Supreme Court of Ohio Clerk of Court - Filed October 22, 2021 - Case No. 2021-1193

IN THE SUPREME COURT OF OHIO

LEAGUE OF WOMEN VOTERS OF OHIO, *et al.*, *Relators*, *v.* OHIO REDISTRICTING COMMISSION, *et al.*, *Respondents*.	Case No. 2021-1193
BRIA BENNETT, *et al.*, *Relators*, *v.* OHIO REDISTRICTING COMMISSION, *et al.*, *Respondents*.	Case No. 2021-1198
THE OHIO ORGANIZING COLLABORATIVE, *et al.*, *Relators*, *v.* OHIO REDISTRICTING COMMISSION, *et al.*, *Respondents*.	Case No. 2021-1210

STIPULATION OF EVIDENCE

(deposition transcript and exhibits)

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STIPULATION OF EVIDENCE

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	Exhibits to Huffman deposition transcript	DEPO_01875-1892

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Transcript of Representative Robert R. Cupp

Date: October 21, 2021
Case: League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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IN THE SUPREME COURT OF OHIO

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LEAGUE OF WOMEN VOTERS :

OF OHIO, ET AL., :

Relators, :

v. : Case Nos. 2021-1193

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COMMISSION, et al., : 2021-1210

Respondents. :

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Remote Videotaped Deposition of

REPRESENTATIVE ROBERT R. CUPP

Thursday, October 21, 2021

9:40 a.m.

Job No.: 405261

Pages: 1 - 110

Reporter: DEBRA BOLLMAN FARFAN, RDR-RMR-CRR

CA CSR NO. 11648

Videoconference Deposition of REPRESENTATIVE ROBERT R. CUPP, held remotely:

Witness Location:
REMOTE

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Kelsey Miller, League of Women Voters ACLU

Gabriel Martin, The Videotech

Joel Coriat, The Videographer

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I N D E X O F E X H I B I T S

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END OF EXHIBITS

1 P R O C E E D I N G S
2 * * * * *
3 THE VIDEOGRAPHER: Good morning. Here
4 begins Media Number 1 in the video recorded
5 deposition of Speaker Robert Cupp in the matter
6 of League of Women Voters of Ohio, et al.,
7 versus Ohio Redistricting Commission, et al.
8 This is Consolidated Case No. 2021-1193, filed
9 in the Supreme Court of Ohio.
10 Today's date is October 21st, 2021. The
11 time on the video monitor is now 9:40 a.m.
12 The videographer today is Joel Coriat on
13 behalf of Planet Depos, and this deposition
14 will be taken via videoconference.
15 All counsel appearances will be noted on
16 the stenographic record.
17 The court reporter today is Debra
18 Bollman, on behalf of Planet Depos. She will
19 now swear in the deponent.
20
21 Whereupon,
22 SPEAKER ROBERT CUPP
23 was called as a witness, was duly sworn and
24 testified under penalty of perjury as follows:
25

EXAMINATION

BY MR. STAFFORD:

Q. Good morning, Speaker Cupp. My name is Ben Stafford. I'm an attorney with the Elias Law Group. I represent a group of relators in this case.

Have you ever had your deposition taken before?

A. I don't recall that I did.

Q. Okay. So this is your first deposition you've had the pleasure of, then?

A. To be honest, yes.

Q. So I'm sure your attorneys have prepared you exquisitely, but just a few brief reminders as we get underway here.

First, it's important to verbalize your answers rather than just nod your head or shake your head so that we get a clear transcript. Okay?

A. Okay.

Q. I will also ask you to let me complete my question before you start your answer, even if you think you know where I'm going, and I will try to do the same as you give your answer so that, again, we can get a clear transcript

1 and try not to talk over each other.
2 Then, finally, I will say in all of my
3 questions, I am not trying to trick you. So if
4 you do not understand a question that I've
5 asked, please let me know so that we can make
6 sure that I address that.
7 Otherwise, if you do go ahead and
8 answer, I'll assume that you understood my
9 question. Is that fair?
10 A. Yes, it is.
11 Q. Okay. Speaker Cupp, what is your role
12 on the Ohio Redistricting Commission?
13 A. Pro forma member of the commission, and
14 I also served as the co-chair, one of the
15 co-chairs.
16 Q. And as one of the members of the
17 commission -- set aside the co-chair for a
18 moment -- what are your responsibilities?
19 A. To draw a constitutional district plan
20 for the -- for the state legislature. When
21 we're talking about legislative districts, of
22 course.
23 Q. Okay. And I will just let you know that
24 unless I am clearly asking to the contrary, my
25 questions are about the General Assembly plan

1 here today.
2 As the co-chair of the commission, what
3 were your responsibilities?
4 A. To work with the other co-chair in
5 establishing and doing the administrative work
6 to make sure the administrative work of the
7 commission was functioning properly and
8 completed.
9 Q. And when you say "the administrative
10 work of the commission," what do you mean?
11 A. Setting times for meetings, for
12 hearings, consulting with each other to make
13 sure that we were able to complete our work on
14 time. Have proper hearings following the
15 Constitution.
16 Q. And for the record, who was the other
17 commission chair -- or co-chair, rather?
18 A. Senator Vernon Sykes.
19 Q. Okay. And when you talk about hearings,
20 did the commission hold hearings to hear public
21 testimony or input from the members of the
22 public?
23 A. Yes, they did.
24 Q. And when were those meetings held?
25 A. Well, they were in August to begin with,

1 and then -- this is before the commission
2 introduced a map. And then after the
3 commission introduced the map, there were
4 hearings in September.
5 Q. And --
6 A. I don't know the exact dates. They're
7 on the record.
8 Q. And for the meetings before the release
9 of a plan, did you prepare any materials to
10 guide what you would say yourself during those
11 hearings?
12 A. Just the formalities about calling the
13 meeting to order, introducing who was there,
14 and that sort of thing. Made the announcement
15 as to additional hearings, when they were going
16 to be held.
17 Q. Okay. So you had a -- fair to say a
18 script of sorts for some of the basics of the
19 hearings that you were holding?
20 A. Yes, just very basic script of the
21 procedural matters.
22 Q. Okay. And did you approve the script
23 that you would be using?
24 A. Usually a staff member would give it to
25 me just shortly before the hearing. Again, it

1 was just basic, you know, procedure.
2 Q. Okay. And nothing about that was
3 inaccurate from your perspective?
4 A. I don't recall. I may have made minor,
5 you know, changes as, you know, I was using it
6 to fit the circumstances, but...
7 Q. Okay. Now, as the -- when you say that
8 as a commission member your basic
9 responsibility was to pass a constitutional
10 map, I believe you said, are you referring to
11 any particular provision of the constitution?
12 A. Well, all of them. Tried to follow all
13 of them.
14 Q. Okay. And that includes Article XI of
15 the Ohio Constitution?
16 A. Yes, it did.
17 Q. Okay. Now, as the Speaker of the House,
18 did you take on any particular additional
19 responsibilities when it came to the process of
20 preparing a General Assembly plan?
21 A. Additional responsibilities? Well, we
22 had -- so the staff worked on preparing the
23 district plan. So I assigned staff to that.
24 Q. And did you then particularly oversee
25 staff who were preparing a plan?

A. From time to time. Obviously, what's the progress. They were concerned about trying to get everything done under the constitutional deadlines. So we would discuss how things were going and occasionally see what -- again, what the status, the progress of drawing the plan was.

Q. And did any other member of the commission oversee staff in a way similar to the way that you were overseeing staff who were drawing the plan?

A. Yes, Senator Huffman did, I believe, in the Senate.

Q. And did you and Senator Huffman ever talk about splitting up duties with respect to the map drawing process?

A. No, I don't believe we had specific discussions about dividing duties.

Q. Did you two, in fact, divide responsibilities for preparing a General Assembly plan?

A. Well, so for the House, obviously I focused on what the House districts were going to look like. I think he focused a lot on what the Senate districts were going to look like.

1 Then, of course, because they overlap,
2 you know, we each had to be concerned about how
3 that affected the other.
4 Q. When did you start preparing for the
5 2021 redistricting cycle?
6 A. I don't remember the exact date.
7 I do know that we were following the
8 progress of the census data becoming available,
9 which was delayed, and obviously began
10 reviewing the constitutional requirements and
11 identified who from the House was going to be
12 working on drawing the district lines.
13 So that could have been -- well, the
14 census data, obviously, was something fairly
15 early in the spring or summer.
16 Q. And so, sorry, did you say then that you
17 began preparing for the process of districting
18 in the spring or summer of 2021?
19 A. I would say, in the general way, become
20 familiar with the constitutional requirements,
21 the deadlines, and concerned about when the
22 census data was going to be available so we
23 could actually get started on real maps.
24 Q. And what constitutional provisions did
25 you familiarize yourself with?

A. Read through the whole article, Article XI.

Q. And did that include Section 6 of Article XI?

A. It did.

Q. You said that one of the things that was done was to identify staff in the House who would work on the redistricting process. Which staff did you identify?

A. Blake Springhetti.

Q. Okay. And who is Mr. Springhetti?

A. He was our budget director, and he was a staff person we assigned to help draw the district map.

Q. And why would you assign Mr. Springhetti in particular to that responsibility?

A. He had a facility with numbers and statistics, was thoughtful, paid attention to detail, and was a hard worker.

So we knew from past experience that it would be a monumental effort to try to get the line drawing done in time because it took so much time, so he was willing to put in that kind of effort.

Q. Do you know whether Mr. Springhetti had

1 any prior map drawing experience?
2 A. I do not.
3 Q. Did you identify any staff members in
4 the House, other than Mr. Springhetti, to
5 assist in the map drawing process?
6 A. No, he was the only one involved in
7 drawing the maps from the House that I'm aware
8 of.
9 Q. And what did Mr. Springhetti use to draw
10 maps?
11 A. Well, he used a computer.
12 Q. Okay. And a software program presumably
13 on the computer?
14 A. Yes. I forget what the name of it is.
15 Map something or other.
16 Q. Is it Maptitude?
17 A. I believe so.
18 Q. And where was the computer that
19 Mr. Springhetti used for this purpose?
20 A. It was in the William Green Building, in
21 an office space there.
22 Q. And when did you get the software and
23 computer set up for the conduct of mapping?
24 A. I don't recall the exact date, but we
25 did it in advance of when the census data, we

1 understood, was going to be available so it
2 would be ready to begin the process of drawing
3 the lines.
4 Q. What, if anything, was done using that
5 equipment before the census data were released?
6 A. I think maybe some training on it,
7 getting familiar with how it worked.
8 Q. Who trained Mr. Springhetti on those
9 matters?
10 A. I don't know. I do not know
11 specifically.
12 Q. Was training conducted for
13 Mr. Springhetti on how to use Maptitude?
14 A. I have no personal knowledge of that.
15 My understanding was they were going to be
16 getting training on how to use it.
17 Q. And where did that understanding come
18 from?
19 A. From my chief of staff.
20 Q. Okay. And who is your chief of staff?
21 A. Christine Morrison.
22 Q. And did Ms. Morrison tell you who would
23 be conducting that training?
24 A. May have, but I don't recall. That was
25 not something that I was particularly paying

attention to.
Q. Did you receive any training on how to use software to conduct mapping?
A. I did not. Although, it would have been interesting.
Q. Did you consider engaging the services of anyone other than legislative staff to assist with mapping?
A. Well, we obviously obtained legal counsel.
Q. Okay. And I'm not asking you for any communications you had with legal counsel, but which legal counsel did you retain?
A. Phil Strach and Tom Farr, I believe.
Q. And when did you obtain their services?
A. I don't recall exactly. It was before we began the actual drawing of the maps.
Q. And when did you begin the drawing of the maps?
A. Once the census data was available.
Q. Can you give me an estimate of what month it was when you retained their legal services?
A. Oh, you know, maybe July, July, August, early August timeframe.

Q. And what source of funds was used to pay for their services?

A. I am not entirely sure at this point. There was obviously money that was appropriated for map drawing, and each caucus was allocated funds.

Q. And were Mr. Strach and Mr. Farr paid from those funds that were allocated for the purpose of redistricting?

A. I really do not know specifically.

Q. Who would know that?

A. Wendy Zhan, the director of Legislative Service Commission, was monitoring the expenditures.

Q. And can you tell me a little bit more about those funds that were set aside for redistricting? How was that fund created?

A. It was a legislative appropriation, and there were -- essentially it was equal amount of funds to each joint House/Senate caucus, and they were divided equally.

Later on the Democrats asked for additional funds, and I believe we provided additional funds to the Democrats so they could hire additional experts.

Q. Other than legal counsel, did you engage the services of anyone other than legislative staff to assist with the map drawing process?
A. I don't recall anyone else.
Q. And who retained those legal services? Or to state that differently, who was the client of those attorneys?
A. Well, I'm assuming they were representing -- were representing me and probably Senator Huffman as well.
Q. Okay. In your individual capacities? Or were they representing the House and the Senate themselves?
A. I don't know the technicalities of that, quite frankly.
Q. Okay. Is it fair to say, then, that you were responsible for overseeing the development of the General Assembly plan on behalf of the Republican caucus?
A. I was one of those, yes.
Q. The other one being Senator Huffman?
A. That's correct.
Q. Okay. So the two of you together were responsible for overseeing the development of the General Assembly plan?

A. Generally, yes.
Q. Okay. And I believe you said that you generally took primary responsibility for the House map, Senator Huffman took primary responsibility for the Senate map, although the two of you needed to collaborate together given the impact of one map on the other map?
A. That's correct.
Q. Okay. So were you responsible for providing direction to the map drawer for the House map?
A. Yes.
Q. Okay. And I believe your testimony was that it was Mr. Springhetti who was the map drawer for the House map.
A. Yes.
Q. Were you responsible for providing direction to the map drawer for the Senate map?
A. So in a general sense, the sense that they kind of had to work together.
But my primary direction was to Mr. Springhetti.
Q. And who was the map drawer for the Senate map?
A. Ray DiRossi.

Q. Did anyone other than Mr. DiRossi and Mr. Springhetti assist in drawing the map on the House side?
A. You mean physically drawing it?
Q. Using the software program to draw.
A. Not to my knowledge.
Q. Did anyone other than Mr. Springhetti and Mr. DiRossi use the map drawing software on the Senate side?
A. Not to my knowledge.
Q. Did anyone other than yourself and Senator Huffman provide direction to Mr. -- to either map drawer on drawing the maps?
A. Well, I certainly can't speak for the Senate. And I don't know. What do you mean by "direction"?
Q. Did anyone other than yourself or Senator Huffman provide guidance on how the map should be drawn to either map drawer?
A. Other than legal advice as to what would be a constitutional map, I do not believe so. Not to my knowledge, anyway.
Q. And to your knowledge -- and, again, I'm not asking for the substance of any legal advice, but who provided legal advice to the

1 map drawers about the map?
2 A. Well, it would have been through me and
3 through Senator Huffman. But it would be
4 Mr. Strach and Mr. Farr.
5 Q. When did you first task anyone with
6 developing a General Assembly plan?
7 A. I think you asked that question before,
8 and I can't remember exactly when we identified
9 Blake with doing that for the House, but it
10 would have been perhaps sometime in July.
11 We were doing our state two-year budget,
12 so we were pretty consumed with doing that,
13 getting that done, and then we turned our
14 attention to the map drawing. So that would
15 have probably been in early to mid July
16 sometime.
17 Q. And let me clarify my question. When
18 did you task anyone to start actually drawing a
19 plan at this point?
20 A. Oh, directed -- Blake was directed to
21 start drawing the plans as soon as we got the
22 census data.
23 Q. Do you recall the date where
24 Mr. Springhetti started drawing a House plan?
25 A. Well, I don't know the date, but census

1 data came in around mid-August. So that's when
2 that would have -- we would have taken that up
3 immediately.
4 Q. Other than legal counsel, did you engage
5 consultants to assist in the preparation of
6 maps?
7 A. I don't believe so.
8 Q. Do you have an understanding of how
9 Mr. Springhetti and Mr. DiRossi worked together
10 in drawing maps?
11 A. No, not specifically. I didn't actually
12 see them, you know, work together.
13 Q. Do you know who Clark Benson is?
14 A. I've heard the name, but I don't know
15 him.
16 Q. Who is Clark Benson to your
17 understanding?
18 A. I think he is someone that had some
19 geographical data.
20 Q. Did you ever speak to Mr. Benson?
21 A. I have not.
22 Q. Did you ever communicate, yourself, with
23 Mr. Benson in any way?
24 A. No.
25 Q. Did any staff members on your behalf

speak or work with Mr. Benson?
A. No, not on my behalf.
Q. Okay. What geographic data did Mr. Benson have?
A. My understanding was to align the precincts in political subdivisions with -- I think it was voting data from the early years, like in the decade. That was part of looking at the statewide partisan vote as precinct lines and political things had shifted over time.
Q. Is Mr. Benson a legislative staffer?
A. No.
Q. Do you know who Mr. Benson works for, then?
A. I do not.
Q. Okay. How did you come to understand that Mr. Benson was sharing some geographic and partisan data that was used in the map drawing process?
A. Well, I don't know about partisan data. But the geographic data, trying to put together the ten-year, you know, voting data, things weren't publicly available, I guess, for the early years, '12 and '14, so it was just an

1 attempt to try to put all that together.
2 Q. And who told you that Mr. Benson was
3 providing that data?
4 A. Mr. DiRossi, I believe.
5 Q. And when you say "voting data" that I
6 believe was mapping onto precincts, what voting
7 data do you mean?
8 A. I really don't know. We didn't get into
9 that level of detail.
10 Q. Do you know why Mr. DiRossi was getting
11 data from Mr. Benson if you hadn't directed him
12 to do so?
13 A. I think I had indicated that they were
14 trying to figure out how to match up, you know,
15 the legal subdivision lines from early on. And
16 maybe precinct lines.
17 Q. And just so that I'm clear, and this was
18 something that Mr. DiRossi had done without
19 your direction?
20 A. No. Well, we're looking for the data so
21 that they could be able to complete what the --
22 the ten-year lookback.
23 And the question was, "Is that
24 geographical data available publicly?"
25 And the answer was, "No."

"So is it available somewhere else?"
And they said, "Yes."
And so, "Could we get that geographical information?"
And says, "Well, it should be as complete as possible, so let's do it."
Q. Okay. And they got it from a person that you never spoke to, and you don't know who he works for; is that right?
A. That's correct.
Q. Do you know who John Morgan is?
A. I don't believe I've heard that name before.
Q. Do you know whether anyone other than Mr. Benson provided data that the map drawers relied on in the redistricting process?
A. Not to my knowledge. Well, data -- I think there's data from the Secretary of State's office, that sort of thing.
Q. Okay. Other than from Ohio government sources, do you know whether anyone else provided data that the map drawers used in the mapping process?
A. No, I do not know.
Q. Do you know whether Mr. Benson was being

1 paid for the services that he was providing to
2 Mr. DiRossi?
3 A. I believe so.
4 Q. Do you know who was paying him?
5 A. No, I do not.
6 Q. Were Mr. -- was Mr. DiRossi authorized
7 to expend funds without your approval?
8 A. I'm not essentially -- I'm not sure in
9 what sense you mean that. Obviously they had
10 some authority to expend funds to be able to
11 get the software and do all of those sort of
12 things.
13 So we would certainly have -- we
14 authorized him to use that -- to get that data.
15 The assumption would be if there were a cost,
16 it would be paid for.
17 Q. So did you provide any direction to
18 Mr. DiRossi or Mr. Springhetti on what
19 permissible use of funds were or were not?
20 A. Not for litigation.
21 Q. And so what was it for?
22 A. It was for information, for data, for
23 software, to be able to draw a district plan.
24 Q. And so were the funds that they were
25 authorized to use the funds that had been

appropriated by the legislature for both the Democratic caucus on the one hand and the Republican caucus on the other hand?

A. That would be my assumption, but I don't know specifically.

Q. Could any member of the Republican House caucus who wanted to give instruction to Mr. Springhetti or Mr. DiRossi about how to draw the maps?

A. In what sense do you mean that? They were -- he was a direct -- Mr. Springhetti was to take direction from me and my staff.

Q. And so I'm just trying to make sure that I understand the flow of communication.

A. All right.

Q. If a House caucus member had some input they wanted to provide, could they communicate directly with Mr. DiRossi or Mr. Springhetti? Or did they have to come through you or Speaker Huffman -- sorry, Senator Huffman?

A. That's right. You never know. So I don't know about the Senate side. But for the House side, if a member had input, suggestions, they would have to come through me or one of my staff members.

1 Q. And what staff members, in particular,
2 could people use as a point of contact for
3 issues related to the mapping process?
4 A. Well, our legal counsel, Paul Disantis,
5 or our chief of staff, Christine Morrison.
6 Q. That was Paul Disantis?
7 A. Pardon?
8 Q. Did I hear the name correctly, was it
9 Paul Disantis?
10 A. Yes.
11 Q. Okay, thank you. Anyone other than
12 Mr. Disantis or Ms. Morrison?
13 A. No.
14 Q. And I think I asked you specifically
15 about the House caucus. Would the same
16 protocol have been in place for any members of
17 the Senate caucus who wanted to provide input
18 or suggestions on the plan?
19 A. Yes. If any senator wanted to have
20 input through Mr. Springhetti, they would not
21 go to Mr. Springhetti. They would go to either
22 me or Christine Morrison.
23 Q. Okay. And then with regard to other
24 members of the Redistricting Commission, if
25 they wanted to provide input or suggestions to

1 Mr. Springhetti or Mr. DiRossi, could they do
2 so directly?
3 A. No.
4 Q. Okay. How -- then who would they be
5 responsible for communicating with?
6 A. With -- reporting to the House side,
7 with me or Christine Morrison.
8 Q. And then to your knowledge on the Senate
9 side?
10 A. I do not know how the Senate handled it.
11 Q. Is it fair, then, to say that on the
12 House side, you limited access to who could
13 provide input to the map drawers for the
14 Republican plans?
15 MR. STRACH: Objection.
16 Go ahead.
17 THE WITNESS: Would you -- would you
18 restate the question, please.
19 BY MR. STAFFORD:
20 Q. Is it fair, then, to say that on the
21 House side, you limited access to who could
22 provide input to the map drawers responsible
23 for drawing the Republican plan?
24 A. Yes. Direct access, yes, we did limit
25 that.

Q. Okay.
A. That was just to -- yeah, we did.
Q. Did you provide either Mr. DiRossi or Mr. Springhetti with any data that could be used to draw legislative maps before the census data was released?
A. I didn't. Did you ask whether others did too? I'm sorry, repeat that.
Q. To your knowledge, did anyone provide data to Mr. Springhetti or Mr. DiRossi to draw legislative maps before the census data were released?
A. Not to my knowledge.
Q. Did either Mr. Springhetti or Mr. DiRossi start drawing any maps before the census data were released?
A. I don't know about Mr. DiRossi, but Mr. Springhetti did not start drawing maps until the census data was available.
Q. Okay. Do you know whether anyone other than Mr. Springhetti working on behalf of the House started drawing legislative maps before the census data were released?
A. I do not know of anyone working on behalf of the House did that.

Q. Other than the data that Mr. Benson provided, are you aware of whether Mr. DiRossi or Mr. Springhetti utilized any other voting data in preparing the General Assembly plans?

A. I believe they did use data from the Secretary of State's office.

Q. Other than those two sources, did they use any --

A. I'm not aware.

Q. I'm sorry. Just let me finish my question.

A. Yeah, right, go ahead.

Q. Other than those two sources, did either Mr. Springhetti or Mr. DiRossi utilize any other voting data in preparing the maps?

A. Not to my knowledge.

Q. Okay.

A. Not to my knowledge.

Q. Were you provided with a copy of the voting data that they used to prepare the plans?

A. No.

Q. Are you familiar with the maps that were introduced to the commission on September 9th by Senate President Huffman?

A. Am I familiar with it?
Q. Yes.
A. Generally speaking, yes. I had seen the map before it was introduced, yeah.
Q. When did you first see the map that was ultimately introduced on September 9th?
A. Maybe the day before. I had seen parts of it before that.
Q. When did you first see any part of the map that was being drawn that was ultimately released on September 9th?
A. Probably not until early September, and that's kind of a -- kind of a guess. I don't know specifically.
Q. Do you know when the final version, at least final as of September 9th version, of the map was completed?
A. I think it was fairly late on September 14th.
Q. I'm sorry. Let me clarify my question. There was a map that was released on September 9th. I'm asking when that version of the map --
A. Okay.
Q. -- was completed finally.

A. I think late on September 8th, the day before. I know they were -- because there's so much data and there's so little tolerance in the line drawing and the population requirements, I know it was a fairly tedious and time-consuming effort to be able to get it right.

And we did tell them that we wanted it right. We wanted to follow the Constitution. And so it was a -- it was something that just took a lot of time.

Q. When you saw parts of the map, what parts of the map did you see prior to the release on September 9th?

A. Well, there was some -- part of it was demonstrating what the constitution requirements were and how that affected the line drawing.

So there were some counties that could not be split and some that, you know, had to be, based upon other constitutional requirements. So we looked at part of those to show how that worked and affected the line drawing. So those would have been the earliest parts.

And then from time to time get a little status report about how far they've been able to construct the map and keep within the constitutional requirements.

Q. Did you see images of the map or parts of the map before September 9th? Or September 8th, I'm sorry. I think that's when you said you saw it initially.

So before September 8th, did you see images of the map or parts of the map?

A. Yes.

Q. Did you see it on the computers that Mr. DiRossi and Mr. Springhetti were using?

A. I may have seen a little, but most of it was on paper, as I recall.

Q. Okay. When you were provided with paper versions of maps, were you provided with any data accompanying those images?

A. No.

Q. Okay. So you were not provided with population data about the various districts?

A. No. Well, I don't recall whether it was population data on it or not. I know there was obviously some discussion about whether it's within the 5 percent leeway either way.

1 You know, so that's about all I recall
2 about that kind of data.
3 Q. I believe you said that you saw maps on
4 the computers a little before September 8th; is
5 that correct?
6 A. Yes. It would have been an individual
7 kind of thing to show, for example, how you had
8 to follow the political subdivision lines and
9 not split them to stay in compliance. So that
10 would have been kind of like a little
11 demonstration as to why this particular one was
12 drawn the way it was.
13 Q. And would that have come about because
14 you had questions about a draft map that you
15 had seen and you received an explanation in
16 response?
17 A. Sometimes. Sometimes it was just, you
18 know -- if you look at some of them and you
19 follow political subdivision lines, they look
20 kind of a little like a lot of little lines
21 here and little parts there.
22 And the point was to demonstrate that
23 those -- that it's part of the political
24 subdivision lines. It's not something that the
25 map drawers were doing to split political

1 subdivisions. They're trying to keep it whole.
2 Q. When you saw the maps on the computer
3 screen, what data were displayed about the map
4 on the screen?
5 A. I didn't recall seeing any data
6 displayed on the screen.
7 Q. Okay. So your testimony is that there
8 was no data about population or political
9 performance available on the screen?
10 MR. STRACH: Objection.
11 Go ahead.
12 THE WITNESS: I don't recall seeing any
13 of that kind of data on the screen, no.
14 BY MR. STAFFORD:
15 Q. Prior so September 9th, did you have any
16 conversations about the partisan makeup of any
17 particular districts in a map that was being
18 prepared by Mr. Springhetti?
19 A. Would you restate that, please.
20 Q. Prior to September 9th, did you have any
21 conversations about the partisan makeup of any
22 particular districts in a map that was being
23 prepared by Mr. Springhetti?
24 A. Yes, there would have been individual
25 districts. There was some conversation about

1 the political makeup.
2 Q. Which particular districts did you
3 discuss the political makeup of, the partisan
4 makeup of those districts before September 9th?
5 A. I don't -- I do not recall.
6 Q. Do you recall any of those districts?
7 A. I do not.
8 Q. Okay. What discussion did you have
9 about the political makeup of particular
10 districts?
11 A. I think it was just -- it was very
12 general about, you know, individual districts
13 here or there, what the -- what the political
14 index would be.
15 Q. And when you say "the political index,"
16 what do you mean by that?
17 A. I assume that's a voting district in
18 terms of whether it was lean Republican or lean
19 Democrat.
20 Q. Okay. And who did you have those
21 discussions with?
22 A. It would have been Blake mostly.
23 Q. Okay. And so would you ask
24 Mr. Springhetti about what the -- let me make
25 sure I've got your phrase correctly here. I

1 think you said "political index." Did you have
2 discussions or did you ask Mr. Springhetti
3 about what the political index of a particular
4 district was in a draft map?
5 A. Not specifically. It would have come up
6 in looking at the district. Again, this was a
7 spotty sort of thing.
8 Q. What do you mean it would have come up
9 in looking at a particular district?
10 A. Well, the way that the district was
11 drawn, the limitations in terms of the
12 splitting of the district and -- so whether you
13 had to draw it, and the question is what --
14 what is -- does that lean Republican or lean
15 Democrat or is it a competitive district, that
16 sort of thing, in a general sense.
17 Q. And when that issue came up, what did
18 Mr. Springhetti look at to answer the question?
19 A. I don't know. He gave didn't give me an
20 answer.
21 Q. Did this come up when you were looking
22 at the computer with him?
23 A. No.
24 Q. Okay. And so if this came up, he would
25 get back to you and tell you what the political

1 index of the district, were a question had come
2 up, what that was?
3 A. No. Since I indicated most of the
4 districts that we see were printed on paper
5 copy, and it would come up in the sense of
6 looking at those districts and how they -- how
7 they were -- how they appear on the map.
8 Q. And Mr. Springhetti would tell you what
9 the political index of a given district was in
10 the context of those sorts of conversations?
11 A. Not as a uniform matter. But, you know,
12 if it was a change in the way the district
13 looked, it would -- that did obviously come up.
14 Q. And I'm asking maybe an even more simple
15 question, which was on the occasions that this
16 came up, in those occasions would
17 Mr. Springhetti tell you, for example, the
18 political index of this district is Republican
19 plus three?
20 A. Sometimes it was specific like that, but
21 more likely it was -- it was a lean Republican
22 or lean Democrat.
23 Q. And on the occasions that this came up,
24 was this something that Mr. Springhetti was
25 answering off the top of his head?

A. Well, I don't know off the top of his head, but he didn't consult, you know, a directory or anything.

Q. So he answered the question without looking at any source of information?

A. Yeah, to me, he did, yeah.

Q. Prior to the release of the September 9th map, did you discuss the overall partisan makeup of the House map?

A. No, I did not, actually.

Q. Okay. Did you have any discussion about the overall political index of the House map?

A. No, we did not.

Q. Did you have any discussion about how many overall Republicans you expected that the map would elect and how many Democrats you would expect the map would elect?

A. I'm trying to recall, because that was not really the -- generally any part of any discussion. It was more focused on kind of individual ones where the lines had changed.

And I don't recall -- honestly, I do not recall whether it was ever advised as to what the overall final map had in terms of total districts leaning one way or the other.

1 After the map was introduced, I was
2 advised of that. I remember being a bit
3 surprised by it.
4 Q. After the -- when was that, after the
5 map was released, that someone advised you,
6 that you specifically recall, of the overall
7 expected partisan performance of the map?
8 A. I assume on this -- I believe on the
9 same day. It may have been part of the
10 discussion before the commission when the map
11 was introduced. Or presented, I guess.
12 Q. You said that you were surprised. What
13 do you mean by that?
14 A. That the number of Republican leaning
15 districts was more than I had anticipated it
16 was going to be.
17 Q. Were you concerned by the number of
18 Republican leaning districts?
19 A. I'd just say I was surprised by it.
20 Q. And I asked: Were you concerned by that
21 data?
22 A. Well, our goal was to draw a
23 constitutional map, and we also wanted a
24 ten-year map.
25 And my concern was, and I was a bit

1 concerned, that that would be something that
2 would not be acceptable to the Democrat members
3 of the commission and that we would, obviously,
4 have to try to figure out some way of getting
5 to a compromise.
6 Q. As the Speaker of the House, before a
7 map was introduced on behalf of the Republican
8 caucus, were you interested in what the overall
9 partisan performance of that plan would be?
10 A. Was I interested? Well, obviously, I
11 anticipated that it would be a Republican
12 leaning overall map, because I believe we are a
13 Republican state. So in that sense, you know,
14 certainly.
15 Q. When you and Mr. Springhetti discussed
16 the partisan performance or expected partisan
17 performance of the political index, I believe
18 this is how you put it, of particular districts
19 before the release of the September 9th map,
20 did you ever tell Mr. Springhetti to make a
21 district less Republican leaning?
22 A. I can't recall specifically before the
23 map was presented.
24 Q. Before the map was presented on
25 September 9th, did you ever tell

1 Mr. Springhetti to make a district more
2 Republican leaning?
3 A. No, I'm sure I did not.
4 Q. Prior to the release of the map on
5 September 9th, did you have any conversations
6 with members in your caucus about the partisan
7 makeup of specific districts?
8 A. I know I had some discussion with some
9 members, but I can't remember whether it was
10 before or after the release of the map, and it
11 was because their districts became less
12 Republican leaning or their districts included
13 the geography that was not in their current
14 district, so it would have been a big change
15 for them.
16 And I do think some of them -- I had an
17 understanding that there would be less
18 Republican leaning, so we had a conversation
19 with them about that. But, again, I can't
20 recall whether it was before the original
21 Republican map was presented or whether it was
22 later than that. And maybe some of both.
23 Q. Do you recall any conversations with
24 members of your caucus before the September 9th
25 map was released about their districts?

A. Again, I can't recall whether it was before or whether it was right after.

Q. You talked, I believe, and correct me if I'm wrong -- go ahead.

A. I want to add, if it were before, it would have been just before.

Q. You talked previously, and correct me if I'm wrong, that one of the contexts in which discussions about the political index of particular districts would come up with Mr. Springhetti was when there were changes to the map. Am I remembering that correctly? Or changes to districts or areas of the state?

