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

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Q. Okay. To the extent that you know, why was -- why were the percentages from Congressman (sic) Sutton's district being shared with Congressman Renacci?

A. Well, obviously this is an email from Heather to Congressman Renacci and I was just cc'd, so I don't know the specific genesis of it or what specifically she was trying to convey.

Q. Okay. At any point did you share numbers like this with sitting congresspeople?

A. I don't recall. If asked, I would have, but I can't recall. You know this -- maybe I should say, a lot of this in Northeast Ohio has to do -- I guess call it the ripple effect. When the decision was made with Congresswoman Fudge that the 11th district would be structured in a way that started in Cuyahoga and came down to Summit County, it really kind of split Northeast Ohio into two separate halves, and so there were a lot of geographical changes that were happening in Northeast Ohio because of the configuration of the 11th.

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And this is one of the districts that was kind of absorbed into six or seven different surrounding districts, but it all kind of started with the decision to draw the 11th district the way that it was drawn.

Q. Okay.

A. So that's the background.

Q. And were you a part of those conversations about the changes to this section of the map?

A. Heather and I would have worked jointly on those throughout the process.

Q. And this is an email to a particular congressperson. Were there emails or phone conversations with other congresspeople about this section of the map?

MR. STRACH: Objection.

THE WITNESS: You're asking if I or Heather or --

BY MS. THOMAS-LUNDBORG:

Q. Let's take it in two parts.

A. Okay.

Q. As far as you're aware, were there other emails with sitting congresspeople about

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this portion of the map that you just described?

A. I can't say there weren't, but none that I specifically recall.

Q. Okay. Were there phone conversations about this portion of the map with sitting congresspeople?

MR. STRACH: Objection.

THE WITNESS: None that I recall having.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Do you recall having any conversations with the members of the staff of sitting congresspeople about this portion of the map?

A. None that I can specifically recall.

Q. We've gone through a lot of calendar entries. Did you produce all of the calendar entries that you retained from that period?

A. Yes.

Q. Were you part of the process of revising the map after 319 in preparation for

369?

A. Yes.

Q. And what was your role in that process?

A. So at this point we had moved out of the redistricting office and I was working in the Statehouse, as we talked about earlier, and so there were, especially in 369 -- the map for 319 for a number of reasons, we can discuss them if you want, had stalled and it was obvious that it wasn't going to be enacted. There were a lot of conversations happening at multiple levels with the Democrats in the Senate and in the House of Representatives about what changes would need to be made to 369 in order to get the votes necessary to pass the map.

And so as that information was filtering back down to me from a number of sources, I was working independently of Heather, as she was working independently of me, to try to put those together in a map that would balance out the population and try to adhere to as many of these other principles as

I've articulated, and that's what we were doing in preparation for 369 to be adopted.

Q. And you said you were working independently of Heather?

A. Yes.

Q. Is that different than the process during 319?

A. Well, in 319 -- well, for most of the process in 319, if not all of the process, we worked together in the redistricting office. Once we had closed the redistricting office when 319 had been adopted and we thought that would be the map, we thought we were done, and so we both kind of went our separate ways.

But then when a second map needed to be done, she was working out of her office and I was working out of the Statehouse, and by independently I meant physically apart from each other.

Q. Okay. Were you having conversations about the work that you were doing?

A. Some. Not nearly as much as before, but Heather and I did talk

occasionally, yes.

Q. And when you separated your work, were you given individual responsibilities? How was the work divided between you and Ms. Blessing?

A. There was no delineation of you do this, I do this. It was we're both working on what our leaders, for me President Niehaus, and for her Speaker Batchelder, thought we needed to do to get the appropriate number of Democratic votes to pass a map.

Q. Okay. And when it came to drawing district lines did you work together or separately?

A. Mostly separately, but on occasion we would have talked and shared what are you working on, this is what I'm working on.

Q. And at the end of the process did you have two separate maps or was it combined into one map?

A. Well, at the very end of the process House Bill 369 was introduced in the Ohio House, so she would have been the one who sent the final map to the Legislative Service

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Commission to be drafted into a bill so that it could undergo the hearing process. But we would have had to put any pieces and parts of what we had been working on together for her to do that.

