

1 Kansas City-based representative?

2 A. I really do. I think the needs are critical, and I
3 think they're very focused and it's important that they're
4 recognized and heard.

5 MS. ASTARITA: Thank you so much. I don't have any.
6 I pass the witness, Your Honor.

7 **CROSS-EXAMINATION**

8 BY MS. HUNKER:

9 Q. Good afternoon, Ms. Esselman.

10 A. Hello.

11 Q. It's a true pleasure to meet you --

12 A. Nice to meet you.

13 Q. -- I will say after doing a bit of research about

14 yourself and your organization I'm a big fan of the work that
15 you are doing with Operation Breakthrough.

16 A. Thank you.

17 Q. I want to start by confirming a few facts. First,
18 you are the president and CEO of Operation Breakthrough?

19 A. Yes.

20 Q. And Operation Breakthrough is a charity organization?

21 A. Yes, it's a 501(c)(3).

22 Q. A nonprofit?

23 A. Mmm-hmm.

24 Q. It provides childcare, education, and out of school
25 activities. And I think you mentioned healthcare and social

1 services as well?

2 A. Yes. We have a Children's Mercy Clinic inside as
3 well as a Swope Health dental clinic, and then a full
4 behavioral health team.

5 Q. And your facility is it located in Kansas City?

6 A. Yes.

7 Q. And Operation Breakthrough serves the urban core of
8 Kansas City; is that right?

9 A. Yes.

10 Q. It specifically focuses on children and families in
11 Kansas City's urban core?

12 A. Yes. And then as I mentioned we have some families
13 in our head start, early head start that bridge several
14 communities.

15 Q. But outside of the early head start program your
16 organization mostly focuses on children and families in the
17 Kansas City's urban core?

18 A. Yes.

19 Q. And Operation Breakthrough has multiple facilities in
20 Kansas City, if I'm not right?

21 A. Yes. So we have one on the east side of Troost, one
22 on the west side of Troost. And we also have three early
23 learning classrooms at DeLaSalle High School.

24 Q. And so tell me if I'm wrong about the name. It's
25 Berta's Place?

1 A. Yes, that's the early learning on the east side of
2 Troost.

3 Q. MakerCity?
4 A. MakerCity is in Corita's Place on the west side of
5 Troost.

6 Q. I think you said it was DeLaSalle?

7 A. DeLaSalle. Yes, it's about a mile down the road on
8 Troost.

9 Q. And Ignition Lab?

10 A. Yes. And that's the high school full course
11 development program.

12 Q. And are there any other facilities that I didn't
13 name?

14 A. So we do not have any other facilities, but we serve
15 children from a variety of other facilities that bus in on a
16 daily basis.

17 Q. And all four of the facilities are located on Troost
18 Avenue, I think you said?

19 A. Yes.

20 Q. By curiosity what geographic area makes up Kansas
21 City's urban core in your mind?

22 A. In my mind, you're looking at some of the ZIP Codes
23 would include 64109, 64127 64128, some in 64111, 64130.
24 Predominately on the east side as well as the northeast side
25 and a little bit south on the eastern side.

1 Q. Now it's safe to say that you oppose the 2025

2 Congressional Map?

3 A. Yes.

4 Q. And your concerned about how the 2025 map affects the
5 community that Operation Breakthrough serves?

6 A. I would say that I'm concerned about how it not only
7 affects our community but how it affects Missouri as a whole
8 because the district stretch far behind individual communities.

9 Q. But your personal testimony today is focused
10 specifically on the areas that Operation Breakthrough serves?

11 A. I would say that's where reside. But my testimony
12 probably looks at how the districts are formed as well as just
13 where my work is located.

14 Q. And you mentioned before that the east and west of
15 Troost Avenue was the same community?

16 A. Yes. I said that they have communities that have
17 similar needs. Yes.

18 Q. Would the east and west side of Troost have shared
19 interests?

20 A. Yes.

21 Q. And are you worried how the 2025 map would affect the
22 shared interest of that specific community?

23 A. Yes. Because it has two separate representatives and
24 both of them will have districts that extend far into Missouri
25 I'm really concerned about how that will affect the ability to

1 meet those needs when you have to prioritize. And how are you
2 going to prioritize areas that have that kind of breath.