A. Yes, the geographical changes to districts.

Q. Okay. What parts of the state did that kind of conversation occur in?

A. It would have been mostly Northeastern Ohio. It's my understanding that there has been a long-standing problem with being able to draw districts there that conform to the Constitution without violating another provision.

This time, however, with the population changes, it was possible to do that. And so

1 they were instructed to draw it in a
2 constitutional way.
3 So there were some -- obviously some
4 changes in district geography and -- district
5 geography and political leanings.
6 Q. Other than Northeastern Ohio, was there
7 discussion of political leanings or political
8 index in any other parts of the state?
9 A. Sorry. The chair just dropped here.
10 Okay, there we go.
11 Again, are we talking about before the
12 introduction of the map on September 9th or
13 presentation of the map on September 9th?
14 Q. Yes. My understanding is that you had a
15 discussion with Mr. Springhetti about the
16 political leanings or index of the Northeastern
17 Ohio area before the release of the map on
18 May 9th. And my question is did you have a
19 similar conversation about any other parts of
20 the state?
21 A. I don't recall specifically.
22 Q. Okay. Do you recall any general
23 discussions of that nature before the release
24 of the May 9th map as to any other parts of the
25 state other than Northeastern Ohio?

1 MR. STRACH: September 9th, Ben.
2 MR. STAFFORD: Thank you for correcting
3 me. I meant September 9th.
4 MR. STRACH: Go ahead.
5 THE WITNESS: If I understand the
6 question correctly, was there any discussion
7 about political leanings of any other districts
8 before the map was released on September 9th,
9 and the answer would be yes. There would have
10 been here or there. I don't recall exactly
11 where those were.
12 BY MR. STAFFORD:
13 Q. You don't recall as to what parts of the
14 state those conversations concerned?
15 A. No. I think there was -- there might
16 have been one in the Hamilton County area. But
17 that's really all I recall.
18 Q. Did you have conversations with other
19 members of the commission, other than Senator
20 Huffman, about working together to draw a map
21 before September 9th?
22 A. Had some discussions with Auditor Faber.
23 Had some discussion -- a discussion with
24 Secretary LaRose. Obviously had some
25 discussions with Senator Sykes and, to a lesser

extent, Leader Sykes.

Q. When you say you had conversations with those individuals about working together to draw a map, generally speaking, what conversations were you having or on what subject?

A. Well, usually it was what's the progress of the map or about the hearings on the map. The Auditor of State and Secretary of State were interested in, you know, how the map was coming along and what it was looking like. So those would have been the discussions before the map was presented.

Q. Did you show Auditor Faber a copy of the map or the draft map before May 9th?

MR. STRACH: Ben, September 9th, sorry. You got May 9th.

MR. STAFFORD: Sorry, it's stuck in my brain somewhere, so let's remedy that.

BY MR. STAFFORD:

Q. Did you have any discussion -- did you show Auditor Faber a copy of the map that was released on September 9th, before September 8th?

A. I believe that, yes. I believe he was

shown a copy of the map.
Q. When was he shown a copy of the map?
A. It would have been right around that timeframe. You know, maybe a few days before.
I'm not sure the map was entirely completed by that time, but that would show the direction, the general look of the map.
Q. Prior to that meeting, did you provide Auditor Faber an opportunity to provide input into the construction of the map?
A. I wasn't presented with any input by Auditor Faber prior to that time.
Q. Did Auditor Faber ask you to be able to look at the map and provide input?
A. He, early on, I think maybe early August, indicated that he would like to be kept abreast of what was happening with the map drawing.
Q. Okay. And so did you invite him to review the map as it was being developed and give input?
A. Did I? No.
Q. Did anyone on your behalf?
A. Not on my behalf.
Q. Same question as to Secretary LaRose.

1 Did Secretary LaRose ask you for an opportunity
2 to review the map and provide input?
3 A. I believe -- I don't know whether he
4 asked or whether we invited him to take a look
5 at the map before it was presented. But we
6 did.
7 Q. Did you incorporate any feedback from
8 Auditor Faber into the map?
9 A. This before the September 9th map?
10 Q. Before September 9th.
11 A. I'm just trying to remember whether we
12 actually got any feedback. And I know Auditor
13 Faber had some concern or interest in -- in
14 Western Ohio. But that was -- that's all the
15 feedback I got. And I know he was going to
16 look at that and try to find a solution to it.
17 But I don't recall any other input that was
18 offered.
19 Q. After the release of the September 9th
20 plan, did either Vernon or Emilia Sykes reach
21 out to you or your staff to try to set up
22 meetings to discuss the General Assembly plan?
23 A. Yes. We were trying to figure out a way
24 of being able to do that. Because under our
25 open meeting law, four members of the

commission could not meet together. So the way we handled that was they met with Senator Huffman.

Q. Did you ever meet with either of the Sykeses regarding the General Assembly plan?

A. Yes.

Pardon me here. My screen on the Zoom has gone a little strange. I'm trying to get it back to normal.

MR. STRACH: You look fine on that.

THE WITNESS: All right. I'm just trying to be able to see the others. I don't know what happened to it. Okay.

BY MR. STAFFORD:

Q. Are you good?

A. Pardon? I think so.

Q. Okay.

A. You all on the screen -- my screen kind of went somewhere. So I think I can see you though, so...

I can't recall the time -- timeline on that. I know at one point we showed them the map. I don't recall whether it was the September 9th map or the September 15th map.

Q. I think you said that when the Sykeses

1 reached out after September 9th, the way that
2 was handled was that Senator Huffman met with
3 them. Did you authorize Senator Huffman to
4 discuss and make changes to the plan on your
5 behalf?
6 A. No, it was to meet with them, discuss,
7 and see what their concerns were and to
8 basically have a discussion about, you know,
9 where to go from there.
10 Again, our goal was to try to get a
11 ten-year map and recognize, you know, after our
12 map was developed, that we were going to have
13 to work through some sort of a compromise on
14 that.
15 So he met with them to determine where
16 their concerns were and to have some
17 discussions, I believe -- this is my
18 understanding -- as to where we could go in
19 order to get closer to be able to have their
20 support for a ten-year map.
21 Q. Your concern after the map was released
22 or a concern that you had was the expected
23 number of Republicans that map would elect, as
24 I understood your testimony.
25 So then would a compromise be a plan

1 that would be likely to elect more Democrats
2 than the initial version?
3 A. It was to have more -- to reduce the
4 number of Republican leaning districts and to
5 have more Democrat leaning districts.
6 Q. Okay. And ultimately a compromise was
7 not reached, and so why was that?
8 A. Well, I think it takes, you know, two to
9 get to a compromise. We -- as a result of
10 those discussions, the Republican map changed.
11 We went from what my understanding was
12 about 67 Republican leaning districts down to
13 62 Republican leaning districts.
14 And after that was presented, we were
15 looking forward for the Democrats to come back
16 with probably a counteroffer to see whether
17 there was any other movement that we could
18 make, and I believe that really never came.
19 Q. And so the discussion was is there a
20 compromise where a map is going to elect an
21 anticipated number of Democrats, an anticipated
22 number of Republicans, and can we all agree on
23 what those numbers are? Everyone did not agree
24 on what those numbers were, and there was no
25 compromise as a result?

A. Well, I don't know about electing members one way or another. But whether the districts tended to lean Republican or lean Democrat.

Q. Okay. So with that clarification that we're talking about districts that lean rather than election, that's the reason there was not a compromise, was people couldn't agree on the number of districts that would lean Republican, would lean Democratic?

A. I don't think we were looking at a number specifically. We were in negotiations. In terms of the House number, we went from, what my understanding was leaning 67 Republicans to leaning 62 Republicans. And we were looking for some movement on the Democrat side, and it never came.

Q. And movement on that number? Like that's what was under discussion, that was the source of disagreement among the parties on the commission?

A. Well, that's my understanding.

Q. Okay. Did you -- when you were giving Mr. Springhetti direction about the process he should follow in the map drawing, what did you

1 tell him to do?
2 A. We told him to draw a map that was
3 constitutional, could follow all the mandatory
4 requirements in terms of not splitting
5 districts, you know, follow districts to be --
6 to start drawing and to follow all those and to
7 minimize any kind of permissive splits of
8 districts so that we could have more compact
9 districts and those that followed the
10 constitutional requirements. Same way with
11 population requirements, obviously. So those
12 were the instructions.
13 Q. How were those instructions provided?
14 A. Verbally.
15 Q. Same thing with the chair, I think, that
16 happened to you earlier there.
17 Did you provide instructions in writing
18 at any time?
19 A. No, I didn't, no.
20 Q. To your knowledge, did anyone else
21 provide written instructions to Mr. Springhetti
22 or Mr. DiRossi about how to do the map drawing
23 process?
24 A. No, not to my knowledge.
25 Q. When you provided those instructions,

1 who was present?
2 A. Obviously Blake was. I think Christine
3 Morrison was present. I'm not sure about legal
4 counsel.
5 Q. Was Mr. DiRossi present?
6 A. I don't think there was like one meeting
7 where we did this. It was, you know -- it was
8 a Constitution -- it was what the Constitution
9 requires. You have your map drawing program,
10 you have the census data. Follow the
11 Constitution and draw a constitutional map.
12 And minimize splits because and -- and follow
13 -- try to make the list as compact as possible.
14 As reasonably possible.
15 Q. You testified that, after the initial
16 release of the map, changes were made that took
17 the House map from a 67 leaning Republican map
18 to a 62 district leaning Republican map; is
19 that right?
20 A. Yes.
21 Q. How was that done?
22 A. Well, as you know, there are some parts
23 of the state where you can't draw a Democrat
24 leaning map, so you had to go to the areas
25 where there were more Democrats. And so -- and

still stay within the mandatory requirements of the constitution. And so --

Q. So what would -- apologies, go ahead.

A. So you'd have to try to figure out another way of drawing the lines so that you had more potential Democrat leaning voters in those districts.

Q. And what would Mr. Springhetti have been looking at to know that's what he was doing if he was changing a line on a map?

A. He was looking at the voting. The public voting history, is my understanding of what he was looking at.

Q. Okay. Now, you indicated that Mr. Springhetti was instructed by you to comply with the mandatory requirements of the Ohio Constitution, if I'm capturing your testimony correctly. Did you tell him what the mandatory requirements (indiscernible) were in particular?

(Court Reporter clarification.)

Of the Ohio Constitution were.

A. Well, I don't think specifically, but they were obviously Article XI, and it talked about how to draw the lines and not having

1 certain splits. And when you have permissive
2 splits or required splits, you go -- you'd have
3 a whole -- I don't remember the numbers of the
4 constitution, but...
5 Q. Did you tell Mr. Springhetti that any
6 particular sections of the constitution were
7 mandatory or not mandatory?
8 A. It was the line drawing part that was
9 the focus.
10 Q. Okay.
11 A. It was about where do you start drawing,
12 how you have to have, you know, a whole
13 ratio -- whole ratio, and where they have to be
14 either in a political subdivision. If you go
15 out, how you can do that. And those were the
16 mandatory requirement -- the population.
17 Q. Okay.
18 A. That was the focus.
19 Q. Did you tell Mr. Springhetti that he
20 needed to comply with Section 6 of the Ohio
21 Constitution? Section 6, Article XI, to be
22 clear.
23 A. Not specifically.
24 With the chair again. My turn, I guess.
25 I think I'll just leave it down. There we go.

I'm sorry, would you rephrase -- or restate that.

Q. My question was did you tell Mr. Springhetti that he needed to comply with Article XI, Section 6 of the Ohio Constitution?

A. I told him to -- no, not specifically. Anticipated that we would attempt to get a ten-year map, and we would negotiate over it, and that would get us, hopefully, you know, somewhere in that range that Article VI is talking about.

So, no, he was not given instructions to specifically follow section or look at Section 6.

Q. Did you tell Mr. Springhetti that he needed to attempt to comply with Section 6?

A. We did that in terms of our negotiations, our attempted negotiations with the Democrats.

Once the map was drawn, according to the mandatory line drawing, the geography requirements, then that's when we set about to work with the Democrats to try to get to somewhere close, as close as we could to that.

So that's when we changed from what were

1 stated as 67 Republican leaning districts, we
2 went down to 62, and we were prepared to move
3 additionally if the Democrats were willing to
4 move as well.
5 So in terms of changing those districts
6 from Republican leaning to Democrat leaning,
7 certainly instructed Blake to find a way of
8 doing that.
9 Q. Find a way to do that, see if the
10 Republican side could cut a deal with the
11 Democratic side to get to a ten-year map?
12 A. No, we didn't ask Blake to cut a deal.
13 We asked Blake to be able to redraw the
14 district so they would be more Democrat leaning
15 so that we could get closer to what the
16 Democrats were asking for.
17 Q. And thanks for the correction. My
18 question there was imprecise.
19 So you asked Mr. Springhetti to make
20 those changes to the map in the hopes that
21 the -- that yourself and Speaker [sic] Huffman
22 could cut a deal with the Democratic
23 commissioners to have the option of a ten-year
24 map?
25 A. No, this came out of the discussion that

1 Senator Huffman had with Senator Sykes and
2 Representative Sykes about the maps. And after
3 that discussion, we tried to find a way of
4 getting closer to what the Democrats were
5 asking for.
6 Q. And what your attempt -- I'm sorry. Go
7 ahead.
8 A. So that's when we moved five House
9 districts from Republican leaning to Democrat
10 leaning.
11 Q. And what you were trying to do was get a
12 version of your plan that the Democratic
13 commissioners would approve so you could have a
14 ten-year map? That was what the goal was?
15 A. Yes, that was the goal.
16 Q. (Indiscernible); is that correct?
17 MR. STRACH: Ben, you froze up for about
18 ten seconds. So you'll need to repeat that.
19 BY MR. STAFFORD:
20 Q. Let me try again.
21 So my question was: "What you were
22 trying to do was get a version of your plan
23 that the Democratic commissioners would approve
24 so that you could have a ten-year map? That's
25 what the goal was?"

And, I'm sorry, I'm seeing now you said, "Yes, that was the goal." Just for the sake of the record. Sorry. I'm coming back online here now.

A. I'll say it again. Yes, that was the goal.

Q. Thank you, sir.

Okay. So then I am correct that, during the map drawing process, you did not provide any direction to Mr. Springhetti about what it would mean to comply with Section 6, Article XI of the Ohio Constitution?

A. That is correct. I don't recall providing any direction to him in that regard.

Q. Is it your understanding that the standards set forth in Section 6 are mandatory?

A. Well, it says "shall attempt." And I do believe that's something that we were required to do. So we did attempt to do that.

Q. Okay.

A. Excuse me.

Q. Through the negotiation with the Democratic commissioners that you talked about earlier?

A. Yes.

Q. Okay. And you did not -- again, just for the sake of clarity, you did not tell Mr. Springhetti to do something in particular to the map to comply with Section 6?

A. Not aside from, when the negotiations started, to redraw some districts so they would move from Republican leaning to Democrat leaning.

Q. You've talked about what a Republican proposal was: In the House, 62 Republican leaning seats.

What was the Democratic offer?

A. Okay. My device says it just ran into a problem and it needs to restart, so...

MR. STAFFORD: Can we go off the record here?

THE VIDEOGRAPHER: We are going off the record. The time is 11:09.

(Recess ensued from 11:09 a.m. to 11:20 a.m.)

THE VIDEOGRAPHER: We are back on the record. The time is 11:21.

MR. STAFFORD: Could you put the realtime back in the chat, please.

/////

BY MR. STAFFORD:
Q. Speaker, before we went on break, I had asked you what was the Democratic proposal or the Democratic commission proposal on the number of seats that would be Democratic leaning.
A. I believe they -- I don't have a real clear recollection, but I think they started out at 56, and then they had an amendment or proposal that went to 57. And we went from 67 to 62, and that's kind of where it stalled out.
Q. And on that 56 or 57 figure, that would be the number of Republican leaning seats in the Democratic proposal?
A. Yes.
Q. Did you ever conduct any analysis of the Democratic proposal to see whether it was compliant with Section 6, Article XI of the Ohio Constitution?
A. I did not.
Q. Did you authorize anyone to conduct such an analysis?
MR. STRACH: I'm going to object, Ben, just to the extent it's calling for a legal conclusion.

1 But go ahead and answer.
2 THE WITNESS: No, I don't
3 specifically -- would you please restate that
4 again. Or repeat it again, I guess, not re --
5 BY MR. STAFFORD:
6 Q. Did you authorize anyone to conduct an
7 analysis of the Democratic proposal to see
8 whether, in your view, it complied with
9 Article XI, Section 6 of the Ohio Constitution?
10 MR. STRACH: Same objection.
11 THE WITNESS: No, not specifically.
12 BY MR. STAFFORD:
13 Q. What do you mean by "specifically"?
14 A. To conduct a specific analysis to see
15 whether it complied. I think the numbers were
16 out there, that it was a 50 -- 54 Republican
17 leaning seats to 45 Democrat leaning seats, as
18 I recall from the ten-year analysis. Which
19 really wasn't a ten-year analysis, it was more
20 like a six-year analysis.
21 So that was a number that was thrown
22 around. So if you're just looking at plain
23 numbers, that was -- it was -- the numbers were
24 apparent.
25 But then again, the question was did

1 y'all attempt to do that. So we were
2 attempting to get closer by -- through
3 negotiations with the Democrats. With the
4 goal, of course, to get a ten-year plan.
5 Q. So then am I correct that, other than
6 looking at the baseline number, 56 Republican
7 leaning seats, 57 Republican leaning seats,
8 there was not any additional analysis conducted
9 with respect to Section 6?
10 MR. STRACH: Objection.
11 You can answer if you can.
12 THE WITNESS: First of all, Section 6 is
13 not exactly clear as to what it means, which is
14 of course the statement that the commission
15 adopted so it could, you know, range, depending
16 on how you interpret it, from, you know, pretty
17 significant Republican to a much more narrower
18 range.
19 So we were in that range. So that was
20 where we felt we were. We had been trying to
21 get closer to a number Republicans and
22 Democrats could agree on.
23 BY MR. STAFFORD:
24 Q. And my question was about the Democratic
25 proposal. Other than looking at the number of

Republican leaning seats in that plan, was any analysis conducted of that plan under Section 6?

MR. STRACH: Objection.

THE WITNESS: No, I don't believe so.

BY MR. STAFFORD:

Q. Okay. You mentioned a statement. This is a statement that the commission approved into the record under Section 8(C)(2) of the Ohio Constitution, Article XI; is that right?

A. I don't have that specific constitutional provision before me, but it's the one that has the statement as to why -- how it meets the requirements of Section 6.

Q. Okay.

A. Yes.

Q. What was your role in drafting that statement?

A. I looked at a draft, and looked at it. And that was basically my role in drafting it. Reviewed a draft, it seemed correct.

Q. When did you look at that draft?

A. I think it was either on the 14th or the 15th of September.

Q. Was that draft the same as what was

ultimately approved?
A. The draft I looked at had some blanks in it. I don't recall whether it was related to section numbers or what. But that was essentially the only change that I'm aware of.
Q. Who drafted that statement that you reviewed?
A. I am not really sure who -- who drafted it.
Q. Who gave you the statement to review?
A. I'm not sure whether it was -- I'm not sure whether it was Blake or Ray or Senator Huffman or who it was, but...
Q. But one of those individuals gave you?
A. Or Paul Disantis, our legal counsel, or Frank, the Senate counsel.
Q. Were you provided with a hard-copy statement to review?
A. Yes.
Q. Okay. Could we go ahead and mark as Exhibit 1 the document titled "Section 8(c)(2) Statement."
(Deposition Exhibit No. 1 was marked for identification.)
MR. STRACH: You'll want to blow that

1 up.
2 BY MR. STAFFORD:
3 Q. Yeah, Speaker, do you recognize this
4 document?
5 A. I'm seeing part of it, and the part I
6 see I recognize.
7 MR. STAFFORD: Could you just quickly
8 scroll down. I'm not going to ask many
9 specific questions about this, but just so the
10 speaker can see the whole statement.
11 Q. Okay. So do you recognize this
12 document, having had a chance to at least
13 review the text here?
14 A. Yes.
15 Q. Okay. And what is this?
16 A. That was the statement that the
17 commission adopted when the four-year map was
18 also adopted.
19 Q. Okay. And I didn't see any blanks in
20 this version that the commission adopted. And
21 so some changes were made to the draft that you
22 had reviewed before this version was finalized
23 and adopted; is that correct?
24 A. Yes. There were fairly minor, as I
25 recall. And, again, I don't know whether it

1 was a number or whether it was relating to a
2 section or something, but...
3 Q. Okay. Could you scroll down just a
4 little bit, please, on Exhibit 1, and stopping
5 right there is great.
6 Do you see the third sentence of the
7 paragraph that begins "The Commission
8 considered statewide" -- and I'll just read it
9 for you.
10 "When considering the results of each of
11 those elections, the Commission determined that
12 Republican candidates won thirteen out of
13 sixteen of those elections resulting in a
14 statewide proportion of voters favoring
15 statewide Republican candidates of 81% and a
16 statewide proportion of voters favoring
17 statewide Democratic candidates of 19%."
18 Did I read that correctly?
19 A. Yes.
20 Q. Okay. Were those figures in the draft
21 that you reviewed?
22 A. Oh, I don't remember. Again, I don't
23 remember what was -- what the blanks were.
24 Q. Who made the calculation regarding
25 81 percent and 19 percent?

A. I do not know.
Q. Did you discuss with anyone the justification for using those particular figures as a measure of proportionality?
MR. STRACH: Objection.
Mr. Speaker, obviously, you can answer that question without revealing any discussions with lawyers.
THE WITNESS: Discuss it with anyone? Yes. With Senator Huffman. He talked about that as a -- as one of the readings in the Constitution of what the results were.
BY MR. STAFFORD:
Q. And as your counsel noted, I am not asking you for the substance of any discussions that you've had with counsel.
Did you discuss that figure -- when you discussed that with Senator Huffman, was counsel present?
A. Well, I think Senator Huffman had mentioned it on several different occasions. And I think at one time counsel was present and other times they weren't.
Q. Okay. So asking about conversations where counsel was not involved, when was the

first time that Senator Huffman discussed that interpretation with you?

A. Oh, I don't remember exactly. It would have -- it would have been about the time that the census data became available and the map drawing began.

Q. Did you tell Mr. Springhetti to draw districts that would result in an expected Republican leaning for 81 percent of the seats?

A. No.

Q. Did you tell Mr. Springhetti about Senator Huffman's potential interpretation of Section 6?

A. I don't recall telling him that, no.

Q. Did you tell Mr. Springhetti to draw a House map that would result in 54 percent of statewide seats in the -- let me start over with that question.

Did you ask Mr. Springhetti to draw a map where 54 percent of House seats would lean Republican?

A. I think we've gone over this before. What I asked him to do was to draw a map that complied with the constitutional mandated line drawing requirements, the geographic as well as

1 the population requirements. And we did not
2 discuss specific numbers of Republican leaning
3 or Democrat leaning districts.
4 Q. Okay. Other than yourself, do you know
5 of any other commission members who reviewed
6 the statement before it was distributed prior
7 to voting on September 15th or September 16th
8 on the record?
9 A. I believe Senator Huffman may have seen
10 it, but I don't recall whether any other
11 commission members did prior to its
12 distribution on the 15th.
13 Q. Did you discuss Mr. Springhetti's
14 deposition with Mr. Springhetti at any point?
15 A. No.
16 Q. Did you discuss your own deposition with
17 Mr. Springhetti at any point in this matter?
18 A. No.
19 Q. Did you direct Mr. Springhetti to not
20 consider race in the map introduced on
21 September 9th?
22 A. Yes.
23 Q. Okay. And what was your instruction in
24 that regard to Mr. Springhetti, to the best of
25 your recollection?

A. Do not consider race in drawing districts.

Q. Did you tell Mr. Springhetti not to consider demographic information in drawing districts in the map introduced on September 9th?

A. What do you mean by "demographic information"?

Q. Any form of demographic information, other than race.

MR. STRACH: Objection.

THE WITNESS: I don't recall discussing other demographic information.

BY MR. STAFFORD:

Q. Okay. Did you provide any direction to Mr. DiRossi regarding the use of race in the map introduced on September 9th?

A. I did not directly, no.

Q. Okay.

A. I mean, he may have been on the conversation when I discussed with Blake. But I didn't specifically give anything to Ray. That would have been Senator Huffman's responsibility.

Q. Returning to the Section 8 statement

1 that we were looking at there, which was marked
2 as Exhibit 1, when was a final draft of that
3 statement completed?
4 A. I don't know, but as we were nearing the
5 midnight deadline to adopt a map, the statement
6 was available at that time in completed form
7 and I think was distributed prior -- prior to
8 the vote on the map. But --
9 Q. And did you -- I'm sorry. Go ahead.
10 A. And --
11 Q. And did you --
12 A. I'll let you go ahead.
13 Q. I was going to ask you another question.
14 So if you haven't completed your answer, I'm
15 sorry for cutting you off, and please continue.
16 A. No, I did complete my answer.
17 Q. Okay. You, yourself, received a copy of
18 the final statement at that time shortly before
19 casting a vote on the map; is that correct?
20 A. That's correct.
21 Q. Was that the first time that you had
22 seen the final version of the statement?
23 A. I believe so.
24 Q. Okay. And you've generally described
25 the sorts of changes from the draft to the

1 final. And my question is, do you recall any
2 of the specific changes that were made from the
3 draft version to the final version?
4 A. Well, there were no longer any blanks.
5 They were all filled in. But, again, I don't
6 remember specifically what the blanks were.
7 The general tenor of the statement was the
8 same.
9 Q. Okay. When you were provided with a
10 copy of the draft statement, which I believe
11 you said was on the 14th or 15th of September,
12 did you approve the statement?
13 A. I think I took it to look at it.
14 Q. Okay.
15 A. I don't recall saying either way at the
16 time.
17 Q. Were you asked to approve it or to do
18 anything in particular with it when it was
19 provided to you?
20 A. I don't recall any specific conversation
21 like that.
22 Q. Okay.
23 A. I know it arose in the context of: "If
24 we're not going to get to a ten-year map, then
25 we have to have a statement; so is somebody

working on a statement?"

And I think that's when they said, "Well, here's our draft. Here is a draft."

But it was pretty much complete. So I felt assured that we would have the necessary document when we took the vote.

Q. And were you asking, "It looks like we're not going to get to a ten-year map. Do we have a statement"? Was that a question you were asking of someone?

A. Yes, I did.

Q. And who were you asking that question to?

A. I'm trying to remember, because we were waiting for the Democrats to come back in response to our movement in the House to go down to 62 Republican leaning districts, and they were going to -- they said they were going to reply to that and provide additional mapping.

I know we were waiting on it and waiting on it. So I was concerned, if we didn't get anything, did we have all the documents that we need. So that's when I asked, "Has anybody been working on the statement that's required

by the constitution?"

And your question was who was present, and I know, you know, Blake and Ray, I'm pretty sure, were present. Maybe legal counsel was present. And maybe, you know, House -- House Republican and Senate Republican counsel may have been present.

Q. Okay. And when you asked that question, did somebody give you the draft statement immediately in response to that question, or was it provided at some time later?

A. My recollection is that it was provided at that time.

Q. Okay. Okay. You've talked about, I think, Senator Huffman floating the idea using the outcome of statewide races as a measure of proportionality in various discussions. Is that fair to say?

MR. STRACH: Objection. Go ahead.

THE WITNESS: Yes, he raised that a couple times.

BY MR. STAFFORD:

Q. Okay. How did you respond when he raised that?

A. Well, so I looked at the language, and I

1 think that's a -- that's a possible reasonable
2 interpretation.
3 Q. Okay. Do you agree with that
4 interpretation?
5 A. I think it's reasonable, is one
6 reasonable interpretation.
7 Q. Do you think it is the best -- I'm
8 sorry. Go ahead.
9 A. Based upon the actual, you know, text of
10 the constitutional provision.
11 Q. In your personal view, is it the best
12 reading of the language of the constitutional
13 provision?
14 MR. STRACH: Objection. Calls for a
15 legal conclusion.
16 Answer if you can.
17 THE WITNESS: I think the statement was
18 adopted by the commission. I think the
19 statement is fair. It's -- there's a range
20 that is permissible. So I think that's -- I
21 would stand on that statement.
22 BY MR. STAFFORD:
23 Q. So then is it your personal view as a
24 member of the commission who voted to approve
25 the map, I'm not asking you as an attorney,

that it would comport with Section 6 of the Ohio Constitution and had adopted a plan (indiscernible) --

(Court Reporter Clarification.)

81 percent of seats leaning Republican.

MR. STRACH: Objection.

Go ahead.

THE WITNESS: This question is to the map?

BY MR. STAFFORD:

Q. Yes. Is it your personal view, not asking as an attorney, as a member of a voting commission, that it would have comported with Section 6 of the Ohio Constitution if the adopted map had 81 percent of House seats or Senate seats leaning Republican?

MR. STRACH: Objection. Calls for speculation.

Go ahead and answer it if you can.

THE WITNESS: I don't know what the percentage is. I'd say with the 62 House districts that were adopted and our effort to reach a compromise to get to a ten-year map, I think we made an attempt. So I think what we did comply with the constitution.

BY MR. STAFFORD:
Q. Well, we've got the statement here that the commission approved. And it talks about a statewide proportion of voters favoring statewide Republican candidates between 54 percent and 81 percent.
So my question is not what the commission did or, as you say, what you attempted to do to reach a compromise map.
My question is in your view would it comport with Section 6 of the Ohio Constitution, Article XI, if the resulting plan had 81 percent seats leaning Republican?
MR. STRACH: Same objection.
THE WITNESS: Well, that's not what we did. So I'm not going to speculate. I'm going to rest on what we did.
BY MR. STAFFORD:
Q. I'm asking you about the statement that you adopted that lays out your rationale for what you did.
MR. STRACH: Same objection.
BY MR. STAFFORD:
Q. So I would ask you to answer my question, please, sir.

1 MR. STRACH: Same objection. He's
2 answered the question. He can answer again, if
3 you'd like.
4 THE WITNESS: We didn't adopt
5 81 percent. That was the range. And so I
6 think what we did comports with the
7 Constitution.
8 BY MR. STAFFORD:
9 Q. And when you said there was a range,
10 anything that you adopted in that range would
11 have been permissible in your view; is that
12 correct?
13 MR. STRACH: Objection. Same objection.
14 THE WITNESS: Well, I'm not going to
15 speculate on what could have happened. What we
16 did I think was -- comports with the
17 Constitution.
18 BY MR. STAFFORD:
19 Q. I am asking you to answer the question
20 that I asked. So --
21 MR. STRACH: So, Ben, he -- Ben, Ben,
22 Ben, he's answered the question. You're going
23 to keep getting the same answer. We can do
24 this until your time is expired, which is about
25 four minutes.

1 So if you want to keep doing this
2 through the remainder of your time, feel free.
3 But you're going to keep getting the same
4 objection and the same answer.
5 MR. STAFFORD: So I understand the
6 witness --
7 MR. STRACH: So proceed.
8 MR. STAFFORD: I will proceed.
9 MR. STRACH: Proceed.
10 MR. STAFFORD: I understand that the
11 witness is not going to answer the question
12 that I've asked.
13 MR. STRACH: That's incorrect. He's
14 answered the question multiple times. He has
15 answered the question, and he will continue to
16 do so.
17 MR. STAFFORD: Uh-huh. So let me say,
18 before we close our time here, that the Speaker
19 has identified a draft of the Section 8
20 statement. I don't believe that that document
21 has been produced in discovery. I believe that
22 it is responsive to various of the discovery
23 requests that Relators have made.
24 I would ask that it be produced by the
25 end of the day. So I want to say that on the

1 record to counsel. We can take it up
2 afterwards if needed, but that document should
3 be produced.
4 MR. STRACH: All right. I disagree.
5 Anything that was responsive and not privileged
6 was produced, Ben. But feel free to
7 communicate with me on that.
8 BY MR. STAFFORD:
9 Q. Do you know whether Governor DeWine,
10 Secretary of State LaRose, or Auditor Faber
11 were involved in the drafting of the Section 8
12 statement that we have been talking about?
13 A. I don't know whether they were or they
14 weren't.
15 Q. Okay. Did you direct that a copy of the
16 draft statement be provided to the other
17 members of the commission at any point?
18 A. I did not.
19 Q. You mentioned before -- and, again,
20 correct me if I'm wrong -- that when the
21 Sykeses reached out about potentially meeting
22 after the initial release of the map, that
23 Senator Huffman met with them. In part that's
24 because the commission had to consider the Open
25 Meetings Act; is that correct?

1 And, again, please correct me if I'm
2 wrong about that.
3 A. Yes. We wanted to meet with them to
4 have discussions about where we could go and
5 where we could find a compromise to get to a
6 ten-year map.
7 So these would be the four legislative
8 members. We couldn't meet together because
9 that would violate the Open Meeting law. It
10 would be more than a majority of the
11 commission.
12 So Senator Huffman offered, and I
13 agreed, that he could meet with them and have
14 the discussion, and then he could fill me in
15 where we -- where we -- what generally the
16 result of that was.
17 Q. Why not just meet as a commission? Hold
18 a meeting? Why didn't you just do that?
19 A. Because I don't think that would have
20 been very productive.
21 MR. STAFFORD: All right. I don't think
22 I have any further questions at this time.
23 Thank you very much for your time, Speaker, I
24 appreciate it.
25 THE WITNESS: You're welcome.

