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

OHIO APRI V. RYAN SMITH DEPOSITION TRANSCRIPTS - APPENDIX OF EXHIBITS
Volume 1 of 4 (pages 1-163)

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OHIO APRI V. RYAN SMITH DEPOSITION TRANSCRIPTS - APPENDIX OF EXHIBITS

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1	Deposition of John Morgan (November 28, 2018) - Ohio A. Phillip Randolph Institute, et al., v. Ryan Smith, Case No. 1:18-cv-00357-TSB (SD Ohio)	DEPO_SDOH_0001 - DEPO_SDOH_0163

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO

----------x
OHIO A. PHILIP RANDOLPH INSTITUTE, et al.,
Plaintiffs,
v.
RYAN SMITH, Speaker of the Ohio House of Representatives, et al.,
Defendants.
----------x

No. 1:18-cv-00357-TSB

DEPOSITION OF JOHN MORGAN
Washington, DC
November 28, 2018

Reporter: Linda Kinkade
Job No. 149798

November 28, 2018

9:09 a.m.

The following is the transcript of the deposition of JOHN MORGAN held at the offices of Covington & Burling LLP, One CityCenter, 850 Tenth Street, NW, Washington, DC 20001.

Reported by: Linda S. Kinkade RDR CRR RMR RPR CSR

Registered Diplomate Reporter, Nationally Certified Realtime Reporter, Registered Merit Reporter, Registered Professional Reporter, Certified Shorthand Reporter, in and for the State of California, Notary Public, within and for the District of Columbia

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J. MORGAN

P R O C E E D I N G S

THE REPORTER: Good morning, counsel. If you would state your appearances for the record, please.

MR. FRAM: Sure. Rob Fram, Covington & Burling, for the plaintiffs.

MR. RECHTER: Peter Rechter, Covington & Burling, for the plaintiffs.

MS. MCKNIGHT: Good morning. Katherine McKnight, BakerHostetler, for John Morgan.

JOHN MORGAN,

having been first duly sworn, was thereafter examined and testified as follows:

MR. FRAM: I was about to start by saying the stipulations that we've had in the prior depositions will apply, and there are basically two of them, and that is that objections other than to form are preserved, and the other one may or may not be necessary today, but an objection made by one attorney here counts for the other attorneys as well.

Ms. McKnight is the only attorney here, and certainly -- I don't know what we do about that. We haven't had this -- I haven't been in a deposition before where they weren't here, but, as far as I'm

J. MORGAN

concerned, the stipulation is fine.

EXAMINATION

BY MR. FRAM:

Q. So, Mr. Morgan, have you been deposed before?

A. Yes.

Q. How many times?

A. I don't know off the top of my head. Six or seven times maybe.

Q. Thank you. That's a fair number. Well, that will help move things along here. I'll try not to bore you with some of the usual things lawyers say at the beginning of depositions, but just a couple of things.

The most important thing I think we tend to say is that I will do my best to try not to interrupt you, my best, and not fill in your sentences. And I'll ask you to do the same just so that the court reporter here can get a clean booklet of what we're saying here for later when people read this. Is that okay?

A. Okay.

Q. Of course, if you need to take a break, feel free. I'll ask you try not to do that when I've

J. MORGAN

asked you a question that you haven't answered yet, unless you need to talk to your lawyer about an attorney-client privilege question, and, of course, that's always fine. But, other than that, I'd ask you to please not take a break while the question is hanging out there. Do you understand that?

A. Okay.

Q. Any reason you can't give complete and truthful testimony today, any medications or anything?

A. No, nothing like that.

Q. Okay. I'd like to show you a document we premarked as Exhibit 1, which is the subpoena in this case that was served on you. Please take a look at it.

(Exhibit 1 marked for identification: Subpoena to Produce Documents, Information or Objects)

Q. After you take a look at it, I'll ask whether you recall seeing it before?

A. Yes.

Q. Do you recall when you saw it?

A. Sometime in the summertime.

Q. Okay. And did you go look for documents

J. MORGAN

in response to this subpoena, Exhibit 1?

A. I shared this with the attorneys that are representing me here, and then, after discussing it with them, I looked for documents, yes.

Q. Okay. And the documents you produced in this case, did you look on a computer to find some of them?

A. Yes.

Q. Okay. And was that a computer that -- a personal computer or work computer, do you recall?

A. It's primarily a work computer.

Q. Do you recall, other than the computer, do you recall looking for documents any other place?

A. I would have looked through some files as well, like physical files.

Q. Did you find some documents in the physical -- in the paper files?

A. No.

Q. Okay. So the only documents you produced in this case, they were from the computer; is that right?

A. That's right.

Q. And did you look in email accounts when you were looking on the computer?

A. Yes.
Q. Do you recall which email accounts?
A. All the email accounts that I have access to.
Q. Okay. Now would one of them be jmorgan@appliedresearchcoordinates.com?
A. Yes.
Q. Any others that you have access to that you can recall?
A. morgangop@comcast.net, jmorgan4@cox.net, and I also have redistrictingexpert@gmail.com, which I don't think was active at the time of this redistricting work that I did.
Q. Were the other three email accounts active back in 2011?
A. I believe so.
Q. You mentioned you've been deposed a few other times. Did any of those depositions involve redistricting?
A. Yes.
Q. I'm going to make a point here. When we talk about redistricting in this deposition, it will be a couple different ways. I'm going to ask you some questions about your general redistricting

background, but, when I ask you about Ohio, I'm going to be asking you about redistricting as it concerns congressional redistricting, not the state legislative redistricting. Do you understand that?

A. Okay.

Q. And if it's not clear, please let me know, and I will try and clarify just so you understand.

So you said some of these depositions concerned redistricting; is that right?

A. Yes.

Q. Do you recall what states they concerned?

A. Yes.

Q. Could you please let me know?

A. North Carolina, Virginia, New Mexico, Georgia. I think that's all.

Q. Okay. Did any of them concern challenges to maps drawn in 2011 as regards the congressional redistricting?

A. Yes.

Q. Do you recall which one?

A. Virginia.

Q. Any of the others?

A. Not that I recall.

Q. In preparing for today's deposition --

J. MORGAN

well, let me back up. Did you do anything to prepare for today's deposition?

A. Yes.

Q. And what did you do, please?

A. I met with Ms. McKnight yesterday.

Q. Anything else?

A. That's basically all I did for preparation.

Q. Did you review any documents?

A. I looked at an invoice yesterday.

Q. Anything else?

A. I think there was another document that Ms. McKnight shared with me.

Q. Did it help you remember something you hadn't remembered before you saw it?

A. Yes.

Q. Okay. Well, then I would ask you, what was that document, please?

A. It was about a meeting in July of 2011.

Q. In Ohio?

A. In Ohio.

Q. Around July 7 or 8?

A. I think so.

Q. 2011?

J. MORGAN

A. I think so.

Q. Okay. We'll look at some of that. Anything else?

A. That's it.

Q. Okay. At any time have you looked at the complaint in this case?

A. No, not really.

Q. You say "not really." I got to warn you. As a lawyer, when anyone says "not really," they always ask, well, in any way.

A. No.

Q. Okay. It's sort of a red flag for us.

A. I haven't -- I haven't seen a document with the complaint.

Q. Okay. I take it you heard about it; you just haven't read it.

A. Correct.

Q. I understand. We'll mark next a document. It's a version of your CV. We pulled it off the Internet. It was attached to a proposal of Applied Research Coordinates for the City of Placentia, but I'm not going to ask about the proposal. It just happens to be the document we have with your CV. So I just want to make that clear for the record.

J. MORGAN

We'll have this as Exhibit 2. I'm just going to ask you about your CV.

(Exhibit 2 marked for identification: Re Proposal for services 2017 (City of Placentia) with attached CV)

Q. Some of the questions I'll ask right now you'll need to look at the CV, some you won't, you'll probably just know off the top of your head, but if you need to look at it, feel free.

I guess, if you could please state your education since high school.

A. I graduated from the University of Chicago with a B.A. in history.

Q. And, yes, I see from your CV you did an Honors Thesis, didn't you.

A. Yes.

Q. And that was entitled, quote, "The Net Effects of Gerrymandering 1896 to 1932"; is that right?

A. Yes.

Q. And what was the -- was there any theme you recall about the net effects of gerrymandering in your Honors Thesis?

J. MORGAN

A. The time period under consideration was a defined political time period in U.S. history. So that's -- the 1896 to 1932 is a recognized time period. So I looked at the redistricting that occurred in 1900, 1910, 1920 and 1930, and I was looking at the balance of seats between the parties as a result of those elections.

Q. And did you find there was a net effect of gerrymandering in any one of those cycles?

A. I would say that, in general, first off, I need to say that the 1920 reapportionment cycle, there was no redistricting or apportionment of seats conducted after 1920. It would be unusual, and, as far as I know, it's the only time when the House of Representatives did not reapportion its seats.

So, in a sense, there wasn't a redistricting following the 1920 census in the way that we would understand seats -- the number of seats changing based on the population every ten years. In 1920 there was no adjustment made for that.

So, with that in mind, I looked at the redistricting cycles in that time period. And, I guess, the general conclusion was that any redistricting effects were fairly balanced -- or any

advantage from redistricting, any of the effects from the parties, were fairly balanced. With the Republicans in the North and the Midwest, if they had an advantage, it was canceled effectively by the Democratic strength in the South and the Southwest.

Q. Now when you say it was balanced, just so I understand, that the parties in their respective regions, they did seek an advantage, they just -- is that right?

A. That was my analysis in that paper, yes.

Q. And they, in fact, regionally did obtain one; is that right?

A. That's what I discussed in the paper.

Q. I see. Okay. I'm going to bring you forward from 1932 a little bit.

A. Sure.

Q. Let's see if we can get up to your employment after you graduated. Will you please describe that? What was your first job?

A. Sure. Well, after college, I went to work for my father's company, Applied Research Coordinates, and I worked with him in that company.

Q. And did any of that work concern redistricting?

A. Yes.
Q. What time period, please?
A. Right after college. I graduated in June of 1991, and the next day I began work in Michigan on redistricting.
Q. You say "began work." Were you drawing maps?
A. Yes.
Q. Do you recall back then what the -- did you use software back then to draw maps?
A. Yes. Sometimes yes; sometimes no.
Q. Do you recall what software you were using back then?
A. I don't recall the name of it then, no.
Q. Was it a GIS program or was GIS around back then?
A. It was primitive back then, but it was around, yes.
Q. And then after that work on the Michigan maps, what did you do next?
A. I had also worked in Indiana before I left college, so I worked in Indiana and Michigan. I worked in a handful of other states in 1991 and 1992.
Q. And were you also drawing maps in Indiana?

J. MORGAN

A. Yes.

Q. And then after that cycle, then, the 1991 cycle, what was your next job?

A. Well, I continued to work with my father's company in 1991, '92, '93, '94, and I assisted him also for the rest of the '90s.

Q. Now after '91, what were you doing -- I take it -- let me back up. So after '91 did any of your work concern redistricting during the '90s?

A. Yes. In 1992 I continued to work on redistricting.

Q. And where was that, please?

A. I did work in Pennsylvania, New York, New Jersey, Florida, Illinois, Wisconsin. I think that's most of the work that I personally did in the 1990s cycle.

Q. Now I'm asking about after '91. So were these state legislative maps or were they congressional maps?

A. So to clarify, I worked in '91 and '92 on redistricting for state legislative and congressional redistricting in various combinations in those states.

Q. I see. And then after '92, what were you

working on?

A. I would work with my father's company, Applied Research Coordinates, on campaigns, elections, things like that.

Q. What did you do on campaigns and elections in the '90s?

A. I would look at past election results and come up with vote models or just analyze demographics and election history for campaign work.

Q. When you say "vote models," could you please explain what you mean by that?

A. Sure. In the '90s I would help create what I would call margin goals or expectations for statewide or district-based elections.

Q. So you say expectations for, let's say, a congressional district election. Would that mean some sort of a prediction or expectation as to how that district might vote based on how the map was drawn?

A. I would say that it was campaign-specific. So if I had a congressional candidate as a client, I would try to anticipate what votes were necessary to win the upcoming election.

And so in my discussion of terms, I would call

that margin goals so that the candidate would have some idea of what it would take to win.

Q. And what would you base that on, what sorts of information or data?

A. I would use past elections. I would use demographic data. I would use candidate-specific information, such as background profiles, you know, bios of candidates. Polling information would also go into that.

Q. Now you say "past elections." Did you ever come to view what collection of past elections were most reliable for some of these expectations, as you called them?

A. Actually I would have most of the time available multiple elections for a series of years beforehand, and typically I would put the election data on a series of maps that I would then show to the campaigns, and these maps would be specific to whatever district was being analyzed.

Q. And did you have any -- did you have a view as to whether or not you should have more than one election, more than two, any certain number of elections you should have?

A. I would produce a lot of election

material, and what was most useful varied depending on the nature of the election that was being conducted.

Q. Just so I understand, if you can give me an example of a campaign where you did this.

A. In that time period?

Q. Sure.

A. I would have -- let me think of a specific campaign. In the New Jersey legislative elections, I would have worked -- I did work -- for the State Assembly and the State Senate Republican caucuses in the 1991 and 1993 election cycles.

Q. Did you do any of this work for any congressional campaigns?

A. Yes.

Q. Could you name one for me, please.

A. I believe I did work -- I did work for Wisconsin congressional district 1 in a special election, and then a general election, I believe, in 1994. There were other congressional elections in that cycle.

I did work for a New Jersey congressional candidate in 1994 in district 8. I did work for New Jersey congressional candidates in 1992 in

district 6 and district 2. There are others as well.

(Counsel, Ms. Riggins, joined the deposition.)

Q. In the congressional district races, do you recall the kinds of election data that you would look at in terms of setting expectations? How many elections?

A. It really varies by state. In the case of New Jersey, I would have -- I did look at gubernatorial elections, presidential elections, and U.S. Senate elections. Those are the only statewide elections in New Jersey, but in other states there were more elections available.

So in Wisconsin I looked at elections for governor, treasurer, attorney general, secretary of state, president, Senate. Because there are more elections available in Wisconsin. Each state has a different slate of elections available.