Q. Okay. And when did the process of putting it together happen?

A. You know, I don't recall. There was a long period of time after the adoption of 319 where there was just no movement on -- on the map and we were just kind of stuck in neutral. And then we were able to get House Bill -- enough Democratic input that we could get 369 introduced, and we thought that we had enough to move the bill and we didn't, and then we were back into neutral.

And then finally there was a breakthrough, probably more that Heather was involved in than I, that kind of broke -- broke through and the deal was struck that the legislative Democrats were comfortable, and then we moved forward with the process and the map was adopted.

Q. Going back to 369 prior to

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introduction and the two separate maps, you had a map and Heather had a map, correct?

A. Well, I don't know if we had full maps. We obviously had 319 because that's where we left off, but I think -- well, I shouldn't speak for her. I was having conversations -- oops, sorry if I hit the microphone. I was having conversations with Bob Bennett, I was having conversations with Tom Niehaus, he was having conversations with anybody who was giving me input about what the requests of the Democrats in the House and Senate were in order for them to provide their votes. And so I was working on -- maybe not a whole map, maybe I was just working on one district to try to make the changes to accommodate the Democratic requests.

Q. And then at some point the changes you made and the changes that Ms. Blessing made were integrated, correct?

A. Yes, they would have been to produce House Bill 369 as introduced.

Q. Okay. And do you recall when that took place?

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A. I don't. I don't recall when it was introduced.

Q. And when you were working on combining the pieces that you were working -- that you each were separately working on, did you have a process of deciding what would happen if there was a conflict?

A. We didn't have a set process and I can't recall any conflicts that arose. I mean, I think when the Democrats were making a request like we talked about in Montgomery County, that request was being made to the -- the House and the Senate kind of together and so there wasn't a conflict. It was kind of like we're either doing what they want to do or we're not.

Q. Okay. And you mentioned after 369 was introduced it stalled and then there was a breakthrough. What was that breakthrough?

A. And again, so here's where I wasn't as involved. That was more on the House side. But I think it all -- or I know it all revolved around Joyce Beatty making some final requests, last-minute changes to the 3rd

congressional district. And once those were made, the votes were secure and the map could proceed.

Q. Okay. And you don't recall what the change was to the 3rd district?

A. I mean, I can speak to -- I couldn't speak to the specific geography, but I know specifically she wanted to change a little bit of the geography, and I'm referring to Joyce Beatty, so that one of her potential primary opponents wouldn't be in the 3rd district and they would be in one of the other Franklin County districts. So there was some geography changes that Heather would be able to speak to to accomplish -- to accomplish that request.

Q. Okay. And your recollection is that happened after HB 369 was introduced?

A. Yes, those were the final changes. 369 was then amended and then passed. She also wanted to ensure that the -- the non-Hispanic African American voting age population of the 3rd congressional district, to see if it could be made higher, and she also wanted to make

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sure that the index - and again, that's the index that she was looking at, not necessarily the unified index - was as favorable to her as possible.

Q. Okay. Do you know which index she was looking at?

A. You know, I don't know.

Q. Okay. And you said none of those conversations happened directly with you?

A. That is correct.

Q. And how did you learn of those conversations?

A. From conversations with Heather, from conversations with Bob Bennett and conversations with Tom Niehaus.

(Thereupon, Plaintiffs' Exhibit Number 38, Documents Bates Stamped SOS_001010-1011, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I don't think we're going to spend that much time on this. I just want to look at Exhibit -- what I'm going to have marked as Exhibit 38, and it's SOS_1010 for the

record.

Do you see your email address at the top?

A. I do.

Q. And then this is to Halle Pegler (sic). Do you see that?

A. Halle Pelger (pronouncing).

Q. Sorry.

A. That's okay. If you're not from Ohio, you wouldn't know who she is. No problem.

Q. Well, who is she?

A. She worked for the Secretary of State's office.

Q. And did she have any involvement in the redistricting process?

A. So her only involvement for the redistricting process was after the maps were adopted, the Secretary of State in Ohio is in charge of obviously effectuating the elections. And one of the things that needed to be done in both decades, and always needs to be done, is people need to file -- take out petitions to file to run for office.

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And in a congressional district the Ohio law is that you have to file in the most populus county in your district. So if you -- if you wanted to run in a district that was in two counties, depending on which county had the most population in your congressional district is which county Board of Elections you would need to file on.