3 Q. Have you looked at the boundaries of the 2022 map?

4 A. Yes, I have.

5 Q. And what about the 2025 map have you looked at the
6 boundaries in the 2025 map?

7 A. Yes.

8 Q. Were you aware that the 2022 map splits the City of
9 Independence into three congressional districts?

10 A. I had not looked at it that closely.

11 Q. And you don't know how the three-way split affected
12 the City of Independence residents or the representation?

13 A. I think that the difference between the 2025 map and
14 the 2022 map is the district spread much farther beyond
15 communities as opposed to just splitting them.

16 Q. So part of City of Independence split was in District
17 six. Do you know how large District six was under the 2022
18 map?

19 A. No.

20 Q. And so if I told you, like, all the way east onto
21 eastern border of Missouri under the 2022 map. Would you be
22 aware of that?

23 A. No.

24 Q. And you think having such a large district splitting
25 City of Independence would affect their ability to secure

1 representation?

2 A. I think that I'm looking at the needs in Kansas City
3 right now where we have in my mind it feels more arbitrarily
4 split a district into long sections, and I think that will have
5 negative impact on the community.

6 Q. You talked about Troost Avenue in your direct. It
7 sounds like you're very familiar with it?

8 A. Yes.

9 Q. And as we discussed the facilities that your
10 organization runs are located on Troost?

11 A. Yes.

12 Q. And Troost Avenue is a major north, south
13 thoroughfare in Kansas City?

14 A. Yes.

15 Q. You heard the State Senate District lines run along
16 Troost Avenue?

17 A. Yes. But I think you have to look at the state
18 senate lines differently than you're looking at what we're
19 talking about here.

20 Q. And I can appreciate that. But I want to right now
21 just focus specifically on the line going along Troost Avenue.
22 I'm actually going to give you an exhibit, and then it's going
23 to go up on the screen. This is demonstrative Exhibit State
24 140. The printout didn't unfortunately, the streets did not
25 cut out in full, so we're going to be focusing largely on the

1 one on the screen. We can magnify as needed, so just let me
2 know if you have difficulty seeing the original?

3 A. Okay.

4 Q. The document is entitled Missouri Senate District
5 nine. Do you see that on top?

6 A. Mmm-hmm.

7 Q. And do you see the logo on the right corner that says
8 the Office of Administration?

9 A. Yes.

10 Q. And let's take a quick look at the bottom left
11 corner. You see it says Judicial Redistricting Commission?

12 A. Mmm-hmm.

13 THE COURT: I'm sorry, Doctor. Can you give us a yes

14 --

15 THE WITNESS: Oh, I'm sorry. Yes. Sorry, sorry.

16 THE COURT: That's all right.

17 Q. (BY MS. HUNKER) Do you see where it says dates
18 printed?

19 A. Yes.

20 Q. And can you tell me what is the date that is next to
21 page printed?

22 A. 3-22-2022.

23 Q. So that's March 22, 2022?

24 A. Mmm-hmm. Yes. Sorry.

25 Q. It's all right. Let's take look at the district

1 overall. The document shows you can look both on the image in
 2 front of you and also on the screen. District nine is shaded
 3 in white. Do you see that?

4 A. Yes.

5 Q. And the boundary line of District nine is marked in
 6 green. Do you see that?

7 A. Yes.

8 Q. Now the document also shows some of the territory and
 9 senate districts that are adjacent to the Senate District nine;
 10 correct?

11 A. Yes.

12 Q. And that area it's shaded a creamy yellow?

13 A. Yes.

14 Q. And this includes Senate District seven, which is
 15 located west and south of District nine?

16 A. Yes.

17 Q. I want to zoom in on this intersection of Troost
 18 Avenue and 31st Street. And for this we're going to rely
 19 mostly on the image above.

20 A. Mmm-hmm. Yes.

21 Q. Berta's Place is located east 31st Street on the east
 22 side of Troost Avenue?

23 A. Yes, it is.

24 Q. And you had said that is your early learning center.

25 A. Yes.

1 THE COURT: I'm sorry to jump in. I just want to
2 make sure my understandings correct, and help our court
3 reporter. Is that Berta, B-e-r-t-a?

4 THE WITNESS: Yes.

5 THE COURT: Thank you.

6 Q. (BY MS. HUNKER) And that area is shaded white?

7 A. Yes.

8 Q. And that is in Senate District nine? We can zoom

9 back out again if you need to.

10 A. Yeah. Just zoom back out for a second.

11 Q. It's on the right side of the green line.

12 A. Yes.

13 Q. And so that's Berta's Place in Senate District nine?

14 A. Yes.

15 Q. Now Ignition Lab is located north of east 31st Street

16 on the west side of Troost Avenue?