MR. STRACH: All right. Thank you, Ben.
(Court Reporter clarification.)
MR. STAFFORD: I'm not sure where we are on the timing.
MS. BENDER: I believe she was asking the respondents.
MS. KOONTZ: Nothing on behalf of the statewide officeholders.
MR. STRACH: Right, and I don't have any questions.
MR. CLARK: And nothing on behalf of the commission, thanks.
THE VIDEOGRAPHER: Okay. We are off the record at --
MR. GILLIGAN: Wait a second. This is John Gilligan on behalf of the respondents, the Sykeses. I do have questions. So if I'm permitted to go ahead, I'd like to ask my questions.

EXAMINATION

BY MR. GILLIGAN:
Q. So, Speaker Cupp, my name is John Gilligan. I'm one of the lawyers for Senator Sykes and Leader Sykes. First of all, let me ask a question, which I kind of implicitly

1 promised that I would get an answer to for
2 Auditor Faber yesterday.
3 What is the precise location of the
4 mapping, what he referred to as "sanctum,"
5 which he never was allowed to visit?
6 A. What is the precise location?
7 Q. Yes, sir.
8 A. It's in the William Green Building.
9 Q. Okay. And was there a specific room or
10 series of rooms?
11 A. Yeah, there's a floor that's not being
12 used by another state agency at the moment.
13 Q. And Auditor Faber testified yesterday
14 that he was not permitted to go to the mapping
15 sanctum. Do you agree with that?
16 MR. STRACH: Objection. Those are your
17 words.
18 Go ahead and answer it if you can.
19 THE WITNESS: He -- I don't know the
20 answer to that question specifically. But,
21 obviously, it was to allow the mappers to do
22 their work so that they could get it done
23 without a lot of interruptions, because the
24 delay in the census data created a time problem
25 in order to do that.

BY MR. GILLIGAN:
Q. You talked about the allocation of resources between the Democratic caucus and the Republican caucus for mapping software and other expenses in redistricting. Do you recall that?
A. Yes.
Q. Okay. Was there any money allocated for the statewide commissioners so they could have mapping software and could determine the constitutionality of the proposed maps?
MR. STRACH: Objection. Mr. Gilligan, I thought you represented the Sykeses. It sounds like you represent the statewide officials.
So I'm going to permit the speaker to answer some of these questions, but I'm going to caution you that, number one, you're questioning the Speaker of the Ohio House; and, number two, you need to keep your questions for your clients and not your non-clients.
Mr. Speaker, go ahead and answer the question, if you can.
THE WITNESS: So other than the Republican/Democrat caucuses, I do not believe any money was allocated nor was any requested.

BY MR. GILLIGAN:
Q. So it's your testimony that neither Secretary LaRose or Auditor Faber requested any money for software, mapping software?
A. They did not request it from me, and I'm not aware of their request to anyone else.
Q. Were you aware that the statewide commissioners, Secretary LaRose and Auditor Faber, had to rely on using Dave's Redistricting software to analyze the maps?
A. I'm not aware they had to, no.
Q. So you testified about the statement 8(C)(2). And do you understand that proportionality is a concept or principle in redistricting that tries to eliminate or reduce gerrymandering?
MR. STRACH: Objection. Calls for a legal conclusion.
Answer if you can.
THE WITNESS: I know it has been discussed as that, yes.
BY MR. GILLIGAN:
Q. And you indicated, I believe, in your testimony that the provisions of 6(B) of Article XI to the Ohio Constitution could have

1 several possible readings or meanings; is that
2 right?
3 A. Yeah, I think one could read it
4 different ways.
5 Q. If the -- I'm sorry. Go ahead, sir.
6 A. So in that regard, it's a bit ambiguous.
7 Q. Okay. And did the commission have
8 counsel prior to this litigation?
9 A. The commission itself?
10 Q. Yes, sir.
11 A. I don't know that anyone was designated
12 as counsel for the commission prior to the
13 litigation beginning.
14 Q. Did you, as co-chair of the commission,
15 ever request a legal opinion about the meaning
16 of the proportionality provision in
17 Section 6(B) of Article XI?
18 A. I -- I didn't -- I don't recall
19 requesting a legal opinion.
20 Q. Did you ever ask the --
21 A. As to that.
22 Q. I'm sorry. Did you ever ask the
23 Attorney General for a legal opinion about the
24 meaning of the proportionality provision?
25 A. I don't recall doing that, no.

Q. Did you ever ask the Legislative Services Commission on the meaning of the proportionality provision in the Section 6?

A. I don't recall doing that, no.

Q. Do you agree, sir, that proportionality means that the percentage of the General Assembly districts represented by one political party should approximately match the percentage of voters in the state associated with that political party?

MR. STRACH: Objection. Calls for a legal conclusion.

THE WITNESS: Would you restate that, or repeat that.

BY MR. GILLIGAN:

Q. Yes, I will. Do you agree that the proportionality provision in 6(B) of Article XI means that the percentage of General Assembly districts represented by one political party should approximately match the percentage of voters in the state associated with that political party?

MR. STRACH: Same objection.

THE WITNESS: I -- no, I'm not sure I agree with that. That doesn't sound like --

1 that doesn't sound like the actual language of
2 the constitutional provision.
3 BY MR. GILLIGAN:
4 Q. You disagree that that's what the actual
5 language of the constitutional provision
6 actually means?
7 MR. STRACH: Objection. He said he
8 disagrees that that's what it says.
9 MR. GILLIGAN: I'm asking him to
10 clarify.
11 Q. You can go ahead, Mr. Speaker.
12 THE WITNESS: Frankly, I don't think the
13 provision is all that clear, and that is why we
14 attempted to negotiate with the Democrats to
15 see where we could get in terms of a compromise
16 on that and also get the ten-year map. So...
17 BY MR. GILLIGAN:
18 Q. Would you be --
19 A. So --
20 Q. So would you be surprised to learn that
21 that was the interpretation of the
22 proportionality provision given by the
23 Legislative Services Commission of Ohio?
24 MR. STRACH: Objection.
25 BY MR. GILLIGAN:

Q. What I just read to you?
A. I was not aware that that was their interpretation.
Q. You never asked the Legislative Services Commission for their interpretation, did you?
A. I did not, no.
Q. And the proportionality, or the Section 6 of Article XI, was an important part of the Fair Districts amendment that was passed by the voters in 2015, isn't that right?
A. It was part of it. I was not in the legislature at the time, so I don't know what the discussion was.
Q. So you have talked about delays caused by the lateness of getting census information so that you couldn't begin drawing the maps, correct?
A. That's correct.
Q. Okay. Was there anything that prevented the commission from meeting and discussing the meaning of Section 6(B) of Article XI on what proportionality actually means?
A. There was nothing to prohibit the commission from meeting, have a discussion -- meeting and having discussion about anything.

Q. And did you believe that the proportionality section, which you describe as ambiguous, was important to have some agreement, if possible, by the commission members on the meaning of that term?

A. I think every member of the commission was developing their own understanding of what that term meant, and applied that when the commission voted.

Q. So your testimony is that the map drawers for the Republican caucuses were told to draw maps that complied with the provisions of Article XI, except for Section 6. They were not to pay attention to Section 6. Is that correct?

A. They were not instructed not to pay attention to Section 6. They were instructed to comply with the -- the requirements of not splitting political subdivisions and all of those other -- I'm not sure "mechanical" is the right term, but those requirements. To draw districts that complied with those requirements.

Q. How is it that you expected the map drawers for the Republican caucus to comply

with the provisions of 6(B), to attempt to meet the proportionality standard, if they were not provided with the commission's understanding of what that proportionality clause means?

MR. STRACH: Objection.

THE WITNESS: They were directed to draw maps that met the constitutional requirements on the line drawing and division splitting and the population requirements, and then we attempted to negotiate with the Democrats to reach some consensus on what would meet those requirements.

And that was the process that we used, which is, I believe, I testified to before.

BY MR. GILLIGAN:

Q. So do you understand that Section 6 required you as a commissioner to attempt to compromise with the Democrats or to attempt to draw a map that met the proportional provisions of Section 6(B)?

MR. STRACH: Objection. Calls for a legal conclusion.

THE WITNESS: We attempted to get to an under- -- to a status of districts that would proximate the political -- let me back up.

1 We attempted to negotiate with the
2 Democrats to get to a point where we could
3 agree that it represented a situation of
4 Republican and Democrat leaning districts that
5 would be acceptable in terms of being sort of a
6 approximation of political makeup of the state.
7 And, obviously, we didn't get there.
8 And our framework was what the commission
9 adopted later in its statement.
10 BY MR. GILLIGAN:
11 Q. So you agree that the historic lookback
12 at the statewide partisan races showed a split
13 of 54 percent Republican, 46 percent
14 Democratic, correct?
15 MR. STRACH: Objection.
16 THE WITNESS: In terms of the number of
17 votes cast in partisan statewide elections over
18 the last ten years?
19 BY MR. GILLIGAN:
20 Q. Yes, sir.
21 A. I think that's the number -- I think
22 that's the number that was computed.
23 Q. Okay. So were the mapmakers instructed
24 then to put together a map that met the 54-46
25 allocation of districts?

1 MR. STRACH: Objection.
2 THE WITNESS: They were instructed to
3 draw a map that met the line drawing
4 requirements, as I had previously mentioned.
5 BY MR. GILLIGAN:
6 Q. And did you understand that it was the
7 Sykeses' position that the proportionality
8 provision called for an allocation of seats on
9 a General Assembly map of 54 percent leaning
10 Republican and 46 percent leaning Democrat?
11 A. Did I understand that was the Sykeses'
12 position?
13 Q. Yes, sir.
14 A. Is that the question?
15 Yes.
16 Q. And so the map that they had proposed
17 was actually lower than what they thought was
18 the percentage that the constitution entitled
19 the Democrats to, correct?
20 A. I don't know about the term "entitled,"
21 but that was their view.
22 Q. That was their view. But you expected
23 that they would continue to negotiate a way
24 from their view of what the meaning of
25 Section 6(B) provided in terms of the

1 percentage of Democratic or Republican
2 districts; is that correct?
3 MR. STRACH: Objection.
4 THE WITNESS: We did expect to continue
5 to negotiate on that issue.
6 BY MR. GILLIGAN:
7 Q. So the statement 8(C)(2) averages the
8 percentage of votes that people cast for either
9 Democrats or Republicans with the percentage of
10 races that were won by Republican candidates to
11 get to a percentage of -- I think it's
12 32.5 percent for Democrats and 67.5 percent for
13 Republicans, is what this statement indicates
14 is the proportional allocation under 6(B).
15 MR. STRACH: Is that a question?
16 MR. GILLIGAN: Yes. Yes.
17 THE WITNESS: I don't understand the
18 question. I don't understand the question.
19 BY MR. GILLIGAN:
20 Q. Okay. Okay. Your statement that you
21 voted on, to explain why it is that you came up
22 with the map that was not agreed to by the
23 Democrats, calculated a proportionality formula
24 which showed 32.5 percent Democratic preference
25 and 67.5 percent Republican preference,

1 correct?
2 MR. STRACH: Objection. I don't think
3 that's what the statement says.
4 But answer if you can.
5 THE WITNESS: I don't have the statement
6 in front of me, so I -- I think the statement
7 speaks for itself.
8 BY MR. GILLIGAN:
9 Q. Well, I think the statement was marked
10 as an exhibit. Can we put that back up on the
11 screen so the Speaker could see it.
12 It says, the third line down in the
13 third paragraph: "The Commission determined
14 that Republican candidates won thirteen out of
15 sixteen of those elections resulting in a
16 statewide proportion of voters favoring
17 statewide Republican candidates of 81%."
18 Do you see that, sir?
19 A. Yes, I do.
20 Q. Okay. And then further down it says
21 that "the statewide proportion of voters
22 favoring statewide Republican candidates is
23 54%."
24 Do you see that?
25 A. Yes, I do.

1 Q. Okay. And then it says "the statewide
2 proportion of voters favoring statewide
3 Republican candidates is between 54 and 81%."
4 Do.
5 You see that?
6 A. Yes.
7 Q. So if you average those two, it would be
8 that the statewide proportion of voters
9 favoring statewide Republican candidates would
10 be 67.5 percent, right?
11 A. Well, I don't think it averages. It
12 just says what we did was within that range.
13 Q. So your understanding of the
14 proportionality requirement -- excuse me, the
15 proportionality provision in 6(B) was that the
16 districts fall somewhere between 54 percent
17 Republican and 81 percent Republican?
18 A. That would be a constitutional range,
19 yes.
20 Q. Did the Republican House incumbents meet
21 with Mr. DiRossi to talk about each of their
22 individual districts?
23 A. You're talking about -- are you asking
24 if whether members of the -- current members of
25 the Ohio House of Representatives met

1 individually with Mr. DiRossi?
2 Q. Yes.
3 A. Not to my knowledge.
4 Q. Did they have input to Mr. DiRossi about
5 what they wanted to see and what they did not
6 want to see happen with their districts?
7 A. Not to my knowledge.
8 Q. So it is your testimony that the
9 mapmakers, Mr. DiRossi on the Senate side and
10 Mr. Serengeti [sic] on the House side, had no
11 input from the Republican members of the caucus
12 about what they wanted to see with their
13 districts?
14 MR. STRACH: Objection. First of all,
15 it's Mr. Springhetti.
16 MR. GILLIGAN: Springhetti.
17 MR. STRACH: And, number two, your
18 questions were just asking about Mr. DiRossi.
19 You've now added Mr. Springhetti to the mix.
20 So are you going to ask him about conversations
21 with Mr. Springhetti separately?
22 MR. GILLIGAN: Well, I can do that if it
23 will move things along.
24 Q. Do you know whether any of the members
25 communicated with Mr. Springhetti about what

1 they wanted to see happen with their districts?
2 A. I do not believe they did prior to the
3 presentation of the initial Republican map.
4 There may have been some individual
5 conversations that went through either me or
6 Christine Morrison about some aspects of some
7 members' districts after that when there was a
8 map available to look at.
9 Q. So the first Republican map, you're
10 talking about the September 9th map?
11 A. Yes, that's correct.
12 Q. That was a map about which you expressed
13 surprise because of the lopsided partisan split
14 of the districts, correct?
15 MR. STRACH: Objection. That's not his
16 testimony.
17 THE WITNESS: I was a bit surprised at
18 the number of Republican leaning districts.
19 BY MR. GILLIGAN:
20 Q. Well, the number was somewhere between
21 19 percent and -- excuse me, 54 percent and
22 81 percent. So why were you surprised?
23 A. I didn't expect it would be as -- that
24 high. I didn't expect it to be 67.
25 Q. In fact, the map that was generated or

1 put forward on September 9th was actually more
2 lopsided toward the Republicans than the map
3 that was issued in 2011, isn't that right?
4 MR. STRACH: Objection.
5 THE WITNESS: I don't know about the map
6 in 2011. There were more Republican leaning
7 seats than there are current Republican
8 members. But then there are Democrats elected
9 in Republican leaning districts and Republicans
10 elected in Democratic leaning districts. So
11 it's not always a clear-cut thing.
12 BY MR. GILLIGAN:
13 Q. And just so I make sure that I
14 understand your testimony, there was no
15 discussion in the commission about the meaning
16 of the proportionality provision of Section 6
17 until, I think, the morning of September 16th
18 when there was some discussion or debate about
19 the 8(C)(2) statement?
20 A. That would have been September 15th.
21 And there was among the commission --
22 okay, so I'm not understanding. Are you
23 talking about individual members of the
24 commission having a discussion or the
25 commission as a whole having discussion?

Q. Let's start with the commission as a whole having the discussion.
A. I don't think there was any discussion of the commission as a whole until the evening of September 15th.
Q. And the discussion about 8(C)(2) actually followed the vote to approve the map, correct?
A. Yes. The statement was handed out prior to the vote, though.
Q. And so what about individual discussion? You've already talked about discussion that you believed that you had with President Huffman. But was there any other discussion between or among the members of the commission that you're aware of about the meaning of the proportionality provisions of Section 6(B) prior to the night of September 15th?
A. I'm not aware of any.
Q. Thank you very much for your time. I don't have further questions.
MR. STRACH: Thank you, John. I've got no questions on behalf of Speaker Cupp or President Huffman. Bridget, do you have any questions?

1 MS. COONTZ: No, nothing, thank you.
2 MR. STRACH: Okay. Then I think that
3 concludes the deposition.
4 THE VIDEOGRAPHER: Thank you, we are
5 going off the record. The time is 12:21.
6 (Deposition concluded at 12:20 p.m.,
7 101)
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Reporter's Certificate

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I, Debra Bollman Farfan, Registered Diplomate Reporter and CSR No. 11648, in and for the State of California, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth; That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction, and the same is a true, correct, and complete transcript of said proceedings;

I further certify that I am not interested in the event of the action. Witness my hand this 22nd day of October, 2021.

_____

Debra Bollman Farfan, CA CSR No. 11648
RDR, RMR, CRR, CRC

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Article XI, Section 8(C)(2) Statement

Pursuant to Article XI, Section 8(C)(2) of the Ohio Constitution, the Ohio Redistricting Commission issues the following statement:

The Commission determined that the statewide preferences of the voters of Ohio predominately favor Republican candidates.

The Commission considered statewide state and federal partisan general election results during the last ten years. There were sixteen such contests. When considering the results of each of those elections, the Commission determined that Republican candidates won thirteen out of sixteen of those elections resulting in a statewide proportion of voters favoring statewide Republican candidates of 81% and a statewide proportion of voters favoring statewide Democratic candidates of 19%. When considering the number of votes cast in each of those elections for Republican and Democratic candidates, the statewide proportion of voters favoring statewide Republican candidates is 54% and the statewide proportion of voters favoring statewide Democratic candidates is 46%. Thus, the statewide proportion of voters favoring statewide Republican candidates is between 54% and 81% and the statewide proportion of voters favoring statewide Democratic candidates is between 19% and 46%. The Commission obtained publicly available geographic data for statewide partisan elections in 2016, 2018, and 2020. Publicly available geographic data for those elections was not available for elections in 2012 and 2014. Using this data, the Commission adopted the final general assembly district plan, which contains 85 districts (64.4%) favoring Republican candidates and 47 districts (35.6%) favoring Democratic candidates out of a total of 132 districts. Accordingly, the statewide proportion of districts whose voters favor each political party corresponds closely to the statewide preferences of the voters of Ohio.

Exhibit#
Cupp 1
10/21/21 - MMG
exhibitsticker.com

The final general assembly district plan adopted by the Commission complies with all of the mandatory requirements of Article XI, Sections 2, 3, 4, 5, and 7 of the Ohio Constitution. The Commission's attempt to meet the aspirational standards of Article XI, Section 6 of the Ohio Constitution did not result in any violation of the mandatory requirements of Article XI, Sections 2, 3 ,4, 5, and 7 of the Ohio Constitution.

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Transcript of Senator Matt Huffman

Date: October 21, 2021
Case: League of Women Voters of Ohio, et al. -v- Ohio Redistricting Comm., et al.

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IN THE SUPREME COURT OF OHIO

- - - - - - - - - - - - - - x

LEAGUE OF WOMEN VOTERS :

OF OHIO, ET AL., :

Relators, :

v. : Case Nos. 2021-1193

OHIO REDISTRICTING : 2021-1198

COMMISSION, et al., : 2021-1210

Respondents. :

- - - - - - - - - - - - - - x

Remote Videotaped Deposition of

SENATOR MATT HUFFMAN

Thursday, October 21, 2021

1:32 p.m.

Job No.: 405261

Pages: 1 - 134

Reporter: DEBRA BOLLMAN FARFAN, RDR-RMR-CRR-CRC

CA CSR NO. 11648

Videoconference Deposition of SENATOR MATT HUFFMAN, held remotely:

Witness Location:
REMOTE

Pursuant to notice, before Debra Bollman Farfan, Registered Diplomate Reporter, Registered Merit Reporter, Certified Realtime Reporter, and Certified Shorthand Reporter No. 11648, in and for the State of California.

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(Exhibits are attached to the transcript.)

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Exhibit 2	Article XI, Section 8(C)(2) Statement	38

END of EXHIBITS

P R O C E E D I N G S

* * * * *

THE VIDEOGRAPHER: Good afternoon. Here 01:32:09
begins Media Number 1 in the video recorded 01:32:10
deposition of Ohio Senate President Matt 01:32:14
Huffman, in the matter of League of Women 01:32:17
Voters of Ohio, et al., versus Ohio 01:32:19
Redistricting Commission, et al., Consolidated 01:32:24
Case No. 2021-1193, filed in the Supreme Court 01:32:26
of Ohio. 01:32:30
Today's date is October 21st, 2021, and 01:32:32
the time on the video monitor is now 1:32 p.m. 01:32:36
The videographer today is Joel Coriat on 01:32:39
behalf of Planet Depos, and this deposition 01:32:42
will be taken via videoconference. 01:32:45
All counsel appearances will be noted on 01:32:46
the stenographic record. 01:32:49
The court reporter today is Debra 01:32:50
Bollman on behalf of Planet Depos. She will 01:32:52
now swear in the witness. 01:32:55
Whereupon,

SENATE PRESIDENT MATT HUFFMAN

was called as a witness, was duly sworn
and testified under penalty of perjury as
follows:

1 EXAMINATION 01:33:15
2 BY MR. FUNARI: 01:33:15
3 Q. Thank you. Good afternoon, Senate 01:33:16
4 President Huffman. My name is Brad Funari. I 01:33:18
5 represent the Ohio Organizing Collaborative in 01:33:21
6 one of the three apportionment cases pending 01:33:26
7 before the Ohio Supreme Court. 01:33:30
8 First of all, can you hear me okay with 01:33:31
9 the technology these days? I always want to 01:33:34
10 make sure the witness can hear me clearly. 01:33:37
11 A. Yes, I can hear you. It's a little -- 01:33:39
12 it's a little soft, but I can mostly hear you. 01:33:41
13 MR. STRACH: Yeah, you're a little 01:33:45
14 garbled, Brad, but I think it will be all 01:33:46
15 right. 01:33:48
16 BY MR. FUNARI: 01:33:49
17 Q. All right. I'm going to move the 01:33:49
18 microphone a little closer. 01:33:50
19 Let me start, Senate President, by 01:33:53
20 apologizing in advance. I will most likely end 01:33:56
21 up calling you Mr. Huffman at some point during 01:34:02
22 today's deposition, and please don't view that 01:34:06
23 as a sign of disrespect. It's not every day 01:34:09
24 that I've deposed a dignitary, so if I miss the 01:34:12
25 honorary title, I do apologize, and I'll do my 01:34:17

1 best to remember that. 01:34:20
2 A. Whatever title you would like is fine. 01:34:22
3 I didn't realize I was a dignitary until just 01:34:27
4 now. So go ahead. 01:34:29
5 Q. You are for purposes of this case. 01:34:30
6 A. Fair enough. 01:34:32
7 Q. Have you been deposed before, 01:34:33
8 Mr. President? 01:34:36
9 A. One time. I think it might have been 01:34:36
10 three or four years ago in a previous 01:34:42
11 redistricting lawsuit. And I can't tell you 01:34:46
12 who the parties were to that. But that's the 01:34:51
13 only time that I've been a witness in a 01:34:53
14 deposition. 01:34:54
15 Q. Okay. You've taken some depositions, I 01:34:55
16 would presume. 01:34:59
17 A. I have. 01:35:00
18 Q. Okay. So I'm not going to go into the 01:35:01
19 ground rules of a deposition and kind of the 01:35:04
20 formalities. 01:35:08
21 If by any chance you don't hear -- the 01:35:10
22 one I will advise you of is if you don't hear 01:35:12
23 my question or if for some reason we end up 01:35:14
24 talking over each other because of the 01:35:18
25 technology, just put your hand up or tell me to 01:35:19

slow down, and I'll get my question out. 01:35:22
A. I'll do that. 01:35:26
Q. Okay, great. 01:35:26
Are you familiar with a gentleman named 01:35:31
Ray DiRossi? 01:35:34
A. Oh, Ray DiRossi, sure. 01:35:35
Q. And does he work for the Ohio Senate 01:35:37
Republican caucus? 01:35:40
A. He's an employee of the Ohio Senate 01:35:41
President, to be specific, yes. 01:35:47
Q. Okay. And that's -- that's your office. 01:35:49
He's one of your employees? 01:35:52
A. That's correct. 01:35:53
Q. And is Mr. DiRossi the individual whom 01:35:55
you asked to draw the state legislative map 01:36:01
this year? 01:36:06
A. Yes. 01:36:07
Q. Did anyone else work with Mr. DiRossi in 01:36:11
drafting what we'll call as the Senate 01:36:16
legislative Republican map? 01:36:19
A. Well, I think he would have received 01:36:24
advice from counsel, and I don't think -- other 01:36:27
than just some logistical support, I don't 01:36:30
think there would have been any other Senate 01:36:34
employees working on this project. 01:36:36

Q. In terms of chain of command and 01:36:39
supervision, is it correct that Mr. DiRossi 01:36:43
would have reported directly to you during this 01:36:46
redistricting process? 01:36:48
A. For the most part, that is true. Again, 01:36:49
there were other staffers, including legal 01:36:56
counsel who he would have had conversations 01:37:00
with. I wouldn't necessarily be privy to 01:37:02
those. They're all full-time folks, and I'm 01:37:05
not in the Senate President's office every day. 01:37:07
So there are other people he would have 01:37:10
using the word "report" to, but -- or had 01:37:13
conversations with. 01:37:16
Q. But ultimately he was a member of your 01:37:18
staff, I guess is what I'm getting at? 01:37:19
A. That's correct. That's correct. 01:37:22
Q. Did he report to any other commissioners 01:37:23
of the Ohio Redistricting Commission? 01:37:25
A. Factually, I guess I can't say whether 01:37:27
that's true or not. But that wasn't the way it 01:37:34
was set up, unless from time to time, you know, 01:37:38
there would have been some communication 01:37:42
because he saw him someplace. 01:37:44
But in terms of reporting, he was my 01:37:46
employee and nobody else's. 01:37:48

Q. So at no time he -- at no time during 01:37:52
the process did he become employed by the Ohio 01:37:55
Redistricting Commission, correct? 01:37:59
A. That is correct, yeah. 01:37:59
Q. Did the Ohio Redistricting Commission 01:38:01
have any employees? 01:38:04
A. No. I think in terms of the work that 01:38:09
needed to be done, we call it "staffing it," 01:38:12
those things were done by the individual 01:38:16
offices. 01:38:18
And specifically Speaker Cupp, who was 01:38:20
one co-chair, and Senator Sykes, who was the 01:38:24
other co-chair, if I have this right, their 01:38:28
staff were, in effect, staffing or running the 01:38:32
commission. 01:38:37
So there wasn't a separate commission 01:38:37
office some place or anything like that. But 01:38:39
for the hearings, communications, notices, 01:38:41
things like that, their two offices and their 01:38:45
staff in those offices were responsible for 01:38:47
that. 01:38:49
Q. Understood. Did Mr. DiRossi regularly 01:38:53
update you on his progress as he was drafting 01:38:55
the Republican legislative map? 01:39:00
A. Well, with, I guess, the caveat of what 01:39:04

you mean by the word "regularly." From time to 01:39:07
time we had conversations, but I did not have 01:39:11
daily conversations with him about his work on 01:39:15
the map. Just, as you know, there are other 01:39:21
things going on in the legislature. 01:39:23
But, yeah, I had conversations with Ray 01:39:26
on a, you know -- I suppose we'll call it an 01:39:29
as-needed basis. 01:39:33
Q. Okay. And fair point. "Regularly," I 01:39:34
think, is a -- it could be an ambiguous term. 01:39:38
So let me break it down a little bit. 01:39:40
When did Mr. DiRossi first begin working 01:39:42
on the map? 01:39:46
A. Well, work on the maps, you know, you 01:39:49
start to try to do these things while you -- 01:39:57
you do it not just days or weeks in advance. I 01:40:00
actually began talking to him about it when I 01:40:04
became Senate President in January, you know, 01:40:07
along with other staff, about how are we going 01:40:10
to accomplish this. 01:40:14
A lot of that had to do with the fact 01:40:16
that, even at the beginning of this year, it 01:40:20
became evident that the census data would not 01:40:22
be available in April. 01:40:25
So a lot of it was how do we schedule 01:40:26

1 this, how are we going to get it done. And I 01:40:29
2 don't -- I think it was maybe March when it was 01:40:32
3 confirmed we weren't getting the census data on 01:40:34
4 time. 01:40:37
5 So a lot of the scheduling and those 01:40:38
6 things, Ray was part of that but so was the 01:40:41
7 rest of the staff, and we had a meeting in 01:40:43
8 April with all of the legislative leaders about 01:40:45
9 this. 01:40:48
10 So, you know, probably the beginning of 01:40:49
11 this year. I wasn't Senate President until 01:40:51
12 first week in January. 01:40:56
13 Q. Did you consult with any other members 01:40:57
14 of the commission with respect to appointing 01:41:03
15 Mr. DiRossi as the drafter of the Republican 01:41:07
16 map? 01:41:12
17 A. Well, to be clear, Ray -- Ray DiRossi -- 01:41:12
18 I'm going to call him Ray, if that's all right 01:41:17
19 with you -- Ray was not the drafter of the 01:41:20
20 Republican map. He was the Senate Republicans' 01:41:23
21 person who was working on map drawing. 01:41:30
22 And to that extent, no, I didn't ask any 01:41:33
23 of the other six commission members about 01:41:36
24 whether they thought Ray DiRossi should work on 01:41:38
25 this map on behalf of the Senate Republican 01:41:41

President's Office. 01:41:44
Q. Did you understand that Blake 01:41:49
Springhetti was the map drawer appointed by 01:41:52
Speaker Cupp to work on the House version of 01:41:54
the Republican map? 01:41:57
A. Yes. 01:41:58
Q. Did the commission itself at any point 01:42:02
in time hire a map drawer? 01:42:07
A. No. 01:42:09
Q. So I want to go back to your interaction 01:42:11
with Mr. DiRossi. I believe you testified that 01:42:17
you would meet with him as needed. Can you 01:42:24
recall when you first met with him specifically 01:42:26
for the purpose of drawing the map? 01:42:33
So not necessarily those conversations 01:42:36
we talked about with Mr. DiRossi in the early 01:42:39
part of the year, but specific to drawing the 01:42:42
map. 01:42:45
A. The brief answer to your question is, 01:42:49
no, I don't remember an initial meeting. 01:42:51
You know, again, we didn't have the data 01:42:54
until the end of August in a useable form. So 01:42:57
it would have been sometime in the month of 01:43:03
August. I think that's when a lot of the 01:43:06
organizational things were being done. 01:43:09

Q. So if I -- I will offer the date of 01:43:10
August 6th as the date that the Governor 01:43:15
convened the first meeting of the Redistricting 01:43:17
Commission. 01:43:22
Using that date, August 6th, as a point 01:43:23
of reference, do you believe that you met with 01:43:26
Mr. DiRossi for the purposes to start drafting 01:43:30
the maps before or after that meeting? 01:43:32
A. Yeah, I guess the phrase "to start 01:43:34
drawing the maps," to me, means other things 01:43:40
than, you know, putting pencil to paper. It's 01:43:44
what are the constitutional requirements? How 01:43:47
do we do that? And those were conversations 01:43:49
that are ongoing through the year. 01:43:51
If you're talking about simply, and I'm 01:43:56
using it metaphorically, pencil to paper, it 01:43:58
probably would have been at the end of the last 01:44:01
week in August because there wasn't much that 01:44:03
we could do until we had the data to be used. 01:44:05
So probably the last week in August. 01:44:12
Q. Do you know what, if any, information or 01:44:20
data from the Census Bureau ultimately made its 01:44:23
way into the map that was enacted by the 01:44:26
commission on September 15th? Or adopted by 01:44:32
the commission on September 15th? 01:44:35

A. Well, I think the population count is 01:44:36
what we used that came from the census data 01:44:39
into the map. I think that's what we were all 01:44:43
waiting for, if I have it right. 01:44:47
Q. Was there any other work that the 01:44:52
commission could have been doing while it was 01:44:53
waiting for the census data to arrive? 01:44:57
A. In the time period -- anytime in 2021, 01:45:01
you mean? 01:45:09
Q. Yes. 01:45:10
A. Talking about after August 6th? 01:45:10
Q. We'll talk about the time you took 01:45:13
office, beginning of 2021. 01:45:15
A. Well, "could" is a pretty broad word. 01:45:20
You know, what -- what I -- I will tell 01:45:23
you one of the things I did do is in April I 01:45:25
asked the legislative leaders to meet about 01:45:28
extending the timeline. And, unfortunately, I 01:45:30
didn't get agreement from Senator Sykes or 01:45:35
Leader Sykes on that. 01:45:40
Now, could have? I guess "could" is a 01:45:42
pretty broad word, so, yes, something could 01:45:45
have been done. 01:45:48
Q. I'm sorry. Could you tell me again, in 01:45:50
April you reached out to Senator Sykes for what 01:45:52

1 purpose? 01:45:55
2 A. Yeah, in April, when we sort of had this 01:45:55
3 confirmation that -- and there was a statement 01:46:01
4 about that time period that the census data 01:46:03
5 would not be available until -- and I think the 01:46:05
6 initial date was August 16th, or something 01:46:10
7 along those lines, you know, my staff suggested 01:46:12
8 to me that -- and actually at one point the 01:46:16
9 date was the end of September. Well, we have 01:46:20
10 this constitutional deadline of September 15th. 01:46:22
11 And my staff said: Look, what we can do is get 01:46:28
12 an extension, but we'd have to put it on the 01:46:31
13 ballot in August, and people would have to 01:46:33
14 agree with that. 01:46:35
15 So we asked to meet with actually Leader 01:46:38
16 Yuko and Leader Sykes and Speaker Cupp, and we 01:46:41
17 did meet in my office in April. And I 01:46:44
18 suggested to them, Look, right now we're not 01:46:50
19 getting the data until the end of September -- 01:46:52
20 it turned out to be the end of August, but end 01:46:54
21 of September -- we should extend this out 30 or 01:46:56
22 60 days, or we won't have time to do the due 01:46:59
23 diligence or public hearings or the things that 01:47:03
24 we're all anticipating. 01:47:07
25 So I had that meeting. I was 01:47:11