Q. I notice you're including statewide elections with the elections you identified. Do I have that right?

A. Yes. I looked at statewide elections. I also looked at congressional election results too.

Q. Okay. Did you tend to stay away from judicial elections?

J. MORGAN

A. In those cases, yes.

Q. Congressional -- have you ever used judicial elections looking at a congressional --

A. Yes.

Q. Okay. Which one, do you recall?

A. I looked at them in New Mexico, definitely in New Mexico. There are other times when I've used them. It just depends on the state and the elections that are available.

Q. Looking at those elections that you were looking at, did you ever create averages or indices?

A. I have done that. I don't tend to use them in this context.

Q. Do you use them in any context?

A. If a client requests them, yes.

Q. In what context, can you recall? If you ever have used them, in what context, can you recall?

A. In New Mexico there was an election average that was used by the legislature. And in the redistricting litigation around New Mexico's legislative elections, that average was used throughout.

Q. Have you ever used averages in any other work you've done?

J. MORGAN

A. Yes, again, if the client requests it, yes.

Q. Can you recall where?

A. It would be state by state.

Q. Do you recall any states where you did?

A. Again, New Mexico, possibly Pennsylvania, possibly Ohio.

Q. Okay. Thank you for answering that way because I was going to clarify.

When asking about these averages, I was asking about beyond just the '90s, if that helps, but I think your answer is -- I take it the work in Pennsylvania and Ohio, that was after the '90s; is that right?

A. Yes.

Q. For election averages, have you ever heard something abbreviated EA? Have you ever seen that software?

A. I have seen election averages abbreviated as EA, yes.

Q. So we were talking about your work in the '90s. At some point did you leave Applied Research Coordinates?

A. Yes.

J. MORGAN

Q. And where did you go to, what job?

A. I worked for an organization called GOPAC starting in 1995.

Q. And what did you do there?

A. I was the national field director, and so I would -- I did a lot of things. I worked on candidate training classes. I would analyze elections and help the political team determine where to spend resources on legislative and congressional elections.

Q. How long did you have that job?

A. I was full-time employed at GOPAC for about two years in 1997, and I continued as a consultant after that for a time period.

Q. Until about '99?

A. Yes.

Q. Okay. And then after '99 what did you do?

A. I went back to work with my father's company, Applied Research Coordinates.

Q. And how long were you there?

A. I worked there until I took another position with GOPAC in 2004.

Q. So roughly '99 to 2004?

A. That's right.

J. MORGAN

Q. Okay. And what were you doing, on your return to Applied Research, what were you doing?

A. I did campaign work, as we discussed a little bit, and I also did redistricting work in 2001 and 2002.

Q. And do you recall what states you did redistricting work in the 2001 cycle?

A. Yes.

Q. Which were they, please?

A. Rhode Island, New Jersey, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, Indiana, Wisconsin. There may have been one or two others.

Q. Did any of these concern congressional -- were these all congressional redistricting?

A. They were a mix of legislative and congressional.

Q. Which ones were congressional, please?

A. Virginia, I think Pennsylvania and New Jersey. I don't know. I don't know some of the others.

Q. And did you actually draw maps?

A. Yes.

Q. And did you use software in the 2001 cycle

to draw maps?

A. Yes.

Q. What was the software that was in use at that time?

A. It varied by state, depending on what was available. The two software that I recall are Maptitude and ArcGIS, or sometimes their product is called AutoBound, but some states have their own proprietary software as well.

Q. What was the first state you employed Maptitude in?

A. I think it was used in Georgia, possibly Wisconsin, New Jersey, Virginia, North Carolina.

Q. So I think you said that Virginia was a congressional redistricting; is that right?

A. Yes.

Q. And so did you use Maptitude to draw maps in Virginia's congressional redistricting in 2001?

A. Yes.

Q. And also New Jersey's congressional redistricting in 2001, did you use Maptitude?

A. I believe so. I don't know that I was as involved in that as my father was.

Q. Okay. And what about Pennsylvania? Do

you recall what you did there, which software?

A. I don't. That may have been more legislative. There I worked primarily for the state Senate caucus.

Q. When you used Maptitude to draw lines back then, did you go through any training to learn how to use it?

A. Yes.

Q. What was the training?

A. I think there was a training session sponsored by Maptitude in conjunction with the Republican National Committee, and I also did Maptitude training at the NCSL, the National Council of State Legislators. There may have been more training than that, but those are two that I recall.

Q. Do you recall who led the training at the RNC?

A. At the RNC training, it would have been Dave Flaherty and Tom Hofeller. I think those two were the ones that did that training. At NCSL, I don't recall.

Q. Okay. Do you recall anything about, like, how long the training took place? Was it a couple of days?

A. My portion was probably half a day.
Q. And was it here in Washington?
A. It was in the Washington area.
Q. Okay. Did anybody from the Caliper Company come to help in the training?
A. Yes.
Q. And just for the record, Caliper, you understand, is the company that produced Maptitude?
A. Yes.
Q. Have you stayed current with different versions of Maptitude as it's developed over the years, different versions?
A. I've stayed fairly current, yes.
Q. And you used it again in the 2011 cycle; is that right?
A. Yes.
Q. And are you familiar with it today?
A. Yes.
Q. Did you have to go through any new training on Maptitude as it's gone through different versions?
A. Yes. I did a training session in 2011 or 2010. I don't remember which year it was.
Q. And do you recall anything about any new

features of Maptitude in 2010 or 2011 that were subject to the training?

A. No, I don't really. It just blurs together.

Q. Do you recall any new features in Maptitude that have evolved since the first time you used it?

A. Yes. There was a new feature that allowed Maptitude users to bring in a Google Earth view underneath the maps. I think there was more functionality with the data side of the GIS work engine.

Q. When you say the data side of the GIS engine, can you explain to me a little more what that involves?

A. Sure. The GIS software primarily takes the geospatial information and marries it with what you would consider to be something closer to spreadsheet data or database programs, and I think there was more functionality with the database side in 2011 than there would have been in 2001.

Q. Do you remember something called the DataView 1 table or window?

A. Yes.

J. MORGAN

Q. The Info Tool?

A. Yes.

Q. Do you remember you could click on the Info Tool and then scroll over a portion of a map and then click on it, and the DataView 1 table would show up or a window would pop up?

A. I'm not exactly sure that it works that way.

Q. What's your understanding of how the Info Tool works or worked in 2011, to be specific?

A. I just don't know if it calls up the DataView 1 table when you do the procedure you were describing.

Q. But you saw the DataView -- you were able to call up the DataView -- are you comfortable with calling it the DataView 1 window or DataView 1 table?

A. I'm not sure what you're referring to exactly when you say that. When I think of DataView 1, I'm thinking of the District Summary view, which is different than what you might be describing. I think our terms are crossed here.

Q. Okay. In the DataView 1 table, could you see different election results?

A. I'm not sure I understand what the

DataView 1 table is.

Q. Okay. Is there a way of using the Info Tool to see election results?

A. Yes.

Q. Okay. And you could see that on, say, the right side -- you could see a map in the middle of the screen and then you could see -- the window could appear on the right side?

A. The placement of windows is entirely configurable.

Q. Fair enough. But you could see it on the same screen?

A. Yes.

Q. Okay. What about exporting the election results to an Excel sheet? Would Maptitude have that capability?

A. Yes.

Q. Okay. Did it have that ability in 2011?

A. Yes, that ability was there to export different geographical tables in an Excel spreadsheet.

Q. Okay. Has the ability to export -- let me back up.

Has the ability to view election results in a

J. MORGAN

window or table changed in Maptitude since 2011?

A. I don't know.

I'm going to get a little water.

Q. Oh, sure, sure.

MR. FRAM: For the record, do you want to say hi?

(Alyssa M. Riggins, Esq. now present)

BY MR. FRAM:

Q. We were talking about 2001 a little bit. I think you actually said -- I want to make sure I got it right. You actually did draw maps in 2001?

A. Yes.

Q. And for congressional districts?

A. Yes.

Q. Okay. And when you did it, did you have election result data available?

A. Yes, election data current through 2000 -- yeah, 2000, and very rarely would have been 2001, probably just through 2000.

Q. And using Maptitude were you able to tell -- have the election results data at the census block level?

A. Yes.

Q. And then, do I have it right, that the way

you draw a map in Maptitude is you draw a line around a group of census blocks; is that right?

A. There are many different ways to draw maps. One way is as you're describing.

Q. What are the other ways?

A. Primarily you would do a point-and-click like you're describing. You can lasso where you draw an outline around census blocks. You can also use other levels of geography to point and click.

You can also select by other attributes. You could select by, say, a search of a code. Like you could select something based on its geography code. So I could select a single county, not by clicking on it, but by putting in its county ID. So there's just multiple ways to select things. But point-and-click and also lassoing and things like that.

Q. When you say "point-and-click," just so that we're on the same page here, and "lassoing," does lassoing involve circling a certain, let's say, number of census blocks, as an example?

A. As an example, you could circle census blocks. The sensitivity depends on what you actually encompass, whether the program is set to select only things enclosed within the polygon or whether things

that touch the polygon. There's many different ways to do this.

Q. Okay. And what's point-and-click, your phrase?

A. If you were to have the settings in Maptitude configured in such a way that you would click on a geographic unit, it would select it for inclusion in a proposed district.

Q. Okay. And do you recall, did you prefer one method or the other when you were drawing maps, congressional district maps, in 2001?

A. I don't have a preference per se on that. I would work with the clients to configure what they want to use.

Q. But either way you would, once you either lassoed or point and click, you would have available the prior election results; is that right?

A. Generally speaking, for whatever you selected, you could get election results on that selected portion. So if one were to select a town, you would potentially have election results for that town, or for the new proposed district, which would include that town, depending on the settings.

Q. Now to get the election results data --

well, I'll ask you. How did you get the election results data? What was the source of it?

A. Generally speaking, the source of the election results data would be the secretaries of states from the various states, the election authorities, division of elections or secretary of states in South Carolina or Wisconsin or Indiana, depending.

Q. Did the secretary of states have election data broken down to the census block level?

A. In my experience most secretaries of states do not but some election authorities do.

Q. Okay. If they didn't, was there another source you would need to use or did use?

A. Well, ultimately, when you talk about the source, the source is ultimately going to be the secretary of state or election division. The election results are reported at different levels. Generally, they would be reported at the precinct level, possibly a town or county level, and so that's the source material.

Q. Right. That's the ultimate source material --

A. Yes.

Q. -- but it might be -- if the secretary of state, let's say, for example, provided the election results at the precinct level, not a census block level, have you ever run into a state where that was the case?

A. Yes.

Q. For Maptitude, you might want to have the election results at the census block level. Have you ever run into that where you only had precinct data from the secretary of state but you needed to get census block election results from Maptitude?

A. Yes.

Q. Do you remember an example of where that happened?

A. That would be fairly standard, yes.

Q. Okay. And so to get from that secretary of state precinct-level information to the census-block level to use in Maptitude, how was that translation effected?

MS. MCKNIGHT: Objection.

Q. How did you -- fair enough.

How did you get from secretary of state precinct-level data to census-block-level data?

A. In general, the precinct-level data would

be allocated by the underlying census blocks to the extent that the census-block boundaries were congruent with the precinct boundaries.

Q. Did somebody have to figure that out?

A. Well, not always, because the census geography sometimes aligns with the precinct geography, so, in a sense, that information is available.

Q. Okay. Is it already just geocoded in by the secretary of state or someone needs to do that work?

A. It depends on the state. Again, the -- there is a lot of additional data work that can be done to make this process more efficient.

Q. And sometimes precincts split census blocks; is that right?

A. Yes.

Q. And then someone has to figure out what to do about that; is that right?

A. In those cases, yes, if it's a requirement for redistricting.

Q. Did you do that work yourself or did you work with some other person or expert to help on that?

J. MORGAN

MS. MCKNIGHT: Objection.

A. In general, I do some work by myself. I work with others. I use the data that's provided for me.

Q. Who are the others you might have worked with or you did work with in the past on congressional redistricting with this sort of data?

A. I've worked with Clark Benson. I've worked with Dave Flaherty, John Diaz. I've also worked with Jennifer Flaherty. There have been other people that have provided data like this, but those are the people I remember working with.

Q. Do you recall the elections in which you worked with Clark Benson?

A. I worked with Clark Benson on many elections.

Q. Okay. Do you recall any congressional districting projects where you worked with Clark Benson?

A. Yes.

Q. Which ones, please?

A. I've worked with him as far as election data -- he provides datasets for dozens of states that I've worked in. I've gotten data from him for

Connecticut, New York, Pennsylvania, New Jersey, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Ohio, Michigan, Indiana, Wisconsin, Missouri, Iowa, Louisiana, New Mexico, California, Nevada.

These are instances where I've gotten election data in the way that you're describing from Clark. There may be others.

Q. Did you get any -- you mentioned Ohio, and you also mentioned some other experts you worked with in terms of election data. Anybody else besides Mr. Benson that you worked with for Ohio?

A. Primarily for Ohio, for this type of election work, I worked with Mr. Benson, and I believe that there was an Ohio university that was involved in some of this data collection.

Q. Does the name Mark Salem ring a bell?

A. No.

Q. Does Cleveland State University ring a bell?

A. That sounds right.

Q. Okay. You said you were back with Applied Research Coordinates, I think you said until 2004, and then you went back to GOPAC; is that right?

J. MORGAN

A. Yes. I started work as GOPAC executive director in July of 2004.

Q. And what did you do then?

A. I was the leader of the organization. I was the executive director from 2004 through 2007 working with the chairman, J.C. Watts, who was a former member of Congress.

Q. What were your responsibilities?

A. I was responsible for all aspects of the organization.

Q. Did any of it have to do with redistricting?

A. During that time period, to the extent that redistricting was discussed, I might have said something about it.

Q. Do you recall anything?

A. Not specifically.

Q. Now, I'm sorry, you were there until about 2007?

A. That's right. I left my position officially in March of 2007. I continued on as a consultant for a few more months.

Q. And then what did you do after that?

A. I took over ownership of Applied Research

J. MORGAN

Coordinates. I acquired that from my father.

Q. And that's your present job to this day?

A. Yes.

Q. Now Applied Research Coordinates, that's over in Fairfax, Virginia; is that right?

A. At this time it was. I currently am in Springfield.

Q. I'm sorry. We should get our time right. In 2011 was it in Virginia?

A. Yes.

Q. In Fairfax?

A. Yes.

Q. Okay. And how many people work at Applied Research Coordinates in 2011?

A. Typically it would be one or two.

Q. I see in your résumé one of the clients you listed was Republican State Leadership Committee. Was that the case in 2011?