17 A. Yes.

18 Q. And that is your high school?

19 A. That's our workforce development. Yes.

20 Q. And that is on the left side of the green border?

21 A. Yes.

22 Q. And so that puts Ignition Lab in Senate District

23 seven?

24 A. Yes.

25 Q. So Operation Breakthrough runs both Berta's Place and

1 Ignition Lab?

2 A. Yes, we do.

3 Q. They are both your facilities?

4 A. Yes.

5 Q. And they are both located in separate senate
6 districts?

7 A. Yes.

8 Q. Even though they are only just across the street from
9 one another alongside Troost Avenue?

10 A. Yes.

11 MS. HUNKER: That's all I have, Your Honor.

12 THE COURT: Okay. Do the intervenors have any
13 questions?

14 MR. ELLINGER: No questions, Judge.

15 **REDIRECT EXAMINATION**

16 BY MS. ASTARITA:

17 Q. Dr. Esselman, Ms. Hunker just asked you a few
18 questions about State Senate Districts. Do you think about
19 those differently?

20 A. I do.

21 Q. Why?

22 A. We often see what the state districts that they work
23 very collaboratively together. So in addition to knowing them,
24 they do different sessions together to talk about an issue. So
25 I feel like this is very different in the sense of comparing

1 those districts to the districts that we're looking at
2 federally.

3 Q. And so generally when you meet with your state
4 senators that represent both the seventh and the ninth district
5 do you meet with them together?

6 A. Yes.

7 MS. ASTARITA: And thank you. No further questions,
8 Your Honor.

9 THE COURT: Any additional questions?

10 MS. HUNKER: No, thank you, Your Honor.

11 THE COURT: Anything from the intervenor? All right.
12 You can step down. Thank you.

13 MS. KHANNA: Your Honor, I believe both sides of
14 plaintiffs concluded their witness presentations. I have a few
15 housekeeping things before we formally close.

16 THE COURT: Okay.

17 MS. KHANNA: But if now's the time to address those
18 --

19 THE COURT: That's fine. If you're done with
20 witnesses we can go ahead and take care of whatever other

21 matters you wanted to discuss while your case is open.

22 MS. KHANNA: Okay. Great. Thank you, Your Honor. I
23 think just one quick cleanup thing. I believe my colleague
24 mentioned with Ms. Esselman a Demonstrative 306. It's actually
25 going to be Demonstrative 307.

1 THE COURT: Thank you.

2 MS. KHANNA: I will clarify for the record and I'll
3 also clarify that we will be providing a full complete USB set,
4 a printed set of our demonstratives now that we've concluded
5 them. Although, probably not before I sit down.

6 THE COURT: It's okay.

7 MS. KHANNA: I believe also there's been some
8 question with the various experts about offering them, their
9 expertise. I think as, Your Honor, knows that the expertise to
10 the various -- for each expert has been stipulated. I just
11 wanted to make sure that was clear on the record as well.

12 THE COURT: Yeah. In terms of how we do it in
13 Missouri, I think once everybody agrees there's a
14 foundation for their opinion testimony they're free to
15 give it as expert witness and we're good to go. So I
16 don't have any concerns there.

17 MS. KHANNA: All right. Excellent. Thank you, Your
18 Honor. And then the only last thing I had on my list was the
19 deposition designations what you discussed yesterday we are in
20 the process of making it in that kind of unified easier format.
21 Again, we'll be providing that to the Court. I can't promise
22 it it'll be in the next 30 seconds.

23 THE COURT: That's okay. My understanding was some
24 of that may be offered as part of the defendant's case as
25 well. Am I correct about that?

1 MS. KHANNA: My understanding is that either joint
2 submissions and that it will designate the testimony that we're
3 all okay coming in and it will highlight the ones where there
4 are objections for both sides

5 MS. HUNKER: That's the understanding of state
6 defendants as well. We did confer with the plaintiffs shortly
7 after our discussion with the Court about designations, and
8 we've come to the agreement on how to approach it and we're
9 just waiting for a final draft.

10 THE COURT: Okay. So just as a, I guess, a
11 hypertechnical matter I won't consider your evidence
12 closed until you submit those to us. I think just to be
13 fair. I don't think they're going to get up and say you
14 can't offer it. But I think that your case would still be
15 open until you submit those to me.