1 disappointed that the response was no and that 01:47:12
2 the response came by way of a press conference 01:47:15
3 and not someone calling me back and saying, "We 01:47:17
4 don't support it." 01:47:20
5 So that's the April meeting that I 01:47:21
6 convened in my office or invited people to come 01:47:24
7 to. 01:47:27
8 Q. So during that meeting with the House 01:47:29
9 and Senate Democratic leaders, did you -- I 01:47:32
10 understand you discussed a possible legislative 01:47:38
11 action to push out deadlines. Did you -- 01:47:41
12 you're shaking your head no. 01:47:46
13 A. Yeah, it's not a legislative action. We 01:47:48
14 would have had to place a constitutional change 01:47:50
15 on the ballot. And we would have had to do 01:47:54
16 that at the August special election. 01:47:57
17 Q. Okay. All right. 01:47:59
18 A. So we couldn't have done this -- now, 01:48:00
19 legislatively, we would have had to place it on 01:48:02
20 the ballot. So to that extent. But I just 01:48:05
21 didn't want to confuse the issue. 01:48:09
22 And, frankly, we could have gone ahead 01:48:12
23 and done that. But it was my opinion that if 01:48:14
24 the Democrat folks, the Democrats, would not 01:48:16
25 have supported that, it would have not likely 01:48:19

1 passed on the ballot, not without a huge 01:48:22
2 campaign and all of that. 01:48:24
3 So when the Democrats rejected my 01:48:25
4 suggestion of extending the September 15th 01:48:28
5 deadline, you know, we didn't go ahead with 01:48:31
6 that. 01:48:35
7 Q. So putting that issue aside, in the 01:48:35
8 April meeting, did you have any discussions 01:48:38
9 about the actual work convening for the 01:48:43
10 Redistricting Commission? 01:48:48
11 A. I don't think so, other than, you know, 01:48:48
12 we knew what the deadlines were. We knew that 01:48:56
13 there had to be certain meetings. And, again, 01:48:59
14 with the presentation of a map and the number 01:49:04
15 of hearings that had to happen 01:49:06
16 constitutionally, that was part of that 01:49:09
17 discussion. 01:49:10
18 If we're going to do all of this, it 01:49:11
19 doesn't appear that we can get it done based on 01:49:13
20 what we knew in April of this year. 01:49:15
21 Q. So having received the message via press 01:49:17
22 conference that there was going to be no, I 01:49:23
23 guess, partisan action, bipartisan action, to 01:49:27
24 put a referendum question on the August ballot, 01:49:33
25 when did you start working on the work of the 01:49:41

1 commission? 01:49:44
2 Do you understand -- that might be a bad 01:49:48
3 question. 01:49:50
4 A. Yeah -- 01:49:51
5 MR. STRACH: I think it is. Why don't 01:49:52
6 you try to -- 01:49:53
7 MR. FUNARI: Let me withdraw that and 01:49:55
8 ask again. 01:49:57
9 Q. So in April you learned via press 01:49:58
10 conference that there was not likely to be a -- 01:50:01
11 an amendment to push back the dates. So when 01:50:08
12 did the work, or at least your work as a 01:50:13
13 commissioner, begin? 01:50:17
14 A. Well, I'll just -- formally, of course, 01:50:17
15 it began when I was sworn in as a commissioner 01:50:23
16 August 6th; but I will also say, you know, I 01:50:26
17 spoke in late July to Leader Sykes, Emilia 01:50:30
18 Sykes, and we were discussing the hearings and 01:50:35
19 the timing problems. 01:50:38
20 So I, essentially, asked Leader Yuko and 01:50:43
21 Leader Sykes to meet with Speaker Cupp. In 01:50:49
22 fact, I convened a meeting, I guess, again, to 01:50:53
23 invite everyone to get together. And we did 01:50:56
24 get together in the Speaker's office. I don't 01:50:57
25 recall the exact date, end of July, early 01:50:59

1 August. 01:51:01
2 And at that meeting -- and I -- you 01:51:02
3 know, I suggested to Leader Sykes that if we're 01:51:04
4 going to have these hearings, we need to 01:51:08
5 schedule them. We need to have it. 01:51:11
6 So that was, I guess, what you're 01:51:13
7 asking. I wasn't a Commissioner, with a 01:51:15
8 capital C, because I wasn't sworn in yet. But 01:51:18
9 we wanted to move this thing along and do the 01:51:23
10 things that we could do. 01:51:25
11 And so we did meet, and we began 01:51:27
12 sketching out the hearing dates. And we 01:51:30
13 actually, I think, even at that meeting decided 01:51:35
14 on a date when we could convene or when the 01:51:38
15 Governor could convene the commission. 01:51:42
16 Of course we had to have a date when the 01:51:45
17 Governor was available because, 01:51:47
18 constitutionally, he convenes it. So I think 01:51:49
19 at that meeting -- again, I don't recall the 01:51:52
20 exact date -- we got together and kind of 01:51:54
21 sketched out these hearings. 01:51:58
22 We weren't commissioners yet, though. 01:51:59
23 Q. I understand you might not be able to 01:52:01
24 remember the exact date, but what month did you 01:52:03
25 say you believed that meeting occurred in? 01:52:06

A. Yeah, it was either the end -- very end 01:52:08
of July or the first couple days in August. 01:52:11
Q. Before that meeting, had you had any 01:52:16
discussions with the Governor about when he 01:52:19
intended to convene the commission? 01:52:21
A. No. 01:52:24
Q. All right. I want to go back to 01:52:33
Mr. DiRossi's work on the maps. Now, 01:52:39
Mr. DiRossi was deposed just a few days ago in 01:52:47
this matter. Are you aware of that, 01:52:51
Mr. President? 01:52:53
A. Yes. 01:52:54
Q. Have you spoken to Mr. DiRossi about the 01:52:55
testimony he provided? 01:52:58
A. Not as to any content. I mean, he came 01:53:00
back to the office and said his deposition was 01:53:05
taken, but we didn't talk about the content or 01:53:08
anything like that. I just knew that it had 01:53:10
happened. 01:53:12
Q. Have you read the transcript from his 01:53:12
deposition? 01:53:14
A. No. 01:53:14
Q. Well, he testified that from time to 01:53:19
time, when he would be working on the maps, you 01:53:23
would come in, and he would share the screen 01:53:25

with you, or you'd look over his shoulder, and 01:53:28
show you parts of the work that he was working 01:53:31
on. 01:53:35
Do you recall any instances where 01:53:35
something like that may have happened? 01:53:36
A. Yeah, that did happen. I don't know 01:53:37
that I was looking over his shoulder, but I -- 01:53:42
but, yes. 01:53:46
Q. Okay. Well, he was sharing the screen, 01:53:47
he was showing you his monitor? 01:53:49
A. Right, right. 01:53:50
Q. Was the information that he was showing 01:53:53
you displayed through the software application 01:53:56
known as Maptitude? 01:54:01
A. I don't know the -- I don't know the 01:54:04
answer to that. I'm not -- I try not to learn 01:54:07
about things that I don't have to, and I'm not 01:54:10
really sure what the software was and all of 01:54:13
that. But that very well may be true. 01:54:17
Q. Well, what do you recall seeing on his 01:54:20
screen when you would meet with him from time 01:54:22
to time? 01:54:24
A. Yeah, just maps with, you know, 01:54:25
different districts and different political 01:54:28
subdivisions, all sorts of, you know, maps of 01:54:33

1 the state of Ohio. 01:54:38
2 And we'd talk about different districts 01:54:39
3 and the population requirements and, you know, 01:54:41
4 the mandates that are in the Constitution, 01:54:44
5 things like that. 01:54:47
6 Q. Okay, did you ever give him any 01:54:47
7 instruction or guidance with respect to how to 01:54:50
8 calculate the partisan performance of the maps? 01:54:53
9 A. No, I didn't. By and large the 01:54:58
10 instructions were, you know, the first thing is 01:55:03
11 we're going to have a -- we need to follow all 01:55:08
12 the mandates in the Constitution, which are 01:55:11
13 multiple, and -- but, no, I didn't make any -- 01:55:14
14 give him any specific or general instructions 01:55:19
15 about partisan index and however it is that 01:55:23
16 political folks calculate that. 01:55:26
17 Q. You said that you gave him instruction 01:55:30
18 or direction to ensure that the maps complied 01:55:34
19 with the Constitution. 01:55:39
20 A. Yes. 01:55:44
21 Q. Do you recall saying that? 01:55:44
22 A. Yes. 01:55:45
23 Q. Which sections of the Constitution did 01:55:45
24 you tell Mr. DiRossi to be sure the maps 01:55:47
25 complied with? 01:55:50

A. All of the constitutional requirements 01:55:50
that are mandatory. That was paramount in what 01:55:58
I believed was the most significant thing. 01:56:01
So we've got -- as I said, there are 01:56:05
multiple mandates. And I said first thing we 01:56:09
have to do is make sure this thing is 01:56:15
constitutional; don't deviate populations more 01:56:18
than 5 percent. Counties that are in the sweet 01:56:20
spot, so to speak, have to be the same division 01:56:23
of counties, things like that. So those are 01:56:25
laid out. I guess I can't tell you by number 01:56:27
where all of the mandatory provisions are, but 01:56:29
that was what was paramount. 01:56:32
Q. What about Section C of Article XI? Do 01:56:34
you recall giving Mr. DiRossi any direction 01:56:40
specific to that section of the constitution? 01:56:42
A. No. 01:56:44
Q. Do you know if Mr. DiRossi sought any 01:56:49
direction from anyone with respect to the 01:56:52
meaning of Section 6 of Article XI? 01:56:59
A. No. 01:57:02
Q. Are you familiar with Section 6 of 01:57:06
Article XI? 01:57:12
A. Yeah, I guess I can't recite it for you 01:57:13
as we're sitting here, but I know what that 01:57:19

1 provision generally says. 01:57:22
2 Q. Okay. Would it be -- I'm going to ask 01:57:23
3 you a few questions about that section 01:57:26
4 specifically. Would it be helpful if I pulled 01:57:28
5 it up on the screen? 01:57:30
6 A. Maybe, depending on the question you 01:57:31
7 ask, so... 01:57:33
8 Q. Are you familiar with the term 01:57:34
9 "proportional" that's used in Section 6 of 01:57:42
10 Article XI? 01:57:47
11 MR. STRACH: Brad, did you say 01:57:48
12 proportion or proportional? 01:57:50
13 BY MR. FUNARI: 01:57:54
14 Q. Proportional. Maybe I'm misspeaking. 01:57:54
15 So let's pull it up, why don't we. 01:57:56
16 MR. STRACH: Yeah, I think the word 01:57:58
17 proportion is in there, but not proportional. 01:58:01
18 THE VIDEOTECH: Counsel, what's the name 01:58:13
19 of the document? 01:58:15
20 MR. FUNARI: Actually, hold on. We're 01:58:17
21 going to come back to the constitutional 01:58:18
22 questions I have in a few minutes. 01:58:20
23 Actually, let's just do this now while 01:58:30
24 you're working on it. It's Exhibit 2. 01:58:33
25 (Deposition Exhibit No. 1 was marked for 01:58:33

1 identification.) 01:58:46
2 THE VIDEOTECH: So it's Ohio 01:58:46
3 Constitution Article XI? 01:58:48
4 MR. FUNARI: Yes. 01:58:49
5 (Discussion with Videotech held off the 01:58:49
6 written record.) 01:58:49
7 Q. Okay. My question is with respect to 02:01:00
8 Section 6(B), Mr. President. I'll give you an 02:01:04
9 opportunity to read it. 02:01:08
10 A. Oh, read it right now? You want me to 02:01:11
11 read it right now? 02:01:13
12 Q. Yeah, to refresh your memory in terms of 02:01:14
13 what it says. 02:01:16
14 A. Okay. I've read page one of two. 02:01:32
15 Q. Okay. So just so the record's clear, 02:01:36
16 you gave no direction to Mr. DiRossi with 02:01:40
17 respect to this constitutional requirement, 02:01:43
18 Section 6(B); is that correct? 02:01:47
19 A. Well, yeah, I guess to be specific, I 02:01:49
20 told Ray we need to follow the constitutional 02:01:55
21 requirements. And if this -- to the extent 02:01:58
22 that, you know, this is not a mandated portion, 02:02:02
23 I didn't have a specific conversation with Ray 02:02:06
24 about this. 02:02:11
25 What I told him was that it was -- the 02:02:12

1 significant thing is we needed to follow the 02:02:15
2 mandated portions of the Constitution. 02:02:18
3 So I didn't give any specific 02:02:20
4 instructions about Number 6, if that's what 02:02:23
5 your question is. 02:02:27
6 Q. That's what I was asking, yes. 02:02:28
7 A. Okay. 02:02:30
8 Q. Did you personally, as a commissioner, 02:02:35
9 conduct any analysis of whether the map that 02:02:37
10 was introduced on September 9th complied with 02:02:41
11 this Section 6(B) of the Ohio Constitution, 02:02:47
12 Article XI? 02:02:51
13 MR. STRACH: Objection. Calls for a 02:02:52
14 legal conclusion. 02:02:56
15 Mr. President, you can answer that to 02:02:56
16 the extent that you don't reveal any legal 02:02:58
17 advice. 02:03:00
18 MR. FUNARI: Just so you're clear, Phil, 02:03:01
19 and maybe you misheard my question, my question 02:03:04
20 is: Did you, in your role as a commissioner, 02:03:07
21 conduct any analysis of the map that was 02:03:10
22 introduced on September 9th as to whether or 02:03:15
23 not the map complied with Section 6(B) of the 02:03:18
24 Ohio -- Article XI of the Ohio Constitution. 02:03:25
25 MR. STRACH: Correct. And my objection 02:03:28

is that I believe that calls for -- inherently 02:03:31
calls for inherent legal analysis by the 02:03:33
president. 02:03:37
But to the extent he can answer that 02:03:38
without revealing any legal advice, please do 02:03:40
so. 02:03:42
THE WITNESS: No. 02:03:42
BY MR. FUNARI: 02:03:43
Q. Did you make any mention to Mr. DiRossi 02:03:49
during his work to ensure that the maps 02:03:55
complied with Article I of the Ohio 02:03:58
Constitution? 02:04:04
A. Yeah, we can go back and look at -- 02:04:04
Article I or Section 1 of Article VI do you 02:04:09
mean -- or Article XI, I guess? 02:04:11
Q. Article I of the Ohio Constitution. 02:04:13
A. Okay. That's not the reapportionment. 02:04:19
You're talking about something that's not 02:04:21
reapportionment? 02:04:23
Q. Yeah, could we go back to the second 02:04:24
page of this document, put up Article I in this 02:04:26
exhibit as well. 02:04:29
A. Yeah, I think the answer to your -- we 02:04:30
can go back. I think the answer to your 02:04:32
question is, no, I did not do that. 02:04:35

1 Q. Now, do you recall at the September 9th 02:04:43
2 hearing, when the map was introduced that 02:04:47
3 Mr. DiRossi had been working on, he testified 02:04:50
4 at that hearing? Do you recall that? 02:04:52
5 A. Yes. 02:04:56
6 Q. And do you recall in response to a 02:04:57
7 question I believe that was posed by Leader 02:05:02
8 Emilia Sykes, Minority Leader Emilia Sykes, 02:05:08
9 about certain racial and other demographic 02:05:12
10 information and if he had considered that, and 02:05:17
11 his response was something along the lines of 02:05:23
12 that he was instructed not to use racial or 02:05:26
13 other demographic information in preparing the 02:05:29
14 map? 02:05:31
15 Do you remember that testimony? 02:05:33
16 A. Yes. 02:05:34
17 Q. He was then asked who directed him, and 02:05:35
18 he said the legislative leaders. Do you recall 02:05:43
19 him saying words to that effect? 02:05:47
20 A. Yeah, vaguely. I'll take your word for 02:05:48
21 it. I guess I don't remember exactly what he 02:05:51
22 said; but I think so, yeah. 02:05:53
23 Q. Well, let me ask it this way. Did you, 02:05:55
24 in your position, instruct Mr. DiRossi not to 02:05:57
25 consider race or other demographic information 02:06:02

1 in his preparation of the map? 02:06:05
2 A. Yes. And I told Leader Sykes that the 02:06:07
3 day before. We had a meeting with Leader Sykes 02:06:17
4 and Senator Sykes to show them the map before 02:06:20
5 it was released publicly so they could ask 02:06:22
6 questions. And she asked me that question the 02:06:24
7 day before; and then, of course, I think that's 02:06:29
8 why she asked Ray at the meeting. 02:06:31
9 Q. At the time that the commission met on 02:06:37
10 September 9th, did you know the proportion of 02:06:49
11 districts in the plan that favored each 02:06:52
12 political party? 02:06:55
13 A. No, I think there was a analysis ongoing 02:06:58
14 regarding that. One of the problems with this 02:07:04
15 process, especially when you're doing it in a 02:07:07
16 truncated way, is the variety of information 02:07:10
17 that people have or submit or suggest about 02:07:15
18 whether districts are leaning Republican or 02:07:22
19 leaning Democrat. 02:07:25
20 And there was so much of that that there 02:07:27
21 really wasn't a clear picture about that on 02:07:30
22 that particular day. And obviously those 02:07:33
23 things came out later after a few days as we 02:07:37
24 were negotiating or attempting to negotiate. 02:07:42
25 Q. So, as I understand your testimony, it 02:07:45

1 was some point after September 9th that you 02:07:47
2 ultimately learned the proportion of districts 02:07:49
3 that favor each respective political party; is 02:07:52
4 that right? 02:07:59
5 A. Yeah, I think it was sometime after that 02:07:59
6 that we began to have a -- a more reliable set 02:08:01
7 of conclusions. But on that particular day, 02:08:07
8 you know, as Ray indicated, the analysis was 02:08:10
9 ongoing. 02:08:14
10 Q. Did you ask Mr. DiRossi to provide you 02:08:15
11 with that information before the map was 02:08:18
12 introduced on September 9th? 02:08:21
13 A. I don't have any recollection of doing 02:08:23
14 that. 02:08:26
15 Q. Going back to Article XI, 02:08:26
16 Section 8(C)(2) requires a statement to be 02:08:36
17 adopted by the commission that contains a 02:08:43
18 measure of proportionality. 02:08:48
19 Are you familiar with that -- 02:08:51
20 A. Yes. 02:08:52
21 Q. -- statement that's required? 02:08:54
22 A. Yes. 02:09:01
23 Q. When did you first learn of a measure of 02:09:01
24 proportionality for the map that the commission 02:09:03
25 was considering as introduced on September 9th? 02:09:06

A. I'm sorry, can you repeat that? 02:09:09
Q. Sure. When did you first learn of what 02:09:11
the measure of proportionality would be for the 02:09:14
map that you were considering as introduced on 02:09:19
September 9th? 02:09:22
A. You're going to have to define the 02:09:23
"measure of proportionality" for me. I don't 02:09:25
understand what you mean by that phrase. 02:09:28
Q. Okay. Are you familiar with -- I 02:09:30
believe you said you're familiar with 02:09:32
Section 8(C)(2), correct? 02:09:34
A. Yeah, the commission has to prepare a 02:09:36
statement in the event of a four-year map. 02:09:38
Q. And Section 6(B), which we just 02:09:44
reviewed, talks about the proportion -- about 02:09:47
proportionality, right? 02:09:51
MR. STRACH: Objection. That's not 02:09:53
actually what it says. 02:09:54
BY MR. FUNARI: 02:10:05
Q. You can answer. 02:10:05
A. Well, yeah, I guess Section C, as I 02:10:06
understand it, talks about, if I have it -- 02:10:08
maybe we need to put it back up -- the results 02:10:11
of the election over the past ten years, and 02:10:14
proportionality -- I guess that's all sort of 02:10:18

in a salad there of things that's in there. 02:10:21
And I guess maybe -- I thought you were 02:10:26
asking me about the statement that was 02:10:28
prepared. So I'm sorry. Maybe you want to 02:10:30
start over with the question? 02:10:35
Q. Yeah, why don't we put the statement up. 02:10:36
I believe it's -- it's Tab 1, Planet 02:10:40
Depos.
A. Okay.
(Deposition Exhibit No. 2 was marked for
identification.)
(Discussion with Videotech held off the
written record.)
Q. Let's give President Huffman an 02:11:21
opportunity to read the statement. 02:11:23
So, President Huffman, just let the 02:11:27
technician know when you're ready to scroll. 02:11:30
A. Okay. Okay. Yeah, go ahead and scroll 02:11:33
down. Okay. 02:11:52
Oh, there's another page? Okay. 02:12:08
Okay. I've got it I've read it. 02:12:19
MR. STRACH: Brad, I think you were on 02:12:33
mute. 02:12:34
MR. FUNARI: Yeah, I was on mute, sorry. 02:12:35
If we could scroll down to the bottom of 02:12:37

this first page and draw the president's 02:12:40
attention to that last sentence. 02:12:42
Q. The last sentence reads: Accordingly, 02:12:44
the statewide proportion of districts whose 02:12:46
voters favor each political party corresponds 02:12:48
closely to the statewide preferences of the 02:12:51
voters of Ohio. 02:12:54
Did I read that correctly? 02:12:58
A. Yes. 02:12:59
Q. This is the word "proportion" that I was 02:12:59
referring to, and my question was: Do you have 02:13:03
an understanding of what the term "proportion" 02:13:06
means as used in this statement? 02:13:10
A. Yeah, I mean, I think -- I mean, first 02:13:11
of all, to the extent that these are legal 02:13:15
conclusions or constitutional conclusions. But 02:13:21
when we, you know, looked at this statement, 02:13:24
there were, you know, a variety of things that 02:13:29
we could look at. 02:13:31
You know, we have, of course, over the 02:13:33
past ten years these statewide election results 02:13:34
and that's mentioned in here. We looked at the 02:13:39
publicly available data on the partisan 02:13:42
elections. Not all statewide elections, 02:13:46
because not all of them are partisan, or at 02:13:49

1 least in the last ten years they haven't. And 02:13:51
2 we sort of repeated all of that in there. 02:13:54
3 So, you know, to the extent that these 02:13:56
4 districts -- and I think we use the word 02:14:01
5 "favor" in here, we've used the word "lean" 02:14:06
6 before, these percentages are, you know, within 02:14:09
7 the mark, so to speak. 02:14:15
8 So I think that's a pretty easy 02:14:18
9 conclusion that we made at the end of this 02:14:20
10 statement. 02:14:22
11 Q. Who drafted this statement, this 8(C)(2) 02:14:24
12 statement that we've marked as Exhibit 2? 02:14:35
13 A. Well, I don't think there was an 02:14:37
14 individual person, but the staff drafted that, 02:14:41
15 and I guess I don't know exactly who did it. 02:14:44
16 Q. Whose staff? 02:14:48
17 A. My counsel is Frank Strigari; Ray 02:14:50
18 DiRossi, of course, as we've mentioned before. 02:14:58
19 To the extent that other people assisted them, 02:15:03
20 I don't know that, but those are the two main 02:15:05
21 guys. 02:15:07
22 Q. Would it surprise you to learn that 02:15:11
23 Mr. DiRossi testified that he played no role 02:15:13
24 and was asked for no information regarding the 02:15:15
25 preparation of this document and, in fact, 02:15:18

1 didn't see it until after it was adopted? 02:15:20
2 A. No, I don't have any reason to doubt him 02:15:22
3 about that. 02:15:27
4 To the extent that, you know, this 02:15:28
5 information is available, I guess it would 02:15:33
6 surprise me that Ray didn't know that the 02:15:36
7 Republicans had won 13 out of the last 16 02:15:41
8 statewide elections because just about anybody 02:15:44
9 could know that. 02:15:47
10 But as indicated, this was something 02:15:49
11 that was done by my staff. And if Ray wasn't 02:15:51
12 directly involved in it, I'd certainly take him 02:15:54
13 at his word. 02:15:57
14 Q. Okay. And just so the record is clear, 02:15:58
15 I didn't ask you to speculate as to what 02:16:00
16 information in this document Mr. DiRossi may or 02:16:03
17 may not know. 02:16:05
18 My question was: His testimony was he 02:16:08
19 had nothing to do with this document and never 02:16:11
20 even saw it until after it was adopted by the 02:16:13
21 commission. If he testified to that effect, 02:16:16
22 would you have any reason to not believe 02:16:18
23 Mr. DiRossi's testimony? 02:16:21
24 MR. STRACH: Objection. Just to the 02:16:23
25 extent that his testimony will speak for 02:16:24

1 itself. 02:16:27
2 But if you want to assume that's what he 02:16:29
3 said, then you can answer the question. 02:16:31
4 THE WITNESS: Yeah, I have no doubt that 02:16:33
5 Ray would testify truthfully and accurately. 02:16:34
6 BY MR. FUNARI: 02:16:37
7 Q. So that leaves Mr. Frank Strigari as the 02:16:37
8 only other staffer you mentioned who you 02:16:42
9 believe drafted this statement. Do you believe 02:16:45
10 Mr. Strigari alone drafted this statement? 02:16:48
11 MR. STRACH: Objection. 02:16:52
12 You can answer that question to the 02:16:57
13 extent you do not reveal or discuss discussions 02:16:58
14 or activities with outside counsel. 02:17:02
15 THE WITNESS: Okay, I don't -- I don't 02:17:04
16 know who all was part of the drafting of this 02:17:06
17 statement. I would have talked to Frank about 02:17:13
18 it. 02:17:15
19 And, frankly, I don't remember. You 02:17:16
20 know, this was, I think, in the last day or so 02:17:21
21 when this statement was being prepared. But 02:17:23
22 certainly I would have talked to Frank about 02:17:26
23 it. But who else was involved in -- who Frank 02:17:29
24 talked to or ran ideas by or anything like 02:17:33
25 that, I don't know the answer to that. 02:17:36

BY MR. FUNARI: 02:17:38
Q. But it's fair to say it was drafted by 02:17:38
your staff? 02:17:41
A. It's fair to say that my staff worked on 02:17:43
it. I don't know whether there were folks 02:17:48
outside of my staff who worked on it or not. 02:17:50
Q. Okay. 02:17:53
A. Or made contributions or suggestions or 02:17:54
reviewed or anything like that. But I wouldn't 02:17:58
have talked to those people. 02:18:03
Q. That was kind of anticipating my next 02:18:04
question. 02:18:07
A. Oh. 02:18:07
Q. Do you know if this statement or any 02:18:08
drafts of this statement were shared with other 02:18:14
members of the commission prior to its adoption 02:18:19
at the September 15th meeting? 02:18:23
A. As I understand it, this isn't something 02:18:25
that I did myself. But as I understand it, the 02:18:30
proposed statement was sent to the other 02:18:33
commissioners maybe about 7:00 or 8 o'clock in 02:18:36
the evening. So several hours before the 02:18:42
commission adopted it as its own statement. 02:18:46
Okay. And that was something again that 02:18:53
was done by staff, was sent to their staff, et 02:18:54

1 cetera. 02:18:57
2 So yes to the question; I just don't 02:18:58
3 know the mechanics of all of that. 02:19:01
4 Q. Okay. Did any of the members of the 02:19:02
5 commission or their staff make any suggested 02:19:05
6 revisions or question any of the information 02:19:09
7 contained in Huffman 2? 02:19:13
8 A. Not to my knowledge. 02:19:15
9 Q. Now, Mr. -- I'm sorry -- Speaker Cupp 02:19:24
10 this morning testified of drafts of this 02:19:27
11 statement. 02:19:29
12 Are you aware of earlier drafts of this 02:19:29
13 statement? 02:19:31
14 A. Not specifically, no. 02:19:32
15 Q. What about generally? Would a document 02:19:37
16 like this have a draft circulated? 02:19:40
17 A. Yeah, I mean, basically that day I 02:19:43
18 was -- when it became clear that the 02:19:48
19 Democrats -- I guess I still held out hope even 02:19:52
20 the day before, but I wasn't getting any 02:19:55
21 response. 02:19:58
22 But it became clear that it was possible 02:19:58
23 that we were going to get this four-year map, 02:20:01
24 and this was statements required in that 02:20:04
25 circumstance. That's when work on this began. 02:20:10

1 I frankly didn't know about that until told by 02:20:12
2 staff that, hey, this statement is necessary if 02:20:14
3 we don't work out a deal. 02:20:18
4 So I was shown a draft or a copy. I 02:20:22
5 don't recall having any of my own suggested 02:20:30
6 changes. So if there were other drafts that 02:20:32
7 were changed by other folks, I'm not aware of 02:20:35
8 that. 02:20:38
9 Q. Did you personally have any input into 02:20:39
10 the drafting of this statement? 02:20:47
11 MR. STRACH: Objection. 02:20:50
12 Answer if you can. 02:20:52
13 THE WITNESS: Yeah, I didn't -- I didn't 02:20:54
14 type it up or suggest word changes. This was 02:20:57
15 handed to me. It was reviewed by me. I looked 02:21:00
16 at. 02:21:03
17 And what I was -- you know, I wanted to 02:21:03
18 make sure that everything in here was fully 02:21:05
19 correct and talked about what the constitution 02:21:08
20 said you should talk about, which were results 02:21:12
21 of elections over the past ten years and, you 02:21:15
22 know, the other language that's in there. 02:21:19
23 So I didn't -- I didn't, you know, draft 02:21:22
24 up and say this has to be in here, that has to 02:21:25
25 be in here. But I think it talks about the 02:21:31

1 things that you're supposed to. 02:21:33
2 And I think the best answer is to the 02:21:34
3 extent that I looked at it and said, yeah, I 02:21:36
4 think these things are good and they ought to 02:21:38
5 be in there, I guess that's my personal 02:21:40
6 contribution. 02:21:42
7 BY MR. FUNARI: 02:21:44
8 Q. Well, I guess what I was getting at, if 02:21:44
9 Mr. Strigari was the drafter, the actual person 02:21:48
10 who put words to paper, did he do so at your 02:21:51
11 direction? Did you tell Mr. Strigari, "This is 02:21:54
12 what I want the statement to say," or words to 02:22:00
13 that effect? 02:22:02
14 A. Yeah, I don't know if Mr. Strigari was 02:22:02
15 the drafter, but the answer to your question 02:22:06
16 is, no, this was something that was presented 02:22:08
17 to me. Something that we would have to do in 02:22:10
18 the event that there would not be a ten-year 02:22:13
19 map. 02:22:18
20 Q. We looked at Section 6(B) of Article XI 02:22:19
21 a short while ago, and if you'll recall 6(B) 02:22:22
22 requires a determination of the statewide 02:22:27
23 preferences of the voters of Ohio. Do you 02:22:31
24 recall that concluding clause? 02:22:35
25 A. Yeah. 02:22:37

1 Q. Who made the calculation that a 02:22:39
2 statewide proportion of voters favoring 02:22:45
3 statewide Republican candidates was 81 percent 02:22:48
4 based on the proportion of elections won as 02:22:53
5 stated in this document? 02:22:58
6 A. Well, I don't know who calculated the 16 02:22:59
7 divided into 13 is 81 percent. I think anybody 02:23:04
8 can do that. 02:23:08
9 Certainly I suggested that what the 02:23:10
10 Constitution says is that we're supposed to 02:23:14
11 look at the results of the previous ten years 02:23:16
12 of elections, of statewide elections, both 02:23:20
13 federal and state. 02:23:23
14 And, you know, that's something that 02:23:26
15 anybody with a little bit of historical, 02:23:28
16 political knowledge can figure out. 02:23:31
17 As to the 54-46 part of it, I didn't 02:23:33
18 know that. I guess you've got to go through 02:23:36
19 with the results of the Secretary of State's 02:23:38
20 office and add all of those things up, and 02:23:41
21 that's not something you can do off the top of 02:23:45
22 your head. 02:23:47
23 So, yeah, I mean, 81 percent is pretty 02:23:47
24 easy to see. Those are the results of the last 02:23:51
25 ten years prior to this year. 02:23:55

1 Q. So that calculation, who was it that 02:23:57
2 first devised the idea that using elections won 02:24:02
3 to inform the commission's determination of the 02:24:08
4 statewide preferences of the voters? Who 02:24:11
5 decided that? 02:24:15
6 A. Well, the commission decided it, 02:24:15
7 ultimately, when they adopted this statement 02:24:19
8 unanimously I might add, without objection. 02:24:23
9 But the first idea about this, you know, 02:24:26
10 it might have been my idea. I guess I remember 02:24:30
11 talking about it, and I said: Look, the 02:24:33
12 Constitution says look at results, if we ever 02:24:36
13 get to Section 6. But the Constitution says 02:24:43
14 look at results, and those are results of the 02:24:46
15 previous ten years of election. 02:24:48
16 So who is the first brain child of this? 02:24:50
17 I guess I don't know who first specifically 02:24:53
18 suggested it. It might have been me. But I 02:24:57
19 don't -- you know, it's pretty easy to see what 02:25:00
20 results are and one result is who wins and 02:25:04
21 loses elections. 02:25:07
22 Q. Right. 02:25:08
23 A. And what party they are. 02:25:09
24 Q. And that is -- you'd agree that that is 02:25:11
25 one way of determining the statewide 02:25:14