A. I'm sorry. Where are you directing --

Q. On your résumé, which we have here as Exhibit 2, I think you've got here under, let's see, the second bullet under Employment, on page 1 of your CV, Republican State Leadership Committee.

A. I see that.

J. MORGAN

Q. Was that a client in 2011?
A. No.
Q. Okay. When did you work with the Republican State Leadership Committee?
A. In 2014.
Q. Okay. Did you ever work with a person called Chris Jankowski?
A. I have worked with him, yes.
Q. Did you do any work with him in 2010?
A. No.
Q. 2011?
A. No.
Q. Okay. 2009?
A. No.
Q. Did you work with anybody -- did you ever work with someone called Ed Gillespie?
A. No.
Q. We can get into specifics in just a little bit, but I think you mentioned Ohio. So you worked on Ohio redistricting in 2011, correct?
A. Yes.
Q. And at that time you worked with Maptitude?
A. Yes.

J. MORGAN

Q. And the work you did with Maptitude involved having access to election results data, is that right, in 2011 in Ohio?

A. Yes.

Q. And you had that information at the census-block level?

A. Yes.

Q. Do you recall the elections as to which you had election results data when you did your work in Ohio in 2011?

A. I had election results from 2002, 2004, 2006, 2008 and 2010, as I recall.

Q. Statewide?

A. I believe so.

Q. Nonjudicial?

A. I believe so.

Q. Do you recall using any averages of those elections?

MS. MCKNIGHT: Objection.

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

Q. How would you use these election results? If you didn't average them, you just had a whole array of elections, how would you use that information?

J. MORGAN

MS. MCKNIGHT: Objection.

Q. Would you reduce it -- if you didn't reduce it down to a single number of an average?

MS. MCKNIGHT: Objection.

A. The election data can be used in many different ways. I could look at any specific election that's in the entire dataset of elections that are available. For example, there's a governor's race in 2010, so that would be one election you could look at.

Q. Now before, you said, you worked on a congressional campaign, you sometimes would try to figure out, I think you used the word, what the expectations would be for a district based upon past election results. Did you ever do that doing redistricting, to figure out what an expectation would be for how a district would vote?

MS. MCKNIGHT: Objection.

A. I'm not sure what you're asking.

Q. You have all sorts -- let me back up. In Ohio, in 2010-2011 cycle, did you do any map drawing?

MS. MCKNIGHT: Objection.

A. I did some map drawing in 2011 on the two times that I came out to visit.

J. MORGAN

Q. Okay. And when you drew, did the map drawing, were you able -- did you have access to election data when you drew the maps?

A. Yes.

Q. Okay. And using that election data, would you have some expectation as to how a particular congressional district would vote?

MS. MCKNIGHT: Objection.

A. I don't recall doing that.

Q. How would you -- how would you use, if you used it at all, the election data?

A. It depends on what the clients want to see. In my case, you know, I would have all the election data available.

Q. And in Ohio in 2011, do you recall what the clients wanted to see?

A. No.

Q. Do you recall any way you used the election data in 2011?

A. I mean, there was a lot of election data available. I looked at the election data on the screen, and I, you know, worked with what was available.

Q. And did you present that -- in 2011 in

Ohio, who was the client, please?

A. I worked with Mark Braden. He brought me in for the legislative reapportionment panel on the congressional redistricting efforts.

Q. Was he the client, as far as you understood?

A. Yes.

Q. Okay. And did you present election data to anybody other than -- well, let me back up.

Did you present election data to Mark Braden in 2011?

A. I didn't present election data in the manner you're describing.

Q. Did you present it to anyone? Well, you had the data. Did you show it to anybody?

A. I don't understand.

Q. Well, you said you had a broad array of election data. My question is: What did you do with it?

A. It was all available on the Maptitude system, and it was available at multiple levels, at the precinct, the town, the county level. All that data was available, and I used that data to set up the map drawers so they could draw maps.

Q. I see. Do you recall who you helped set up on Maptitude so that they could draw maps?

A. Yes.

Q. Who was that, please?

A. I worked with Ray DiRossi and Heather Mann.

Q. What about Adam Kincaid?

A. No.

Q. Did you ever work with Adam Kincaid?

A. I know who he is, and I've talked to him. I can't say I've worked directly for him or with him.

Q. Did you show Ray DiRossi and Heather Mann how to access election data in Maptitude?

A. Yes.

Q. Did you show them how to do it at the census-block level?

A. I don't recall.

Q. What do you recall, if anything, about how you showed them how to access election data?

A. I showed them how to use the tools in Maptitude to display the election data they wanted to see.

Q. Were one of those tools the info tool?

A. That would have been one of the tools,

yes.

Q. Do you recall any of the other tools?

A. I would say that one of the tools I would use would be the labeling tool so that you could display, say, the county name and then some political or demographic data, such as the population or some election result, on the label for a geography.

Q. Any other tools you recall?

A. I used the district summary tool, if you will, and the -- it's called, I think, the pending changes window, so it allows you to look at a proposed district based on a selection that has not been added yet. So I used that tool as well.

Q. Did any of these tools involve the export of data to Excel, election data, to Excel?

A. I don't recall.

Q. Do you recall ever seeing the output of their work using -- Heather Mann or Ray DiRossi's work -- using Maptitude?

A. No.

Q. Turning to the Ohio 2011 cycle, do you recall who reached out to you to work on that?

A. Mark Braden.

Q. You say you were providing training -- let

me back up. Is it fair to say that you were providing training to Heather Mann and Ray DiRossi on Maptitude in 2011?

A. Yes.

Q. And was that done in person in Ohio?

A. Yes.

Q. Was that done at that July 7 and 8 meeting that you referenced in the beginning of the deposition?

A. Yes. I worked with them on the legislative and, to some extent, on the congressional redistricting.

Q. And that took place -- that was in the afternoon of the 7th and the morning of the 8th, is that right, in July 2011?

A. I'm not sure.

Q. Do you recall how long the training was?

A. No.

Q. Okay. Do you recall going back there for more training, to give them more training after that early July meeting?

A. Yes, I went back, I think, later in July.

Q. Around the 25th?

A. That sounds about right.

Q. Okay. And what do you recall about that training?

A. I helped them get their map computers up and running and displayed the way they wanted them to display the information.

Q. Do you recall initially -- let me back up.

When you left Ohio July 8th, did you expect to come back later in July for further training?

A. I thought that was possible, yes.

Q. Okay. And was this second meeting, was that back at the DoubleTree Hotel in Columbus?

A. I don't know where it was.

Q. Was it in a hotel room?

A. Yes.

Q. A hotel room where they had taken the normal beds and hotel furniture out and they just had a work desk and computers; is that right?

A. Yes, that sounds right.

Q. About three computer screens?

A. That sounds about right.

Q. Anybody else there besides Ms. Mann and Mr. DiRossi?

A. On one of the meetings I know Mark Braden was there. I don't remember who else was there in

the hotel suite.

Q. Okay. Now after that visit to Ohio, did you go back again?

A. No.

Q. Do you recall any questions they asked you at the second meeting, this late July meeting?

A. No.

Q. Was that the last time you communicated with Mr. DiRossi or Ms. Mann about the Ohio redistricting in 2011?

A. I don't think so.

Q. You think you might have communicated with them after that?

A. I think so.

Q. Did you make any further trips back to Ohio?

A. No.

Q. So these communications were on the phone or --

A. Yes.

Q. So you had phone calls with them? Do you recall about how many times you talked on the phone?

A. I only recall one time I spoke with them.

Q. Okay. When was that?

J. MORGAN

A. I don't remember when it was. It was -- I don't know when it was exactly.

Q. Do you recall what it was about?

A. I don't recall what it was about.

Q. Did you email back and forth?

A. Not that I recall.

Q. Okay. Did you have any shared sites, FTP sites or any other sites, where you could share information?

A. Not that I recall, no.

Q. Did you ever send each other any hard copy of anything regarding redistricting in 2011?

A. No.

Q. Other than your meeting on July 7 and 8 in Ohio, did you attend any other meetings in Ohio about redistricting?

A. I think that was the first one.

Q. Did you ever see any presentation by anybody from Cleveland State University about redistricting in Ohio in 2011?

A. No.

Q. Do you recall any reason given as to why you were being asked to help out in Ohio in 2011?

A. Mr. Braden said he was working for the

Ohio Redistricting Commission and that he wanted me to be available to help out, and I said I thought I could arrange it. And I had worked with him in other states.

Q. Do you recall about when that conversation took place?

A. Sometime in the summertime.

Q. Would it have been June?

A. I don't know.

MR. FRAM: We've been going a while. We can take a break.

(Proceedings recessed at 10:15 a.m.)

(Session at 10:26 a.m.)

BY MR. FRAM:

Q. Before the break, we were talking about different tools in Maptitude and you mentioned the label tool. Do you remember that?

A. Yes.

Q. The label tool in Maptitude, it's a little -- there's an icon on the right-hand, excuse me, on the left-hand side of the screen, is that right, to click on the label tool?

A. I don't know. The placement of things varies on how the screens are set up.

J. MORGAN

Q. Okay. But there's an icon on the screen you can click on the label tool?

A. Yes.

Q. When you click on the label tool, then if you hover the cursor over a congressional district and you click on it, what do you see then?

A. I don't know. That's not how I use the label tool.

Q. How do you use it?

A. I use the label tool to put the name of the locality that I'm interested in, say a township or a county, and then some information about it.

Q. Okay. If you wanted to generate -- have you ever generated a map where right on top of the congressional district was a little box with certain information about the district?

A. Yes.

Q. And that information could be election data information?

A. Yes.

Q. Do you recall training Ms. Mann or Mr. DiRossi how to do that in 2011?

A. Yes.

Q. And do you recall what tool you would use

to do that?

A. I would describe it as a label tool.

Q. Okay. So you could use the label tool. And could you customize what election information you wanted to see on top of that congressional district?

A. Yes.

Q. And you could include an election average, if that was your intent; is that right?

A. You can include any piece of data that's in the software, yes.

Q. Do you recall any way in which the election -- excuse me -- any way in which the label tool was customized in your work in Ohio in 2011?

A. No.

Q. Do you recall any information they wanted to see and be on top of a district?

A. Not specifically, no.

Q. Do you recall whether they wanted to see election data of any kind?

A. Yes, they wanted to see election data.

Q. Do you recall whether they wanted to see any average, election average, of any kind, not saying which one?

A. I think so.

Q. But I take it, as you sit here now, you don't recall which election average, if they wanted one, that they wanted to see?

A. No, I don't know.

Q. As you trained them, did you ever watch them actually do that, use the label tool to show a little box of information on top of a district?

A. I showed them how to display labels in that manner, yes.

Q. And including election data?

A. Yes.

Q. Do you recall whether or not you trained them in how to use the DataView 1 table?

A. Again, I'm not sure I understand what you mean by the DataView 1 table.

Q. We can take a look at a document on that.

Did you ever look at -- did you show them how to use the info tool?

A. I use the info tool. To the extent that that was part of the training, then yes.

MR. FRAM: Why don't we mark as Exhibit 3, it's a document, Bates number LWVOH_00008706 through 87 -- excuse me -- 07 on the other side of the page.

(Exhibit 3 marked for

identification: Redistricting
Meetings Agenda
LWVOH_00008706 - LWVOH_00008707)
Q. I'll say that again. 00008706 through 07. It's entitled Redistricting Meetings Agenda, Thursday, July 7, 2011 at the top of the page, and then down in the middle of the page it says Friday, July 8, 2011.
My question to you, Mr. Morgan: Is this the document that you looked at the other day in preparing for your deposition?
A. No.
Q. Okay. Have you seen this document before?
A. No.
Q. Okay. Does this -- however, you do, I take it, you do recall attending meetings on July 7 and July 8, 2011 in Ohio?
A. I do remember attending meetings around in that time period, yes.
Q. And we'll start with July 7. Do you recall starting out the day meeting with the auditor's office?
A. I recall a meeting. I don't know if it was at the auditor's office.

Q. Okay. Do you recall meeting with the governor's staff on the morning of July 7?

A. I recall one meeting that seemed to have a lot of attendees.

Q. Do you recall Governor Kasich at any of these meetings?

A. I don't think so.

Q. Mark Braden was at these meetings?

A. Yes. I was with Mark Braden during that first trip to Ohio.

Q. You flew out together?

A. I believe so. I really don't know. I don't know.

Q. Do you recall any of the House or Senate staff, Ohio House or Senate staff, that you met with?

A. Yes, I was introduced to Heather Mann and Ray DiRossi at that time, and there was one other person, I think, that was with the speaker's staff.

Q. Troy Judy?

A. I met him when I was out there, yes.

Q. Turn to the second page. You see there's a whole list of staff and titles. Do you see that?

A. Okay.

Q. Take a look and see if it refreshes your

recollection as to any of the people that you met with while you were out there.

A. I remember meeting Mike Lenzo and Troy Judy, and I think I met Beth Hanson.

Q. Okay. Do you recall if you met Beth Hanson at the governor's office?

A. I don't recall.

Q. Okay. I think you already said you met Ray DiRossi; is that right?

A. Yes.

Q. And is that the first time you met Ray DiRossi?

A. Yes.

Q. And Heather Mann, did you meet her?

A. Yes.

Q. Is that the first time you met her?

A. Yes.

Q. I'm just going to stay with the morning before we get to the redistricting training. The meetings you had -- let me break this up.

Do you remember there being meetings and then separately there was a training set of meetings?

A. I don't know if it was the same day or over two days. That's what I'm really not clear on.

J. MORGAN

Q. Okay.

A. I remember that there was one meeting with a very large group, and there was another meeting with a smaller group.

Q. Okay. And let's break them apart. Who was in the larger group?

A. It would have been the people that were representing the statewide elected officials on the reapportionment board.

Q. Reapportionment, that being the state legislative?

A. Yes.

Q. I'm not going to ask you about that.

A. Okay.

Q. But just focusing on the congressional redistricting, was there -- other than the training meetings, was there any meeting that concerned the congressional redistricting?

A. I really don't distinguish between the two. I was hired for work for both the legislative and the congressional, so I don't know that the meetings had different purposes.

Q. Okay. Do you recall anything of what was discussed at the -- what I'll call the non-training

J. MORGAN

meeting?

MS. MCKNIGHT: Objection.

A. No, not really.

Q. Or what the purpose of that meeting was?

A. From my point of view, the purpose was to make introductions. I really didn't know any of the people that were involved in this process aside from Mr. Braden.