The Secretary of State was responsible for letting all 88 county Board of Elections know for congressional districts where candidates would need to file, and this was happening very quickly on the heels of these maps. So my interaction with her, with Halle as a representative of the Secretary of State's office, was letting her know here are the population breakdowns of the district --

Q. Okay.

A. -- so that they could do that process in a timely manner.

(Thereupon, Plaintiffs' Exhibit Number 39, Document Bates Stamped DIROSSI_0000061, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

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Q. Okay. Let's move on to an exhibit I'm going to have marked as Exhibit 39. It's DIROSSI_61 and the subject is Confirmed: Brief Leadership on Congressional Maps. Its date is November 2nd, 2011. Do you see that?

A. I do.

Q. Do you recall whether you had any briefings with leadership at this time on congressional maps?

A. I don't recall if this one -- if I attended this one, but I do recall having meetings with the leadership to update them on where we were in this process.

Q. And would you have had those meetings before HB 369 was introduced?

MR. STRACH: Objection.

THE WITNESS: Yeah, I can't recall.

BY MS. THOMAS-LUNDBORG:

Q. Okay.

A. I definitely had meetings with the leadership as 369 was pending, but I don't know about before it was introduced.

Q. Okay. When you met with the leadership would that have been the Republican

leadership and the Democratic leadership?

A. This would have been with the Republican leadership. Obviously if the Democrats had asked, at this point we were working very closely with them in the House and in the Senate to change the map for their -- for their requests. So if they had asked, I would have obviously met with them.

(Thereupon, Plaintiffs' Exhibit Number 40, Document Bates Stamped DIROSSI_0000499, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I would like to move on to an exhibit I'm going to have marked as Exhibit 40. It's DIROSSI_499. Do you see that?

A. Yes, I do.

Q. Okay. So this was an exhibit that you produced. It says that it's provided by Gongwer.

A. Gongwer (pronouncing).

Q. And it's Political Indexes - Proposed Congressional Districts. Do you recognize this document?

A. Generally.

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Q. And what is it?

A. Well, I am not the source of this document. I produced it because I had it in my possession, but I am not the author or the creator of it.

Q. And how did it come to be in your possession?

A. Gongwer is a Statehouse news service reporting agency that reports on happenings in and around the Statehouse, and at some point this document would have been in Gongwer and I would have thought it to be of some value and so I would have kept a copy of it in my files.

Q. Okay. Do you recall having seen this document before?

A. Until I produced it again, I really didn't remember that I had it.

Q. Do you know what political indices was being used here?

A. Yeah, so the source of this is -- Jim Slagle and the Ohio Campaign for Accountable Redistricting, as I mentioned, he had his own methodology and so I can't speak to

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what he -- I can't speak to how the methodology he was using.

(Thereupon, Plaintiffs' Exhibit Number 41, File Produced in Native Format Bates Stamped DIROSSI_0000525, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I would like to turn to an exhibit that I'm going to have marked as Exhibit 41. This is another exhibit that was produced in native, it's an Excel file. So there is the cover sheet which says it was produced in native and it's DIROSSI_525. And because it's an Excel sheet, unfortunately the columns break onto different pages.

And are you familiar with the term metadata?

A. I have heard -- I have heard the term. I've heard the term.

Q. Okay. Do you understand that when you produce something in native there is a -- there's data associated with when the document was created?

A. Yeah, I'm not familiar with

native. I'm sorry.

Q. So this says that the file was produced in native format, meaning we received an Excel spreadsheet.

A. Oh, okay, so -- okay, thank you.

Q. So I think there's no point in us kind of having a back and forth about what metadata means, but I will represent for the record that the metadata says that this document was created on November 2nd, 2011.

Does that generally seem right to you, that you would have been working on documents like this in early November?

A. You said November of 2011?

Q. Yeah, November 2nd, 2011.

A. I mean, generally this is yet another example of a document that I would have created because at any moment in time who knows what question I would be asked. This one, for whatever reason at the time, I was going back to 2001 and trying to show two decades of changes. That's what threw me, that there's 18 districts here in the first column, but --

Q. Okay. I just want to go through

each of these columns to make sure I understand what they mean. The first column is 2001 member districts. Do you see that?

A. I do.

Q. And what is your understanding of what this column is?

A. Yeah, without -- without saying I was accurate, I assume what I was saying is who were the incumbent members of each of the 18 congressional districts in 2001.