1 preferences of the voters of Ohio, using the 02:25:18
2 information from statewide, state, and federal 02:25:24
3 partisan general election results in the last 02:25:28
4 ten years. There would be other ways to do 02:25:31
5 that, correct? 02:25:34
6 A. Sure, yeah. 02:25:34
7 Q. Did you consider any other way to 02:25:36
8 calculate how to determine the statewide 02:25:42
9 preference of the voters of Ohio? 02:25:47
10 A. You're stepping outside of this 02:25:48
11 statement. You're just talking about myself? 02:25:52
12 Q. Yes. 02:25:54
13 A. Yeah. 02:25:56
14 Q. We talked about elections won, right? 02:25:56
15 And you may have been the individual who came 02:26:00
16 up with that idea. My question was did you 02:26:03
17 have any other ideas of how that calculation or 02:26:07
18 measurement might be made? 02:26:10
19 A. No, because, again, our first mission 02:26:12
20 here was to make sure that the mandates in the 02:26:20
21 constitution were met. And this, you know, 02:26:23
22 calculus was part of making sure that our 02:26:26
23 statement accurately reflected the facts that 02:26:30
24 the commission would consider in exercising its 02:26:33
25 discretion. 02:26:36

So, you know, these are -- the two that 02:26:37
are specifically mentioned in here are the two 02:26:40
that are -- you know, show -- two different 02:26:44
ways of showing results. 02:26:47
I suppose that, you know, there may be a 02:26:49
lot of different ways that you could talk about 02:26:52
results in the last ten years and sort of parse 02:26:53
that out about, well, how hard would some 02:26:57
candidate campaign in a particular election, 02:27:00
and is that really a valid result or do we 02:27:06
still include it in the same weighting? 02:27:09
But none of that was really done. 02:27:12
Again, because this wasn't a mandatory part of 02:27:15
the constitution. But we did want to comply 02:27:17
with the requirement that this statement be 02:27:21
prepared, so we put in the things we thought 02:27:24
were the results. But these aren't things that 02:27:26
I calculated or I did some independent research 02:27:29
on. 02:27:31
Q. All right. Do you know if anyone was 02:27:32
consulted for the purpose of providing research 02:27:36
for the numbers that made their way into this 02:27:38
statement? 02:27:41
A. No, I don't know that. 02:27:42
Q. So let's talk about the second, I guess, 02:27:50

bucket of numbers that's on the screen. When 02:27:52
considering -- it's right at the top of the 02:27:54
screen. 02:27:56
When considering the number of votes 02:27:58
cast in each of those elections for Republican 02:28:00
and Democratic candidates, the statewide 02:28:03
proportion of voters favoring statewide 02:28:07
Republican candidates is 54 percent, and the 02:28:09
statewide proportion of voters favoring 02:28:12
statewide Democratic candidates is 46. 02:28:14
So I want to focus on that, the second 02:28:18
method of calculating voter preferences as set 02:28:21
forth here. 02:28:24
Who was it, if you know, that came up 02:28:24
with those percentages? 02:28:30
A. I don't know the answer to that. 02:28:31
Q. Was it a member of your staff, do you 02:28:35
know? 02:28:37
A. Well, I don't think that -- I think this 02:28:37
information is just publicly available at the 02:28:42
Ohio Secretary of State's website. 02:28:44
So whoever went through and did the 02:28:51
calculations or added up the total votes and 02:28:53
all of that sort of thing, I don't know who did 02:28:56
that. 02:28:59

1 These were -- I think were the same 02:29:00
2 numbers that the Democrat Senate map 02:29:03
3 considered. Although, for some reason, I think 02:29:09
4 at some point somebody was saying 55-45. 02:29:11
5 So I don't know who went through to the 02:29:17
6 Secretary of State's website and did all the 02:29:19
7 addition of votes, et cetera. 02:29:21
8 Q. So we've talked about both of the 02:29:24
9 measures of proportionality that are in this 02:29:28
10 final adopted 8(C)(2) statement. Were there 02:29:31
11 any other measures of proportionality 02:29:37
12 considered by the commission, other than these 02:29:39
13 two that made their way into the 8(C)(2) 02:29:41
14 statement? 02:29:48
15 A. No. I think those things would have 02:29:48
16 been discussed at a commission meeting, so I 02:29:53
17 think the answer to that is no. 02:29:56
18 Q. Okay. At the bottom of this Exhibit 2, 02:30:06
19 it reads: Using this data, the Commission 02:30:11
20 adopted the final general assembly district 02:30:14
21 plan, which contains 85 districts (64.4%) 02:30:18
22 favoring Republican candidates and 47 districts 02:30:25
23 (35.6%) favoring Democratic candidates out of a 02:30:30
24 total of 132 districts. 02:30:36
25 Do you see that? 02:30:39

A. Well, it's not up on my screen here at 02:30:40
the moment, but I think I heard you read it 02:30:44
correctly, or I think you read it correctly, 02:30:47
so -- somebody would have to scroll on my 02:30:50
screen. 02:30:52
Q. You're not seeing the screen? 02:30:53
A. I'm seeing the screen, but the bottom 02:30:54
portion that you just read from is not on my 02:30:56
screen. 02:30:58
Q. Oh, I'm sorry. It's on ours. 02:30:58
Can Planet Depos move that up? 02:31:02
A. I apologize. I thought you were reading 02:31:03
the last page. It is on my screen. I have 02:31:06
that in front of me. I apologize. 02:31:08
Q. I'll give you a minute to read it. 02:31:11
A. No, it's okay. I've got it. I read it 02:31:12
before. 02:31:14
Q. All right. So these numbers that the 02:31:14
commission adopted for the General Assembly 02:31:19
plan of 64.4 percent favoring Republican 02:31:21
candidates and 35.6 favoring Democratic 02:31:25
candidates, when did you first learn that those 02:31:30
were the numbers that were going to be put 02:31:34
forth in this statement? 02:31:37
A. When I saw the statement, which was 02:31:38

1 probably sometime late afternoon on 02:31:44
2 September 15th. 02:31:47
3 Q. Were you, to your knowledge, the first 02:31:55
4 member of the commission to see this statement? 02:31:57
5 A. I do not know the answer to that. 02:31:59
6 Q. Do you know if other commissioners were 02:32:03
7 provided a copy of this Section 8(C)(2) 02:32:07
8 statement prior to their being asked to vote 02:32:12
9 for it or against it at the September 15th 02:32:16
10 meeting? 02:32:20
11 A. Yes, they were. 02:32:20
12 Q. When were they provided with a copy of 02:32:22
13 it? 02:32:27
14 A. I can't tell you that specifically, but 02:32:27
15 I think it's in the 7:00 to 8:00 range. Those 02:32:32
16 things were sent to their emails by -- I think 02:32:36
17 by my staff, and I think they all acknowledged 02:32:40
18 receipt of it. 02:32:45
19 Q. Why didn't your staff or you send a 02:32:46
20 draft of this statement to the other 02:32:51
21 commissioners prior to commencing the 02:32:55
22 September 15th meeting? 02:32:58
23 A. Well, to be clear, the meeting commenced 02:33:00
24 at 10:30 in the morning and recessed. 02:33:03
25 This was worked on by my staff and 02:33:08

1 presented to me sometime late in the afternoon. 02:33:12
2 And what we sent to them at whatever 02:33:14
3 time that those emails went out, 7:00 or 8:00, 02:33:17
4 was a draft, when it became, again, apparent to 02:33:20
5 me at that point that, you know, I was -- I was 02:33:26
6 waiting most of the afternoon on the 15th for a 02:33:28
7 response of some kind from Leader Sykes or 02:33:30
8 Senator Sykes. So what we sent at 8:00 was a 02:33:34
9 draft. 02:33:40
10 Now, it's a draft until the commission 02:33:40
11 adopts it, which, ultimately, the commission 02:33:44
12 adopted it without any changes to the proposal 02:33:46
13 that was sent out at 8:00. 02:33:50
14 And, in effect, somebody had to do 02:33:51
15 something about this because the Constitution 02:33:53
16 required it. So that's -- it was a draft until 02:33:55
17 it was adopted. 02:33:59
18 Q. Understood. What was the plan that you 02:34:00
19 had sent over to the Sykeses that you were 02:34:07
20 awaiting a response on between the time the 02:34:12
21 commission convened in the morning of the 15th 02:34:17
22 and the time it reconvened in the evening? 02:34:20
23 A. Well, that plan was sent to them much 02:34:22
24 before that, which we were attempting to 02:34:29
25 negotiate with the Sykes. So they -- that time 02:34:31

period stretches back into the previous week. 02:34:35
But if you're only asking about the 02:34:40
15th, I was told by Senator Sykes that a 02:34:44
response to our latest proposal would be 02:34:48
coming. 02:34:50
I had attempted to meet with he and 02:34:53
Leader Sykes earlier in the week. I requested 02:34:56
to meet with them. They didn't respond to my 02:34:58
request. 02:35:01
But if you're only asking about that 02:35:03
day, I had a series of phone conversations with 02:35:05
Senator Sykes. Again, the time was 10:30. We 02:35:08
were supposed to meet, and beginning at about 02:35:12
1:00 o'clock, I was told by Senator Sykes that 02:35:16
the response to our latest proposal would be 02:35:19
coming, and we pushed the time back to 3:00 02:35:22
o'clock. 02:35:25
And I think another phone call, let's 02:35:26
come in at 5:00. We pushed it back to 7:00, 02:35:29
and I continued to call. 02:35:33
I think maybe we talked three times that 02:35:34
day, and he said a response would be coming. 02:35:37
And ultimately, because we have the -- we have 02:35:42
to do this on September 15th, Speaker Cupp 02:35:45
convened the meeting and of course we did what 02:35:50

1 we did. 02:35:53
2 But there were a series of attempts on 02:35:56
3 my part to try to have some negotiations in 02:35:59
4 response to our proposals. 02:36:04
5 Q. Okay. I apologize, it's probably a 02:36:06
6 result of my misunderstanding. 02:36:10
7 It was my understanding that, while the 02:36:11
8 commission was in recess on the 15th, there 02:36:14
9 were actual negotiations back and forth between 02:36:16
10 the Democrats and the Republican legislative 02:36:19
11 leaders. It sounds like that is incorrect. 02:36:21
12 There was not a back-and-forth negotiation, but 02:36:25
13 rather you had made the prior week what you've 02:36:28
14 called the latest proposal, and you were 02:36:32
15 waiting for them to respond, which they never 02:36:34
16 did; is that correct? 02:36:36
17 A. Yeah, so, that's part of that. 02:36:38
18 The other thing is when you say 02:36:41
19 Republican and Democrat members of the 02:36:43
20 commission, I don't know what sort of 02:36:45
21 discussions Secretary LaRose, Governor DeWine, 02:36:48
22 and Auditor Faber were having with anyone. 02:36:50
23 And I guess I don't know everything that 02:36:54
24 Speaker Cupp may have been talking to each 02:36:56
25 other about. 02:36:58

1 But for my part, I was trying to get my 02:37:01
2 Democratic counterpart in the Senate to 02:37:04
3 respond. 02:37:07
4 And, frankly, I thought that Vern, 02:37:07
5 because, you know, I know him, known him for 02:37:10
6 many years, was the best person for me to try 02:37:13
7 to talk to. And tried to -- as I said, tried 02:37:15
8 to -- asked him if he would meet with me in 02:37:19
9 Akron earlier in the week. I didn't get a 02:37:21
10 response to that. And then when I did speak 02:37:24
11 with him in Cleveland on the 13th, he said they 02:37:27
12 would have a response the next day. We didn't 02:37:31
13 get that. 02:37:35
14 And when we talked on the 15th, he 02:37:36
15 promised, several times, responses. 02:37:38
16 And I don't put that all on him. I know 02:37:40
17 there's a lot of different folks, and there's a 02:37:42
18 lot of things that have to happen. It's not 02:37:44
19 just you walk in the room, make a decision, and 02:37:47
20 come back out. 02:37:49
21 So, if you're including other Republican 02:37:52
22 members of the commission, I don't know what 02:37:55
23 discussions they may have been having on that 02:37:58
24 particular day. 02:38:01
25 Q. Fair enough. So the "latest proposal," 02:38:01

as you use that term, what was the latest 02:38:05
proposal that you made to the legislative 02:38:08
Democrats? 02:38:13
A. So I'm going to use these terms just -- 02:38:13
and if these aren't clear to you, I think 02:38:23
they're clear, but the initial map that the -- 02:38:25
although we didn't quite know that when it was 02:38:34
introduced -- and I'm just going to use House 02:38:37
numbers just because it's closer to percentages 02:38:39
and so we can have one sort of rubric. 02:38:43
As I understand it, it had districts 02:38:45
that leaned Republican. The total number was 02:38:48
68. The Democratic proposal had 57 districts 02:38:51
that leaned Republican. The subsequent 02:38:58
proposal that we had made had 62 districts that 02:39:03
leaned Republican. 02:39:09
Again, as I understand it. I didn't 02:39:11
examine these districts or whatever indices may 02:39:13
have been used. And that was sort of where we 02:39:16
were at a day or so before, and certainly on 02:39:19
the 15th. 02:39:23
It was our attempt, what we were trying 02:39:24
to do was get them to respond to, you know, "if 02:39:27
we boil it all the way down to 68; no, how 02:39:32
about 57; no, how about 62," we were 02:39:35

negotiating, and we were at 62, and they were 02:39:38
at 57. 02:39:42
And, again, there are many other things 02:39:43
that were part of that, of course. But we were 02:39:45
trying to get a response out of them. 02:39:48
Q. Understood. Mr. DiRossi testified that 02:39:56
he worked with two consultants in his work 02:40:04
drawing the map. Would you agree that 02:40:09
Mr. DiRossi worked with two consultants in his 02:40:14
work drawing the map? 02:40:19
MR. STRACH: Objection. I don't think 02:40:20
he testified that they helped him draw the map. 02:40:22
He talked about two consultants, but not in 02:40:28
drawing the map. 02:40:32
MR. FUNARI: Fair enough. Let me 02:40:33
rephrase the question. I'll withdraw that 02:40:36
question. 02:40:38
BY MR. FUNARI: 02:40:38
Q. Do you have an understanding of whether 02:40:38
or not two consultants were made available for 02:40:40
consulting purposes and for the provision of 02:40:43
data or other reasons to Mr. DiRossi for his 02:40:46
map drawing process? 02:40:50
A. To be honest with you, the answer to 02:40:59
that is no. I know there was a data guy, and I 02:41:00

1 don't know what his name was. 02:41:02
2 If there was a second person who was 02:41:03
3 providing data to Ray, then I don't have any 02:41:05
4 reason to doubt his testimony about that. I 02:41:08
5 just -- wasn't necessary for me to vet any of 02:41:10
6 that. That was up to Ray. And, of course, you 02:41:16
7 give -- you give folks the tools they need to 02:41:19
8 accomplish their task. 02:41:23
9 So the answer really is, no, I don't 02:41:24
10 know who those folks are. 02:41:26
11 Q. But do you remember authorizing 02:41:27
12 Mr. DiRossi to hire such consultants? 02:41:29
13 A. I don't specifically remember that, but 02:41:32
14 that probably happened. 02:41:34
15 Q. Does the name Clark Benson ring a bell 02:41:36
16 to you? 02:41:39
17 A. Rings a bell. I guess I can't tell you 02:41:40
18 anything else about him or who he is. 02:41:43
19 Q. What about the context in which you know 02:41:47
20 that name? You recognize that name from 02:41:49
21 Mr. DiRossi's work on the maps? 02:41:51
22 A. No, I really don't. 02:41:53
23 Q. What about John Morgan? Are you 02:41:57
24 familiar with that name? 02:42:00
25 A. I don't think I know who John Morgan is, 02:42:01

1 no. 02:42:04
2 Q. Have you ever worked with Mr. Benson, to 02:42:10
3 the best of your recollection? 02:42:12
4 A. I don't think so, no. 02:42:13
5 Q. Do you know whether Mr. DiRossi was 02:42:21
6 provided access to non-public 2012 and 2014 02:42:39
7 election data? 02:42:48
8 A. No, I don't know the answer to that. 02:42:49
9 Q. Did the commission ever consider hiring 02:42:54
10 a nonpartisan mapmaker to draw the maps to your 02:43:02
11 knowledge? 02:43:09
12 A. Well, I guess the way the commission 02:43:09
13 would consider that would be jointly at a 02:43:16
14 public meeting. Those meetings, of course, I 02:43:20
15 think are all recorded and there's minutes of 02:43:23
16 it, et cetera. 02:43:25
17 So I don't recall at any of our meetings 02:43:26
18 that we discussed that topic. 02:43:28
19 Q. What about before the commission was 02:43:30
20 convened on August 6th? Was there any 02:43:34
21 discussion among the members, or the 02:43:37
22 individuals who would become the members of the 02:43:41
23 commission, whether or not -- 02:43:44
24 A. Yeah, I -- at the meeting I mentioned, 02:43:47
25 the end of July, beginning of August meeting in 02:43:49

1 the Speaker's office, and really maybe before, 02:43:51
2 we talked about each of the four caucuses 02:43:57
3 having access to someone who can assist them in 02:44:00
4 making these decisions. 02:44:06
5 From the perspective of the Senate 02:44:08
6 Republicans, we didn't think it was necessary 02:44:12
7 for us to go out and hire outside people. 02:44:13
8 Mr. DiRossi, he might be the most qualified 02:44:18
9 person in the United States, as far as I know. 02:44:20
10 He had done this for two cycles, and, you know, 02:44:22
11 was enthusiastic about he wanted to do it. So 02:44:24
12 there wasn't any reason for me to do anything 02:44:29
13 about that. 02:44:31
14 I don't know what Speaker Cupp's 02:44:35
15 analysis was in terms of who they had. 02:44:36
16 Leader Yuko, who, of course, did not 02:44:40
17 become a member of the commission, his 02:44:43
18 statement at that meeting was we have -- I 02:44:46
19 guess I can't remember -- there is a Democratic 02:44:51
20 staffer, nice guy. He's been around for years. 02:44:54
21 I apologize, I can't remember his name. He 02:44:56
22 knew about drafting maps, so they wouldn't need 02:44:59
23 to hire an outside person. 02:45:01
24 However, Leader Sykes, you know, said -- 02:45:02
25 you know, made a fair statement, a clear 02:45:06

1 statement, that: Hey, we don't have a Ray 02:45:09
2 DiRossi in-house or same fellow for the Senate 02:45:11
3 Democrats. We need additional funds to go out 02:45:15
4 and hire a mapmaker or consultant or whatever 02:45:20
5 term we were using at the moment. 02:45:25
6 So we authorized a considerable amount 02:45:30
7 of money. I think originally each caucus, each 02:45:32
8 party, I think, was given $150,000, and that 02:45:35
9 was used to buy computers and software and 02:45:39
10 such. 02:45:41
11 But in this case, Leader Sykes asked 02:45:45
12 for, I think, an additional $250,000, I think, 02:45:49
13 just to hire consultants, which I think was for 02:45:53
14 mapmaking purposes and we agreed to do that. 02:45:59
15 Of course, that would have had to be something 02:46:01
16 that we all agreed to. 02:46:03
17 So in this case, and I think it was just 02:46:08
18 the House Democrats, I don't know exactly how 02:46:10
19 they did what they did, but I think they went 02:46:13
20 out and hired somebody, and that was for four 02:46:15
21 months. That included the Congressional 02:46:17
22 portion of this redistricting, which, of 02:46:19
23 course, is ongoing as we speak. 02:46:22
24 We try not to, you know, get down to 02:46:29
25 telling each other what we're going to do with 02:46:33

1 our consultants. It's supposed to be a process 02:46:35
2 where you take money. But the answer is the 02:46:40
3 House Democrats got an additional quarter of a 02:46:43
4 million dollars or so to assist them in the 02:46:45
5 mapmaking process. 02:46:47
6 Q. And is it correct that none of the 02:46:48
7 statewide elected officials, that being 02:46:50
8 Governor DeWine, Secretary of State LaRose, and 02:46:54
9 Auditor Faber, none of those statewide elected 02:46:58
10 officials participated in that meeting where 02:47:01
11 the decision was made that there would be no 02:47:03
12 hiring of a nonpartisan mapmaker? 02:47:06
13 A. That is correct. This is a meeting that 02:47:12
14 happened before the commission convened among 02:47:14
15 the four caucus leaders, three of whom ended up 02:47:17
16 actually being on the commission. 02:47:20
17 Q. I think I know the answer to this, but 02:47:23
18 I'm going to ask it anyway. Did the commission 02:47:39
19 as a collective entity ever attempt to draft a 02:47:42
20 map? 02:47:48
21 A. No. Again, they can only act through a 02:47:48
22 joint action, either in a meeting or I suppose 02:47:58
23 possible to do a written resolution. But none 02:48:00
24 of that ever happened, no. 02:48:03
25 Q. Did the commission ever develop metrics 02:48:05

1 for assessing the various plans that were to 02:48:12
2 come before it as contemplated by the 02:48:16
3 Constitution for compliance with Section 6? 02:48:18
4 A. Not -- yeah, not to my knowledge. 02:48:24
5 Q. Did each -- do you know if each 02:48:28
6 independent member, including yourself, had 02:48:32
7 their own individual idea of the metrics by 02:48:34
8 which he or she would use to determine the 02:48:39
9 compliance of any respective map to Section 6? 02:48:42
10 MR. STRACH: Objection. 02:48:48
11 THE WITNESS: Yeah, I think -- I don't 02:48:49
12 know what the other six commission members did. 02:48:51
13 What I instructed Ray to do was, first 02:48:55
14 and foremost, comply with the Constitution, the 02:48:58
15 mandates of the constitution, and that our 02:49:02
16 mission here, so to speak, was to attempt to 02:49:08
17 come to a resolution that would allow us a 02:49:11
18 ten-year map, which necessarily would have 02:49:14
19 required both Democratic members of the 02:49:16
20 commission to be in favor of it. 02:49:20
21 So that's what our attempts were. 02:49:21
22 Section 6, of course, is aspirational 02:49:26
23 first, but if we require -- if we comply with 02:49:29
24 the mandates of the Constitution, are not -- 02:49:33
25 that's not something that is also a mandate. 02:49:38

1 BY MR. FUNARI: 02:49:45
2 Q. So you don't know one way or another 02:49:45
3 whether any of the other commissioners or their 02:49:48
4 staff created specific metrics or checklists 02:49:51
5 for purposes of evaluating whether or not the 02:49:57
6 maps that would come before them would comply 02:50:00
7 with Section 6? 02:50:03
8 A. Yeah, I don't know what the other six 02:50:04
9 commission members were doing in that regard. 02:50:08
10 Q. But you did not. You didn't create any 02:50:11
11 such, you know, metric or checklist by which 02:50:15
12 you would evaluate compliance with Section 6 as 02:50:23
13 the maps would come before you? 02:50:26
14 A. Well, I guess the one exception to that 02:50:28
15 would be the metrics that were set out in the 02:50:32
16 statement, which we've already reviewed, which 02:50:36
17 are the results of elections over the previous 02:50:38
18 ten years, either in percentage or outcome. 02:50:40
19 So if you want to call that metrics, I 02:50:44
20 suppose those are things that I discussed with 02:50:47
21 my staff in the afternoon of the 15th. 02:50:50
22 Q. Right. So that was after the 02:50:58
23 September 9th map was introduced that you 02:51:00
24 developed that metric in your mind and 02:51:02
25 discussed with your staff sometime during the 02:51:04

1 recess on the 15th? 02:51:06
2 A. That was the date that we prepared the 02:51:08
3 statement and began including all of the things 02:51:12
4 that we thought were relevant as it was related 02:51:15
5 to that Section 4 -- excuse me, the statement 02:51:20
6 that was required. Certainly those other 02:51:25
7 things were known prior to that and as early 02:51:29
8 as, you know, four or five days or probably 02:51:34
9 earlier than that. 02:51:38
10 Again, anyone at any time can look and 02:51:40
11 see who has won the previous ten years. 13 out 02:51:44
12 of 16 have been won by Republican. 02:51:48
13 So when that idea first surfaced and 02:51:50
14 discussed, I don't know, but that was long 02:51:52
15 before September 15th. And the 54-46 or 55-45, 02:51:54
16 well, people have been talking about that for 02:52:01
17 several months, including the Democrats. So 02:52:03
18 these things weren't unknown. But as a 02:52:07
19 statement of the commission, as its own 02:52:11
20 statement as to these are the results, those 02:52:15
21 were things that had to go on the statement. 02:52:19
22 Again, there's no formula in the 02:52:22
23 constitution. We consider facts and then 02:52:23
24 exercise discretion, and that was the purpose 02:52:26
25 of having it in a statement. But those things 02:52:29

1 were known, generally, to the public and other 02:52:32
2 people, including me, prior to September 15th. 02:52:34
3 Q. Okay. Just I may have cloudy view of 02:52:37
4 the timeline, then, here. Just so I'm clear. 02:52:42
5 This idea of using statewide elections won as 02:52:46
6 one of the two metrics that made their way into 02:52:53
7 the 8(C)(2) statement, you came up with that 02:52:56
8 idea approximately five or six days before the 02:53:00
9 15th; is that right? 02:53:03
10 A. I don't think that's accurate. And I 02:53:05
11 don't know that I came up with it. I may have 02:53:07
12 come up with it. 02:53:09
13 But this was something as we began to 02:53:10
14 talk about what are all of the things that we 02:53:13
15 were considering, that was a discussion that we 02:53:19
16 had long before the 15th. 02:53:22
17 Maybe at the end of August, beginning of 02:53:24
18 September, the first time, you know, we talked 02:53:26
19 about, well, what do results mean? 02:53:30
20 Well, results, as suggested by some 02:53:32
21 folks, including Democrats, were add up all of 02:53:36
22 the votes in all of the elections and do a 02:53:39
23 calculation. I'm not sure that that -- you 02:53:42
24 know, because, again, you have 19 races, 02:53:44
25 they're different candidates, different things. 02:53:47

I'm not sure that adding all of the votes 02:53:49
together would be one. And -- but adding -- 02:53:53
you know, looking at the actual results of who 02:53:57
won is another way of doing it. 02:53:59
You know, the one thing that didn't make 02:54:01
it into the statement, I guess, I'm sitting 02:54:04
here thinking, is look at the actual results of 02:54:05
all of those statewide elections, those 19 02:54:09
statewide elections. 02:54:12
And some candidates were winning 51-49. 02:54:13
Of course, you know, by the way, this 02:54:17
calculation doesn't include third-party and 02:54:19
independent candidates. So there's a lot of 02:54:21
other percentages that aren't in the statement. 02:54:27
Those aren't things that we considered, 02:54:29
necessarily, because, you know, we're sitting 02:54:32
there that day saying what are important facts 02:54:34
for the commission to include in the statement? 02:54:36
But, yeah, I think these are things that 02:54:40
everybody knew long before the 15th. 02:54:42
Q. Okay. So as I understand it, and tell 02:54:45
me if this is a fair statement: You had 02:54:49
discussions prior to the 15th about a metric 02:54:52
being statewide elections won, but you didn't 02:54:56
know that it was going to make its way into the 02:55:01

8(C)(2) statement as a basis for the 02:55:05
determination of the commission until you saw 02:55:10
that statement sometime during the recess on 02:55:12
the 15th. 02:55:16
A. Yeah, and your timing is correct. 02:55:17
I would just say as this was a "fact" 02:55:20
for consideration. I don't know that I would 02:55:24
say "basis." That means something a little bit 02:55:26
different to me. 02:55:28
But that is correct. I didn't know it 02:55:29
was going to go into the statement until the 02:55:31
afternoon of the 15th because, to be very 02:55:32
honest with you, if I ever knew that the 02:55:35
statement was necessary, nobody really 02:55:37
explained that to me until: Oh, yeah, we 02:55:39
actually have to do this, don't we? Let's 02:55:43
start preparing a statement in case we don't 02:55:45
get a four-year map. 02:55:47
Q. So who was the actual decision-maker 02:55:49
that made the decision to put that metric, 02:55:53
statewide elections won, into the 8(C)(2) 02:55:56
statement? 02:56:01
A. All seven members of the commission. 02:56:02
Q. All seven of the commission voted for 02:56:05
it. 02:56:07

A. Right. 02:56:07
Q. But I understand from earlier testimony 02:56:08
and the testimony at the hearing, public 02:56:10
hearing, that it was presented to them with not 02:56:13
much notice. And many of them put that on the 02:56:17
record. They were unhappy about that. It's 02:56:23
kind of been unanimous testimony that the 02:56:25
statement came from your office. 02:56:28
So my question is who made the decision 02:56:30
to put that metric of statewide elections won 02:56:33
into the 8(C)(2) statement? 02:56:38
A. Yeah, the proposal was made by me. The 02:56:40
motion was made by me. Again, the conclusion, 02:56:44
the decision was made by the commission. 02:56:48
Q. So it was you, not necessarily a member 02:56:50
of your staff, who decided to put that metric 02:56:58
into the 8(C)(2) statement? 02:57:01
A. It was my decision to make the motion to 02:57:02
propose that to the commission. The staff 02:57:06
doesn't make decisions. The people making the 02:57:08
motions do that. 02:57:11
Q. Right. And you have no recollection, as 02:57:12
I understand it, who on your staff actually 02:57:18
included and drafted that language of the 02:57:22
statewide elections won and the 81 percent into 02:57:26

1 the statement, correct? 02:57:31
2 A. No. That's correct, yeah. 02:57:32
3 Q. Okay. Okay, give me one second, if you 02:57:34
4 would. 02:57:44
5 Madam court reporter, could you give me 02:57:44
6 a time where we are on the record? 02:57:46
7 (Discussion held off the written 02:58:17
8 record.) 02:58:17
9 BY MR. FUNARI: 02:58:28
10 Q. Mr. President, were you one of the 02:58:28
11 principal authors of the 2015 amendments to 02:58:30
12 Article XI? 02:58:35
13 A. Can you repeat that? I didn't quite 02:58:36
14 catch that. 02:58:38
15 Q. Sure. Let me back up. Were you a 02:58:38
16 member of the Senate during the negotiation and 02:58:40
17 drafting of the 2015 amendments to Article XI? 02:58:47
18 A. So I think I know what you're asking. I 02:58:58
19 was a member of the Ohio House of 02:59:00
20 Representatives when the 2014 changes, many of 02:59:02
21 which we're discussing, were drafted, and I was 02:59:06
22 a principal in that. And that went on the 02:59:10
23 ballot in 2015. So hopefully that's helpful. 02:59:13
24 Q. Yeah. I guess my mistake was you were 02:59:16
25 in the House, not the Senate, at the time, 02:59:18

correct? 02:59:20
A. Correct. 02:59:20
Q. Okay. 02:59:20
A. As was Vern Sykes at that point. We're 02:59:22
now both in the Senate. 02:59:24
Q. And you worked with Mr. Sykes through an 02:59:33
organization that you and he co-founded called 02:59:36
the Fair Districts for Ohio group, correct? 02:59:38
A. Not in the drafting of that, if that's 02:59:40
what you're -- 02:59:44
Q. No -- 02:59:44
A. If you're connecting it to the previous 02:59:45
question, that had nothing to do with the work 02:59:47
on the legislation. 02:59:49
Q. Right. But you and Mr. Sykes joined 02:59:51
forces, for lack of a better term, to advocate 02:59:55
publicly for those amendments, correct? 02:59:59
A. Yeah, after the legislature placed the 03:00:03
issue on the ballot in two-thousand -- for the 03:00:06
2015 election, which was in November of 2015, 03:00:12
at that time private citizen Huffman and 03:00:20
private citizen Sykes, we did form an 03:00:22
organization, and we raised some money, not too 03:00:26
much, and we hired some folks and bought some 03:00:30
advertising. We did various editorial trips, 03:00:32

1 et cetera, during that 2015 year. 03:00:40
2 Q. And what was the purpose, generally, of 03:00:50
3 that group? 03:00:52
4 A. Well, I had -- a few years before that 03:00:52
5 had -- as a -- also as a member of the House, 03:00:57
6 put an initiative on the ballot to ask the 03:00:59
7 legislature to -- we have age limits for 03:01:02
8 judges, and I tried to get it raised from 70 to 03:01:05
9 75 because I thought we were losing a lot of 03:01:08
10 people off the bench. I should have got rid of 03:01:11
11 it altogether. 03:01:14
12 It went down, and one of the things I 03:01:15
13 learned is if you want a ballot initiative, 03:01:17
14 whether it's by petition or legislature, you 03:01:19
15 need to campaign for it. 03:01:22
16 So the purpose of that was to try to get 03:01:23
17 the issue passed. 03:01:25
18 Q. Now, there was literature related to the 03:01:31
19 campaign that the organization was advocating 03:01:34
20 for. Were you involved in preparing any of 03:01:38
21 that literature, the posters or other medium, 03:01:41
22 in which the Fair Districts for Ohio was 03:01:45
23 getting its message out? 03:01:49
24 A. Well, I think one of the things that 03:01:51
25 happened in the campaign, as usually happens 03:01:55

with these campaigns, is a lot of folks sort of 03:01:59
take their own particular ownership of it. 03:02:02
So I was responsible for, you know, the 03:02:08
things that I said and did. But there were a 03:02:09
lot of folks who claimed that somehow they were 03:02:11
responsible for this and campaigning in a 03:02:15
variety of different ways to support it. 03:02:19
So what was said and what wasn't said in 03:02:23
particular things, I guess I'd have to see what 03:02:27
specifically it is that you're talking about 03:02:30
and whether I sanctioned it or drafted it or 03:02:32
approved it. 03:02:35
I -- unfortunately, and we heard this in 03:02:37
some of the testimony, there's a lot of folks 03:02:39
out there that think that this went on by 03:02:42
virtue of petitions that were circulated. 03:02:44
Because they said, you know, "They circulated 03:02:46
petitions and that's why it got on the ballot." 03:02:48
They were wrong about that. 03:02:51
So if there are particular documents or 03:02:52
pieces of paper or ads or things like that, I'd 03:02:56
have to take a look at it. 03:03:00
I do recall we did not -- most of what 03:03:03
we did were radio ads, and then we did some 03:03:06
editorials and things like that. We really 03:03:10