Q. Do you recall anything that was said at that meeting?

A. No.

Q. Okay. Why don't we turn to the training meeting or meetings. Like you say, you're not sure if it was one or two days. What do you recall about that?

A. I recall working with Mr. Braden and Ray and Heather and I think Troy Judy and Mike. Those are the ones that I remember talking to in that training-style session.

Q. What do you recall about the content of the training?

A. I think -- I really don't remember. It wasn't a formal training session like a classroom style. So it wasn't like I was at a lectern talking.

So it was really more of a -- looking at Maptitude software.

Q. And did you have Maptitude up on the screen that they could see?

A. Yes.

Q. Did you show them how to use different tools?

A. That's what I -- that's what I recall.

Q. And one of those was the label tool?

A. Yes, I think I worked with the label tool there.

Q. What about the info tool?

A. I don't recall that.

Q. What about exporting data to Excel, did you go over that in training?

A. I don't believe I did.

Q. Did you do that at any point with them?

A. I don't recall specifically.

Q. Do you recall any discussion of which election data to include in Maptitude?

A. At that training session?

Q. At that training session.

A. No.

Q. Do you recall at any time?

A. Yes, I recall looking at the statewide elections, and I suggested that close statewide elections would be useful to look at in a general sense.

Q. With whom did you have that conversation, please?

A. With Ray and Heather.

Q. Do you recall if that would have been -- that would have been after the July 7 and 8 meetings; is that right?

A. Yes.

Q. Would that have been before you returned around July 25th to Ohio, or was it when you returned?

A. It was when I returned.

Q. Okay. Do you recall why you suggested looking at the state close elections?

A. I remember that the 2006 election results were not favorable to the Republicans, and so in the sense that you might treat that election as an outlier, if you're looking for close elections.

Q. What about 2008 presidential? Do you recall any conversation about that?

A. No.

Q. Now there you said -- Obama won the state in 2008; is that right?

A. Yes.

Q. Do you recall whether or not it would be a good idea to rely on the McCain percentage or not?

A. I don't recall that conversation.

Q. What about the Senate elections? Do you recall a conversation whether or not to rely on the Senate elections in Ohio?

A. I'm aware of the Senate elections generally. I don't recall specifically discussing that.

Q. In some of those Senate elections the Republicans did well; is that right?

A. Yes.

Q. Did you have any discussion whether to not include those elections because the Republicans did too well?

A. No.

Q. Do you recall discussing excluding any elections because the Republicans did too well?

A. No.

Q. Why did you want to look at close elections?

J. MORGAN

A. In general terms, I would say that close elections are useful if you're looking at statewide election -- it just models close elections to look at previous close elections.

Q. Why would you want to model close elections?

A. It's just one of the elections to look at. I think that, in a general sense, the close elections are useful in showing, you know, what can happen when, you know, when a future election is not certain or going strongly one way or the other, and in most cases a future election is unknown.

Q. So see if I understand you correctly. If a Republican would prevail using election results data from a close election, was that, in your view, more accurate prediction that they would prevail in a district in a future election?

A. Not necessarily. I just would say that, in a general sense, I think that the close elections are useful than elections that skew one way or the other at the extremes.

Q. Useful to what purpose, to what end?

A. To just understanding how a state performs.

J. MORGAN

Q. Okay. But useful in understanding how they perform as to who might win the election?

A. Yes. And also a lot of times, when you use statewide elections of any kind, from my point of view, looking at candidate geography is also important, where a candidate is from.

Q. I'm sorry. What did you mean by that, please?

A. When you're looking at a general election in a statewide contest, which is usually what would be used in a statewide redistricting setting, it's important, in my opinion, to look at where candidates are from, because, typically, they would overperform in their home areas versus other areas of the state. That's just a general observation.

Q. But you did look at statewide election data, correct?

A. Yes.

Q. And that statewide election data does not include congressional district level where the candidate is from, correct?

A. I don't understand the question.

Q. Well, you said you would look -- I'm trying to understand how you would include the

information about where the candidate is from. If you're starting with statewide election data, then how did you also include the information about where the candidate is from?

A. It's not included in the data per se.

Q. Okay. Can you -- does Maptitude help you capture that in some way?

A. In a general sense, it's possible to identify a previous electoral district for a candidate or to show an address where that candidate resides.

Q. But as you say -- you said it's possible. Do you recall doing that, training people how to do that in Ohio in 2011?

A. No.

Q. Okay. Do you recall any questions that were asked of you in the training sessions -- session or sessions -- on July 7 and 8 in Ohio in 2011?

A. No, I don't recall specific questions.

Q. Did Ms. Mann or Mr. DiRossi have the opportunity to actually go on a computer and practice using Maptitude during those sessions?

A. Yes, I believe so.

Q. Anybody else do that?

J. MORGAN

A. I don't think so. I really don't recall that.

Q. And do you recall, when they were on the computer practicing, what were they practicing doing?

A. Either drawing legislative districts or drawing congressional districts.

Q. Okay. And when they drew congressional districts, were they drawing them around census blocks or were they drawing -- how were they drawing them?

MS. MCKNIGHT: Objection.

A. I'm not sure I understand.

Q. Let's say they were drawing a congressional district. How did they go about it? What were they doing when they were doing that drawing?

A. I remember there was information on the map screens and there were, for example, existing district boundaries, and the congressional districts were just -- were drawn, basically, in the point-and-click methodology. And I don't remember -- I remember -- I don't remember finishing a congressional district down to zero population, which would be required for a final plan.

Q. "Down to zero population," you mean down to zero population deviation?

A. That's right.

Q. Okay. Do you recall them, as they were practicing, learning how to have election data displayed on the screen?

A. Yes.

Q. And would that appear using the label tool?

A. Yes. I showed them how to use the label tool, and they were self-empowered to put whatever they wanted to on the labels.

Q. So at that time you don't recall -- do you recall at that time what information they were putting on top of the district using the label tool?

A. No.

Q. Do you recall at any time seeing that, let's say, on your return trip?

A. On the return trip, I know that there was a machine set up to draw, and there would have -- there was information on the labels. I don't recall what was on the labels.

Q. But by then there was political -- strike that.

By then there was election result data on the labels; is that right?

MS. MCKNIGHT: Objection.

A. I really don't -- I really don't know that.

Q. Okay.

A. I was just saying that I showed them how to use the labels, and I didn't -- I don't know what they put on the labels.

Q. And, by the way, just so we're on the same page, the labels, those are the little boxes that appear on top of the district; is that right?

A. Yes, on top of the district or on top of the township or the county. They can appear at different levels of geography.

Q. And do you recall seeing labels on top of some unit of geography on your return trip around July 25?

A. Yes.

Q. You just don't recall what was in the label; is that right?

A. That's correct.

Q. Do you recall if Troy Judy learned how to use the label tool during any of these trainings?

J. MORGAN

A. I don't recall.

Q. Did he attend the training?

A. I don't know for sure.

Q. Did Mr. Braden attend the training?

A. He was there at the July 7th-July 8th, during that session.

Q. For that session?

A. Yes.

Q. Did he already know how to use Maptitude before that session?

MS. MCKNIGHT: Objection.

Q. If you know.

A. I don't think he used it during that session.

Q. Do you know if he knew how?

A. I don't know.

MR. FRAM: What we'll have marked next as Exhibit 4 is a document, Bates number Morgan_000002, five zeros and a 2, if I'm counting right.

(Exhibit 4 marked for identification: Invoice dated 7/31/2011)

Q. Mr. Morgan, is this one of the invoices you looked at preparing for your deposition?

J. MORGAN

A. Yes.

Q. Okay. I just want to go through the different -- well, a couple things about it.

This one, this invoice, is dated July 31, 2011. Just stating that for the record. I'll also state for the record, though, that this invoice has a number, BH 2011-OH07. Do you see that?

A. Yes.

Q. Is it your understanding that would mean, using your invoicing system, that was the seventh invoice for your work in Ohio?

A. No.

Q. Was this your first one?

A. Yes.

Q. Okay. Do you have any idea why 07 was included in the invoice number?

A. Yes.

Q. Why?

A. Because it's the seventh month, July.

Q. I see. Okay. That helps. Now I have to ask your counsel for the previous six. Thank you.

So I think we talked about what you did on the 7th and 8th a little bit, going down the line items below, but there are entries for the 18th and 19th,

20th and 24th of July. Do you see those?

A. Yes.

Q. And they all say "technical and map drawing." Do you see that?

A. Yes.

Q. Do you recall what you did when it came to technical and map drawing work?

A. Yes. During this time I was helping Clark Benson work with the data that was used for the legislative drawing process. There was an issue with the boundaries of the Ohio cities and townships being different from the Census boundaries, so it required the data being adjusted in some way. It was related to what you mentioned about Cleveland State, that there was some data from there, and I was helping Clark Benson work on that.

Q. Now was that only for the state legislative map or was any of that for the congressional map?

A. That was for the state legislative maps.

Q. So all those entries -- do any of those entries concern work regarding the congressional map?

A. Not that I recall.

Q. And then there's this meeting back on the

25th and 26th back in Columbus. Do you see that?

A. Yes.

Q. Now that was the meeting you went back in person; is that right?

A. Yes.

Q. Okay. The hours there, it was a lot more, so that involved going back and spending time there?

A. Yes, that was two days.

Q. Two days and travel.

A. Yes.

Q. And some of that work, as we discussed, just to be clear, that did concern congressional redistricting also?

A. Yes.

Q. And you were there working two days in that hotel room with those -- with Mr. Mann and -- excuse me -- Mr. DiRossi and Ms. Mann?

A. Yes. I should say a portion of the two days.

Q. A portion of the two days.

A. Yes.

Q. And do you recall what the first thing you needed to address when you got there?

A. No.

Q. Do you recall anything about the specific content of what you did?

A. I worked on legislative redistricting and congressional redistricting. So we worked hands on with maps.

Q. And on congressional redistricting, what do you recall doing hands on with maps?

A. I recall drawing a few districts in the northeastern part of the state, I would say around Cleveland and the extreme northeast of the state, Youngstown, and that was what I worked on on that day.

Q. So around Cleveland, do you recall, does Congressional District 11 ring a bell?

A. Yes.

Q. And around Youngstown, does District 13 ring a bell?

A. That sounds right. The district numberings were changed because Ohio went from 18 congressional seats to 16. So in the sense there's two different numbering systems between the pre-2010 districts and the post-2010 districts.

Q. And let's talk about the Cleveland District 11 just for a little bit. What do you

recall in terms of the map drawing as to that district?

A. I remember that the district was -- the district was essentially parts of Cleveland and it extended down into Akron.

Q. And was there any discussion as to how far south it should go?

A. No.

Q. Do you recall whether or not it was taking out pieces of district that was otherwise bordering on District 16?

A. I don't recall the district numbers. I remember that the districts that I worked on during that time period were primarily in the northeastern corner, including the district that was what I recall the Youngstown seat, the northeastern seat, and Cleveland.

Q. Okay. Did you work on any borders of the districts above the Youngstown seat up in District 14?

A. Yeah, that's the one I think I was referring to.

Q. Okay. There's the Youngstown -- I'm sorry. I apologize for interrupting you.

Were you looking at the districts all the way up in the northeast corner or the one just south of it also?

MS. MCKNIGHT: Objection.

A. Those are the districts that I recall working on. That's the area of the state that I can recall.

Q. Why were you working on those districts?

A. It was a corner of the state, and so I think there was -- there was an effort to understand how much the population changes were going to affect that corner district, which would have to expand because the population numbers had changed, in a sense. From going from 18 districts to 16, each district would have to gain more population, you know, in most cases. There might be a circumstance where a district had grown so much that it might not need to gain additional territory to get to its finishing population.

Q. Do you remember the name of Congressman LaTourette?

A. Yeah.

Q. Do you recall any discussion about what the political -- the election results would be for

his district?

A. Yes. I remember that there was an expectation that LaTourette would not be in office for the entire decade.

Q. Any discussion about what the election results would be for his district?

A. I'm sorry. I don't understand that.

Q. Well, did you do any work regarding drawing his district?

A. Yes.

Q. And do you remember any discussion of election results data as regards the district you were drawing there?

A. I remember looking at the political data for some of the towns on the edge of the district. Because it was a corner district, it was pretty well set for a large percentage of the district. And so the question I remember was, you know, where does the extra population come from.

Q. Was there any discussion about how different, putting different populations in or out of the district would affect the election results for the district as a whole?

A. I don't remember that specifically. I

just remember that the expansion was necessary for that district.

Q. And do you recall any discussion as to how that might affect -- I don't want to be -- you used the word specific, so I got to ask you this. Do you recall, generally, any general recollection as to how the election results for that district were to shake out?

A. I remember that the incumbent for district that was the Youngstown seat was -- it came into play because the Youngstown seat, I think his residence or his political base, as I understood it, was right in that Youngstown area. So District 14 could only go so far south before it would get into the Youngstown seat.

Q. And the Youngstown representative, is that Representative Ryan?

A. Yes, that's right.

Q. So you've got LaTourette up north of Ryan; is that right?

A. Yes.

Q. Okay. You were trying to figure out how far south you could bring LaTourette's district; is that right?

A. Yes. An issue in that area is that Mahoning County has fairly large, populous townships. So I think there was some question about how -- whether or not to split a township, again, the large, populated townships in Mahoning County, in that area, so there was just -- I just remember there was some question about the size of the townships making a difference in where to draw.

Q. Now Representative Ryan's district, I'll state for the record, 13, did you have an understanding historically whether voted Democrat or Republican?

A. Yes. It was a Democrat district.

Q. And the district to the north, District 14, LaTourette's district, had voted for Republicans in the past; is that right?

A. For LaTourette, yes.

Q. For LaTourette?

A. Yes.

Q. Was there any consideration as to whether or not, where you drew the boundary, whether that would make that district more or less Republican or Democrat, the 14th?

MS. MCKNIGHT: Objection.

A. I mean, I was aware that District 14 was held by a Republican, and, you know, District 13 was held by a Democrat, and the areas to the south and Mahoning County were fairly Democratic and to the west and Cleveland were fairly Democratic.

Q. So the more farther south you brought 14, the more Democrat?

MS. MCKNIGHT: Objection.

A. It depends on where.

Q. Depending on which township?

A. Yes.

Q. I understand. Similarly, going to the west, depends on where; is that right?

A. Yes.

Q. And did you look at those considerations when trying to figure out where to put the boundaries of 14?

MS. MCKNIGHT: Objection.