Q. Okay. And 2001 unified index, do you see that?

A. I do.

Q. Is that the index that you created?

A. Yes, but I can't recall, to be honest, if it was the unified index that I created in 2001 or if it was the unified index I created in 2011 superimposed on 2001 districts.

Q. Okay. 2011 member districts, do you see that?

A. I do.

Q. And is this the proposal for the

districts for 319 or 369?

A. Yeah, that is a great question. This is the first example where in this document I can't recall -- you said November of '11?

Q. Yes. I'm just talking about this column, members and districts.

A. Yeah, but you asked if it was from 319 or 369.

Q. Right. Were there any changes in the pairing of members and districts between 319 and 369?

A. No.

Q. Okay. Then it says 2011 unified index. Do you see that?

A. I do.

Q. Would that have been the unified index that you created?

A. Sounds right, yes.

Q. And then 2008 Pres index with 2011 districts. Do you see that?

A. Yes.

Q. And would that be the 2008 presidential index that we've been discussing?

A. Yeah, that was an alternative that other people wanted to use, so I was including it on my documents so I could have it handy.

Q. And then the next column is 2011 VA AA. Do you see that?

A. I do.

Q. What does that column represent?

A. It would be 2011 voting age African American population percentages.

Q. Okay. And then the next column is 2011 NHB VA AA. What does that column represent?

A. That's non-Hispanic black voting age African American population percentages.

Q. Okay. So the first -- the prior column includes Hispanic blacks and then the following column is non-Hispanic blacks?

A. Yes.

Q. Okay. Then there's a column entitled REDRAW 2011 unified index. Do you see that?

A. I do.

Q. And what does that column represent?

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A. That's a good question. I cannot remember what REDRAW meant and why I have it capitalized, if that mean --

Q. So it possible that this is the change from 319 to 369?

A. It's possible, but I can't say that it is. I don't -- I don't know in this last column what I was trying to compare. I can't say.

Q. Okay. Going to the last page, the first column is just a continuation of the first column we saw on the first page, and then the following column is change 2011 unified index. Do you see that?

A. I do.

Q. Just correct me if I'm wrong. Does that appear to be the change between the 2011 unified index on this page and the REDRAW 2011 unified index?

A. If I take a second and try to get oriented.

Q. Sure.

A. Okay. I'm sorry. I was just trying to get oriented. Your question again

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was?

Q. Oh, whether this change unified -- 2001 unified index, if this column represents the difference between 2011 unified index and the REDRAW 2011 unified index.

So, for example, if you look at the first -- the first row of Chabot, does that appear to be the difference between 2011 unified index and REDRAW 2011 unified index?

MR. STRACH: Objection.

THE WITNESS: I'm just trying to remember. I can't remember what the REDRAW meant.

BY MS. THOMAS-LUNDBORG:

Q. That's not my question. My question is, is this --

A. It would help me understand -- understand this document and why I even created it. Okay.

Q. Okay. I'm just asking, looking at the numbers themselves, does 2011 unified index, REDRAW 2011 unified index, the difference between the two appear to be a change 2011 unified index?

MR. STRACH: Objection.

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THE WITNESS: Yeah, I can't remember. It's possible, but I can't say for sure that that's what it is.

(Thereupon, Plaintiffs' Exhibit Number 42, File Produced in Native Format Bates Stamped DIROSSI_0000518, was marked for purposes of identification.)

BY MS. THOMAS-LUNDBORG:

Q. Okay. I would like to move on to a document I'm having marked as Exhibit 42. It's another document that you produced in native, meaning we got the Excel sheet, which is why we have file produced in native cover sheet, and it's DIROSSI_518, for the record, and the metadata for this document is November 15th, 2011.

Are you the author of this document?

A. You know, this one I'm not sure if -- I can't say for certain like all the other ones that I am the author of this one. This one does not look like the style that I would have created.

Q. Okay.

A. It's similar, but I can't say that I am the author.

Q. If you weren't the author, who would you have received this document from?

MR. STRACH: Objection.

THE WITNESS: You said I produced it?