16 MS. KHANNA: Thank you, Your Honor.

17 MS. HUNKER: Your Honor, we did plan on moving for a
18 Rule 73.01 an e-motion, which is a motion for judgment on
19 partial findings. But we had plan on doing it today or
20 tomorrow morning once the plaintiffs had closed their case in
21 chief. We can still proceed, even if it's technically open for
22 the designations. We would probably prefer to do it in that
23 order, but I will leave it to the court's discretion.

24 THE COURT: You can make your motion now. I don't
25 want anybody to get hung up on technicalities, but I also

1 don't want to dictate to an appellate court on what their
2 view of the procedure should be. I want you to do
3 whatever you all want.

4 MS. HUNKER: Our consensus is it probably has to be
5 officially closed before we can make the motion.

6 THE COURT: Then as we often do with cases we can
7 whenever, whether it's now or tomorrow morning we can
8 start some defense evidence, and then once that's ready we
9 can consider their case closed then you can make your
10 motion. I don't think from my perspective, I don't think
11 that sacrifices your ability to make a motion. We take
12 stuff out of order all the time. In my opinion, that's
13 fine. But again, I don't want to dictate to you all what
14 record you want.

15 MS. HUNKER: With that understanding, Your Honor,
16 we'll wait until the record is officially closed for
17 plaintiffs.

18 THE COURT: Okay.

19 MS. HUNKER: And then proceed on that motion.

20 THE COURT: Okay. Then my sense is that we're doing
21 well on schedule.

22 MS. HUNKER: We are ahead of time, Your Honor.

23 THE COURT: So do you all want to call somebody today
24 are or do you just want to start fresh in the morning and
25 let you all work on the depositions?

1 MS. HUNKER: We would prefer to start fresh in the
2 morning.

3 THE COURT: I think everybody's earned that with the
4 pace that we're going, so I'm not going to impose
5 additional witnesses. Yes.

6 MR. MULJI: I'll just note, Your Honor, I think for
7 the depositions we'll probably need more time than tomorrow
8 morning to get those done and the defense will need to review
9 them as well. Our understanding when we spoke is that we would
10 get those to the Court by the end of trial. But we can do so
11 at an early time, if that's necessary.

12 THE COURT: I'll let everybody work on it. I don't
13 know that you need me to weigh in on that right now, I'll
14 let you all kind of work together on it. And if there's
15 something you need me for we can talk about it first thing
16 in the morning.

17 MR. MULJI: Thank you, Your Honor.

18 MS. HUNKER: And we'll also do a little bit more
19 research just to make sure that we're not sacrificing anything
20 if we do our motion before it's officially closed. I just want
21 to make sure that it was confirmed that doesn't affect our
22 ability to get the motion locked in.

23 THE COURT: I don't think it does. But again, I
24 don't want to get myself or you all in trouble with some
25 kind of review in court, so I'll just let you tell me what

1 you want to do tomorrow morning.

2 MS. HUNKER: Thank you, Your Honor

3 THE COURT: Okay. Anything else you want to talk
4 about while we're here today?

5 MS. HUNKER: Only one small thing, Your Honor.

6 THE COURT: Yeah.

7 MS. HUNKER: 'Cause we were about to change
8 presentations state's defense do have a list of their exhibits

9 --

10 THE COURT: Okay.

11 MS. HUNKER: -- in a binder for you and we have also
12 sent the exhibits and handed a thumb drive --

13 THE COURT: We've got them loaded electronically.

14 MS. HUNKER: Yes. So you'll have both electronic and
15 a physical copy.

16 THE COURT: Okay. Anybody else?

17 MS KHANNA: One last thing, Your Honor, just for
18 planning purposes. I'm not -- it's just that I think we are

19 ahead of schedule. I'm not exactly sure how tomorrow is going
20 to go with the presentation of evidence. I know we spoke with

21 the defense counsel, and I think the parties and the Court
22 would probably benefit from regardless of how long tomorrow

23 goes from taking a night to prepare for closings on Friday. So

24 just so we can know what we're preparing tonight, I just want

25 to see if that's okay with the court's schedule?

1 THE COURT: That's fine. We've cleared the week for
 2 you. So if you finish a little earlier tomorrow, I'm okay
 3 with everybody assuming you would have closing arguments
 4 Friday morning, just for your planning purposes.

5 MS. KHANNA: Thank you, Your Honor.

6 MS. HUNKER: We appreciate that, Your Honor.

7 THE COURT: Okay. Anything else? I'm going to stop
 8 asking anything else. Okay. We'll plan to see you at
 9 8:30 tomorrow. And thank you, everybody. Have a good
 10 night.

11 (Court Proceedings Adjourned.)

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