A. In this case I was at the very beginning in the process, so, you know, the boundaries were fluid from my point of view.

Q. Who asked you to look at the question of Districts 14 and 13 and 11?

A. I don't remember.

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Q. Did you come up with that on your own or did someone in Ohio suggest that you should look at it?

A. I don't know.

Q. Okay. Did you do any looking at the -- looking at District 11 for a minute. Did you look at any question of how far south that should go?

A. I remember looking at Cleveland and Akron, and that's about all I remember about how far south it goes. So I remember going to Akron but not beyond that. I don't know.

Q. Do you recall any reason -- any discussion about that?

A. No.

Q. Do you recall any discussion of any effect that the boundaries of 11 might have on Representative Renacci's district?

A. Which district is that?

Q. 16.

A. Is that adjacent to --

Q. Yes, to 11.

A. -- Cleveland --

Q. To 11.

A. I don't remember where the boundaries of

that were at the time.

Q. Do you recall any discussion, though, of what the impact on Representative Renacci's district would have been by the manner you were drawing District 11?

A. No.

MS. MCKNIGHT: Objection.

Q. Do you recall any discussion of the effect of how you were drawing District 11 on Representative Sutton?

MS. MCKNIGHT: Objection.

A. No, I don't remember that.

Q. Do you recall any discussion of Representative Marcia Fudge during the discussions of District 11?

A. She's the incumbent for District 11?

Q. Yes.

A. That -- I don't recall discussions about that.

Q. Okay. Other than those three districts, do you recall any discussion of any other districts during your meetings on July 25 and 26?

A. Yes. I remember there being some discussion about the possibility of combining

District 11 and District 9, which was -- I don't remember -- I think District 11 or district -- I think it was District 11 was Congressman Kucinich. I'm not sure what the number was.

Q. Kucinich might have been 10.

A. I don't know.

Q. Nine was Representative Kaptur. Do you recall that?

A. Yes.

Q. Do you recall any discussions about -- that district has an interesting shape. Doesn't it go along the lake?

MS. MCKNIGHT: Objection.

Q. Do you recall there being a district that goes along the lake?

A. I'm not sure I understand.

Q. Do you recall there being a district in northern Ohio along the lake?

A. There is one now, in the current enacted congressional plan.

Q. Do you recall any discussion of that?

A. Only that that was a possibility, that seats were going to have to be combined somewhere to go from 18 to 16, and that's all I recall was that

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that was one that was discussed as possibly combining.

Q. Do you recall any discussion of the shape of District 9?

A. No.

Q. Do you recall any discussion about any other districts?

A. No.

Q. The district in the Columbus area, any discussion of that?

A. No, not here.

Q. At any time?

A. I had a discussion with Mr. Braden about it.

Q. Okay. Do you recall ever discussing -- I'm not asking about legal opinion or advice, but anything about the shape -- strike that -- any of the contours of the district around Columbus?

MS. MCKNIGHT: Objection.

A. No, I have no recollection about that.

Q. By the way, the district around Columbus, is District 3 something that you recall?

A. At the time there was no district number associated with it. I now know that District 3 is

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the enacted district number for the district that encompasses Columbus.

Q. Okay. Do you recall any discussion at any time with anyone about how the district around Columbus would affect the two adjacent districts?

A. No.

Q. Do you recall any discussion of the effect of creating a district in Columbus would affect Representative Stivers' district?

A. No.

Q. Representative Tiberi's district?

A. No.

Q. District 12 or District 15, do you recall anything about that?

MS. MCKNIGHT: Objection.

A. No.

Q. Do you recall any discussion at any point about the shape of District 1 around Cincinnati?

A. No.

Q. What else did you talk about in your meetings in Columbus on the 25th and 26th?

A. As I said, I looked at congressional and legislative redistricting in that time period, and the portion of the state in congressional was the

northeast that I described. That's the only portion I worked on.

Q. Do you recall anything about -- any discussion of any political indices that Mr. DiRossi or Ms. Mann were using in their work?

A. No, not at that time.

Q. At any time?

A. No.

Q. Do you recall discussing what political indices would be useful that involved congressional redistricting in Ohio in 2011 with anyone at any time?

A. No.

Q. Did you have discussions -- I don't want to be too narrow about it. Did you have any communications with anybody about what indices would be useful in Ohio in 2011?

A. I didn't, no.

Q. Okay. Did the question of what indices would be useful come up when you were meeting earlier in July when you were visiting Ohio?

A. I don't recall that.

Q. Do you recall any reason why Mr. DiRossi or Ms. Mann needed you to take a look at the

northeast corner of Ohio?

A. No, I don't recall a reason for that.

Q. Any reason -- did they say they were having any technical difficulties?

A. I don't remember them having technical difficulties, no.

Q. Do you recall it just happened to be the thing they were working on that day?

A. Yes.

Q. Had you planned to go back to sort of have a further hands-on training for them? Did that happen to be the day you were going to be there?

A. That was the day that was requested, yes.

MR. FRAM: We'll have this marked as number 5. It's Bates-numbered Morgan_0000 -- four zeros -- 18. It's another invoice. This one is dated August 31, 2011.

(Exhibit 5 marked for identification: Invoice dated 8/31/2011)

Q. Is this another one of the invoices you looked at the other day?

A. I didn't look at this invoice the other day.

Q. Okay. Does this look like an invoice that you submitted to the Baker firm around August 31, 2011?

A. Yes.

Q. Okay. Just so we're clear for the record, the invoices for the work you did for Ohio redistricting in 2011, they all were submitted to the Baker firm; is that right?

A. Yes.

Q. Okay. And they're the ones who paid you?

A. Yes.

Q. Okay. You never submitted any invoices to anybody else; is that right?

A. No.

Q. Now there's a couple of data entries here, August 2 and August 28. Do you see that?

A. Yes.

Q. And they are both for technical and map drawing?

A. Yes.

Q. Do you recall what that work was about?

A. I don't.

Q. Do you recall whether you were doing any technical or map drawing work regarding congressional

redistricting in August 2011?

A. I don't recall that at all.

MR. FRAM: We'll mark as number 6 Morgan_000019 an invoice dated September 29, 2011.

(Exhibit 6 marked for identification: Invoice dated 9/29/2011)

Q. And, again, is this one of the invoices you looked at the other day?

A. I did not look at this one.

Q. Okay. Does it also look like an invoice you submitted to the Baker firm on or about September 29, 2011?

A. Yes.

Q. And do you see there's five different date entries between August 31 and September 23? Do you see that?

A. Yes.

Q. And they are all for technical and map drawing?

A. Yes.

Q. Do you recall any work you did regarding Ohio technical and map drawing in the time period?

A. During that time period I was working on

the legislative and congressional, and, when I wasn't in Ohio, most of the work that I did was focused on helping Clark Benson with his data work.

Q. Let's break that apart a little bit.

A. Okay.

Q. So I think you said you were in Ohio on July 25 and 26; is that right?

A. Yes.

Q. So these are dates that come after that; is that right?

A. Yes.

Q. August 31 through -- were you in Ohio during anytime between August 31 and September 23?

A. I don't think so.

Q. Okay. Did you ever go back to Ohio to do any work on congressional redistricting at any time after July 25, 2011?

A. I don't think so.

Q. Okay. What do you recall doing about work on congressional redistricting? You say that was one of the two things you were doing.

A. I really don't recall anything specifically during this time period.

Q. Did you draw any maps?

A. No.
Q. Did you look at any maps anybody else had drawn?
A. No.
Q. Do you recall having any communications with Mr. DiRossi?
A. Yes. I recall a phone call with him.
Q. And before you weren't sure -- I don't think you remembered what it was about; is that right?
A. Right.
Q. Do you recall now?
A. No.
Q. Okay. Any conversations with anybody else besides Mr. DiRossi on the phone?
A. Yes. I spoke with Heather Mann.
Q. Do you recall anything about that conversation? Let me back up. How many times?
A. I don't know.
Q. Okay. Do you recall anything about that conversation or conversations?
A. Not -- not regarding congressional, no.
Q. Did you talk to anybody else about congressional redistricting?

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A. No.

Q. You said you worked with Mr. -- you said you recall working with Mr. Benson at that time?

A. Yes.

Q. Was that in person or on the phone or by email or some other way?

A. It would have been on the phone and working with data that he sent me.

Q. Okay. And what do you recall about that work?

A. The legislative reapportionment work was all centered around getting the population numbers to agree with the state university population numbers. That was a difficult process.

Q. And what about the -- anything about the congressional?

A. No.

Q. It was all about the state legislative?

A. With Clark Benson, yes.

Q. I should ask, what was difficult about the process?

A. The population totals for the cities differed from the population totals that the Census had. So the local university official who produced

the data used some sort of system to allocate it that was different from the system that was used in Maptitude.

So there was a lot of effort trying to get those to connect because the legislative redistricting process is very specific about the treatment of towns and cities, whereas the congressional districts didn't have the same dataset and it didn't have the same footprint of towns and cities that the legislative did.

Q. Do you recall concerning the question of how census blocks might be split by precincts in Ohio?

MS. MCKNIGHT: Objection.

A. No.

Q. Do you recall any questions at all about the Cleveland State University data as regards Ohio in terms of splitting of census blocks?

A. No. I'm sorry. As it relates to the legislative, that was my understanding is what I was working on.

Q. Setting aside legislative or congressional, just whether or not any questions at all about being able to make the data provided by

J. MORGAN

Cleveland State University work with Maptitude?

A. Yes. That's what I was discussing.

Q. All right. And that was, you mentioned, in terms of townships, I believe.

A. And cities and towns and townships.

Q. What about Census, making the Cleveland State University data work with the census blocks for Maptitude?

A. I think that's -- to be clear, I think that's implied in what I'm discussing. It's the municipal boundaries are what I'm talking about. So those also include precinct boundaries, yes.

Q. Okay. And do you recall -- were you and Mr. Benson trying to figure out ways to make the Cleveland State University data work with Maptitude in Ohio?

A. Yes.

Q. And were you still working on that in the September 2011 time period?

A. I think so.

Q. Were you working on it earlier than that?

A. Yes.

Q. How early were you working on that project?

A. I think it was in July and August, maybe a little in August, but September.

Q. You started back in July?

A. I think so.

Q. And you were still working on it in September?

A. There were different aspects of it. I think there were two different vintages of data that were released. And I think that some of the difficulties were not known immediately, and so there was different efforts to resolve that.

Q. Do you recall -- well, did it get resolved?

A. I think so. I don't know.

Q. Do you recall about when?

A. I don't know.

Q. Do you recall was Mr. Benson primarily involved in trying to resolve that or were you or was it a joint effort?

A. I recall that he would do the data resolution and then he would send me information on that dataset. So I would have that data to use for the legislative redistricting.

Q. And was the next step in the process you

then provided that to Ms. Mann and Mr. DiRossi?

A. If Clark didn't provide it directly, then I would, yes.

Q. Okay.

A. But I was -- it was really my understanding that -- I think it was provided to them by Clark Benson.

Q. Was he primarily -- it was primarily his task to provide the data they could use in Maptitude and you were providing an additional set of eyes?

MS. MCKNIGHT: Objection.

A. I would say that, yes, I think that Clark was providing the data, and my role was to utilize the data.

Q. Okay.

A. Could we take a break?

MR. FRAM: Of course.

(Proceedings recessed at 11:20 a.m.)

(In session at 11:40 a.m.)

MR. FRAM: Why don't we mark next as 7, it's a document that is without a Bates number because it was produced as a screenshot, and so we added this thing at the bottom that says Morgan Document Production August 17, 2018 -- August 17,

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2018. And it has a series of what appear to be folders, files or -- zip files, they all have .zip on them, zip files on the document 68. I should say at the top there's an identifier, which, again, came from us, it says Document Production Third Party Morgan, John, 2018, 08-17.

MS. MCKNIGHT: Pardon me, Mr. Fram. I don't believe the witness has a copy.

MR. FRAM: I'm sorry.

(Exhibit 7 marked for identification: Screenshot Morgan Document Production_August 17, 2018)

Q. What it says at the top is identifier and Document Production, Third Party, Morgan, John, 2018.08.17, and then 20180817_001.zip, and then 20180817_001.

Again, that's -- my understanding that's information we added, just so we're clear, on the top and the very bottom, but the rest of it is a screenshot of what was produced to us.

And my question to you, Mr. Morgan, does this look like a screenshot of zip files that were on your computer when you looked at your computer to produce documents in this case?

A. Yes.
Q. We can just go through a little bit of what these zip file names might be. You see there's a ccBlock_oh. Do you see that?
A. Yes.
Q. Does that mean census block for Ohio?
A. Yes.
Q. Okay. And then what is r05, if you recall?
A. The number would be what I would describe as a vintage number.
Q. And what did that mean, what kind of vintages?
A. It means that that was just a dataset that was current at that time, and my understanding was that the vintage 05 would predate the vintage 07.
Q. Okay. And so I see there's 05 and 07 for several of these zip files; is that right?
A. Yes.
Q. And so 07 was more current; is that right?
A. Yes.
Q. And was 07 a revision of 05 or was it a superset of what was in 05? Was it everything in 05 plus some or were some in 05 changed?

MS. MCKNIGHT: Objection.
A. I don't know for sure.
Q. Okay. And going down to county OH, do you see that?
A. Yes.
Q. Are those -- what's your understanding was in that zip folder?
A. That would be the county-level dataset and map files for Maptitude.
Q. And same answer as to what the 05 and 07 meant?
A. Yes.
Q. And then MCD, do you see that next?
A. Yes.
Q. What's that refer to?
A. It's a Census abbreviation.
Q. Okay. And, let's see, does that -- is that minor civil division?
A. Yes.
Q. Okay. And what's that? So those are the minor civil division datasets for Ohio; is that right?
A. Yes. It would be commonly understood as townships.

Q. Okay. And these are all for 2011?
A. Yes.
Q. And that's true for all the zip files we're looking at here?
A. Yes.
Q. Okay. And the same answer as to R05 and R07, two different vintages; is that right?
A. Yes.
Q. Now ccPlace_Ohio -- OH -- do you see that?
A. Yes.
Q. What's that refer to?
A. Place would be an abbreviation for Census designated place.
Q. And what would an example of that be?
A. It could be an unincorporated town or an incorporated town, municipal boundary of some sort.
Q. Now under that, do you see ccVTD? Do you see that?
A. Yes.
Q. What's VTD stand for, please?
A. It could be one of two things, but some people would call it a voting tabulation district, but there's another way to describe it as well. It is similar to a voting precinct.