BY MS. THOMAS-LUNDBORG:

Q. Yes, you produced it in native, meaning you produced an Excel spreadsheet to us.

A. I can't recall who would have given this to me. I don't know.

Q. Do you recall having looked at a document like this?

A. Until I turned the page, it did not look familiar.

Q. Okay. Do you recall during the time that you were working on drafting HB 369, did you look at the unified index?

A. Yeah, as we talked about before, on -- the way we had our computers set up, whenever a geographic change was made in the map the population data would change, the Hispanic concentrations of the district would

change, the African American populations would change and the unified index would change. And we also included, I think, the '08 presidential number as a standalone late in the process because a lot of people were saying you're wrong, you've got to use this one. So any time we made a change, all of those things would have changed.

Q. Okay. Do you recall when you were working on HB 369 before it was enacted whether any district changed significantly on the unified index? And it's however you would define significant.

MR. STRACH: Objection.

THE WITNESS: In 369?

BY MS. THOMAS-LUNDBORG:

Q. Yes, from 369 as enacted to 319, were there any significant changes on the unified index?

MR. STRACH: Objection. I think you mean from 319 to 369.

MS. THOMAS-LUNDBORG: From 319 to 369, yes.

THE WITNESS: Well, the 10th district

specifically, I remember that that was a function of the legislative Democrats in Montgomery County asking that Montgomery County be made whole significantly changed the index of that district.

BY MS. THOMAS-LUNDBORG:

Q. And what was the change, if you recall?

A. It was about three and a half points.

Q. Okay. Did any other district change significantly?

A. That's the one -- that's the one example that I can remember sitting here today.

Q. Okay. Do you recall whether there was between -- we just talked about 369 as introduced. Do you recall whether there were any significant changes between 319 as passed and 369 as passed to the unified index?

A. Well, from 319 to 369 as introduced?

Q. We've already discussed 369 as introduced. Now I'm asking 369 as passed.

A. Compared to --

Q. 319.

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A. 369 as passed to 319, okay. And you're specifically asking if the unified index changed in any of those?

Q. In any significant way.

A. Well, obviously the 10th, as we just talked about, changed.

Q. Yes.

A. There was significant geography changes to the 9th congressional district that we talked about that Congresswoman Kaptur was asking for. I can't recall if those impacted the unified indexes, but they were significant geography changes, tens of thousands, if not hundreds of thousands of people moving in and out of those districts.

The changes we talked about in the 3rd were not substantial geography size changes, so I can't imagine that those would have changed the unified index. So I think the 10th and potentially the 9th would be the two that could fit that that would have had significant changes.

Q. Okay. So before I introduce this document, I just want to ask you a question and

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then we'll decide if it gets introduced or not.

Do you recognize this document?

A. I have a vague recollection of this document.

Q. Are you the author of this document?

A. I don't believe -- I don't believe that I am.

Q. Okay. Did you see this document before you prepared for your testimony today?

A. I did not.

Q. Okay. So then I'll just ask you general questions. You talked about the changes in the numbers of African Americans in the 3rd district, for example. Do you recall by what percentage African American numbers changed from 319 to 369?

MR. STRACH: Objection.

THE WITNESS: From 319 to 369?

BY MS. THOMAS-LUNDBORG:

Q. Yes.

A. I don't recall.

Q. Do you recall what numbers the African American percentage changed in CD 9

from 319 to 369?

A. I don't recall for the 9th either.

Q. Okay. Do you recall any other district where --

A. There's a much more significant African American population in the 3rd than in the 9th, so I'm not sure there's -- the 9th is in west Cleveland and goes to Toledo and doesn't have all of Toledo, so there's not a significant African American population.

Q. Okay.

A. So I don't think there would have been significant changes.

Q. Do you recall whether the percentage of African Americans changed in district 11 from 319 to 369?

A. I don't recall any changes to the geography of 11 at all specifically after 319 was introduced. I got the impression that Congresswoman Fudge was very happy with how the district was proposed in 319. As we talked about, she specifically didn't want to be in Cuyahoga County and paired with Dennis Kucinich and she wanted it to remain a majority/minority

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district. So I don't -- I don't believe we made any changes to the 11th from 319 to 369 as enacted.

Q. Okay. Did the African American population change from 319 to 369 in any other district that we haven't discussed?

A. Did it change at all, you're asking? Did it change at all? Again, you're asking from 319 to 369?

Q. Yes.

MR. STRACH: Objection. 369 as introduced or as passed?

THE WITNESS: That's a good point, yeah.