1 didn't have enough money to go out and buy TV 03:03:12
2 commercials or, you know, some of the other 03:03:15
3 things. 03:03:17
4 And I don't think digital advertising 03:03:18
5 was in 2015 what it is today. So I'd have to 03:03:21
6 see if I have a recollection of what you're 03:03:26
7 talking about. 03:03:28
8 Q. Okay. In the interest of time, I'm not 03:03:29
9 going to pull up the various posters, but I do 03:03:31
10 have some excerpts that I'm going to read to 03:03:35
11 you and then ask you a couple of questions 03:03:37
12 about. 03:03:40
13 The first is there is a poster that came 03:03:41
14 out, published by Fair Districts of Ohio, that 03:03:44
15 noted that the amendments were to advance 03:03:48
16 fairness and specifically "to protect against 03:03:52
17 gerrymandering by prohibiting any district from 03:03:56
18 primarily favoring one political party and 03:04:00
19 require districts to closely follow the 03:04:02
20 statewide preferences of voters." 03:04:05
21 Do you recall having any part in coming 03:04:08
22 up with that language which appeared on the 03:04:11
23 materials put out by the Fair Districts of 03:04:15
24 Ohio? 03:04:17
25 A. No. I don't have any recollection of 03:04:18

1 that. 03:04:20
2 Q. Another was to advance the goal of 03:04:21
3 accountability, and the revisions to Article II 03:04:24
4 would "create a process for the Ohio Supreme 03:04:29
5 Court to order the commission to redraw the map 03:04:33
6 if the plan favors one political party." 03:04:36
7 Do you recall any input into the posters 03:04:40
8 or flyers of the organization including words 03:04:45
9 to that effect? 03:04:48
10 A. No. 03:04:49
11 Q. Do you agree with those statements, 03:04:50
12 though? 03:04:57
13 A. Well, the second one, since I think I 03:04:57
14 can remember that one a little better -- we can 03:05:04
15 go back to the first one -- the second one, of 03:05:06
16 course, is incorrect to the extent that if the 03:05:09
17 mandates of the constitution are met, the 03:05:12
18 Supreme Court does not or cannot order a redraw 03:05:15
19 based on the items that you've put in there. I 03:05:21
20 mean, that's pretty clear in the Constitution. 03:05:26
21 And I guess I'd have to have you read me 03:05:29
22 the first one again to see if I agreed with it. 03:05:31
23 Q. Sure. It goes to fairness. And this 03:05:35
24 one in particular says that the amendments "are 03:05:38
25 meant to protect against gerrymandering by 03:05:42

1 prohibiting any district from primarily 03:05:45
2 favoring one political party and require 03:05:49
3 districts to closely follow the statewide 03:05:51
4 preferences of voters." 03:05:54
5 A. Yeah, I mean, it sounds like, when you 03:05:56
6 use the word "any district," well, of course, 03:05:58
7 it's impossible to do that and follow the 03:06:01
8 mandates of the constitution. 03:06:06
9 You know, if we decided we're going to 03:06:07
10 draft -- draw every district 54-46 or 55-45, 03:06:10
11 whatever it is, we could do that. 03:06:15
12 Now, in theory, you could have 99 03:06:18
13 Republicans elected to the House, but we would 03:06:21
14 have all districts do that. Fact is you can't 03:06:24
15 do that and follow all of the mandated portions 03:06:27
16 of the Constitution. Just like you can't draw 03:06:29
17 a map that has 81 percent, you know, as -- 03:06:32
18 because of 13 and 16, because you can't divide 03:06:39
19 counties, all of the other things that are in 03:06:42
20 there. 03:06:45
21 So it sounds like a political consultant 03:06:47
22 drafting something that may have made sense to 03:06:52
23 them at the time or helped to get it passed, 03:06:54
24 but it's -- it's factually inaccurate. 03:06:57
25 Q. So if Fair Districts of Ohio was putting 03:07:03

1 out memorabilia and posters and other 03:07:09
2 literature that said things like that, and your 03:07:13
3 name is associated with the organization, would 03:07:18
4 you take issue with that? 03:07:19
5 A. Did you say memorabilia? 03:07:20
6 Q. Yeah, or whatever, literature. 03:07:23
7 A. Literature, oh, okay. Oh, okay. Yeah, 03:07:26
8 I mean, I suppose I would have taken issue with 03:07:30
9 it at the time if I would have sat down and 03:07:34
10 said, "Let's take this word out and put these 03:07:36
11 things in," and all of that. 03:07:39
12 But there were a lot of folks who may 03:07:40
13 have been working on this. For example, the 03:07:43
14 League of Women Voters were putting out a lot 03:07:46
15 of things and other entities, whoever they may 03:07:49
16 have been, putting things out to convince 03:07:54
17 people to vote for this. 03:07:56
18 What all they put into it -- you know, 03:07:58
19 and that -- that happens in lots of issue 03:08:01
20 campaigns and political campaigns. You have 03:08:04
21 acolytes of various stripes putting out things 03:08:07
22 about why you should vote for candidates and 03:08:11
23 shouldn't. 03:08:13
24 Everything that everybody ever said 03:08:13
25 about me when I was running for office, even if 03:08:15

they were trying to do me a favor, probably I 03:08:19
would take issue with and the same is true in 03:08:21
this case. 03:08:23
Q. Okay. Mr. President, I think we've been 03:08:24
going maybe just over an hour and a half. It 03:08:27
would be probably a wise time to take a brief 03:08:31
recess, maybe five minutes or so. 03:08:33
Is that all right, Phil, with you? 03:08:36
MR. STRACH: That's fine with me. Let's 03:08:38
say five minutes, I guess. 03:08:40
MR. FUNARI: And, madam court reporter, 03:08:41
can you give us a time. 03:08:43
THE VIDEOGRAPHER: Off the record at 03:09:22
3:09. 03:09:24
(Recess ensued from 3:09 p.m. 03:16:30
to 3:20 p.m.) 03:20:47
THE VIDEOGRAPHER: We are back on the 03:20:53
record at 3:21. 03:20:54
BY MR. FUNARI: 03:20:54
Q. Can you hear me okay, President Huffman? 03:21:01
A. Yes, I can. 03:21:02
Q. Okay. Did any of the other 03:21:04
commissioners, besides yourself, have access to 03:21:12
Mr. DiRossi during the map drawing process? 03:21:16
A. I don't believe so. 03:21:19

Q. Was that at your direction? 03:21:24
A. I don't think it was something I needed 03:21:28
to direct. Ray's a Senate employee. He's paid 03:21:32
by the Senate to do his job. The House, you 03:21:36
know, they have their employee that they would 03:21:39
work for them. 03:21:42
And, again, to the extent that the other 03:21:43
commissioners had folks. I don't think it 03:21:46
would be necessary, for example, Leader Yuko to 03:21:51
direct his employee not to interact with other 03:21:57
folks. It's, I guess, maybe understood that's 03:22:00
who you work for. 03:22:03
Q. I guess I was -- the individuals I had 03:22:04
in mind were the other commission members. So, 03:22:07
for example, let's use the Governor as an 03:22:09
example. Did Governor DeWine have access to 03:22:12
Mr. DiRossi during the map drawing process? 03:22:17
A. He shouldn't have. So, no, I don't 03:22:20
think the Governor or the Governor's folks 03:22:24
would have talked to Ray DiRossi about this. 03:22:27
Q. And would that be the same for each of 03:22:30
the statewide elected officials? 03:22:32
A. That's correct. 03:22:34
Q. Okay. Why did you not want them to have 03:22:35
access to Mr. DiRossi during this process? 03:22:39

A. Well, I don't think it's some active 03:22:42
determination of what I wanted or didn't want. 03:22:46
It's the same for any other activity. 03:22:50
If the Governor decided he wanted Frank 03:22:55
Strigari's opinion on a legal matter unrelated 03:22:57
to this, well, that's not appropriate for him 03:23:01
to call my attorney or my chief of staff or 03:23:03
someone else, just like I wouldn't to be 03:23:06
calling their attorney or chief of staff or 03:23:08
whoever it was. 03:23:10
So it wasn't a question of wanting to or 03:23:11
not wanting to. It was a question of Ray 03:23:13
DiRossi worked for me and not any of the other 03:23:17
six commissioners. 03:23:19
Q. But you knew that the statewide elected 03:23:20
officials weren't undergoing similar process, 03:23:22
that being hiring a map drawer to draw their 03:23:26
own proposal. You knew that? 03:23:29
A. I did not know that. I don't know what 03:23:31
they were doing or not doing. They had, you 03:23:34
know, had talked about perhaps getting map 03:23:42
drawing equipment or having people do it 03:23:44
internally, you know. 03:23:46
So I don't know what they were doing or 03:23:47
not doing. You know, it certainly, you know, 03:23:49

they're free to do whatever it is that they 03:23:54
want. But I didn't sit down and talk with them 03:23:57
about what they were going to do or weren't 03:23:59
going to do in terms of drawing a map. 03:24:01
Q. Did you have any discussions with them 03:24:03
directly or through your staff to members of 03:24:05
their staff or to the Governor directly, 03:24:09
Auditor, Secretary of State, related to how 03:24:12
your map that Mr. DiRossi was drawing was 03:24:17
progressing? 03:24:22
A. I can't speak to the conversations that 03:24:24
my staff had with their staff. I had no 03:24:27
conversations with their staff. 03:24:32
In the sort of waning moments, maybe the 03:24:37
last couple of days, I did have conversations 03:24:40
with all three of the statewides, including, 03:24:43
you know, that day. "That day" being, excuse 03:24:49
me, September 15th. 03:24:53
And I think that week of meeting in my 03:24:59
office with Secretary LaRose and Auditor Faber, 03:25:01
I recall that. And then a telephone 03:25:03
conversation also while we were driving up to 03:25:06
the -- I was driving myself, and two of them 03:25:08
were in the car, we talked about how it was 03:25:11
progressing and whether we thought we could get 03:25:14

1 the ten-year map, et cetera. 03:25:17
2 Q. And tell me a little bit about those 03:25:18
3 conversations. Was the -- who exactly -- let 03:25:21
4 me back up a second. 03:25:26
5 So who was on that conversation that you 03:25:27
6 just referred to while you were driving to, I 03:25:29
7 believe, a hearing or something? 03:25:32
8 A. Yeah, it was a hearing. It was a 03:25:33
9 hearing in Cleveland on the evening of 03:25:36
10 September. Monday, September 13th. I think 03:25:39
11 the date's right. 03:25:42
12 And this -- I was -- as I mentioned, I 03:25:44
13 was trying to meet with Senator Sykes and 03:25:47
14 perhaps Leader Sykes in Akron that day, that's 03:25:51
15 where I asked them but they never responded, 03:25:53
16 unfortunately. 03:25:57
17 But as we were driving up, as I was 03:25:57
18 driving myself up, they were in a vehicle 03:26:02
19 together. 03:26:04
20 Q. "They" being -- I don't mean to 03:26:06
21 interrupt -- yeah, go ahead. Sorry. 03:26:08
22 A. "They" being Auditor Faber and Secretary 03:26:11
23 LaRose. 03:26:14
24 So that conversation, I recall 03:26:14
25 specifically that it took place. I don't 03:26:17

1 recall everything that was said, of course. 03:26:20
2 Q. Tell me what you recall from that 03:26:22
3 conversation. 03:26:25
4 A. Well, I think they were, you know, 03:26:25
5 encouraging that we get a ten-year map. I 03:26:29
6 said: Hey, that's our goal. We want to get a 03:26:33
7 ten-year map also. 03:26:37
8 I kind of expressed my frustrations for 03:26:38
9 not being able to have conversations with the 03:26:41
10 Democrats. 03:26:44
11 I had, apparently Leader Emilia Sykes 03:26:46
12 had some event over the weekend and was not 03:26:51
13 available on Friday the 10th or Saturday 03:26:55
14 the 11th, and I had understood that Leader 03:27:00
15 Sykes was going with her, because apparently 03:27:03
16 she was getting some award at an alma mater or 03:27:05
17 something else in Florida. 03:27:08
18 And so they weren't available, in 03:27:14
19 essence, to negotiate. And I was trying to get 03:27:15
20 them to meet with me on Monday the 13th; that I 03:27:17
21 could come up early before the Cleveland 03:27:20
22 hearing. But I, again had no response. 03:27:22
23 But I think we were all sort of talking 03:27:26
24 about the same thing, what is it that 03:27:28
25 ultimately would get us a ten-year map. Which, 03:27:29

1 of course, was contingent on those two votes, 03:27:34
2 those two Democratic votes. Which, of course, 03:27:38
3 that whole question was contingent on us having 03:27:40
4 conversations with them, which we weren't very 03:27:45
5 successful in getting them to talk to us. 03:27:51
6 Q. Did any of the other commissioners, 03:27:54
7 besides yourself, see the map that was 03:27:55
8 ultimately proposed at the September 9th 03:27:58
9 meeting or hearing? 03:28:01
10 A. Well, they saw it at the September 9th 03:28:06
11 hearing; is that what you mean? 03:28:09
12 Q. Yeah, did they see it prior to it being 03:28:11
13 introduced at the September 9th meeting? 03:28:14
14 A. Yeah, they did. I think -- I know 03:28:17
15 specifically that the map was presented by me 03:28:20
16 to Leader Sykes and Senator Sykes prior to the 03:28:23
17 meeting. 03:28:28
18 I'm trying to remember, because some of 03:28:32
19 the -- some of those meetings were conducted by 03:28:37
20 Speaker Cupp, and who might have actually 03:28:41
21 presented that to the Governor and the Auditor 03:28:46
22 and Secretary of State, I don't know. 03:28:50
23 Of course, we couldn't have more than 03:28:51
24 three of us in the room at the same time. So I 03:28:53
25 don't remember who did that. 03:28:56

1 There were also -- seems to me on 03:28:57
2 Saturday, because it was when Ohio State 03:29:01
3 football game was happening, that the staff for 03:29:05
4 several of the commissioners met on a Saturday, 03:29:09
5 went through the different proposals, tried to, 03:29:13
6 in essence, say where's the common ground, 03:29:17
7 things like that. 03:29:20
8 So, yeah, there were a variety of 03:29:21
9 conversations in different ways. So I think 03:29:24
10 all of the commissioners saw the map prior to 03:29:26
11 the September 9th meeting. 03:29:30
12 Q. That meeting with staff on Saturday upon 03:29:32
13 which there was an Ohio State game, was that 03:29:37
14 the weekend, the intervening weekend between 03:29:40
15 the 9th and 15th, or was that a weekend prior 03:29:43
16 to the 9th? 03:29:46
17 A. Well, I guess, as I'm sitting here 03:29:47
18 thinking about it, I think it was the 03:29:50
19 Saturday -- yeah, it would have had to be the 03:29:52
20 Saturday before the 15th. So I think Saturday 03:29:54
21 the 11th is when that happened. 03:29:59
22 Now, I will say, prior to the 11th, 03:30:02
23 there were a lot of conversations jointly 03:30:08
24 between the staff. And when I say "staff," the 03:30:09
25 staff are all seven commissioners. There were 03:30:11

1 meetings, there were phone calls, there were 03:30:18
2 emails. I don't know what all of those were. 03:30:20
3 But that Saturday meeting that I'm discussing 03:30:21
4 was not the only time that that happened. 03:30:23
5 Q. Okay. I want to focus on -- 03:30:27
6 A. But it would have been -- it would have 03:30:29
7 been the time -- and this is why it's relevant 03:30:30
8 to your question -- would have been the time 03:30:31
9 when the -- if we call it that, the 03:30:33
10 September 9th map existed when that 03:30:35
11 conversation could be about the September 9th 03:30:38
12 map. 03:30:41
13 So I guess I'm trying not to -- I'm 03:30:41
14 trying to stay true to your original question 03:30:47
15 there. 03:30:48
16 Q. Thank you, I appreciate that. 03:30:49
17 So let's talk about the meeting before 03:30:50
18 September 9th where you showed the 03:30:55
19 September 9th map to the Sykeses. 03:30:57
20 A. Sure. We had -- 03:31:00
21 Q. Well, let me ask the question first. 03:31:01
22 MR. STRACH: Yeah, let him ask the 03:31:03
23 question. 03:31:05
24 BY MR. FUNARI: 03:31:05
25 Q. So that's the meeting that I'm talking 03:31:06

about. Explain for me what you can recall 03:31:07
about that meeting where you showed them the 03:31:12
map that would be -- that would be introduced 03:31:15
on the 9th. 03:31:17
A. Sure. We had talked about -- at that 03:31:18
particular meeting, you know, we -- I was 03:31:29
present for that meeting, both Sykeses were. I 03:31:30
know that Senator Sykes -- and I can't recall 03:31:36
the -- I feel bad that I can't recall his name, 03:31:39
the longtime Senate staffer who was assisting 03:31:42
the Senate Democrats was there. 03:31:44
And we basically, in general terms, went 03:31:48
through the proposed maps so they could ask 03:31:51
questions. 03:31:54
We thought just as a matter of courtesy, 03:31:55
as we often do with other legislation and 03:31:57
issues, let's talk about this so that people 03:31:59
will be able to ask the right questions at the 03:32:03
hearings, et cetera. So we went through that. 03:32:07
I do recall, as I mentioned earlier in 03:32:10
my deposition, that Leader Sykes had asked 03:32:12
about the issue, the racial issue, and I said 03:32:16
we didn't use racial data regarding that. 03:32:18
I think the other thing that I 03:32:24
specifically recall -- Randall is his first 03:32:26

1 name -- Randall asked me about is he said, Hey, 03:32:29
2 on this proposal, Dayton, Ohio, is inside -- 03:32:33
3 excuse me, is taken outside of Montgomery 03:32:37
4 County; and in all the other major cities in 03:32:40
5 the state, it stays inside the county. And 03:32:43
6 why -- why would you do Dayton different than 03:32:46
7 Toledo, Cincinnati, et cetera? 03:32:48
8 And, you know, I had indicated that was 03:32:52
9 a fair point, fair question. And, of course, 03:32:54
10 in the map ultimately accepted, we did 03:32:57
11 incorporate that suggestion that Randall made 03:33:00
12 at that September 8th meeting, I guess it would 03:33:04
13 be. 03:33:09
14 Other than that, I don't recall any 03:33:10
15 specific details about the September 8th 03:33:12
16 meeting with the Sykeses. 03:33:14
17 Q. And you have no recollection of meeting 03:33:18
18 with the other members of the commission to 03:33:20
19 show them a preview, so to speak, of the 03:33:24
20 September 9th map; is that correct? 03:33:28
21 A. I don't have a specific recollection of 03:33:30
22 that, but I believe those meetings took place. 03:33:34
23 I think that the Governor and the Speaker and I 03:33:39
24 met to go through that. 03:33:42
25 And I also believe, and I'd have to -- I 03:33:45

1 think that I met maybe at least with Senator 03:33:54
2 LaRose, and maybe the Speaker met with Auditor 03:33:58
3 Faber, or both of them, but those meetings all 03:34:02
4 took place with different commission members 03:34:06
5 prior to the September 9th meeting. 03:34:09
6 Q. Did they have any input that made its 03:34:12
7 way into the September 9th map? 03:34:15
8 A. I guess I can't remember any specific 03:34:17
9 input that they had at those -- at those 03:34:23
10 meetings. 03:34:28
11 Q. Do you recall the map that Senator Sykes 03:34:29
12 introduced at the August 31st hearing? 03:34:32
13 A. In general terms, yeah. I knew that 03:34:35
14 that -- remembered that happened, right. 03:34:38
15 Q. Did you analyze or review any analyses 03:34:41
16 of that map? 03:34:47
17 A. Well, at the hearing itself, I looked at 03:34:48
18 the map and realized that there were some -- on 03:34:57
19 its face, some constitutional infirmities. 03:35:00
20 It actually had my -- the Senate 03:35:04
21 district I would be serving would be downtown 03:35:06
22 Akron, Ohio, because under the Constitution I'm 03:35:09
23 elected to a four-year term, and I'm entitled 03:35:13
24 to serve the entire four years in the 12th 03:35:16
25 District, and the 12th District was in Akron. 03:35:19

1 So to the extent that that was an 03:35:21
2 analysis which is part of the public record, I 03:35:22
3 said, well, this is unconstitutional on its 03:35:26
4 face because of all of these infirmities. 03:35:29
5 Apparently what happened between the 03:35:33
6 time of the hearing when I said that publicly 03:35:36
7 and the time that they actually filed it with 03:35:40
8 the commission's website is they changed it and 03:35:42
9 tried to conform some of those -- those obvious 03:35:47
10 constitutional infirmities. Those are things 03:35:52
11 that I -- that they, so to speak, tried to fix. 03:35:56
12 Now, they didn't fix all the 03:36:00
13 constitutional infirmities with what they 03:36:02
14 filed. And they still aren't fixed, for that 03:36:06
15 matter. But after my sort of looking at it 03:36:08
16 that day, I didn't personally analyze what I'll 03:36:13
17 call the August 31 or Senate Democrat map. 03:36:18
18 Q. So I guess the same is true with the 03:36:21
19 version they ultimately filed, you didn't 03:36:24
20 conduct any further analysis of what you've 03:36:28
21 described as a slightly differing map that 03:36:31
22 sought to fix some constitutional infirmities, 03:36:36
23 as you put it? 03:36:41
24 A. I did not analyze the map after it was 03:36:42
25 filed with the changes that they made, 03:36:47

1 apparently made that day. One of my staff told 03:36:50
2 me that, hey, what they talked about at the 03:36:55
3 hearing is different than what they filed with 03:36:58
4 the -- with the commission's website. 03:37:01
5 But subsequently then we did have, I 03:37:04
6 guess, an explanation and analysis at the 03:37:08
7 Cleveland hearing by Mr. Glassburn. We had 03:37:11
8 some questions about it. When I say "we," 03:37:16
9 commission members. I know I did, I know 03:37:18
10 Auditor Faber did, as I recall. So to that 03:37:20
11 extent there was some analysis. 03:37:22
12 We were asking questions and what he 03:37:24
13 considered and how he came to his conclusions. 03:37:29
14 Q. Was it ever your intention to work with 03:37:31
15 the Democratic leadership, the Democratic 03:37:36
16 members of the commission, from their map? 03:37:39
17 A. Well, I don't know what you mean by 03:37:41
18 "from their map." It was always my intention 03:37:47
19 to work with not only the Democratic leaders, 03:37:50
20 but the other Republican members of the 03:37:53
21 commission to get a ten-year map. That was 03:37:56
22 certainly my goal. 03:37:59
23 We discussed briefly my role in enacting 03:38:03
24 this back in 2014 and '15. So it was my goal 03:38:07
25 to get a ten-year map. And to the extent 03:38:12

1 that -- you know, this reform has worked 03:38:20
2 because the majority only gets to have its map 03:38:21
3 for four years, and that's part of the reform 03:38:23
4 that's in this. So it's always my intention to 03:38:26
5 work with the Democrats. 03:38:28
6 Q. As a drafter of the amendments to 03:38:29
7 Article XI, and now having gone through the 03:38:36
8 process as a member of the commission, did the 03:38:37
9 process play out as you intended as a draft and 03:38:41
10 sponsor of the amendment? 03:38:46
11 A. Well, I think the process is going to be 03:38:48
12 determined from time to time by -- as all 03:38:55
13 processes are, by the facts that are before you 03:39:01
14 at a particular time and the willingness and 03:39:03
15 the abilities of the participants. 03:39:06
16 I think the process anticipated that 03:39:12
17 there would be various incentives on both 03:39:16
18 sides, and the incentives of the majority would 03:39:19
19 be to draft a map or put a map together that 03:39:24
20 would be acceptable to the Democrats. And, in 03:39:28
21 fact, the original map adopted did, in fact, 03:39:31
22 come fairly close to the Democratic position. 03:39:37
23 I'm surprised -- when you're asking 03:39:43
24 about my anticipation, I'm surprised at the 03:39:45
25 lack of participation by the Democratic members 03:39:48

of the commission in the last five or six days. 03:39:52
You know, if Leader Sykes had something 03:39:57
she had to be at for three days, I guess I 03:40:00
can't complain about that, but that was a 03:40:02
crucial time. I'm surprised that they didn't 03:40:05
respond to my request to meet with them two 03:40:07
days before the 15th. I'm surprised that they 03:40:11
didn't issue alternative proposals as they 03:40:13
indicated they would on several occasions on 03:40:15
the 15th. 03:40:17
And I, you know -- a cynic may conclude 03:40:19
that they didn't want to have a ten-year map, 03:40:24
that they'd rather take a shot at getting ahold 03:40:27
of the apportionment board in next year's 03:40:30
election. But I don't know what's in the minds 03:40:32
and hearts of everybody. 03:40:35
So to the extent that the majority can't 03:40:36
simply do what it wants and move on, and that's 03:40:39
what this reform is also about, that worked, 03:40:42
because we don't have a ten-year map, we have a 03:40:46
four year map. 03:40:50
And that's not good for -- ultimately 03:40:52
for -- I don't know if it's necessarily good 03:40:55
for anybody. 03:40:58
But, you know, when you draft something 03:40:58

like that, you hope that it's going to work. 03:41:05
And in many respects it did, and we don't have 03:41:07
a ten-year map, and I guess that's the biggest 03:41:10
disappointment. 03:41:16
Q. Is it fair to say the process played out 03:41:17
in a much more partisan fashion than you 03:41:19
anticipated when you were working on the 03:41:21
amendments when you were a member of the House? 03:41:23
A. No, I would not say that. I've been 03:41:25
involved in -- I've been in General Assembly -- 03:41:35
this is my 13th year. I was in Lima City 03:41:36
Council for 15 years. I've been involved in 03:41:39
other political activities, I guess. And I've 03:41:42
seen some pretty vicious fights. Some of them 03:41:45
are not inter-party, they're intra-party. 03:41:47
And despite the fact that we did not get 03:41:50
to a ten-year result, the members of the 03:41:52
commission, I think, were -- including the 03:41:55
Democratic members, let me make that clear -- 03:41:57
were professional and they advocated 03:42:00
appropriately. 03:42:02
A day or two before this, maybe the 03:42:05
13th, 14th, you know, we -- these were all 03:42:08
kind -- and by that I mean polite, 03:42:11
professional -- exchanges between members of 03:42:14

1 the commission. 03:42:16
2 Now, I can't say that for every member 03:42:16
3 of the public. There were some fairly 03:42:18
4 vociferous attacks, ad homonym attacks on 03:42:20
5 particularly Governor DeWine, which I had, you 03:42:25
6 know, spoken to both Speaker Cupp and Senator 03:42:28
7 Sykes, and I had indicated I didn't think those 03:42:33
8 should be tolerated. 03:42:35
9 But, you know, I think among the members 03:42:37
10 of the commission, I think it was pretty 03:42:39
11 professional. We just disagreed. 03:42:41
12 Q. Did any of -- did any Republican 03:42:43
13 Senators provide any input that made its way 03:42:48
14 into the map of September 9th? 03:42:52
15 A. Boy, I don't think so. None that I can 03:42:55
16 recall. We kind of -- we kind of made it clear 03:43:02
17 early on that this was a holistic decision. 03:43:06
18 And by that you mean the Republican 03:43:13
19 members of the Ohio Senate, not Rob Portman or 03:43:15
20 someone like that, right? 03:43:18
21 Q. Right. Right. 03:43:20
22 A. Yeah, so, no, not really. I don't -- it 03:43:21
23 was one of those things that, you know, this is 03:43:27
24 kind of a holistic decision. You can't try to 03:43:29
25 keep individual members, including incumbent 03:43:32

1 members, happy. 03:43:34
2 Q. Was it circulated? Was the map 03:43:35
3 circulated to the Ohio Republican caucus, 03:43:38
4 Senate -- 03:43:41
5 A. You kind of broke up. You kind of broke 03:43:42
6 up. 03:43:44
7 Q. Sorry. Was the map that was introduced 03:43:45
8 on the 9th circulator -- circulated to the 03:43:47
9 members of the Republican Senate caucus or 03:43:52
10 Senate Republican caucus? 03:43:57
11 A. Not prior to its introduction. But, of 03:43:58
12 course, after its introduction, you know, a lot 03:44:00
13 of people -- everybody would have seen it, 03:44:03
14 yeah. 03:44:05
15 MR. STRACH: Hey, Brad, let me ask the 03:44:08
16 court reporter to confirm. I think we've hit 03:44:10
17 the two-hour mark, maybe a little over it. 03:44:16
18 MR. FUNARI: I just have one more 03:44:16
19 question. 03:44:19
20 MR. STRACH: I'm happy with one more 03:44:20
21 question. I just want to make sure we wrap it 03:44:21
22 up. 03:44:23
23 MR. FUNARI: Understood. 03:44:23
24 BY MR. FUNARI: 03:44:25
25 Q. Did any of those members of the 03:44:25

1 Republican Senate caucus have any input into 03:44:27
2 the map that was ultimately adopted on the 03:44:30
3 15th? 03:44:34
4 A. No. 03:44:34
5 Q. Okay. Thank you. Those are all the 03:44:37
6 questions that I have. 03:44:39
7 MR. STRACH: All right. Thank you, 03:44:41
8 Brad. 03:44:42
9 Do we have any questions from -- 03:44:44
10 THE WITNESS: Thank you, it was a 03:44:46
11 pleasure meeting you. 03:44:47
12 MR. STRACH: Are we going to have any 03:44:48
13 questions from the Sykeses' attorneys? 03:44:49
14 MR. GILLIGAN: Yes, we will. 03:44:59
15 MR. STRACH: All right. Go ahead, John. 03:45:01
16 MR. GILLIGAN: Thank you. 03:45:06
17 03:45:03
18 EXAMINATION 03:45:08
19 BY MR. GILLIGAN: 03:45:08
20 Q. President Huffman, my name is John 03:45:09
21 Gilligan. I'm one of the lawyers representing 03:45:10
22 Senator and Leader Sykes. 03:45:17
23 We have a very limited amount of time 03:45:18
24 this afternoon, and I would ask you, sir, not 03:45:20
25 to mistake the urgency of my tone for 03:45:26

1 disrespect. I do not mean any disrespect 03:45:29
2 whatsoever. And Phil will be watching me 03:45:32
3 carefully, I'm sure. 03:45:36
4 Used to be that people my age, you know, 03:45:41
5 they wouldn't let us out of the office. Now, 03:45:44
6 because of COVID, it's hard for me to even get 03:45:47
7 into the office. So I relish this opportunity 03:45:50
8 to go over a couple things with you about your 03:45:56
9 testimony. 03:45:58
10 Number one, to clarify a couple of 03:45:59
11 things where I think you misspoke. You said 03:46:02
12 with respect to the statement in 8(C)(2) that 03:46:06
13 there was a -- an evaluation of 19 partisan 03:46:14
14 contests statewide. 03:46:19
15 I think you meant to say 16 partisan 03:46:24
16 contests, correct? 03:46:27
17 A. That's correct. 03:46:28
18 Q. Okay. Secondly, you talked about the 03:46:30
19 approval by the commissioners. You said it was 03:46:37
20 unanimous approval of the statement in 8(C)(2) 03:46:41
21 on the night of September 15th. 03:46:49
22 And I'm happy to show you the 03:46:55
23 transcript, but let me see if I can refresh 03:46:58
24 your memory that you had a motion on the floor 03:47:01
25 to approve your statement 8(C)(2), and Senator 03:47:05

1 Sykes said, "Since we're not voting to agree 03:47:15
2 with this, just to allow it to officially go 03:47:19
3 into the record, then I think it should go both 03:47:22
4 statements without objection." 03:47:25
5 To which you indicated you had no 03:47:27
6 objection to the statement by the Sykes going 03:47:29
7 in. 03:47:33
8 And then Senator Sykes went -- before 03:47:34
9 the roll call was called, said to the co-chair 03:47:36
10 Speaker Cupp: "Just to be clear, this is 03:47:42
11 simply to accept the report." 03:47:46
12 Does that refresh your memory that the 03:47:49
13 vote, unanimous vote, was simply to accept the 03:47:54
14 8(C) report into the record, not an indication 03:48:00
15 of agreement with the report? 03:48:03
16 A. Well, I don't have the same conclusion 03:48:04
17 that you have. So one of the constitutional 03:48:08
18 requirements is that the commission adopt a 03:48:12
19 statement. I proposed, through motion, that 03:48:14
20 this be the commission's statement. It was 03:48:19
21 accepted without objection. 03:48:22
22 Now, what that means to me is it was 03:48:24
23 unanimously accepted, that's one thing. 03:48:27
24 Now, the other thing that I think was 03:48:30
25 slightly confusing is the minority -- according 03:48:33

to the Constitution, the minority may submit 03:48:36
their own statement in the event of a four-year 03:48:38
map. The commission doesn't need to agree to 03:48:42
accept that. It simply goes into the record. 03:48:45
So, in fact, at that particular moment, 03:48:48
I thought I should clarify for Senator Sykes 03:48:51
that, in fact, it's not necessary for the 03:48:55
commission to accept the minority statement. 03:48:57
It comes in as a matter of course whether the 03:48:59
other non-members of the minority opinion 03:49:03
accept it or not. 03:49:08
Now, the commission itself must adopt 03:49:09
the statement in the case of a four-year map, 03:49:12
whether it's a 4-3 vote, 5-2, unanimous. So I 03:49:16
made a motion. There was no objection. It was 03:49:20
accepted. In my mind that is a unanimous 03:49:23
acceptance. 03:49:26
Now, if Senator Sykes has a statement in 03:49:26
the record that he doesn't like the statement, 03:49:29
well, I'll take that for what it's worth. 03:49:31
Q. And also Leader Sykes put a long 03:49:35
statement in the record that she did not agree 03:49:42
with the analysis in 8(C)(2); isn't that 03:49:45
correct? 03:49:48
A. Well, I think her long statement was, in 03:49:48