Q. In Ohio are the VTDs the precincts?

A. Not in every case, but mostly, yes.

Q. Okay. When they were precincts, do you recall what they were in Ohio 2011?

A. Well, the other one that's on there is a ward, which in some municipalities would be the equivalent of what you might call a precinct somewhere else.

Q. I see. Now there's another -- there is a actual zip folder for wards. Do you see that?

A. Yes.

Q. And that was all the wards in Ohio?

A. I don't know.

Q. Okay. It's not a very big folder. Do you see there?

A. Okay.

Q. I just don't know if that helps you remember.

A. I don't know. The wards could refer only to wards of a city or other municipal entities that have wards instead of precincts. Each state has different classifications.

Q. Okay. And do you see the date modified, it's all July 12, 2018? Do you see that?

A. Yes.
Q. All at 6:31 p.m.?
A. Yes.
Q. Because that's when you went to go get the documents to respond to the subpoena; is that right?
A. Yes.
Q. Doesn't mean you actually changed the data, just when you opened it up; is that right?
A. I zipped those files so they would be easy to upload to the place where I sent them to the attorneys.
Q. Thank you. Now I just want to look at one of them.
MR. FRAM: Let's mark 8.
(Exhibit 8 marked for identification: Screenshot Morgan Document Production_File Types_ccBlock_oh_r07)
Q. So Exhibit 8 here is going to be a document, again, at the bottom it says Morgan Document Production_File types_ccBlock_OH_R07, and it's got an identifier at the top that we also added with the same information.
So back on Exhibit 7, the second line was the

ccBlock_OH_R07.zip. Do you see that?

A. Yes.

Q. If you click on that, is it your recollection you see what's on Exhibit 8?

A. Okay. Yes.

Q. Okay. And so is this a screenshot, then, of the files that would be within the zip file ccBlock_OH_R07?

A. Yes.

Q. Okay. Let's just walk through what they are a little bit.

So ccBlock.bin, what would be in that file?

A. That's a binary file. The .bin is the binary suffix, and so that's going to be the bulk of the information associated with this file.

Q. Okay. And what kind of information would there be?

A. You could describe that as something more like a text or a database file of some sort. Like that's functionally what it's closest and analogous to.

Q. And what would be the substantive -- the substance -- of that information?

A. It would have demographic and political

data, whatever is in the underlying file at the block level.

Q. So that would have election result data at the census-block level?

A. I assume so, yes.

Q. And going down to the next one, ccBlock.BX, what's that?

A. That's an index file. It has to do with connecting the geographic spatial data to the, what you might call spreadsheet data.

Q. What's the spreadsheet data, please?

A. The data that we just discussed.

Q. So that would connect the election results to specific geographies?

A. All the data that's in the dataset, so election -- anything you'd put in the dataset -- election results, demographic data, anything that's in the dataset.

Q. Okay. And then the next one is ccBlock.cdf. Do you see that?

A. Yes.

Q. And does the CDF stand for Caliper -- well, I should ask you. What does CDF stand for, if you have an understanding?

A. Compact data file in my understanding. It's a customized geographic file that Caliper generates. It's analogous to what you might call a shape file. It's a geographic boundary file. It's independent of other data.

Q. Okay. And then ccBlock.DCB, what's that?

A. That's an index file that helps connect the two. Generally speaking, the DCB and the CDF files are generated in the same way at the same time.

Q. You say "connect the two." Connect which two?

A. So an index file is essentially, on its own, if you looked at it, you would not recognize it as data like election data or demographic data. It might be more like a pointer file. So it's saying that, say, some internal designation references some other internal designation. So it's an index file.

Q. And then ccBlock.sty, what's that?

A. I think that has to do with possibly the display of the files, like it's -- it's a utility file for how the other files are displayed so that it can be brought up easily.

Q. Okay.

MR. FRAM: Now for 9 it's a multipage

document. Actually there are eight pages. They all came from one file, and they came from the ccBlock_OH_R07_ccBlock.cdf.

(Exhibit 9 marked for identification: Series of screenshots with attached Morgan modifier cdf_1, etc.)

Q. And these are a series of screenshots that we received, and we added the identifier information here because it was produced in native form without numbers.

So my first question is: Do you recognize this document in any way?

A. The document is apparently a screenshot of Maptitude showing the files loaded up. It references at the bottom the specific file that was on the previous Exhibit 7 and 8.

Q. Right. As a matter of fact, if you go back to Exhibit 8 and you look to the third line down, do you see ccBlock.cdf? Do you see that?

A. Yeah. This appears to be a copy of that file, so I'm assuming it's the same file. I don't know that for a fact.

Q. Do you understand, if you clicked on that,

that this is what would pop up?

A. That's not what the file same says at the bottom of this.

Q. Okay.

A. It has _1, so it is a, I believe, a copy of the file.

Q. Let me explain the _1 situation.

A. Sure.

Q. We added -- we added the identifier at the bottom. We added _s 1 through 8, so we can identify each separate page of the document.

A. So they are page numbers?

Q. Exactly. But without that addition, does this look like what would be what the contents of what you produced ccBlock.cdf on Exhibit 8?

A. Yes, that's what it looks like.

Q. Okay. So just looking at this first page 1 for a minute, do you have an understanding of what we're looking at here?

A. Yes. It's a map of the census blocks of the state of Ohio --

Q. Okay.

A. -- from 2010.

Q. Okay. This is something that could be

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loaded into Maptitude, is that right, or generated by Maptitude?

MS. MCKNIGHT: Objection.

Q. How does it work with Maptitude?

MS. MCKNIGHT: Objection.

A. I'm not sure what you're asking about.

Q. Well, is this something that, using Maptitude, that you would be able to see?

A. Maptitude data, when it's distributed in, my understanding is it includes census block geography, which is what this is here.

Q. Right. And then you, going back before, you said that some of the files you had that are identified in Exhibit 8, one of them you think you helped in terms of showing how the display worked; is that right?

A. I'm sorry?

Q. Going back to Exhibit 8, I think you said the STY file might have been a file that was used to help make the display effective.

A. I don't know that for certain. It could be a display file. It's a small file, so it's -- all of these files collectively make up what's in the zip file, and they -- they interrelate to each other so

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that, if you open those series of files on Maptitude, you will get this geographic file, which has geographic information and data associated with it.

Q. Okay. So using those files, we could then -- you would then generate this screenshot?

A. Yes.

Q. Okay. Great. Then turning down to page -- on the second page, _2 of the document, a couple things to look at here. Sorry. Stay with 1 for a minute.

Do you see the top where it says Map1 2010 Final Census Blocks (Ohio)? Do you see that?

A. I see that, yes.

Q. Is that your understanding what we see here is the final census blocks that come out of the 2010 election; is that right?

MS. MCKNIGHT: Objection.

A. Yes, that's my understanding.

Q. All right. Now looking at page 2, turn to the far left. Do you see there are a bunch of icons down the left-hand column?

A. Okay.

Q. And you see how there's a little blue box around the little i icon? Do you see that?

A. Yes, I see that.
Q. That's the info tool; is that right?
A. Yes.
Q. Okay. And then you see there's an i sitting over in the middle of the map? Do you see that?
A. Yes.
Q. And then looking over to the far right you see it says "Block 1006"? Do you see that?
A. Yes.
Q. It's your understanding that the i is over census block 1006?
MS. MCKNIGHT: Objection.
A. I don't know that for certain. It could be.
Q. If you wanted to see the data in DataView 1, you would use the info tool; is that right?
MS. MCKNIGHT: Objection.
A. It's possible to do that.
Q. Okay. And if you wanted to see a census block, you could click your cursor first to highlight the info tool, and then you'd click it over a census block; is that right?
MS. MCKNIGHT: Objection.

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A. I suppose that's what you could do.

Q. Have you ever done that to see the information on a census block using the info tool?

MS. MCKNIGHT: Objection.

A. I haven't done it in this way, but it's possible to do it this way.

Q. In what way have you done it?

MS. MCKNIGHT: Objection.

A. In other places I've looked at census block data, but not in this way.

Q. In what way have you done it, if you haven't done it --

MS. MCKNIGHT: Objection. Pardon me.

A. In this case I didn't do this, and what I can do is I would select a single census block using the selection tool.

Q. Okay. And then instead of using the info tool, you'd use the selection tool; is that right?

A. Yes.

Q. And then would you get, using the selection tool, could you get data that would be of the form that appears on the right-hand side of this exhibit?

A. It depends on how things are configured,

but it's possible to get data that's in the dataset. So you could get all this information.

Q. Okay. And did you train folks in Ohio how to use the selection tool to get election data?

MS. MCKNIGHT: Objection.

A. I don't -- I don't think I did that in the way you're describing it, no.

Q. Did you train them in Ohio to use any tool to get election data?

A. Yes. I would use the label tool or -- it's possible the info tool as well -- but I didn't do it on a census block in this way.

Q. Okay. So did you train them to use the label tool for congressional districts?

A. For any district or township, MCD, precinct, whatever they wanted to look at.

Q. Okay. But you don't recall doing it for census blocks?

A. No, I don't.

Q. I understand. Using the -- let me move to page 4 briefly. Just going down the middle of the page, where it says G02G_DV, do you see that?

A. I do.

Q. Is that something -- is that an

abbreviation you're familiar with?

A. Yes.

Q. What's that mean to you?

A. It is the general election from 2002 for the office of governor, the democratic vote share.

Q. All right. The democratic vote period, isn't it? It's not a share, DV. It says 33,000. Do you see that over there?

A. It's 33.

Q. Oh, I see. It's a share, 33. You got 33 percent?

A. No, not 33 percent. It's the votes.

Q. Just, right --

A. It's not a percentage.

Q. Right. It's just the votes, so 33,000?

A. 33.

Q. 33 -- so then the dot with the three zeros, what's that mean?

A. Just three zeros after the decimal point.

Q. I see. So they got 33. Okay.

A. Yes.

Q. And then going down -- so G stands for general, just so we're clear; is that right?

A. Yes.

Q. And 02 is the year, the 2002 election?
A. Yes.
Q. And the next G is for governor?
A. Yes.
Q. And then _DV, that's for the Democratic vote share?
A. Yes.
Q. Okay. And then we go down to G02G_RV. Do you see that?
A. Yes.
Q. Is that the Republican vote share?
A. Yes.
Q. Okay. And then under that is G02G_TV. Do you see that?
A. Yes.
Q. And that's the total vote?
A. Yes.
Q. Okay. And also the governor's race --
A. Yes.
Q. -- in 2002? Okay. Now the next one is G02G_RP. Do you see that?
A. I do, yes.
Q. Is that the Republican percentage in the 2002 governor race?

A. Yes.
Q. Is that percentage calculated on a two-party vote or do you know how that's calculated?
A. In this instance it appears to be a two-party vote.
Q. Okay. Now this information we've just described about the 2002 governor race, okay, were you able to see this in Maptitude using tools other than info tool?
A. Yes.
Q. You used that on the select tool?
A. Yes.
Q. And could you use that on the label tool?
A. If it was configured that way, yes.
Q. Anything else, any other way to access this information?
A. Yes. You could bring up a DataView showing all the census blocks and you could look at an individual census block in a different format. It would have the same data.
Q. Do you recall training Mr. DiRossi or Ms. Mann in terms of how to be able to see this data using Maptitude and using different tools?
A. Not in this format.

Q. Not in the DataView format, I understand that, but any other format?

A. Yes.

Q. Okay. What format do you recall training them in?

A. Just how to display the political data in a manner similar to this at other geographic levels like precinct, town, county.

Q. I see. And doing that, the tools were the select tool or the label tool; is that right?

A. It could have been the info tool too. Again, you know, they're self-empowered to use the tools.

Q. Got it. So they were trained in all three tools?

A. Not necessarily by me. I mean, they could use the tools. They were fairly skilled, as far as I could tell.

Q. But did you train them to use any of the tools?

A. I don't specifically recall.

Q. Do you recall how they became self-empowered?

A. I worked with them, and, if they had

questions, I answered them. They had some knowledge already.

Q. So as far as you could tell, they could use these tools to access this political data?

A. Some of it, yes.

Q. Any particular political data you're aware they could access?

A. All the data was there. I don't know what in particular they wanted to use.

Q. Okay. And then going through just some of the other, I'm going to call them, in the column entitled name, I'll just call them codes.

A. Yeah, election codes.

Q. Election codes, are you comfortable with that?

A. Yes.

Q. So we've got G02A. Do you see that?

A. Yes.

Q. Is that for the attorney general's race in 2002?

A. Yes.

Q. Okay. And you have the same set of data we've just described for the governor. And then you can see G02I, is that the auditor's race?

A. Yes.
Q. Okay. And then going down to T ... is that the secretary of state?
A. Yes.
Q. And then, by the way, the conventions for these elections for the attorney general, auditor, secretary of state, they're the same as for the governor in terms of being Democratic vote, Republican vote, total vote, and Republican percentage; is that right?
A. I assume so, yes.
Q. And then G02J, that's the general election 2002 for the treasurer; is that right?
A. Yes.
Q. And same set of codes that follow under it until we get to G02H. Is that the 2002 -- what is that, 2002 H, if you know?
A. That's Congress, House.
Q. Okay. And then going to page 5, G02Y, do you see that?
A. Yes.
Q. Is that the Senate?
A. No.
Q. What is G02Y?

A. It's the State Senate.

Q. State Senate. Okay. Thank you. And G02X, do you see that?

A. Yes.

Q. And what's that?

A. That's the State House.

Q. Okay. Now did you provide any training on these codes, election codes, to anyone in Ohio in 2011?

A. If there were questions, I would have answered them.

Q. Did you provide any information to folks as to how to use -- what these codes meant?

A. I think so, yes.

Q. Was that in writing?

A. No.

Q. Was it a PowerPoint?

A. No.

Q. Part of a presentation you made?

A. Just explaining what's on the screen. There's a mnemonic to these. Once you know the mnemonic, they make sense.

Q. Sure. And you put it up on a screen. And was this back on the July 7 and July 8 meeting?

J. MORGAN

A. Again, all the data was there and the letter designations for the election codes. Once you understand the mnemonics, it's fairly easy to remember them.