BY MS. THOMAS-LUNDBORG:

Q. If there are changes from it as introduced we can start there and then we can go to as passed.

A. So before you asked if there were significant as I defined it, and now you're asking for any --

Q. Yes.

A. -- any change? Okay. I just want to make sure I have that right.

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I mean, I believe the 10th, the 10th district, as we talked about, from 319 to 369 as introduced and 369 as enacted would have had changes to the minority population after the change that the legislative Democrats asked for.

Q. And do you recall what was the nature of that change as introduced?

A. You mean am I able to quantify the change?

Q. Yes.

A. I am not, not offhand.

Q. And as enacted?

A. No.

Q. Are there any other districts where the African American population changed?

A. We talked about the 11th, we talked about the 9th, we talked about the 3rd, we talked about the 10th. I mean, it is possible anywhere there was any legislative change, obviously there could have been a very insignificant change, small change in those, but I've articulated the ones I can recall.

MS. THOMAS-LUNDBORG: Okay. I think

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I've gone through my major questions, so maybe if we just take a five-minute break and I might have something short.

MR. STRACH: Okay.

THE VIDEOGRAPHER: We're off the record.

(Recess taken.)

THE VIDEOGRAPHER: We're on the record.

BY MS. THOMAS-LUNDBORG:

Q. We're almost done. Good evening, I think it is now.

A. Good evening.

Q. So I would like to just ask you a few follow-up questions about things that you testified to earlier.

We talked a lot about the unified index and you said that at some point you lost the war over the unified index. Could you clarify the war regarding the unified index?

A. Yeah, so probably a poor choice of words. It was the -- from my experience the previous decade, that was the index when we were looking at historical election data that I

thought we should use. But especially using -- when we were in congressional redistricting, everybody else had their own standard and nobody really thought necessarily that the unified index was the best one.

I still tried to use it, but anybody at the national level, the congressmen and women that we were dealing with that were incumbents or aspiring candidates, they had their own -- they had their own standard, and then many people wanted to use the '08 presidential as a single race to look at races, and I just was kind of wanting to use the unified index.

Q. Okay. Let's take those in kind of pieces. Did President Niehaus have a different index that he wanted to use?

A. Not that he ever conveyed to me, no.

Q. Did Speaker Batchelder have another index that he wanted to use?

A. No.

Q. What about Matt Huffman, did he have another index that he wanted to use?

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A. Not to my recollection.

Q. What about Keith Faber, did he have another index that he wanted to use?

A. No.

Q. You mentioned national people had different indexes. Did Adam Kincaid have another index that he wanted to use?

A. Yes.

Q. And what index was that?

A. That was the PVI or R plus 1, D plus 1 system.

Q. Okay. And did he tell you why he wanted to use that system?

A. I guess that is a common -- common used national -- national description of districts.

Q. And did you share with him PVI numbers prior to the introduction of HB 319?

A. So I would never be able to share with anybody PVI because I don't know how to calculate it or couldn't generate it on my own. It would have to be something that was provided by somebody else and given to me.

Q. Did you have discussions with Adam

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Kincaid about the PVI prior to the introduction of HB 319?

MR. STRACH: Objection.

THE WITNESS: Yeah, not that I -- not that I recall.

BY MS. THOMAS-LUNDBORG:

Q. Okay. Did you have discussions with Adam Kincaid about the PVI prior to the introduction of HB 369?

MR. STRACH: Objection.

THE WITNESS: Yeah, I don't recall.

BY MS. THOMAS-LUNDBORG:

Q. Okay. What about Tom Whatman, did he have a system that he wanted to use?

A. None that he particularly articulated to me, but I just got the impression he didn't think the unified index was the -- was the best way to look at those districts.

Q. Okay. Did he make suggestions about other ways to look at those districts?

A. I can't recall specifically. I can't recall specifically if he suggested -- if he was the one that suggested using '08

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presidential numbers.

Q. Okay. Did you receive any suggestions from President Niehaus regarding the partisan composition of districts --

MR. STRACH: Objection.

BY MS. THOMAS-LUNDBORG:

Q. -- prior to the introduction of HB 319?

MR. STRACH: Objection.

THE WITNESS: None -- none that I recall.

BY MS. THOMAS-LUNDBORG:

Q. Did you receive any -- strike that.

Did you share draft maps with President Niehaus prior to the introduction of HB 319?