1 fact, the minority statement that is 03:49:52
2 anticipated and specifically described in the 03:49:56
3 Constitution. And I did not object to that 03:49:59
4 coming into the record because I had no basis 03:50:03
5 for objecting to that, nor did any other 03:50:06
6 commission member who was not part of the 03:50:09
7 minority voting. 03:50:11
8 And, in fact, at that point it was 03:50:13
9 simply a matter of her reading the statement, 03:50:15
10 and it goes into the record whether anybody 03:50:18
11 objected or not. 03:50:20
12 Q. You understood that both the Sykeses had 03:50:21
13 expressed their disagreement with the analysis 03:50:25
14 of the 8(C)(2) statement, correct? 03:50:30
15 A. I'd have to go back and review the 03:50:33
16 transcript, but I don't think that that's 03:50:36
17 really a matter of contention in any way. 03:50:40
18 But I do think that my statement -- I'm 03:50:43
19 going back; you indicated I misspoke -- I do 03:50:46
20 think that my statement is accurate that that 03:50:48
21 statement was proposed, no objection, and 03:50:50
22 admitted into the record. So I think that's a 03:50:54
23 unanimous vote. 03:50:59
24 If someone said, "I'd like to have a 03:51:00
25 vote," which someone can do, they can object, 03:51:01

1 "I'd like to have a vote because I want to show 03:51:04
2 that my vote is against it," they can do that. 03:51:06
3 Now, if they want to criticize it 03:51:08
4 separately, without objection, and that happens 03:51:11
5 in all sorts of contexts, certainly in the 03:51:12
6 General Assembly and other places. 03:51:15
7 Q. Let me ask you. You said that Ray 03:51:25
8 DiRossi was instructed by you not to use racial 03:51:29
9 data or any other demographic information. Do 03:51:32
10 you remember that testimony, sir? 03:51:39
11 A. Yeah, specifically the racial data. But 03:51:40
12 that was the significant thing. And this word 03:51:47
13 "demographic" may mean a variety of things. 03:51:50
14 But specifically as it relates to the racial 03:51:53
15 data or demographic data that would be similar 03:51:58
16 to that. 03:52:01
17 But certainly demographic data can 03:52:01
18 consist of simply population counts. So of 03:52:04
19 course we were using that. That's required by 03:52:09
20 the Constitution. 03:52:11
21 Q. So you understand that census data is 03:52:12
22 demographic data? 03:52:15
23 A. Some of it is. If we're simply saying 03:52:17
24 how many people live in a particular city, that 03:52:21
25 doesn't necessarily say what is the racial 03:52:25

1 makeup, ethnic, religious, et cetera, makeup, 03:52:28
2 if we're just talking about numbers. So some 03:52:32
3 of the data is, and taking some of it alone, 03:52:35
4 it's not. 03:52:39
5 Q. So what is the demographic data, other 03:52:40
6 than racial data, that you were instructing 03:52:43
7 Mr. DiRossi not to use? 03:52:47
8 A. Well, yeah, the kinds of things that we 03:52:51
9 just talked about that dealt with ethnic 03:52:55
10 minorities or other things that might be 03:52:59
11 violative of the federal law. You know, we're 03:53:02
12 simply saying we're not going to take those 03:53:08
13 things into account regarding -- in drawing 03:53:11
14 these districts. 03:53:15
15 Q. And as I understood your testimony, 03:53:23
16 there was no discussion of Section 6(B) at any 03:53:33
17 commission meeting until at least after the map 03:53:37
18 was passed and you were talking about the 8(C) 03:53:43
19 statement? 03:53:47
20 A. Yeah, I don't recall the various 03:53:49
21 commission meetings. It would seem to me that 03:53:51
22 at some point somebody said something about it. 03:53:56
23 Of course, we're -- we're -- we had 03:54:01
24 commission meetings, and then there were public 03:54:03
25 hearings, which were also commission meetings, 03:54:05

1 which, by and large, were, you know, dozens, we 03:54:07
2 may have gotten into the hundreds of people at 03:54:12
3 various hearings. 03:54:14
4 I was not at all of those hearings, so I 03:54:15
5 can't tell you each thing that was said by each 03:54:18
6 person. But at the meetings that consisted 03:54:20
7 largely of the commission adopting certain 03:54:25
8 procedures and rules -- you know, for example 03:54:30
9 at one of our meetings, we had decided to add 03:54:32
10 additional hearings at the request of the 03:54:36
11 Democratic members -- we didn't talk about that 03:54:38
12 at those times. But those concepts certainly 03:54:41
13 were covered by a variety of witnesses. 03:54:44
14 Again, I was not at each one of the 03:54:47
15 meetings. 03:54:49
16 Q. Let me ask you about Section 6, Article 03:54:50
17 XI. You've referred to it a couple of times as 03:54:56
18 not mandatory, aspirational. 03:54:59
19 The section begins: The Ohio 03:55:04
20 redistricting commission shall attempt to draw 03:55:10
21 a general assembly district plan that meets all 03:55:14
22 of the following standards. 03:55:17
23 You understand that the term "shall" is 03:55:19
24 mandatory, correct? 03:55:22
25 A. I understand, generically speaking, 03:55:23

that's what the word "shall" means. 03:55:27
But in this context as it relates to the 03:55:30
drawing of these districts, this section is 03:55:32
aspirational, just as the next section down 03:55:35
talks about compact districts and uses the word 03:55:39
"shall." 03:55:42
Those are things that the commission, 03:55:43
you know, can consider, but they're not 03:55:48
required to have in order to have a 03:55:50
constitutional map. 03:55:52
Q. So when you use the term "aspirational," 03:55:53
do you mean it in the way Webster defines it as 03:56:01
ambitious, driven toward a particular goal? 03:56:05
A. Well, I'm not familiar with specifically 03:56:09
what Webster says, but when we use the term 03:56:12
"aspirational" in this context, it's juxtaposed 03:56:17
to the word "mandatory." Mandatory means you 03:56:22
have to do it; aspirational means you don't. 03:56:24
And of course that's why the word "attempt" is 03:56:28
in there. 03:56:30
I'm not going to be able to define those 03:56:31
in a legal or constitutional way. That's up to 03:56:34
the Court to try to do that. 03:56:37
Q. But you understood that as a 03:56:39
commissioner you had a mandatory obligation to 03:56:44

1 attempt to do the items that are listed in 03:56:47
2 6(A), (B), and (C), correct? 03:56:50
3 A. No, I don't think that's correct. I 03:56:52
4 think that as a commissioner -- specifically as 03:56:56
5 a commissioner, my job was to attempt to draw a 03:56:59
6 ten-year map through sincere and active 03:57:05
7 negotiations with the other side, but most of 03:57:10
8 all to make sure that there was a mandatory -- 03:57:13
9 mandatory items were followed. 03:57:18
10 And I do think, at least on my part, you 03:57:23
11 know, starting with April and calling that 03:57:26
12 meeting, calling the meeting in August, giving 03:57:28
13 the Democratic side additional money that we 03:57:31
14 didn't have to, voting for additional hearings 03:57:34
15 because the Democrat side agreed to that, 03:57:38
16 attempting to meet and not getting responses 03:57:40
17 from the Democratic side, that I attempted or 03:57:42
18 tried to get a ten-year map. And, 03:57:45
19 unfortunately, we weren't able to do that. 03:57:48
20 Q. Did you understand that you had a 03:57:53
21 mandatory obligation to attempt to make sure 03:57:55
22 that no General Assembly district plan shall be 03:57:58
23 drawn primarily to favor or disfavor a 03:58:02
24 political party? 03:58:05
25 A. Yeah, I think that's your -- it must be 03:58:05

1 your legal conclusion about what all of that 03:58:11
2 means. 03:58:13
3 As I mentioned in my testimony here in 03:58:14
4 the deposition, it's impossible to draw 03:58:16
5 districts and follow the other mandatory 03:58:20
6 aspects of the constitution that don't favor or 03:58:23
7 disfavor a political party. 03:58:27
8 The regiment that you are suggesting is 03:58:30
9 even more onerous than what the Democratic -- 03:58:34
10 some Democratic members have suggested. If we 03:58:39
11 were to draw each district 50/50 in the state 03:58:41
12 of Ohio, that's impossible, mathematically. 03:58:44
13 And it's impossible mathematically to draw them 03:58:47
14 all 55/45 or 54/46. It's impossible to draw 03:58:50
15 81 percent Republican because of the mandatory 03:58:55
16 provisions. 03:58:57
17 So, again, I would return to the fact 03:58:58
18 that the mandatory provisions must be followed. 03:59:00
19 These other provisions regarding compactness 03:59:03
20 are things that certainly can be considered, 03:59:05
21 but there is no formula of any kind. These are 03:59:09
22 facts that we consider for purposes of 03:59:13
23 ultimately exercising discretion. And also for 03:59:17
24 purposes of negotiation. 03:59:21
25 Q. So I appreciate your explanation, 03:59:24

1 Mr. President, but I take it that your answer 03:59:29
2 with that explanation is no, you did not feel 03:59:33
3 that you had such a mandatory obligation to 03:59:37
4 attempt to do what is set out in A? 03:59:41
5 A. Yeah, well, I'm not going to change my 03:59:45
6 answer to a yes/no question, because that's 03:59:48
7 what you would like for me to do. I'm 03:59:51
8 interested in giving the best testimony I can 03:59:54
9 about what we -- what we tried to do and what 03:59:56
10 we did. 04:00:00
11 And we understand, again, that there are 04:00:03
12 mandatory provisions, and there are 04:00:07
13 non-mandatory provisions. And that is a non- 04:00:09
14 mandatory provision, like the compactness 04:00:11
15 provision, which I do believe that we did a 04:00:14
16 pretty good job with that too, at least by many 04:00:17
17 suggestions. 04:00:22
18 Q. And as I understand the explanation you 04:00:24
19 gave without answering "yes" or "no," you 04:00:27
20 believe that the provision in 6(A) is 04:00:31
21 impossible to fulfill; is that right? 04:00:37
22 A. No, I think -- that's not my answer. I 04:00:39
23 think your suggestion of what the provision 04:00:42
24 should be is that they should be 50/50 04:00:45
25 districts by saying it cannot favor this way or 04:00:49

1 that way. That's impossible to get. 04:00:52
2 It's not impossible for the commission 04:00:56
3 to consider those aspirational attributes in 04:00:57
4 that, in attempting a negotiation and 04:01:01
5 attempting to get a ten-year map, and that's 04:01:04
6 what we're doing. 04:01:06
7 But if you read that, I think, the way 04:01:07
8 that you're reading it, that every district 04:01:09
9 must be 50/50, I think that's mathematically 04:01:13
10 impossible without violating the mandatory 04:01:16
11 provisions of the constitution. 04:01:18
12 Q. So what is your interpretation, then, of 04:01:22
13 the provision 6(A)? What, if anything, does it 04:01:26
14 require you to do? 04:01:31
15 MR. STRACH: Objection. 04:01:32
16 THE WITNESS: Yeah, I think mandatory 04:01:34
17 means you have to do it. Aspirational in this 04:01:38
18 context means you do not. So when you use the 04:01:41
19 word "require," I think that's not applicable 04:01:43
20 to this portion of the Constitution. 04:01:49
21 So I think what it suggests is that the 04:01:50
22 parties should consider these things. They 04:01:58
23 should consider compactness, they should 04:02:00
24 consider the other things that were described 04:02:02
25 in there, and those are things that you should 04:02:04

consider. 04:02:06
But, again, we're trying to get to a 04:02:07
ten-year map when we're doing that. And I 04:02:09
think we came fairly close, frankly. What the 04:02:11
Democrat Senate map was was fairly close to 04:02:14
ultimately what was adopted. 04:02:17
I'm not sure, frankly, whether the House 04:02:20
Democrats agreed to that or not. I really 04:02:22
don't know the answer to that. So, you know, 04:02:25
again, this is sort of a ongoing negotiation. 04:02:29
I think I learned a lot in this process that 04:02:34
may help us if I'm ever involved again. 04:02:37
BY MR. FUNARI: 04:02:40
Q. So when you directed, as you said, 04:02:40
Mr. DiRossi, to comply with the constitution, 04:02:43
you didn't expect him to comply with any of the 04:02:47
provisions of Section 6? 04:02:50
A. Yeah, to be clear, I directed Ray 04:02:51
DiRossi to comply with the mandatory provisions 04:02:59
of the constitution, and he did. 04:03:01
In fact, it was the only map submitted, 04:03:03
as far as I know, to the commission that did 04:03:05
that. We know the Senate Democrat map did not. 04:03:07
There were some other maps that we've analyzed 04:03:11
that did not. So that's what I told him we 04:03:13

1 would do. 04:03:16
2 Now, certainly we're going to consider 04:03:17
3 those things. We didn't have all of that data 04:03:19
4 fully analyzed on September 9th, but ultimately 04:03:21
5 we did. And we did that for part of our -- as 04:03:24
6 part of our negotiations. 04:03:27
7 And, of course, the Senate Democrats -- 04:03:28
8 and, again, I'm going to say Senate Democrats. 04:03:31
9 I'm not sure where the Senate House members -- 04:03:34
10 or, excuse me, Democrat House members were. 04:03:36
11 But that was analyzed by them, and 04:03:38
12 that's where we got to this ultimately 57-62, 04:03:40
13 kind of where we were about, you know, a few 04:03:45
14 days before the 15th, where I thought we were 04:03:50
15 close, and we were still negotiating, but 04:03:53
16 ultimately didn't come to an agreement. 04:03:55
17 Q. Did you direct Mr. DiRossi to comply 04:03:59
18 with the divisions of 6(B) and draw a map that 04:04:08
19 met the proportional provisions of that 04:04:11
20 section? 04:04:15
21 A. Yeah, I directed Mr. DiRossi to comply 04:04:16
22 with the mandatory provisions. And when we do 04:04:20
23 that, we would have an analysis of how the 04:04:24
24 partisan breakdown might ultimately be. 04:04:32
25 And the reason we did that is we were 04:04:34

1 trying to negotiate to get a ten-year map. 04:04:37
2 Now, if ultimately there was a violation 04:04:38
3 of the mandatory provisions, then that would be 04:04:40
4 relevant as it related to Section 6. But 04:04:43
5 really those things sort of fell into place, 04:04:50
6 not because of -- necessarily because of 04:04:53
7 Section 6, which was not mandatory or is not 04:04:54
8 mandatory, but it's significant because that's 04:04:56
9 how -- what we were negotiating about in trying 04:04:59
10 to come to an agreement. 04:05:01
11 Q. So you never directed Mr. DiRossi to put 04:05:07
12 together a map for the General Assembly 04:05:10
13 districts which would show 54 percent of the 04:05:19
14 districts leaning Republican and 46 percent of 04:05:21
15 the districts leaning Democrat? 04:05:24
16 A. I did not. Nor did I direct him to draw 04:05:26
17 a map that was 81 percent Republican and 04:05:29
18 19 percent Democrat. 04:05:33
19 Q. And is it your understanding of 04:05:34
20 Section 6(B) that a map that was 81 percent 04:05:42
21 favoring Republicans and 19 percent favoring 04:05:47
22 Democrats would satisfy the provisions of 6(B) 04:05:51
23 in terms of proportional fairness? 04:05:56
24 A. No, no. In fact, that's not really the 04:05:59
25 concept at all. That particular item was 04:06:02

1 simply a set of facts that the commission could 04:06:11
2 consider, as is the 54/46. I would say there 04:06:14
3 were a lot of other facts that the commission 04:06:19
4 could have considered. 04:06:19
5 They could have looked at the results of 04:06:20
6 those 16 elections over the past previous ten 04:06:22
7 years prior to 2021 and looked at how 04:06:25
8 significantly -- significant those -- those 04:06:29
9 aren't all included in the statement, of 04:06:32
10 course, but there are a lot of things that we 04:06:34
11 could have -- if you would get to that analysis 04:06:37
12 that you're talking about, there's a lot of 04:06:39
13 things that the commission could have 04:06:41
14 considered. 04:06:44
15 Q. In fact, in the 16 races, the 16 04:06:47
16 statewide partisan races, there is no race in 04:06:50
17 which a Republican got 81 percent of the vote, 04:06:52
18 right? 04:06:55
19 A. I don't know that off the top of my 04:06:55
20 head. I know that there were some Republican 04:07:00
21 races. I'm pretty sure that Governor Kasich 04:07:02
22 got somewhere in the neighborhood of 65 to 04:07:06
23 68 percent of the vote in 2014, as did several 04:07:08
24 of the other statewide officeholders in excess 04:07:11
25 of 60 percent. 04:07:14

1 Q. So you're talking about the Governor's 04:07:15
2 race when Ed FitzGerald basically shut down his 04:07:19
3 campaign looking for his wife's driver's 04:07:22
4 license, and he got 34 percent of the vote; is 04:07:27
5 that right? 04:07:30
6 A. Yeah, that's the one. And, you know, 04:07:30
7 this is a further analysis that the commission 04:07:33
8 could have entered into. And, again, there's 04:07:36
9 no formula in here. 04:07:40
10 But if the commission wanted to say, 04:07:41
11 well, let's look at other aspects why -- if, 04:07:43
12 again, if we even get to Section 6, which we 04:07:47
13 don't. And I don't know whether Governor -- 04:07:50
14 what the other results, but I think they were 04:07:54
15 in the 60s, also. 04:07:56
16 But somebody may say, again, if we were 04:07:59
17 even having this discussion, well, wait a 04:08:01
18 minute, Ed FitzGerald shut down his candidacy 04:08:03
19 so we shouldn't look at that. Of course, in 04:08:07
20 some cases, a Donald Trump candidacy in certain 04:08:10
21 parts of the state, he's going to get a lot 04:08:13
22 more votes than Mitt Romney may have gotten in 04:08:15
23 2012. 04:08:22
24 So -- and, of course, how he did in -- 04:08:22
25 how Trump did in '20 was different how he did 04:08:26

1 in 2016. Those are all results of statewide 04:08:29
2 elections which the commission could consider 04:08:34
3 if they wanted to. 04:08:36
4 And that's why, you know, if -- again, 04:08:37
5 if we're going to consider Section 6, which we 04:08:40
6 don't need to do, because it's not mandatory, 04:08:43
7 you know, you could look at that whole stream 04:08:52
8 of data that comes in regarding those results. 04:08:54
9 Q. So it's your understanding that you as a 04:08:57
10 commissioner don't even need to look at 04:09:01
11 Section 6 of Article XI in so long as what you 04:09:04
12 refer to as the mandatory provisions of 04:09:10
13 Article XI are complied with? 04:09:14
14 A. Well, yeah, and I guess that's all true, 04:09:15
15 but it's not just what I refer to the mandatory 04:09:19
16 provisions. It's what the mandatory provisions 04:09:22
17 are. 04:09:25
18 Q. Right. And did you ever -- did the 04:09:26
19 commission have counsel prior to this 04:09:34
20 litigation? 04:09:36
21 A. I don't think there was separate 04:09:39
22 counsel. Frankly, I don't know whether the 04:09:47
23 Attorney General was formally advising the 04:09:49
24 commission or not. 04:09:54
25 And a lot of those administrative 04:09:55

1 details weren't in my bailiwick as I was not 04:09:58
2 one of co-commissioners. So I guess I -- 04:10:01
3 that's probably a better question for Senator 04:10:03
4 Sykes or Speaker Cupp. 04:10:05
5 Q. I did ask Speaker Cupp, but let me just 04:10:06
6 ask you. As far as you know, there was no 04:10:10
7 separate counsel for the commission; is that 04:10:12
8 right? 04:10:14
9 A. Yeah, I'd have no reason to -- if there 04:10:14
10 was, I don't know about it. 04:10:17
11 Q. Did you ever request an interpretation 04:10:19
12 of Section 6 from the Attorney General on 04:10:22
13 behalf of the commission? 04:10:25
14 A. I did not. 04:10:26
15 Q. Did you ever ask the commission to 04:10:29
16 request an interpretation of the provisions of 04:10:34
17 Section 6 from the Legislative Services 04:10:39
18 Commission? 04:10:41
19 A. I did not. 04:10:42
20 Q. Did you ever, yourself, ask the 04:10:43
21 Legislative Services Commission what, if any, 04:10:46
22 obligations were imposed on you as a member of 04:10:49
23 the Redistricting Commission by Section 6? 04:10:53
24 A. I did not. 04:10:56
25 Q. Do you understand that proportionality 04:10:57

is one of the concepts that is used to try to 04:11:00
discourage anti-gerrymandering in redistricting 04:11:06
matters? 04:11:11
MR. STRACH: Objection. 04:11:12
THE WITNESS: Yeah, I think the phrase 04:11:13
"gerrymandering," you know, one of the concerns 04:11:18
I have about this is most of the provisions 04:11:21
that are suggested, and including in the Senate 04:11:25
Democrats map, are -- are -- are -- and, again, 04:11:28
we have this sort of generic term, no pun 04:11:31
intended, that we like to use, but I'm not sure 04:11:34
whether that's a statement on behalf of the 04:11:39
world, on behalf of your client, or exactly 04:11:42
what. 04:11:45
But, you know, gerrymandering is drawing 04:11:46
a district to favor one political party or 04:11:51
another. So people like to use that term, and 04:11:55
the same people who like to use that term also 04:11:57
want to gerrymander to benefit themselves in 04:12:01
their particular issue or party. 04:12:05
BY MR. FUNARI: 04:12:06
Q. Do you believe that this map that was 04:12:07
approved by the Ohio Redistricting Commission 04:12:08
in 2021 favors the Republican party? 04:12:11
A. I think the map is constitutional. I 04:12:14

1 think the map follows all of the mandates. I 04:12:18
2 think this map is the same as most other maps. 04:12:23
3 For example, the map that was drawn in 04:12:27
4 2001, which produced a Republican majority, in 04:12:30
5 2002, '04, and '06 produced a Democratic 04:12:35
6 majority, in 2008, and a Republican majority in 04:12:42
7 2010 in the House. 04:12:44
8 These elections are not necessarily end 04:12:46
9 determined by how maps are drawn. Candidates, 04:12:50
10 campaigns, issues, those things all matter. 04:12:52
11 And we do know that most of the districts in 04:12:56
12 the state of Ohio, because of the geographic 04:13:00
13 makeup, are going to be either Democratic, 04:13:02
14 Republic, Republican, depending on, you know, 04:13:06
15 where it is that they're located. 04:13:10
16 So we'll know the answer to your 04:13:12
17 question when we have the next election. 04:13:14
18 Q. So are you able to answer the question 04:13:17
19 "yes" or "no"? Do you believe that the map 04:13:20
20 that was adopted by the Ohio Redistricting 04:13:23
21 Commission, 2021, by a vote of 5-2, favors the 04:13:30
22 Republican party or not? 04:13:34
23 A. We'll know the answer to that question, 04:13:37
24 depending on who the candidates and issues and 04:13:39
25 their campaigns, next time. 04:13:42

1 This particular map is one analysis, is 04:13:44
2 that there are, in the House, for example, 62 04:13:50
3 leaning Republican districts. That was the 04:13:53
4 Republicans' last proposal. The Democratic -- 04:13:56
5 Senate Democrats' proposal was 57 Democratic -- 04:14:01
6 or 57 Republican leaning seats. 04:14:05
7 So really the last two offers, so to 04:14:07
8 speak, both had a Republican -- a majority of 04:14:10
9 Republican leaning seats. 04:14:14
10 Q. And how do you determine which way the 04:14:15
11 seats lean? You look at the partisan index, 04:14:22
12 right? 04:14:25
13 A. Yeah, well, generically speaking, that's 04:14:26
14 one way of doing it, yes. But I, frankly, 04:14:28
15 think a better way of doing it is look who the 04:14:32
16 candidate is. 04:14:35
17 Because in my involvement in campaigns, 04:14:35
18 I've had my candidates win in districts that 04:14:38
19 were 70 percent Democrat. Up in Lake County 04:14:41
20 right now, there's a great state rep who is a 04:14:45
21 Democrat by the name of Dan Troy who just won 04:14:47
22 in a Republican district. 04:14:49
23 Certainly, you know, when Terry Johnson 04:14:51
24 won in a 70 percent Democratic district as a 04:14:54
25 House member back in 2010, that's an anomaly. 04:14:56

1 But if you have the right candidate and 04:15:00
2 the right -- they run a good campaign and 04:15:02
3 people know them and they like them, you know, 04:15:05
4 a Democrat can win in a 55 or 60 percent 04:15:08
5 Republican district and vice versa. 04:15:12
6 Q. But when you say that in the 04:15:14
7 negotiations you offered a map with 62 04:15:17
8 Republican leaning districts coming down from 04:15:21
9 67 Republican leaning districts, you were 04:15:25
10 basing that on partisan index, correct? 04:15:29
11 A. It was based on that. If you're saying 04:15:33
12 I personally was doing that, no, because I 04:15:37
13 don't have that data, and I don't understand 04:15:40
14 how to put all of that together. But that's 04:15:42
15 what it was based on. Some type of formula 04:15:44
16 involving election results from the past. 04:15:47
17 Q. That Mr. DiRossi had provided to you to 04:15:51
18 be able to evaluate which way the districts 04:15:54
19 were leaning, right? 04:15:57
20 A. Well, Mr. DiRossi was the person I was 04:15:58
21 talking to, that's correct. Obviously, the 04:16:04
22 Speaker had his own person. And the other 04:16:06
23 members of the commission, I'm not -- I think 04:16:10
24 there were people for the Leader Sykes in the 04:16:13
25 House that we provided money for, but I'm not 04:16:18

1 sure ultimately what they did. And I know the 04:16:21
2 Senate Democrats had a similar person. 04:16:24
3 Q. So you indicated that you did not ask 04:16:27
4 the Legislative Services Commission for any 04:16:31
5 interpretation of the provisions of 04:16:35
6 Section 6(B). 04:16:40
7 Let me ask you whether you agree with 04:16:40
8 their analysis that proportionality in 04:16:43
9 Section 6(B) means the percentage of the 04:16:47
10 General Assembly districts represented by one 04:16:51
11 political party should approximately match the 04:16:56
12 percentage of voters in the state associated 04:16:59
13 with that political party? 04:17:02
14 Do you agree with that? 04:17:07
15 A. I don't agree with that as the only 04:17:09
16 definition or point of analyses. So it's 04:17:13
17 acceptable on its face, but that doesn't mean, 04:17:20
18 well, that's it, and we're not going to talk 04:17:24
19 about anything else. 04:17:26
20 Q. So if there were ten races, and each 04:17:27
21 race was 51 percent Republican, 49 percent 04:17:32
22 Democratic, that would indicate that the voters 04:17:38
23 in Ohio, 51 percent of them prefer Republicans, 04:17:45
24 49 percent of them prefer Democrats, correct? 04:17:51
25 A. You're talking about statewide races? 04:17:54

1 Q. I'm just talking a hypothetical, yes, 04:17:58
2 statewide races. 04:18:02
3 A. Okay. So hypothetically, if there were 04:18:03
4 ten statewide races, they all ended 51-49. 04:18:06
5 Q. Right. 04:18:11
6 A. Would that say that was the preference 04:18:11
7 of the statewide voters? 04:18:13
8 Q. Would it not indicate that 51 percent of 04:18:15
9 Ohioans prefer Republican candidates, 04:18:19
10 49 percent prefer Democratic candidates? 04:18:23
11 A. That would be something that you could 04:18:25
12 consider if you were to determining this. And 04:18:30
13 the reason why there's not "because this is 04:18:33
14 true, this is true," in all of those races, 04:18:36
15 things change, especially over a ten-year 04:18:41
16 period. This is why we use the ten-year period 04:18:44
17 instead of just last year. 04:18:47
18 So in 2010, there were people voting in 04:18:48
19 that election who weren't voting in 2020 04:18:52
20 because they died or they didn't vote or they 04:18:56
21 moved out of the state. In 2010, there were 04:18:59
22 people who didn't vote because they weren't 18 04:19:03
23 yet. 04:19:06
24 So the population changes over a period 04:19:07
25 of time. So you don't simply say, "Add up the 04:19:09

1 numbers, and that's the preference." That 04:19:12
2 would be a fool's errand on my part. 04:19:15
3 What you do is say, "What are the 04:19:18
4 results? Let's consider these results if we 04:19:20
5 ever get to a Section 6 analysis," which we 04:19:23
6 didn't in this case. 04:19:26
7 So there, again, is no formula. There 04:19:27
8 is no 51/49 in your circumstance. 04:19:29
9 If you're doing a Section 6 analysis, 04:19:34
10 you would say, "Here's these ten. Should we do 04:19:36
11 it? This is something that we should 04:19:38
12 consider." Okay, well, let's look at the other 04:19:40
13 results of the other elections too. 04:19:42
14 Q. So when you talked about having 04:19:45
15 proposed, I believe it was in the August 04:19:51
16 timeframe, putting a constitutional initiative 04:19:53
17 on the ballot to try to get more time, to delay 04:19:58
18 the time deadlines -- do you remember that 04:20:03
19 testimony? 04:20:06
20 A. The testimony was that we had a meeting 04:20:06
21 in April to -- 04:20:09
22 Q. April, I'm sorry. 04:20:09
23 A. -- to discuss -- that's fine -- to 04:20:12
24 discuss putting it on the ballot for the August 04:20:14
25 special election. And we would have had to 04:20:17

1 take some action, I think, in maybe the first 04:20:19
2 week in May, 90 days before the election. 04:20:21
3 Q. And you said that when the Democrats 04:20:27
4 didn't agree with doing that, you didn't want 04:20:29
5 to put it on the ballot because you thought it 04:20:32
6 could lose without Democratic support? 04:20:33
7 (Court Reporter Clarification.) 04:20:48
8 A. Yeah, I thought it would lose if the 04:20:51
9 Democrats didn't support it. 04:20:52
10 Q. So Ohio is at least that much of a swing 04:20:58
11 state? 04:21:01
12 MR. STRACH: Objection. 04:21:02
13 THE WITNESS: I don't understand. Is 04:21:03
14 that a question? 04:21:05
15 BY MR. FUNARI: 04:21:07
16 Q. Yes, sir, that would be a question. 04:21:08
17 A. Is a Ohio a swing state? 04:21:11
18 Q. Would that indicate to you that Ohio is 04:21:14
19 at least that much of a swing state, that you 04:21:17
20 would not be able to pass such an amendment 04:21:20
21 without Democratic support? 04:21:23
22 A. Well, you'd have to define "swing state" 04:21:24
23 for me. But in this context, I think that if 04:21:29
24 the folks who opposed what I was suggesting, 04:21:36
25 getting the additional time, were going to say 04:21:40

1 the same things for four months, it wouldn't 04:21:43
2 pass. 04:21:46
3 The League of Women Voters immediately 04:21:47
4 put out a press release that said that 04:21:50
5 President Huffman was trying to take away this 04:21:52
6 decision from the people and give it to the 04:21:56
7 legislature, and all we were trying to do is 04:21:59
8 give enough time for us to have negotiation, 04:22:01
9 which it turns out in the end we probably 04:22:04
10 needed. 04:22:07
11 We weren't changing the decision-making 04:22:07
12 process. So groups like the League of Women 04:22:10
13 Voters and All on the Line or something like 04:22:13
14 that, we put out a whole series of statements. 04:22:17
15 Again, my view of these things is if 04:22:23
16 you're going to pass something, either you have 04:22:24
17 to have a big campaign and really put it on, 04:22:26
18 especially if somebody's opposed to it. 04:22:32
19 You know, I didn't see a lot of folks 04:22:35
20 going to come out and support this just to get 04:22:38
21 another 30 days' or 60 days' worth of time. 04:22:40
22 And, frankly, as I sit here today, I'm 04:22:45
23 still amazed that everyone knew the data was 04:22:48
24 late, everyone knew we could use additional 04:22:51
25 time to negotiate, but they still said no. 04:22:53

1 And I'm sitting here, I'm pretty 04:22:58
2 incredulous when I start to think about it, 04:23:00
3 that all these folks who wanted additional 04:23:02
4 hearings, et cetera, et cetera, I don't know 04:23:04
5 why you wouldn't want additional time. 04:23:07
6 So, you know, it is what it is at this 04:23:09
7 point. 04:23:12
8 Q. Let me ask you about -- you talked about 04:23:14
9 money that was appropriated and used by the 04:23:16
10 caucuses in the House and Senate on both 04:23:20
11 Democrats and Republicans. Was there any money 04:23:23
12 appropriated for the statewide commissioners 04:23:26
13 for them to have staff and mapping software? 04:23:28
14 A. Yeah, so, specifically the way this 04:23:33
15 works, there is something called the Ohio 04:23:40
16 Redistricting Commission. There is a statute. 04:23:43
17 It's a specific body. Rob McColley was the 04:23:45
18 Senate Republican appointee to that. 04:23:50
19 That body, one of their jobs is to 04:23:53
20 allocate the money at the beginning of this 04:23:56
21 process, which we did, $150,000 to each party. 04:23:59
22 And typically the way that goes is 04:24:04
23 each -- sometimes they work together. 04:24:07
24 Sometimes -- we, of course, don't know what the 04:24:10
25 Democrat folks did. I think they bought 04:24:12

1 computers and things like that. And that's 04:24:15
2 typically the way this has worked through the 04:24:20
3 years. 04:24:21
4 As far as the statewides are concerned, 04:24:22
5 that $150,000 did not go to them. It went to 04:24:25
6 set up the House and Republican and -- the 04:24:28
7 Republican House and Senate and the Senate and 04:24:31
8 House Democrats. Of course, we gave the House 04:24:35
9 Democrats this additional quarter of a million 04:24:38
10 dollars. 04:24:42
11 I don't know whether they used money to 04:24:42
12 do redistricting. That is within their purview 04:24:46
13 to do that. 04:24:50
14 So if they did, yeah, that was money 04:24:51
15 that was legally appropriated to them. But I 04:24:53
16 didn't ask them to detail to me what they were 04:24:56
17 doing regarding any of the redistricting 04:24:59
18 matters. 04:25:03
19 Q. Mr. President, I think I understood the 04:25:04
20 focus of your answer to be on what the 04:25:08
21 different caucuses did with their money. 04:25:11
22 I was really trying to ask you about the 04:25:15
23 money that was appropriated for the 04:25:17
24 Redistricting Commission, was that also 04:25:19
25 available to the statewide officeholders who 04:25:22

1 served on the commission? 04:25:27
2 A. I guess you're going to have to help me. 04:25:28
3 What money are you talking about that was 04:25:33
4 appropriated to the Redistricting Commission? 04:25:36
5 Q. I thought that there was some 4 to 04:25:39
6 $5 million that had been appropriated for the 04:25:43
7 Redistricting Commission. If I'm mistaken, I 04:25:47
8 apologize. But that was my understanding. 04:25:50
9 A. Yeah, I -- I thought your previous 04:25:53
10 question was was there money appropriated for 04:25:56
11 the statewide officeholders for specifically 04:25:59
12 for map drawing. 04:26:04
13 And if that wasn't your question, if 04:26:06
14 this is of the money available to the 04:26:09
15 commission, did that go -- did that money go to 04:26:13
16 these -- to the statewides for purposes of map 04:26:18
17 drawing? Is that -- 04:26:19
18 Q. Let me try to ask this a different way. 04:26:21
19 A. Okay. 04:26:25
20 Q. In Auditor Faber's deposition, he 04:26:26
21 indicated that he did not have funds to 04:26:29
22 purchase or secure mapping technology or 04:26:39
23 mapping technicians. Do you know whether 04:26:44
24 that's correct or not? 04:26:50
25 A. Well, I don't know. And, frankly, if 04:26:52

1 Auditor Faber says that that's true, I'm 04:26:56
2 willing to accept that. 04:26:59
3 We have, you know -- in the Ohio Senate, 04:27:01
4 there is money that is not specifically 04:27:04
5 appropriated for things, but we can use for a 04:27:07
6 variety of purposes from time to time. 04:27:11
7 And each specific purchase is not a 04:27:16
8 specific appropriation. There may be a general 04:27:19
9 line item for administrative expenses. And all 04:27:21
10 agencies and departments have that. 04:27:25
11 Do I think that there's probably money 04:27:28
12 within the auditor's budget which he might be 04:27:30
13 able to use for that? Well, I would think so. 04:27:34
14 But if the auditor says no, then the 04:27:37
15 answer's probably no, since he's ultimately the 04:27:39
16 guy to determine that. He's the auditor. 04:27:42
17 Q. That's right. We're not going to argue 04:27:45
18 with the auditor. 04:27:48
19 A. Not on that issue, sure. 04:27:49
20 Q. Yes. Did the auditor ever request from 04:27:51
21 you funds for him to engage staff and to secure 04:27:56
22 mapping software so that he could participate 04:28:03
23 more actively in evaluating the maps that were 04:28:07
24 proposed? 04:28:11
25 A. The auditor never requested that of me. 04:28:12

Q. Did Secretary LaRose request funds from you for the purpose of securing mapping technology, staffing, so that he could participate more actively in the mapping process? 04:28:15 04:28:21 04:28:25 04:28:29 04:28:31

A. Secretary LaRose never requested that of me. 04:28:31 04:28:34

Q. If you'll just indulge me for a second. Let me just look through my notes. I think I am concluding here. 04:28:35 04:28:48 04:28:53

Thank you very much, Mr. President. I don't have further questions. 04:29:11 04:29:13

A. Thank you. 04:29:15

MR. STRACH: Thank you, John. We don't have any questions for President Huffman. 04:29:16 04:29:18

Is anyone from the AG's office on, can tell us if they have any questions? 04:29:23 04:29:26

MS. COONTZ: No questions, thank you. 04:29:28

MR. STRACH: Okay. Great. 04:29:30

Madam court reporter, I think we can go off the record. 04:29:31 04:29:33

THE VIDEOGRAPHER: Thank you. That concludes today's proceedings. We're off the record at 4:29 p.m. 04:29:35 04:29:37 04:29:39

(Deposition concluded at 4:29 p.m., 133) 04:29:41

Reporter's Certificate

State of California)
)
)

I, Debra Bollman Farfan, Registered Diplomate Reporter and CSR No. 11648, in and for the State of California, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth; That said deposition was taken down by me in shorthand at the time and place therein named and thereafter reduced to typewriting under my direction, and the same is a true, correct, and complete transcript of said proceedings;

I further certify that I am not interested in the event of the action. Witness my hand this 22nd day of October, 2021.