Q. Sure. I was just trying to put a date around this. Do you recall at which meeting it happened?

A. I don't know.

Q. Was it one of the earlier, when you were first introducing the Ohio folks to Maptitude?

A. I don't remember this being much of an issue.

Q. By the time you got there on July 25 they already understood this; is that right?

A. I think so.

Q. Okay. So like you say, there's a mnemonic -- never can say that right -- and I'm not going to drag you through every single code for every election in this table, but I just want to go over at a high level that the same data exists for the 2004 elections, is that right, for the president? Is that right?

A. Yes.

Q. That's G04P; is that right?

A. Yes.
Q. Okay. And then there is a Senate, 2004, the G04S. Do you see that?
A. Yes.
Q. Okay. And then the house, G04H?
A. Yes.
Q. We're back to G04Y again for State Senate?
A. Yes.
Q. Okay. And then G04X, the State House; is that right?
A. Yes.
Q. Okay. And that gets us to G06, and you've got the -- there you've got information, I'll just say, it appears to be for the Senate and the governor and the attorney general and the auditor using the same codes that we've already discussed; is that right?
A. Yes.
Q. Okay. Should make a complete record and say there's also apparently in 2006 information on the treasurer, and going on to page 6 here, and, let's see, the secretary of state, and the State Senate and State House, correct?
A. For 2006, yes.

Q. That's right. Okay. And then for 2008 we've got the same information for the president, the House, the State Senate, the State House; is that right?

A. Yes.

Q. Did I leave anything out?

A. I don't think so.

Q. Okay. And then for 2010 we've got the U.S. Senate at the bottom of page 6, and then going over to page 7, the governor, the attorney general, the auditor, secretary of state, treasurer, U.S. Congress, State Senate and State House; is that right?

A. Yes.

Q. Did I leave anything out?

A. I don't think so.

Q. Okay. And while not appearing -- not necessarily access to the DataView 1, because you don't know how they did it, all this information was available in Maptitude to Mr. DiRossi and Ms. Mann in 2011; is that right?

MS. MCKNIGHT: Objection.

A. I don't know what they used, but, as far as I know, Maptitude, in the file that I have here,

had that information.

Q. The file you had here, what was the source of the data?

A. I got this from Clark Benson.

Q. Okay. As far as you know, he provided the same data to Mr. DiRossi and Ms. Mann that he provided to you?

A. I don't know.

Q. So he provided this to you.

A. Yes.

Q. Okay. Do you recall about when he provided it to you?

A. In July of 2011.

Q. Now going down towards the bottom of page 7, do you see there a reference to various EA fields in the name column? Do you see that?

A. Yes.

Q. And what's your understanding the EA refers to here?

A. Election average.

Q. Okay. You see there's EA11, EA12, and EA13, and then on the next page it goes up through, let's see, EA14, EA15, EA16, EA21, EA31, and EA41. Do you see that?

J. MORGAN

A. I see that.

Q. Do you have any idea what those EAs refer to?

A. No.

Q. Do you have anything to do with helping put together what these EAs were?

A. No.

Q. Do you know -- do you have any idea of who did?

A. I got this file from Mr. Benson. I don't know if he created these or not.

Q. Do you have any understanding of what, let's say, EA12_RP means? Do you see that towards the bottom of page 7?

A. Yes. It's the Republican percentage for that election average.

Q. Okay. And would that be for Census Block 1006?

A. Yes.

Q. Okay. Everything in this exhibit concerns Census Block 1006; is that right?

MS. MCKNIGHT: Objection.

A. As far as I can tell.

Q. Okay. Did you ever see any spreadsheets

regarding the -- let me restate that.

Do you recall ever seeing any spreadsheets that provided political index scoring for proposed congressional districts in 2011 in Ohio?

A. No.

Q. Do you recall ever seeing any spreadsheets for any congressional districts in the map that was enacted in Ohio that had political index scorings on them?

A. I don't recall looking at that. I may have received that information once the plan was enacted.

Q. Okay. Do you recall, if you received it, do you recall who you would have received it from?

A. From the Republican National Committee.

Q. Okay. And would those scores have included -- let me back up.

Are you familiar with something called the PVI?

A. I've heard that term or those abbreviations.

Q. And do you have an understanding what that means?

A. Could you define it, please?

J. MORGAN

Q. Well, would the Cook Political Report generate something called PVI numbers?

A. My understanding is that PVI could be an abbreviation for partisan voting index. That's what I understand it to mean.

Q. Does that compare the votes in a district against national party strength?

A. I really don't know. It depends. That's a term that could be used for any partisan voting index.

Q. Have you ever used PVI in any of your work?

A. As discussed in this context, yes.

Q. Okay. Did you use it in Ohio in 2011?

A. I did not.

Q. How have you used it?

A. In this term the partisan voting index can be keyed to any number of averages to a state. It's usually configurable for that state. And I've seen it used and I've used it in New Mexico and in New Jersey.

MR. FRAM: Off the record, please.

(Discussion was had off the record.)

(Proceedings recessed at 12:18 p.m.)

J. MORGAN

AFTERNOON SESSION

(In session at 1:02 p.m.)

BY MR. FRAM:

Q. You mentioned in preparing for your deposition you looked at invoices. I took it from your answer that you looked at more than one.

A. I think I just looked at the one.

Q. Just the one.

A. I think so.

Q. I wanted to make sure I hadn't made a mistake and forgot to show you a bunch of invoices.

A. No, I saw the three that you produced here.

Q. Okay. There's not a whole bunch more invoices I forgot about. Okay. That's good.

MR. FRAM: We'll mark Exhibit 10. It's a PowerPoint. The cover title page is Drawing the Lines, and is Bates number LENZO_0002549 through 80. And it says, on the title page, it also says John Morgan, Applied Research Coordinates.

Q. Please take a look at it.

(Exhibit 10 marked for identification: John Morgan Applied Research Coordinates | Drawing the

lines LENZO_0002549 - LENZO_0002580)

A. Okay.

Q. Mr. Morgan, have you seen this PowerPoint before?

A. Yes.

Q. And is this a PowerPoint you created?

A. Yes.

Q. And a PowerPoint that you have used in presentations?

A. Yes.

Q. And do you recall how many presentations you've used this in?

A. Two or three.

Q. Could you please identify for me the presentations where you've used this PowerPoint?

A. I believe this was used in 2010 at an NCSL conference for Republican legislators.

Q. And what else, please?

A. I used a version of this in New Mexico in 2011, and I think -- I think that's probably it for the time periods that we're talking about here.

Q. Did you ever use this PowerPoint in any presentation in Ohio?

A. I don't think so.

J. MORGAN

Q. Okay. Did you ever -- do you recall whether or not Mr. DiRossi was present for the NCSL presentation in 2010?

A. I don't know.

Q. Do you know whether Mr. Lenzo was present at that presentation?

A. I'm not sure.

Q. Do you recall whether anyone from Ohio was present at that presentation?

A. I'm not sure. There were a lot of people there. There were Republican elected officials and staff members. And so I met a lot of people. I don't know who is who.

Q. Why don't we just go through a bit.

A. Sure.

Q. After the title page, the page with 0002550, do you see the heading on the PowerPoint is "keep it secret, keep it safe," quote/unquote. Do you see that?

A. Yes.

Q. Now that's a quote, isn't it, from Fellowship of the Ring, if I recall correctly?

A. Yes.

Q. The first book in the trilogy; is that

right?

A. Yes, that's right.

Q. And that's why there's a ring over on the left in the picture there --

A. Yes.

Q. -- over next to the -- okay. And why did you pick that title?

A. Throughout this presentation, I was using little pieces from cartoons or, you know, commonly known movies and books. So I just picked that to keep people interested while I was talking about stuff.

Q. Good strategy. Now do you recall who said "keep it secret, keep it safe" in the book?

A. Yes. It was the Wizard Gandalf, and he was talking about the Lord of the Rings ring, which was advice he was giving to Frodo Baggins, who is a Hobbit.

Q. And he gave that admonition to Frodo. Do you recall why he gave him that admonition?

A. I think that the ring was being tested to see whether it was the ring of power at that time, and he wanted to make sure that no one got their hands on it.

J. MORGAN

Q. Because it was so powerful?

A. Yes, or it could be. I don't know if they knew that at the time, but, yeah, it was -- it was an item of magic, and it was -- it ended up being the one ring of power.

Q. That's how I've always understood it too. Thank you.

So the question, then, is, some of the ways to keep it secret. Okay. Talks about a controlled access to location, do you see that?

A. In the bullet points? Yes.

Q. The first bullet point, yeah. Now, in fact, when you went to Ohio, to that hotel room, you could only get in the room with a key card; isn't that right?

A. I don't know. I assume so.

Q. Somebody let you in, right?

A. Yes.

Q. You didn't have a key card?

A. No.

Q. Do you recall who let you in?

A. It would be Ray or Heather, I think.

Q. Do you recall any other security they had in place in that room at the time?

J. MORGAN

A. I remember they had computers. I don't know if they had, like, screen passwords or something like that.

Q. Okay. And do you recall discussing the idea of having a hotel room that was kept away from distractions when you were in Ohio for the July 7 and 8 meetings?

A. I'm sorry. Could you repeat the question?

Q. You were in Ohio for July 7 and 8, 2011, right?

A. Yes.

Q. And you talked to Mr. Mann -- sorry; I'll repeat that -- Ms. Mann and Mr. DiRossi. Do you recall that?

A. Yes.

Q. Do you recall talking about that they should secure a room that was away from distractions?

A. I didn't suggest that.

Q. Was it discussed?

A. I believe that there was an indication that they would have office space available.

Q. What about space in the hotel, was that discussed?

A. I don't remember that.

J. MORGAN

Q. Was there anything discussed about the need for keeping things secret and safe when you were out there in July?

A. Not in this context.

Q. In any context?

A. No.

Q. Okay. Do you remember having that conversation with anyone in Ohio at any time?

A. No.

Q. Turning to LENZO_0002552, do you see the quote, "Never Travel Without Counsel"? Do you see that?

A. Yes.

Q. Do you recall saying -- stating this at the NCSL conference?

A. Well, I put this slide on the screen and discussing having counsel and attorneys involved in the process, yes.

Q. What do you recall saying about that?

A. Just that it's important to have attorneys involved in the process from start to finish, and my experience has been that's what most people do in redistricting.

Q. Now you see it says, quote, "be aware of

the record that is building around your actions," closed quote. Do you see that?

A. Yes.

Q. Do you recall ever discussing that with anyone in Ohio?

A. Not specifically about this, no.

Q. Do you recall anyone discussing in Ohio the need to be careful about the record that was building?

A. No.

Q. Go to 2557 where it says, quote, "don't get painted into a corner." Do you see that?

A. Yes.

Q. What did you mean -- I take it you said, quote, "start from endpoint and work towards a checkpoint." Do you see that?

A. Yes.

Q. What did you mean by that?

A. In general terms, it's useful to have defined regions so that, when you have multiple people working on plans, you can put pieces of the plans together and they -- you can knit them together easily.

Q. So, for example, in Ohio, an example of a

region would have been those Northeast Ohio districts we were discussing before?

A. In general, it could be something like that. That wasn't a defined region that I was aware of.

Q. Were there any defined regions in Ohio you were aware of?

A. No.

Q. Any idea whether or not folks in Ohio, in fact, worked with certain regions?

A. I don't know.

Q. Do you see the last bullet, it says, quote, don't commit to a specific district unless -- strike that -- "don't commit to a specific district until you test out the impact"? Do you see that?

A. Yes.

Q. What did you mean by that?

A. In the sense that you would have interested parties take a look at it, particularly in this case I'm thinking mostly about incumbents.

Q. Okay. And how would you test the impact?

A. Well, in this process I work a lot of times with legislators, and they have input on districts. So, you know, knowing how districts work

together, checking with various members of the legislature or other stakeholders in the process.

Q. Would looking at the political -- strike that.

Would looking at the election data for proposed districts be part of how you would test the impact?

A. It could be.

Q. Turning to the next slide, 2558, do you see that?

A. Yes.

Q. It says "data"?

A. Yes.

Q. Why don't we go through the different kinds of data. So there's Census PL-94-171 data. What's that, please?

A. That's the data that the Census releases after it completes the census. It's the data that's commonly used for redistricting. It's enumerated data from the Census.

Q. And then you say, quote, "use presidential and statewide election data." Do you see that?

A. Yes.

Q. Why did you say that? Why should that be

used?

A. That's -- the statewide and presidential election results are available data, and it's just data you can use.

Q. Is there any reason that's good data to use?

A. I didn't say it was good or bad data. I just said it's data, and it's useful in the sense that it's at every part of the state for statewide and presidential as opposed to the next one, which are district-specific, legislative and congressional.

Q. Did you also recommend that that be used, legislative and congressional elections?

MS. MCKNIGHT: Objection.

A. It's on this slide. I don't know that I recommended it.

Q. Okay. You say under there, the next bullet is, quote, "limited local elections as needed," quote/unquote. Do you see that?

A. Yes.

Q. What did you mean by "limited local elections"?

A. If some -- if someone were to determine that a mayor's race or some other race, a judge race,

or some other local election made sense to look at, a supervisor, then you could look at that data too.

Q. The next bullet is, quote, racial bloc data -- Democratic -- Democrat primaries -- let me say that again. Quote, "Racial bloc data -- Democrat primaries? Non-partisan?" Do you see that?

A. Yes.

Q. What did you mean by that bullet?

A. Just other data that could be used. Sometimes partisan primaries are looked at, nonpartisan elections, judges, and then sometimes there will be a racial bloc voting analysis that could be done with that data and other data.

Q. Okay. Now the next bullet says, quote, "use averages with caution," quote/unquote.

A. Yes.

Q. What did you mean by that?

A. In this sense, when I'm talking about averages, using an average, it doesn't always take into account the good years and bad years. So you need to know what is being put into the average.

And, in addition to that, I mentioned before there are regional variances with candidates. I always want to make sure I'm aware of that. So in my

work I don't always use averages, but some clients want to use averages.

Q. Just so we're clear, average would be averages of different elections?

A. Generally, yes.

Q. Okay. Do you recall any discussion with anyone in Ohio about whether they should be using averages or not?

A. No.

Q. The next bullet, quote, "ACS will be available, but it is not, quote, 'snapshot,' closed quote, data." That's the end of the bullet, closed quote. Do you see that?