A. I'm sure I did.

Q. And did you share draft maps with President Niehaus of HB 369 prior to its introduction?

A. I'm sure I would have and did.

Q. Did you -- and do you recall how many draft maps you would have shared with him?

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A. I don't recall.

Q. Did you have a process for sharing draft maps with President Niehaus?

A. Did not have a process.

Q. Did you share any draft maps with Speaker Batchelder prior to the introduction of HB 319?

A. Heather and I together would have.

Q. And do you recall how many draft maps you shared with him?

A. I don't recall. And again, to clarify draft maps, when you're saying that in my mind I'm thinking the maps that became House Bill 319 as introduced, the maps that became House Bill 369 as introduced. They weren't necessarily drafts of like other iterations. The ones that I'm specifically recalling are sharing with them the maps that ended up being the introduced versions.

Q. Okay. Did you share -- I think we talked about the speaker related to HB 319. Did you share drafts of HB 369?

A. With Speaker Batchelder?

Q. Yes.

A. I would -- I believe Heather and I would have, absolutely.

Q. And when you were sharing drafts with President Niehaus and Speaker Batchelder, what information was included in those drafts?

A. Well, Speaker Batchelder is an amazing individual. He asked us to fax him copies of maps. And so I believe your specific question is about Speaker Batchelder, we would have -- Heather and/or I, or another member of his staff, would have faxed him maps. It would have been the maps is my recollection of what we would have shared with him, which we all joked was worthless because the maps were going to print out at the other end of the fax machine in black and white and you would not be able to tell what you were looking at.

Q. And were you just sharing the picture of the map or were you sharing any underlying data regarding the map?

A. We were faxing him the maps.

Q. So the picture of the map?

A. The picture of the map is specifically what I recall.

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Q. Okay. And President Niehaus, what were you sharing with him?

A. He would have been potentially over at the office so he could actually see the map on the screen that we were talking about. And then so obviously all of the demographic data that I mentioned before that would be on the screen for any map that we were working on would have been available for him to look at.

Q. And the demographic data that would be available is demographic data and you said also the index would be available?

A. Yeah, population data, minority concentrations, population deviations, indexes, yes.

Q. Okay. And Mark Huffman, did you share drafts --

A. Matt.

Q. I'm sorry, Matt.

A. No problem.

Q. Matt Huffman, did you share drafts of the map with Matt Huffman --

MR. STRACH: Objection.

BY MS. THOMAS-LUNDBORG:

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Q. -- prior --

MR. STRACH: Sorry, I just want to make clear you're still working off of his definition of draft, which is draft of the map as introduced.

MS. THOMAS-LUNDBORG: Yes, of HB 319.

THE WITNESS: Yeah, I remember sharing a map that became 319 with Representative Huffman.

BY MS. THOMAS-LUNDBORG:

Q. Okay. To your counsel's clarification, were there any iterations of versions of the map that were shared that predate the map that was introduced?

MR. STRACH: Objection.

THE WITNESS: I'm trying to recall what specific ones those would be. I just -- I just can't remember that far back of what specifically would have been shared.

BY MS. THOMAS-LUNDBORG:

Q. Okay. With Matt Huffman you did share a draft of HB 319?

A. Yes, because I believed he was going to be the sponsor, so I believe Heather

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specifically had said that we needed to make sure that he had an understanding of what he would be introducing to start the legislative process.

Q. And did you share a draft of HB 369 with Matt Huffman before it was introduced?

MR. STRACH: I'm sorry, objection. Of the as introduced version before it was introduced or of something different than the as introduced version?

MS. THOMAS-LUNDBORG: He can define in his answer what draft and what it was that was shared with Matt Huffman.

THE WITNESS: So in all of these questions I'm referring to the map that became the introduced versions. I have specific recollections of sharing the maps that became the introduced versions. I don't have specific recollections of other ideas, concepts or drafts that ended up not being the introduced versions.

BY MS. THOMAS-LUNDBORG:

Q. Okay. So with Matt Huffman do you have a recollection of sharing the map as you're defining it of 369?

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A. Yes.

Q. Okay. And Keith Faber, did you share a version of the map, and you can clarify in your answer what you mean, of HB 319 prior to introduction?

A. I don't specifically recall with Senator Faber. I don't recall. The bill was being introduced in the house, not the Senate. So there was more focus on the House members.