Debra Bollman Farfan, CA CSR No. 11648
RDR, RMR, CRR, CRC

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FRANK LAROSE
Ohio Secretary of State
Constitution of the
State of Ohio
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Preamble

We, the people of the State of Ohio, grateful to Almighty God for our freedom, to secure its blessings and promote our common welfare, do establish this Constitution.

Article I: Bill of Rights

Inalienable rights.

§1 All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety.

(1851)

Right to alter, reform, or abolish government, and repeal special privileges.

§2 All political power is inherent in the people. Government is instituted for their equal protection and benefit, and they have the right to alter, reform, or abolish the same, whenever they may deem it necessary; and no special privileges or immunities shall ever be granted, that may not be altered, revoked, or repealed by the General Assembly.

(1851)

Right to assemble.

§3 The people have the right to assemble together, in a peaceable manner, to consult for the common good; to instruct their Representatives; and to petition the General Assembly for the redress of grievances.

(1851)

Bearing arms; standing armies; military power.

§4 The people have the right to bear arms for their defense and security; but standing armies, in time of peace, are dangerous to liberty, and shall not be kept up; and the military shall be in strict subordination to the civil power.

(1851)

Trial by jury.

§5 The right of trial by jury shall be inviolate, except that, in civil cases, laws may be passed to authorize the rendering of a verdict by the concurrence of not less than three-fourths of the jury.

(1851, am. 1912)

Slavery and involuntary servitude.

§6 There shall be no slavery in this State; nor involuntary servitude, unless for the punishment of crime.

(1851)

Rights of conscience; education; the necessity of religion and knowledge.

§7 All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required, as a qualification for office, nor shall any person be

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incompetent to be a witness on account of his religious belief; but nothing herein shall be construed to dispense with oaths and affirmations. Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the General Assembly to pass suitable laws, to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction.

(1851)

Writ of habeas corpus.

§8 The privilege of the writ of habeas corpus shall not be suspended, unless, in cases of rebellion or invasion, the public safety require it.

(1851)

Bail.

§9 All persons shall be bailable by sufficient sureties, except for a person who is charged with a capital offense where the proof is evident or the presumption great and except for a person who is charged with a felony where the proof is evident or the presumption great and who where the person poses a substantial risk of serious physical harm to any person or to the community. Where a person is charged with any offense for which the person may be incarcerated, the court may determine at any time the type, amount, and conditions of bail. Excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

The General Assembly shall fix by law standards to determine whether a person who is charged with a felony where the proof is evident or the presumption great poses a substantial risk of serious physical harm to any person or to the community. Procedures for establishing the amount and conditions of bail shall be established pursuant to Article IV, Section 5(b) of the Constitution of the State of Ohio.

(1851, am. 1997)

Trial for crimes; witness.

§10 Except in cases of impeachment, cases arising in the army and navy, or in the militia when in actual service in time of war or public danger, and cases involving offenses for which the penalty provided is less than imprisonment in the penitentiary, no person shall be held to answer for a capital, or otherwise infamous, crime, unless on presentment or indictment of a grand jury; and the number of persons necessary to constitute such grand jury and the number thereof necessary to concur in finding such indictment shall be determined by law. In any trial, in any court, the party accused shall be allowed to appear and defend in person and with counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet witnesses face to face, and to have compulsory process to procure the attendance of witnesses in his behalf, and speedy public trial by an impartial jury of the county in which the offense is alleged to have been committed; but provision may be made by law for the taking of the deposition by the accused or by the state, to be used for or against the accused, of any witness whose attendance can not be

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had at the trial, always securing to the accused means and the opportunity to be present in person and with counsel at the taking of such deposition, and to examine the witness face to face as fully and in the same manner as if in court. No person shall be compelled, in any criminal case, to be a witness against himself; but his failure to testify may be considered by the court and jury and may be the subject of comment by counsel. No person shall be twice put in jeopardy for the same offense.

(1851, am. 1912)

Rights of victims of crimes.

§10a (A) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, which shall be protected in a manner no less vigorous than the rights afforded to the accused:

(1) to be treated with fairness and respect for the victim's safety, dignity and privacy;

(2) upon request, to reasonable and timely notice of all public proceedings involving the criminal offense or delinquent act against the victim, and to be present at all such proceedings;

(3) to be heard in any public proceeding involving release, plea, sentencing, disposition, or parole, or in any public proceeding in which a right of the victim is implicated;

(4) to reasonable protection from the accused or any person acting on behalf of the accused;

(5) upon request, to reasonable notice of any release or escape of the accused;

(6) except as authorized by section 10 of Article I of this constitution, to refuse an interview, deposition, or other discovery request made by the accused or any person acting on behalf of the accused;

(7) to full and timely restitution from the person who committed the criminal offense or delinquent act against the victim;

(8) to proceedings free from unreasonable delay and a prompt conclusion of the case;

(9) upon request, to confer with the attorney for the government; and

(10) to be informed, in writing, of all rights enumerated in this section.

(B) The victim, the attorney for the government upon request of the victim, or the victim's other lawful representative, in any proceeding involving the criminal offense or delinquent act against the victim or in which the victim's rights are implicated, may assert the rights enumerated in this section and any other right afforded to the victim by law. If the relief sought is denied, the victim or the victim's lawful representative may petition the court of appeals for the applicable district, which shall promptly consider and decide the petition.

(C) This section does not create any cause of action for damages or compensation against the state, any political subdivision of the state, any officer, employee, or agent of the state or of any political subdivision, or any officer of the court.

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(D) As used in this section, "victim" means a person against whom the criminal offense or delinquent act is committed or who is directly and proximately harmed by the commission of the offense or act. The term "victim" does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor, or incapacitated victim.

(E) All provisions of this section shall be self-executing and severable, and shall supersede all conflicting state laws.

(F) This section shall take effect ninety days after the election at which it was approved.

(1994, am. 2017)

Freedom of speech; of the press; of libels.

§11 Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of the right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libelous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted.

(1851)

Transportation, etc. for crime.

§12 No person shall be transported out of the state, for any offense committed within the same; and no conviction shall work corruption of blood, or forfeiture of estate.

(1851)

Quartering troops.

§13 No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor, in time of war, except in the manner prescribed by law.

(1851)

Search warrants and general warrants.

§14 The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched, and the person and things to be seized.

(1851)

No imprisonment for debt.

§15 No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud.

(1851)

Redress for injury; Due process.

§16 All courts shall be open, and every person, for an injury done him in his land, goods, person, or reputation, shall have remedy by due course of law, and shall have justice administered without denial or delay.

Suits may be brought against the state, in such courts and in such manner, as

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may be provided by law.
(1851, am. 1912)

No hereditary privileges.

§17 No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this State.
(1851)

Suspension of laws.

§18 No power of suspending laws shall ever be exercised, except by the General Assembly.
(1851)

Eminent domain.

§19 Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money; and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.
(1851)

Damages for wrongful death.

§19a The amount of damages recoverable by civil action in the courts for death caused by the wrongful act, neglect, or default of another, shall not be limited by law.
(1912)

Protect private property rights in ground water, lakes and other watercourses.

§19b. (A) The protection of the rights of Ohio's property owners, the protection of Ohio's natural resources, and the maintenance of the stability of Ohio's economy require the recognition and protection of property interests in ground water, lakes, and watercourses.

(B) The preservation of private property interests recognized under divisions (C) and (D) of this section shall be held inviolate, but subservient to the public welfare as provided in Section 19 of Article I of the Constitution.

(C) A property owner has a property interest in the reasonable use of the ground water underlying the property owner's land.

(D) An owner of riparian land has a property interest in the reasonable use of the water in a lake or watercourse located on or flowing through the owner's riparian land.

(E) Ground water underlying privately owned land and nonnavigable waters located on or flowing through privately owned land shall not be held in trust by any governmental body. The state, and a political subdivision to the extent authorized by state law, may provide for the regulation of such waters. An owner of land voluntarily may convey to a governmental body the owner's property interest held in the ground water underlying the land or nonnavigable waters located on or flowing through the land.

(F) Nothing in this section affects the application of the public trust doctrine

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as it applies to Lake Erie or the navigable waters of the state.

(G) Nothing in Section 1e of Article II, Section 36 of Article II, Article VIII, Section 1 of Article X, Section 3 of Article XVIII, or Section 7 of Article XVIII of the Constitution shall impair or limit the rights established in this section.

(2008)

Powers reserved to the people.

§20 This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers, not herein delegated, remain with the people.

(1851)

Preservation of the freedom to choose health care and health care coverage

§21 (A) No federal, state, or local law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in a health care system.

(B) No federal, state, or local law or rule shall prohibit the purchase or sale of health care or health insurance.

(C) No federal, state, or local law or rule shall impose a penalty or fine for the sale or purchase of health care or health insurance.

(D) This section does not affect laws or rules in effect as of March 19, 2010; affect which services a health care provider or hospital is required to perform or provide; affect terms and conditions of government employment; or affect any laws calculated to deter fraud or punish wrongdoing in the health care industry.

(E) As used in this Section,

(1) "Compel" includes the levying of penalties or fines.

(2) "Health care system" means any public or private entity or program whose function or purpose includes the management of, processing of, enrollment of individuals for, or payment for, in full or in part, health care services, health care data, or health care information for its participants.

(3) "Penalty or fine" means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee established by law or rule by a government established, created, or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

(2011)

Article II: Legislative

In whom power vested.

§1 The legislative power of the state shall be vested in a General Assembly consisting of a Senate and House of Representatives but the people reserve to themselves the power to propose to the General Assembly laws and amendments to the constitution, and to adopt or reject the same at the polls on a referendum vote as hereinafter provided. They also reserve the power to adopt or reject any law, section of any

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REPEALED. County and township treasuries.

§5

(1851, rep. 1933)

REPEALED. What officers may be removed.

§6

(1851, rep. 1933)

REPEALED. Local taxation.

§7

(1851, rep. 1933)

Article XI: Apportionment

Persons responsible for apportionment of state for members of General Assembly.

§1 (A) The Ohio redistricting commission shall be responsible for the redistricting of this state for the general assembly. The commission shall consist of the following seven members:

(1) The governor;

(2) The auditor of state;

(3) The secretary of state;

(4) One person appointed by the speaker of the house of representatives;

(5) One person appointed by the legislative leader of the largest political party in the house of representatives of which the speaker of the house of representatives is not a member;

(6) One person appointed by the president of the senate; and

(7) One person appointed by the legislative leader of the largest political party in the senate of which the president of the senate is not a member.

The legislative leaders in the senate and the house of representatives of each of the two largest political parties represented in the general assembly, acting jointly by political party, shall appoint a member of the commission to serve as a co-chairperson of the commission.

(B)(1) Unless otherwise specified in this article, a simple majority of the commission members shall be required for any action by the commission.

(2)(a) Except as otherwise provided in division (B)(2)(b) of this section, a majority vote of the members of the commission, including at least one member of the commission who is a member of each of the two largest political parties represented in the general assembly, shall be required to do any of the following:

(i) Adopt rules of the commission;

(ii) Hire staff for the commission;

(iii) Expend funds.

(b) If the commission is unable to agree, by the vote required under division (B)(2)(a) of this section, on the manner in which funds should be expended, each co-chairperson of the commission shall have the authority to expend one-half of the funds that have been appropriated to the commission.

(3) The affirmative vote of four members of the commission, including at least two members of the commission

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who represent each of the two largest political parties represented in the general assembly shall be required to adopt any general assembly district plan. For the purpose of this division, a member of the commission shall be considered to represent a political party if the member was appointed to the commission by a member of that political party or if, in the case of the governor, the auditor of state, or the secretary of state, the member is a member of that political party.

(C) At the first meeting of the commission, which the governor shall convene only in a year ending in the numeral one, except as provided in Sections 8 and 9 of this article, the commission shall set a schedule for the adoption of procedural rules for the operation of the commission.

The commission shall release to the public a proposed general assembly district plan for the boundaries for each of the ninety-nine house of representatives districts and the thirty-three senate districts. The commission shall draft the proposed plan in the manner prescribed in this article. Before adopting, but after introducing, a proposed plan, the commission shall conduct a minimum of three public hearings across the state to present the proposed plan and shall seek public input regarding the proposed plan. All meetings of the commission shall be open to the public. Meetings shall be broadcast by electronic means of transmission using a medium readily accessible by the general public.

The commission shall adopt a final general assembly district plan not later than the first day of September of a year ending in the numeral one. After the commission adopts a final plan, the commission shall promptly file the plan with the secretary of state. Upon filing with the secretary of state, the plan shall become effective.

Four weeks after the adoption of a general assembly district plan, the commission shall be automatically dissolved.

(D) The general assembly shall be responsible for making the appropriations it determines necessary in order for the commission to perform its duties under this article.

(1967, am. 2015)

Ratio of representation in house and senate.

§2 Each house of representatives district shall be entitled to a single representative in each general assembly. Each senate district shall be entitled to a single senator in each general assembly.

(1967, am. 2015)

Population of each House of Representatives district.

§3 (A) The whole population of the state, as determined by the federal decennial census or, if such is unavailable, such other basis as the general assembly may direct, shall be divided by the number "ninety-nine" and by the number "thirty-three" and the quotients shall be the ratio of representation in the house of representatives and in the senate, respectively, for ten years next succeeding such redistricting.

(B) A general assembly district plan shall comply with all of the requirements

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of division (B) of this section.

(1) The population of each house of representatives district shall be substantially equal to the ratio of representation in the house of representatives, and the population of each senate district shall be substantially equal to the ratio of representation in the senate, as provided in division (A) of this section. In no event shall any district contain a population of less than ninety-five per cent nor more than one hundred five per cent of the applicable ratio of representation.

(2) Any general assembly district plan adopted by the commission shall comply with all applicable provisions of the constitutions of Ohio and the United States and of federal law.

(3) Every general assembly district shall be composed of contiguous territory, and the boundary of each district shall be a single nonintersecting continuous line.

(C) House of representatives districts shall be created and numbered in the following order of priority, to the extent that such order is consistent with the foregoing standards:

(1) Proceeding in succession from the largest to the smallest, each county containing population greater than one hundred five per cent of the ratio of representation in the house of representatives shall be divided into as many house of representatives districts as it has whole ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining house of representatives district.

(2) Each county containing population of not less than ninety-five per cent of the ratio of representation in the house of representatives nor more than one hundred five per cent of the ratio shall be designated a representative district.

(3) The remaining territory of the state shall be divided into representative districts by combining the areas of counties, municipal corporations, and townships. Where feasible, no county shall be split more than once.

(D)(1)(a) Except as otherwise provided in divisions (D)(1)(b) and (c) of this section, a county, municipal corporation, or township is considered to be split if any contiguous portion of its territory is not contained entirely within one district.

(b) If a municipal corporation or township has territory in more than one county, the contiguous portion of that municipal corporation or township that lies in each county shall be considered to be a separate municipal corporation or township for the purposes of this section.

(c) If a municipal corporation or township that is located in a county that contains a municipal corporation or township that has a population of more than one ratio of representation is split for the purpose of complying with division (E)(1)(a) or (b) of this section, each portion of that municipal corporation or township shall be considered to be a separate municipal corporation or township for the purposes of this section.

(2) Representative districts shall be drawn so as to split the smallest possible

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number of municipal corporations and townships whose contiguous portions contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(3) Where the requirements of divisions (B), (C), and (D) of this section cannot feasibly be attained by forming a representative district from whole municipal corporations and townships, not more than one municipal corporation or township may be split per representative district.

(E)(1) If it is not possible for the commission to comply with all of the requirements of divisions (B), (C), and (D) of this section in drawing a particular representative district, the commission shall take the first action listed below that makes it possible for the commission to draw that district:

(a) Notwithstanding division (D)(3) of this section, the commission shall create the district by splitting two municipal corporations or townships whose contiguous portions do not contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(b) Notwithstanding division (D)(2) of this section, the commission shall create the district by splitting a municipal corporation or township whose contiguous portions contain a population of more than fifty per cent, but less than one hundred per cent, of one ratio of representation.

(c) Notwithstanding division (C)(2) of this section, the commission shall create the district by splitting, once, a single county that contains a population of not less than ninety-five per cent of the ratio of representation, but not more than one hundred five per cent of the ratio of representation.

(d) Notwithstanding division (C)(1) of this section, the commission shall create the district by including in two districts portions of the territory that remains after a county that contains a population of more than one hundred five per cent of the ratio of representation has been divided into as many house of representatives districts as it has whole ratios of representation.

(2) If the commission takes an action under division (E)(1) of this section, the commission shall include in the general assembly district plan a statement explaining which action the commission took under that division and the reason the commission took that action.

(3) If the commission complies with divisions (E)(1) and (2) of this section in drawing a district, the commission shall not be considered to have violated division (C)(1), (C)(2), (D)(2), or (D)(3) of this section, as applicable, in drawing that district, for the purpose of an analysis under division (D) of Section 9 of this article.

(1967, am. 2015)

Population of each Senate district.

§4 (A) Senate districts shall be composed of three contiguous house of representatives districts.

(B)(1) A county having at least one whole senate ratio of representation shall have as many senate districts wholly within the boundaries of the

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county as it has whole senate ratios of representation. Any fraction of the population in excess of a whole ratio shall be a part of only one adjoining senate district.

(2) Counties having less than one senate ratio of representation, but at least one house of representatives ratio of representation, shall be part of only one senate district.

(3) If it is not possible for the commission to draw representative districts that comply with all of the requirements of this article and that make it possible for the commission to comply with all of the requirements of divisions (B)(1) and (2) of this section, the commission shall draw senate districts so as to commit the fewest possible violations of those divisions. If the commission complies with this division in drawing senate districts, the commission shall not be considered to have violated division (B)(1) or (2) of this section, as applicable, in drawing those districts, for the purpose of an analysis under division (D) of Section 9 of this article.

(C) The number of whole ratios of representation for a county shall be determined by dividing the population of the county by the ratio of representation in the senate determined under division (A) of Section 3 of this article.

(D) Senate districts shall be numbered from one through thirty-three and as provided in Section 5 of this article.

(1967, am. 2015)

Representation for each house and senate district.

§5 At any time the boundaries of senate districts are changed in any general assembly district plan made pursuant to any provision of this article, a senator whose term will not expire within two years of the time the plan becomes effective shall represent, for the remainder of the term for which the senator was elected, the senate district that contains the largest portion of the population of the district from which the senator was elected, and the district shall be given the number of the district from which the senator was elected. If more than one senator whose term will not so expire would represent the same district by following the provisions of this section, the plan shall designate which senator shall represent the district and shall designate which district the other senator or senators shall represent for the balance of their term or terms.

(1967, am. 2015)

Creation of district boundaries; change at end of decennial period.

§6 The Ohio redistricting commission shall attempt to draw a general assembly district plan that meets all of the following standards:

(A) No general assembly district plan shall be drawn primarily to favor or disfavor a political party.

(B) The statewide proportion of districts whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party shall correspond closely to the statewide preferences of the voters of Ohio.

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(C) General assembly districts shall be compact.

Nothing in this section permits the commission to violate the district standards described in Section 2, 3, 4, 5, or 7 of this article.

(1967, am. 2015)

REPEALED. Provided additional senators for districts with a ratio of representation greater than one.

§6a

(1956, rep. 1967)

Boundary lines of House of Representatives districts.

§7 Notwithstanding the fact that boundaries of counties, municipal corporations, and townships within a district may be changed, district boundaries shall be created by using the boundaries of counties, municipal corporations, and townships as they exist at the time of the federal decennial census on which the redistricting is based, or, if unavailable, on such other basis as the general assembly has directed.

(1967, am. 2015)

Determination of number of House of Representatives districts within each county.

§8 (A)(1) If the Ohio redistricting commission fails to adopt a final general assembly district plan not later than the first day of September of a year ending in the numeral one, in accordance with Section 1 of this article, the commission shall introduce a proposed general assembly district plan by a simple majority vote of the commission.

(2) After introducing a proposed general assembly district plan under division (A)(1) of this section, the commission shall hold a public hearing concerning the proposed plan, at which the public may offer testimony and at which the commission may adopt amendments to the proposed plan. Members of the commission should attend the hearing; however, only a quorum of the members of the commission is required to conduct the hearing.

(3) After the hearing described in division (A)(2) of this section is held, and not later than the fifteenth day of September of a year ending in the numeral one, the commission shall adopt a final general assembly district plan, either by the vote required to adopt a plan under division (B)(3) of Section 1 of this article or by a simple majority vote of the commission.

(B) If the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by the vote required to adopt a plan under division (B)(3) of Section 1 of this article, the plan shall take effect upon filing with the secretary of state and shall remain effective until the next year ending in the numeral one, except as provided in Section 9 of this article.

(C)(1)(a) Except as otherwise provided in division (C)(1)(b) of this section, if the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B)(3) of Section 1 of this article, the plan shall take

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effect upon filing with the secretary of state and shall remain effective until two general elections for the house of representatives have occurred under the plan.

(b) If the commission adopts a final general assembly district plan in accordance with division (A)(3) of this section by a simple majority vote of the commission, and not by the vote required to adopt a plan under division (B) of Section 1 of this article, and that plan is adopted to replace a plan that ceased to be effective under division (C)(1)(a) of this section before a year ending in the numeral one, the plan adopted under this division shall take effect upon filing with the secretary of state and shall remain effective until a year ending in the numeral one, except as provided in Section 9 of this article.

(2) A final general assembly district plan adopted under division (C)(1)(a) or (b) of this section shall include a statement explaining what the commission determined to be the statewide preferences of the voters of Ohio and the manner in which the statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party corresponds closely to those preferences, as described in division (B) of Section 6 of this article. At the time the plan is adopted, a member of the commission who does not vote in favor of the plan may submit a declaration of the member's opinion concerning the statement included with the plan.

(D) After a general assembly district plan adopted under division (C)(1)(a) of this section ceases to be effective, and not earlier than the first day of July of the year following the year in which the plan ceased to be effective, the commission shall be reconstituted as provided in Section 1 of this article, convene, and adopt a new general assembly district plan in accordance with this article, to be used until the next time for redistricting under this article. The commission shall draw the new general assembly district plan using the same population and county, municipal corporation, and township boundary data as were used to draw the previous plan adopted under division (C) of this section.

(1967, am. 2015)

When population of county is fraction of ratio of representation.

§9 (A) The supreme court of Ohio shall have exclusive, original jurisdiction in all cases arising under this article.

(B) In the event that any section of this constitution relating to redistricting, any general assembly district plan made by the Ohio redistricting commission, or any district is determined to be invalid by an unappealed final order of a court of competent jurisdiction then, notwithstanding any other provisions of this constitution, the commission shall be reconstituted as provided in Section 1 of this article, convene, and ascertain and determine a general assembly district plan in conformity with such provisions of this constitution as are then valid, including establishing terms of office and election of members of the general assembly from districts designated in the plan, to be used until the next time for redistricting under

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this article in conformity with such provisions of this constitution as are then valid.

(C) Notwithstanding any provision of this constitution or any law regarding the residence of senators and representatives, a general assembly district plan made pursuant to this section shall allow thirty days for persons to change residence in order to be eligible for election.

(D)(1) No court shall order, in any circumstance, the implementation or enforcement of any general assembly district plan that has not been approved by the commission in the manner prescribed by this article.

(2) No court shall order the commission to adopt a particular general assembly district plan or to draw a particular district.

(3) If the supreme court of Ohio determines that a general assembly district plan adopted by the commission does not comply with the requirements of Section 2, 3, 4, 5, or 7 of this article, the available remedies shall be as follows:

(a) If the court finds that the plan contains one or more isolated violations of those requirements, the court shall order the commission to amend the plan to correct the violation.

(b) If the court finds that it is necessary to amend not fewer than six house of representatives districts to correct violations of those requirements, to amend not fewer than two senate districts to correct violations of those requirements, or both, the court shall declare the plan invalid and shall order the commission to adopt a new general assembly district plan in accordance with this article.

(c) If, in considering a plan adopted under division (C) of Section 8 of this article, the court determines that both of the following are true, the court shall order the commission to adopt a new general assembly district plan in accordance with this article:

(i) The plan significantly violates those requirements in a manner that materially affects the ability of the plan to contain districts whose voters favor political parties in an overall proportion that corresponds closely to the statewide political party preferences of the voters of Ohio, as described in division (B) of Section 6 of this article.

(ii) The statewide proportion of districts in the plan whose voters, based on statewide state and federal partisan general election results during the last ten years, favor each political party does not correspond closely to the statewide preferences of the voters of Ohio.

(1967, am. 2015)

Severability provision.

§10 The various provisions of this article are intended to be severable, and the invalidity of one or more of such provisions shall not affect the validity of the remaining provisions.

(1967, am. 2015)

REPEALED. Senate districts.

§11

(1967, rep. 2015)

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REPEALED. Change of district boundaries of senate districts.

§12

(1967, rep. 2015)

REPEALED. Jurisdiction of Supreme Court, effect of determination of unconstitutionality; apportionment.

§13

(1967, rep. 2015)

REPEALED. District boundaries until january 1, 1973.

§14

(1967, rep. 2015)

REPEALED. Severability provision.

§15

(1967, rep. 2015)

Article XII: Finance and Taxation

Poll taxes prohibited.

§1 No poll tax shall ever be levied in this state, or service required, which may be commuted in money or other thing of value.

(1851, am. 1912)

Limitation on tax rate; exemption.

§2 No property, taxed according to value, shall be so taxed in excess of one per cent of its true value in money for all state and local purposes, but laws may be passed authorizing additional taxes to be levied outside of such limitation, either when approved by at least a majority of the electors of the taxing district voting on such proposition, or when provided for by the charter of a municipal corporation. Land and improvements thereon shall be taxed by uniform rule according to value, except that laws may be passed to reduce taxes by providing for a reduction in value of the homestead of permanently and totally disabled residents, residents sixty-five years of age and older, and residents sixty years of age or older who are surviving spouses of deceased residents who were sixty-five years of age or older or permanently and totally disabled and receiving a reduction in the value of their homestead at the time of death, provided the surviving spouse continues to reside in a qualifying homestead, and providing for income and other qualifications to obtain such reduction. Without limiting the general power, subject to the provisions of Article I of this constitution, to determine the subjects and methods of taxation or exemptions therefrom, general laws may be passed to exempt burying grounds, public school houses, houses used exclusively for public worship, institutions used exclusively for charitable purposes, and public property used exclusively for any public purpose, but all such laws shall be subject to alteration or repeal; and the value of all property so exempted shall, from time to time, be ascertained and published as may be directed by law.

(1851, am. 1906, 1912, 1918, 1929, 1933, 1970, 1974, 1990)

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Article XI, Section 8(C)(2) Statement

Pursuant to Article XI, Section 8(C)(2) of the Ohio Constitution, the Ohio Redistricting Commission issues the following statement:

The Commission determined that the statewide preferences of the voters of Ohio predominately favor Republican candidates.

The Commission considered statewide state and federal partisan general election results during the last ten years. There were sixteen such contests. When considering the results of each of those elections, the Commission determined that Republican candidates won thirteen out of sixteen of those elections resulting in a statewide proportion of voters favoring statewide Republican candidates of 81% and a statewide proportion of voters favoring statewide Democratic candidates of 19%. When considering the number of votes cast in each of those elections for Republican and Democratic candidates, the statewide proportion of voters favoring statewide Republican candidates is 54% and the statewide proportion of voters favoring statewide Democratic candidates is 46%. Thus, the statewide proportion of voters favoring statewide Republican candidates is between 54% and 81% and the statewide proportion of voters favoring statewide Democratic candidates is between 19% and 46%. The Commission obtained publicly available geographic data for statewide partisan elections in 2016, 2018, and 2020. Publicly available geographic data for those elections was not available for elections in 2012 and 2014. Using this data, the Commission adopted the final general assembly district plan, which contains 85 districts (64.4%) favoring Republican candidates and 47 districts (35.6%) favoring Democratic candidates out of a total of 132 districts. Accordingly, the statewide proportion of districts whose voters favor each political party corresponds closely to the statewide preferences of the voters of Ohio.

Exhibit#
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The final general assembly district plan adopted by the Commission complies with all of the mandatory requirements of Article XI, Sections 2, 3, 4, 5, and 7 of the Ohio Constitution. The Commission's attempt to meet the aspirational standards of Article XI, Section 6 of the Ohio Constitution did not result in any violation of the mandatory requirements of Article XI, Sections 2, 3 ,4, 5, and 7 of the Ohio Constitution.

CERTIFICATE OF SERVICE

I, Freda J. Levenson, hereby certify that on October 22, 2021, I caused a true and correct copy of the following documents to be served by email upon the counsel listed below:

1. **Stipulation of Evidence (Deposition Transcripts and Exhibits)**
2. **Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 1 of 7 (pages 1 - 314)**
3. **Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 2 of 7 (pages 315 - 451)**
4. **Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 3 of 7 (pages 452 - 832)**
5. **Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 4 of 7 (pages 833 - 983)**
6. **Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 5 of 7 (pages 984 - 1250)**
7. **Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 6 of 7 (pages 1251 - 1559)**
8. **Stipulation of Evidence (Deposition Transcripts and Exhibits) Volume 7 of 7 (pages 1560- 1892)**

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