they be used at less than a statewide level?

9 A. No. And that was something that we reminded the
10 commissioners about, that you cannot evaluate partisan
11 fairness district by district. That whether a map is adjudged
12 to be partisan fair by using these metrics, you can only do
13 that by looking at the statewide plan.

14 Q. Did you understand these metrics to be a direct response
15 to the language in the state constitution about widely
16 accepted metrics for partisan fairness?

17 A. Yes. There were -- in looking and talking to the
18 Commission about some -- you know, for example, the *Rucho* case
19 or *Gill versus Whitford*, talking very broadly about these
20 partisan fairness litigations, and also discussing broadly --
21 well, the efficiency gap has been used. The other metrics,
22 the lopsided margin, that has been used.

23 So it's not like we're reinventing -- I shouldn't say
24 reinventing, that we're inventing something. We're using
25 things that have been used before, so we're good with that.

1 We recommend that you -- you have confidence in them.

2 Q. So those were only available on analyzing a full plan, it
3 could not be done by a district-by-district analysis?

4 A. No. Even if they were done district by district, you just
5 get -- the answer would be gobbelly-gook. It wouldn't mean
6 anything.

7 Q. But if you wanted to look at the Biden numbers versus the
8 Trump number in an individual district in isolation, the
9 commissioners could do that?

10 A. Well, frankly I think, yes, they could. Again, it's -- it
11 doesn't mean anything, but I think that that also reinforces
12 what I felt at the time and I certainly feel now is there was
13 a significant motivation from people in Michigan around the
14 criteria that the constitutional amendment that you all voted
15 for -- or voted on to have partisan fairness be an extremely
16 important component of --

17 Q. Do you --

18 A. -- redistricting. I'm sorry.

19 Q. Do you remember when the Commission started drawing the
20 Detroit metropolitan area?

21 A. Yeah. I think that was on or about -- let's say
22 September 14th. It was around that time. Maybe 15th or 16th,
23 but it was around mid September.

24 Q. Is it correct that most of the rest of the state had been
25 generally drafted prior to that?

1 A. Yes. And -- well, frankly, one of the things that we did
2 intentionally was, let's start in a place like the Upper
3 Peninsula where the population isn't concentrated. You don't
4 have large minority populations. You have a vast geographic
5 area. Let's kind of get your feet wet in places like that,
6 because getting your feet wet is an important component of the
7 learning curve that I mentioned earlier.

8 MR. BRADEN: We're going to wade into maps.

9 JUDGE MALONEY: Good time to break.

10 MR. BRADEN: You can have an exciting weekend
11 dreaming of maps.

12 JUDGE MALONEY: You can step down for now.

13 THE WITNESS: Thank you, Your Honor.

14 JUDGE MALONEY: We'll reconvene at 8:45 on Monday.
15 Have a good weekend. Drive safe.

16 THE CLERK: All rise. Court is adjourned.

17 *(Whereupon, hearing concluded at 3:59 p.m.)*

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I N D E X

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* * *

EXHIBITS: ADMITTED

-None

REPORTER'S CERTIFICATE

I, Genevieve A. Hamlin, Official Court Reporter for the United States District Court for the Western District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a full, true and correct transcript of the proceedings had in the within entitled and numbered cause on the date hereinbefore set forth; and I do further certify that the foregoing transcript has been prepared by me or under my direction.

/s/ Genevieve A. Hamlin

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