Q. Okay. Do you recall whether a version of HB 369 was shared with Senator Faber prior to its introduction?

A. As we discussed earlier, he and I did spend some time at the office looking at specifically the geography in Mercer County where we have three congressional districts coming together, so, you know, some of those versions may have found their way into 319 and/or 369 and some of them may not have.

Q. Okay. So just to go back to make sure the record is clean, with Senator Faber did you discuss the map in draft form prior to the introduction of 319?

A. I don't have a specific

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recollection of that.

Q. Okay. When we looked at -- and we can go back to the exhibit --

A. Other than the Mercer County -- other than the Mercer County geography issue that we just talked about.

Q. Okay. Did you share a draft map with anyone else prior to the introduction of HB 319? And you can define what draft means in your answer.

MR. STRACH: Objection. You need to define whatever you're talking about.

THE WITNESS: Yeah, yeah, I mean it's -- you know, the people I've articulated I have specific memories of sharing the maps with them that were introduced and, you know, we've talked today about some of the other people who had looked at maps. I think I've exhausted every -- all of the people that I can specifically remember sharing maps with.

BY MS. THOMAS-LUNDBORG:

Q. Okay. In regards to HB 369, do you recall sharing the map with anyone else?

MR. STRACH: Same objection, same

instruction.

THE WITNESS: Yeah, I mean, the only person, Bob Bennett. Bob Bennett and I, I mean, I've said his name before, but he would have looked at maps that became House Bill 369, at least pieces of -- pieces of it.

BY MS. THOMAS-LUNDBORG:

Q. Did he look at maps that would have become 319?

A. I don't -- I don't have those recollections. I don't recall.

Q. Oh, I'm getting --

MR. FRAM: We're improving.

BY MS. THOMAS-LUNDBORG:

Q. You said that you shared the maps as defined as the map as introduced. Did you share any of the demographic data with anyone prior to the introduction of HB 319?

MR. STRACH: Objection.

BY MS. THOMAS-LUNDBORG:

Q. And I'm using your term demographic data that you used in a prior response.

A. Well, I mean, like I said, the

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people that were at the office would have seen it on the screen, the people that we were faxing maps to would not have had access to it. I don't recall -- I mean, that is just such a hectic, crazy time, and I don't recall any more details about who we would have shared it with, who I would have shared it with and what I would have shared, other than what I've said.

Q. Okay. As you sit here today is your recollection that the primary way that you shared demographic data was by showing it on the computer screens in the office?

MR. STRACH: Objection.

THE WITNESS: I mean, that was -- if people were there, that was certainly the easiest way to share it with them, but we've gone through a couple examples where it was done by email.

MS. THOMAS-LUNDBORG: Okay. I have no further questions at this point.

MR. STRACH: All right. We don't have any -- this is Phil Strach. We don't have any questions at this time.

MR. TUCKER: Intervenors don't have any questions at this time.

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MR. STRACH: Are we off the record?

MS. THOMAS-LUNDBORG: We're off the record. Good night, everyone.

THE VIDEOGRAPHER: Off the record.

(Thereupon, signature was not waived by the witness.)

(Thereupon, the deposition was concluded at 6:10 p.m.)

* * *

I, RAYMOND E. DiROSSI, do hereby certify that the foregoing is a true and accurate transcription of my testimony.

_ _ _ _ _ _ _ _ _ _ _ _ _ _

Dated _ _ _ _ _ _ _ _ _ _ _ _ _ _

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS: CERTIFICATE

I, Christine Gallagher, a Notary Public within and for the State of Ohio, duly commissioned and qualified,

DO HEREBY CERTIFY that the above-named RAYMOND E. DiROSSI, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth.

Said testimony was reduced to writing by me stenographically in the presence of the witness and thereafter reduced to typewriting.

I FURTHER CERTIFY that I am not a relative or Attorney of either party, in any manner interested in the event of this action, nor am I, or the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Dayton, Ohio, on this 31st day of October, 2018.

_____

CHRISTINE GALLAGHER
NOTARY PUBLIC, STATE OF OHIO
My Commission expires 8-28-2023

1 ERRATA SHEET

2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg. No. Now Reads Should Read Reason

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Signature of Deponent

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SUBSCRIBED AND SWORN BEFORE ME

23 THIS ____ DAY OF _____, 2018.

24 _____

25 (Notary Public) MY COMMISSION EXPIRES:_____

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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