A. Yes.

Q. What did that mean?

A. ACS is American Community Survey. It's a survey data that the Census publishes. It's available on a one-year, three-year and a five-year cycle. And it's not snapshot data because, essentially, that data, it's survey data, and it's collected over a period of time.

So that, while you have more responses by using a larger period of time, therefore, you have a greater number of samples to choose from, it's not

contemporaneous. It doesn't exist at one single point in time.

Q. Okay. And the next bullet, quote, "voter file data? Micro-targeting data?" Do you see that?

A. Yes.

Q. What -- how would voter file data be used?

A. There's many ways you could use voter file data. At the basic level, you could learn the total number of registered voters in a voting precinct. In some states there's partisan voting data, so you can know the number of registered voters of a particular party. And also in some cases you have actual street addresses of voters, so it would be, theoretically, possible to look at individual voters on a map.

Q. And when you say "micro-targeting data," what does that mean?

A. That would be other data that might be associated with an individual registered voter or a person.

Q. Okay. And have you used that in any of your work, micro-targeting data?

A. Yes.

Q. Did you do any of that in Ohio?

A. No.

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Q. The next slide talks about, quote, "Anticipate bottlenecks." Do you see that?

A. Yes.

Q. And there's a reference to, quote/unquote, "VRA bottlenecks." Do you see that?

A. Yes.

Q. What's that mean?

A. Voting Rights Act is the abbreviation.

Q. What would a Voting Rights Act bottleneck be?

A. If there are districts that are drawn for purposes of satisfying the Voting Rights Act, sometimes they create an area that becomes fixed in a map. And so in some cases those districts would be drawn and not changed.

Q. Did you in your practice -- I know you're not a lawyer, so I'm not going to ask you what you think the right view of the law is, just in your practice -- do you have any criteria that you apply to determine whether a district satisfies the Voting Rights Act?

A. No. I rely on legal counsel to determine that.

Q. Then the next thing is "Political

bottlenecks." Do you see that?

A. Yes.

Q. What did you mean by that?

A. There are circumstances, in general, where you would have two incumbents that are -- who live close by or, you know, you would have circumstances where, you know, districts have lost population in a single area and you have to deal with the fallout from making changes in those areas.

Q. What about "Internal bottlenecks," what did you mean by that?

A. Those might be factors that are not apparent at first, but when you start drawing them you come back to the same problems. And so sometimes a change of how the map drawer views an area can resolve those.

Q. Okay. On 2564, you see the title "Bartlett v. Strickland"?

A. Yes.

Q. Did you draft this slide?

A. Yes.

Q. Do you see here that there's a discussion in the second bullet of the majority-minority rule. Do you see that?

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A. Yes.

Q. Is it your understanding that in 2010 that one needed to apply majority-minority rule to determine if a district was VRA compliant?

A. I don't know. I took these quotes directly from the opinion.

Q. Okay. This is what you presented, though?

A. Yes. In this slide I took these directly from the opinion.

Q. Do you recall ever having any discussion with anyone in Ohio about what was involved in terms of being VRA compliant?

A. No. That was left to the attorneys.

Q. Let's see 2569, quote, "Plan to think outside the box." Do you see that?

A. Yes.

Q. It says, quote, "Let others look at the plans -- at the right time," quote/unquote. Do you see that?

A. Yes.

Q. What do you mean by "at the right time"?

A. Generally, in this process there's a lot of preliminary drawing and concepts that are looked at, and, you know, you want to show people the

results of the work that's being done when it's in a presentable format. Sometimes things are just not ready to be presented.

Q. It says down at the last bullet, quote, "Anticipate your opponents." Do you see that?

A. Yes.

Q. How can you do that?

A. Generally, you can see what people that you consider opposing your viewpoint might say about something and just anticipate what they would say in the way that would you do for, you know, preparing for an argument or something.

Q. In the context of a congressional district map, how would you anticipate opponents of the map to challenge what you're doing?

A. I really don't know. That's very specific.

Q. Did you have any discussion with anyone in Ohio about anticipating what opponents of the map might do?

A. No.

Q. Did that come up at the July meeting?

A. No.

Q. Did that come up during your visit in

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July --

A. No.

Q. -- at the hotel room?

A. No.

Q. Any question about any objection one might make to the map ever come up at all?

A. I really don't know. I didn't --

Q. With you.

A. No.

Q. I'm sorry to interrupt.

On 2572 in the slide "Redistricting Math," it says, quote, "Know when to collapse a district." Do you see that?

A. Yes.

Q. Is there a certain point when it's appropriate to collapse a district?

A. No, not -- not necessarily. It's just being aware of what happens if you collapse a district. In legislative redistricting especially, there will be population shifts in the state, and it would be possible to address these by continually going and getting more and more population outside of a region, or you could collapse a district, stabilize a region, and move the seat to another part of the

state.

Q. When you were in Ohio in July 25-26, 2011, do you recall there was a discussion about Representative Kucinich's district? Do you recall that?

A. Just a little bit, yes.

Q. About whether or not to collapse that district?

A. I think that was something that was considered.

Q. Do you recall anything about that conversation?

A. No, just there needed to be two districts combined and that that was a possibility.

Q. Do you recall talking about what the consequences might be in doing that?

A. No.

Q. Go to the next slide, "Incumbent pairings." Do you see that?

A. Yes.

Q. Do you recall a discussion in Ohio about the pairing of Representative Turner and Representative Austria?

A. No.

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Q. The pairing of Representative Johnson and Representative Gibbs?

A. No.

Q. About any incumbent pairings?

A. Just the one I mentioned.

Q. Kucinich and Kaptur?

A. Yes.

Q. At 2575 under the slide entitled "Score the plans," do you see that?

A. Yes.

Q. And you say, the first bullet is, quote, "Determine what to include in a standard report," do you see that, quote/unquote? Do you see that?

A. Yes.

Q. And under that you say, quote, "deviation, racial data, partisan data, other demographics," quote/unquote. Do you see that?

A. Yes.

Q. So is it your recommendation that, among other things, partisan data should be included in a standard report?

A. Those are factors that could be included. This is a very general presentation. Yes.

Q. Right, but that was your --

A. That was included in the presentation, yes.

Q. And then going down two more bullets it says, quote, "What is the likely partisan outcome?" Do you see that?

A. Yes.

Q. And that was also included in the presentation?

A. Yes.

Q. Okay. Do you recall any discussion with anyone at any time in 2011 in Ohio regarding congressional redistricting about consideration of what the likely partisan outcome would be?

A. No.

Q. The last slide, quote/unquote, "Stay cool." Do you see that?

A. Yes.

Q. The last bullet says, quote, "Play your position," quote/unquote.

A. Yes.

Q. What do you mean by that?

A. Just what it says. If you have a job role or a position in the process, stick to that position, stay in your lane.

Q. Going back to score the plans, you talk about --

MS. MCKNIGHT: Which page?

MR. FRAM: It's 2575.

Q. Could you use Maptitude to determine the partisan outcome of a district?

A. Not that I know of.

Q. You couldn't use it to determine using the election data?

A. You can include the election data certainly.

Q. Couldn't that tell you the partisan outcome?

MS. MCKNIGHT: Objection.

A. I don't know. It could. It's just a number. Usually somebody would look at it.

Q. If you didn't use Maptitude, how could you determine the partisan outcome?

A. You could use other data sources, you know. It doesn't have to be Maptitude.

Q. It doesn't have to be Maptitude, but could it be Maptitude?

A. I mean, you can get political data that's in the Maptitude program and display it district by

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district certainly.

Q. Okay. What other data could you use to determine the partisan outcome?

A. You can look at things that are not included, like partisan registration, incumbency, you know. A lot of times people will look at the percentage of a district that's retained versus new territory. There's a lot of other factors.

MR. FRAM: I'm going to mark next testimony in the case Rima Ford Vesilind vs. Virginia State Board of Elections. It's the trial proceedings of March 14, 2017.

(Exhibit 11 marked for identification: Rima Ford Vesilind vs. Virginia State Board of Elections Trial Proceedings 3/14/2017)

Q. Your testimony -- there's a lot of pages here for completeness sake, but your testimony actually starts around page, let's see --

MS. MCKNIGHT: 516.

Q. -- 516. I'm not going to ask you about all your testimony, but I just want you to know where to start. You're at the very bottom of 516.

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I was going to ask you some questions about your testimony concerning the subject of compactness, which shows up around page 553 and going forward, 554, around there, but you should look at as much of your testimony as you want to.

A. I'm sorry. What are you directing me to?

Q. I'm directing you to 553 and 554. Actually you can even start earlier than that. You can go back to 548 even and look at that. I think you discuss compactness back there also. 548, 549, and then you can keep going through, but then it picks up again at 553 and 554.

MS. MCKNIGHT: Mr. Fram, do you want him to review all those pages?

MR. FRAM: I'm going to ask him some questions about it. He should review it for context. It's up to him. I don't want to mislead him or not give him a chance to look at the whole thing. Roughly from 548 through 554.

A. Okay. I've looked at some of the material.

MS. MCKNIGHT: Pardon me, Mr. Fram.

Because this is sworn testimony and you're giving sworn testimony today, I just want to make

sure you've had a chance to review every single page that he identified.

A. Okay.

Q. Yes. Please take your time.

A. Sure. Okay. I looked at the portions you assigned me to look at with the direct examination.

Q. Okay.

A. Do you need me to look past page 556?

Q. No. That's all for now.

A. Okay.

Q. I have a question for you. So you testified about the subject of compactness in this -- in this redistricting, correct?

A. Yes.

Q. Just so we're on the same page, what does compactness mean to you?

A. Well, compactness, as it relates to redistricting, usually refers to geographic tests that are run in software, so they are, generally speaking, about geographic compactness in that sense as far as shapes go.

Someone can also speak of compactness as an area that is, say, smaller than another area, might be considered more compact. So if a district has a

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smaller size area-wise, it could be considered more compact in that context. That's a little different than polygon tests.

Q. A polygon test, does that include the Reock score?

A. Yes, that's one of the tests.

Q. And Polsby-Popper, is that another one?

A. Yes.

Q. Okay. So you're familiar with those two scores?

A. I am.

Q. Okay. And is there an optimum score for compactness in Polsby-Popper?

A. Not that I'm aware of.

Q. What about 1.0? Is that considered to be a test for compactness in Polsby-Popper?

A. I'm sorry. I don't --

Q. The score 1.0, does that have any meaning to you in Polsby-Popper?

A. In what context?

Q. In terms of optimum compactness for a district.

A. I don't know that there is such a number.

Q. Okay. You talk about there being

acceptable tolerances on page 554.

A. Okay.

Q. Do you see that?

A. Yes.

Q. What did you mean by that? In your view, what's an acceptable tolerance for compactness?

A. Well, in the case of Virginia, there was a score on those measures that were upheld in the court case from 2001. So it seemed that that would be appropriate as a -- as a score for the 2011 plan for the House of Delegates of Virginia.

Q. And do you recall what that number was?

A. No.

Q. Was that on your Polsby-Popper test?

A. I don't know which one it was.

Q. In your practice, is there any -- do you have any notion -- do you have any criteria of acceptable tolerances for compactness?

A. No. It varies state by state and, you know, time by time.

Q. So a score as low as 0.15 can be acceptable?

A. 0.15 of what?

Q. Polsby-Popper.

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A. It could be.

Q. Or it could not be.

A. I don't know.

Q. Okay. What about irregular shapes? Do you ever look at that in terms of compactness, just like at certain points, if the shape is too irregular to satisfy compactness?

A. People look at those, yes.

Q. Have you ever done so?

A. I mean, I can look at any shape, yes.

Q. Have you ever looked at it and thought the shape was too irregular to satisfy compactness?

A. I don't know that that would be determinative of compactness.

Q. What would be?

A. Most people would look at compactness scores or other information about districts.

Q. And looking at scores, is there any, in your experience -- you've done a lot of redistricting work -- is there any level at which something is below acceptable tolerance for its compactness?

A. I think each case is different, and these compactness scores are comparative. You have to compare those scores to other scores.

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MR. FRAM: Why don't we take a little break. I'll look at my notes, and I'll see where we are.

MS. MCKNIGHT: Okay. Sure.

(Proceedings recessed at 1:43 p.m.)

(In session at 1:52 p.m.)

MR. FRAM: Subject to any follow-up, any questions your counsel may have, I have no further questions for you.

THE WITNESS: Okay. Thank you.

MS. MCKNIGHT: Thank you.

MR. FRAM: Thank you for your time.

MS. MCKNIGHT: We'll reserve our right to read and sign.

//

(The deposition of JOHN MORGAN concluded at 1:52 p.m.)

//

J. MORGAN

ACKNOWLEDGMENT OF DEPONENT

I, JOHN MORGAN, do hereby acknowledge that I have read and examined the foregoing testimony and that the same is a true, correct and complete transcription of the testimony given by me, with the exception of the noted corrections, if any, appearing on the attached errata page(s).

_____ _____

DATE JOHN MORGAN

Subscribed and sworn to before me this _____ day of _____, 2018.

_____ (Notary Public)

My Commission expires: _____

J. MORGAN

C E R T I F I C A T E

I, LINDA S. KINKADE, Registered Diplomate Reporter, Certified Realtime Reporter, Registered Merit Reporter, Certified Shorthand Reporter, and Notary Public, do hereby certify that prior to the commencement of examination the deponent herein was duly sworn by me to testify truthfully under penalty of perjury.

I FURTHER CERTIFY that the foregoing is a true and accurate transcript of the proceedings as reported by me stenographically to the best of my ability.

I FURTHER CERTIFY that I am neither counsel for nor related to nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 3rd day of December 2018.

Linda S Kinkade

LINDA S. KINKADE

My commission expires: July 31, 2022

NOTARY PUBLIC IN AND FOR

THE DISTRICT OF COLUMBIA

E X H I B I T S

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Reason Codes:

1. To clarify the record.
2. To conform to the facts.
3. To correct transcription errors.

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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. **Affidavit of Freda J. Levenson**
2. **Deposition Transcripts from APRI v. Smith , Appendix of Exhibits, Volume 1 of 4 (pages 1 - 163)**
3. **Deposition Transcripts from APRI v. Smith, Appendix of Exhibits, Volume 2 of 4 (pages 164 - 345)**
4. **Deposition Transcripts from APRI v. Smith, Appendix of Exhibits, Volume 3 of 4 (pages 346 - 644)**
5. **Deposition Transcripts from APRI v. Smith Appendix of Exhibits, Volume 4 of 4 (pages 645 - 694)**

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